

LEGAL FRAMEWORK

for Public-Private Partnership
in the Tuzla Canton

A decorative graphic at the bottom of the page consisting of multiple thin, overlapping wavy lines in shades of light blue and grey, creating a sense of movement and depth.



LEGAL FRAMEWORK

for Public-Private Partnership in the Tuzla Canton

Pursuant to Article 24 (1) (c) of the Constitution of Tuzla Canton (“Tuzla-Podrinje Canton Official Gazette,” No. 7/97 and 3/99, and “Tuzla Canton Official Gazette,” No. 13/99, 10/00, 14/02, 6/04 and 10/04), as proposed by the Government of Tuzla Canton, the Tuzla Canton Assembly, at their session held December 29, 2017, have adopted the

L A W

ON PUBLIC-PRIVATE PARTNERSHIP

PART I – GENERAL PROVISIONS

Article 1 (Subject)

- (1) This Law shall regulate the subject, principles and properties of public-private partnership (hereinafter: PPP), PPP models, the procedure for awarding PPP contracts, implementation of this Law, recourse, penalty provisions and other matters of relevance to PPPs falling within the competence of the Tuzla Canton (hereinafter: the Canton) and the local self-government units (hereinafter: LSGUs) in the Canton area.
- (2) For all matters not regulated by this Law, special laws shall apply, depending on the type of service subject to PPP.

Article 2 (Purpose)

This Law is meant to provide a clear, non-discriminatory and effective legislative framework for the implementation of PPP projects used to enhance, through private sector participation, the standard of public services falling within the competence of the Canton and its LSGUs, as well as to improve the preconditions for further economic growth and development in the Canton area.

Article 3 (Terminology grammar)

The terms in this Law that are marked for grammatical person or gender shall be applicable to both men and women regardless of whether the feminine or masculine gender version is used.

Article 4 (Definition and subject of PPP)

- (1) A public-private partnership is a long-term contractual relationship between a public and a private partner aimed to provide the public services falling within the competence of the public partner through the use of the management, technical, financial and innovation capacities of the private partner, as well as through the exchange of knowledge and skills between the public and private partner.
- (2) The subject of a PPP project shall be construction and/or reconstruction and maintenance and/or operation of public infrastructure and/or infrastructural buildings used to provide public services

falling within the competence of the public partner.

- (3) The subject of a PPP shall not exclusively be delivery of goods or provision of public services nor exclusively a concession for the use of common or other goods for commercial activities.
- (4) Public services related to production and distribution of drinking water (water supply) may not be the subject of a public-private partnership under the model referred to by Article 8 (1) (b) of this Law.

Article 5 (Definitions)

For the purposes of this Law, the key terms shall have the following meanings:

- a) A *PPP project* is a group of interconnected activities initiated, prepared, contracted, and implemented in the manner provided for by this Law.
- b) A *public body* is any administrative or government body of the Canton or of its LSGUs, public institution or a public company having the Canton or a Canton LSGU as its founder and/or majority owner, which is responsible for the provision of the given public service.
- c) A *public partner* is one or more public bodies that is/are responsible for the provision of the given public service and that is/are concluding a PPP contract with a private partner. In the event that several public bodies responsible for the provision of the given public service act as public partner, they shall nominate their representative to conclude the PPP contract on their behalf.
- d) A *tenderer* is one or more local or foreign companies participating in the public call for selection of private partner. In the event that several local and/or foreign companies act as tenderer, they shall nominate their representative to submit the tender on their behalf.
- e) A *private partner* is a special purpose vehicle founded by the selected tenderer in line with the regulations in force in the Federation of Bosnia and Herzegovina for the purposes of concluding a PPP contract.
- f) A *construction right* is a right in rem exercised in line with the regulations providing for property matters and other rights in rem.
- g) A *PPP contract* is a written contract concluded between a public and private partner providing for the rights and obligations of the contracting parties in relation to the implementation of a specific PPP project.
- h) A *consultant* is one or more natural persons or legal entities with specialised knowledge required for the identification, preparation, contracting and implementation of a PPP project.
- i) An *availability risk* is an accepted risk of keeping a public building operational in line with the contracted standard of service.
- j) A *demand risk* is an accepted risk of generating income from the final service beneficiary.

Article 6 (Main PPP properties)

The main PPP properties shall include:

- a) A private partner shall take over from the public partner the obligations and risks related

to construction and/or reconstruction and maintenance and/or operation of public infrastructure and/or of public infrastructural buildings, including at least one (1) of the following two risks – the availability risk or the demand risk.

- b) For the purposes of implementing a PPP contract, the public partner may grant the construction right and/or a concession to the private partner;
- c) All matters pertaining to the exercising and granting of construction rights, as well as to concessions, including the amount of consideration (fee), shall be regulated by the public and private partner in the public-private partnership contract;
- d) In accordance with the purpose of a PPP project, the public partner may allow the private partner to carry out commercial activities with the aim to collect income from third persons on the market. If not contracted, such commercial activities shall not be permitted;
- e) PPP contracts may not serve as grounds for change of legal title over the existing or future public or common assets, i.e. all public assets shall remain publicly owned beyond the expiry of the PPP contract.

Article 7 (Principles)

The PPP principles shall include:

- a) Protection of public interest, which shall entail the most efficient use of public funds related to the implementation of PPP projects and their purposes;
- b) Proportionality, which shall mean proportionality between the requested capacities and the scope of the contract;
- c) Competition in the market, which shall entail encouraging as many interested tenderers as possible to participate;
- d) Effectiveness, which shall entail an obligation to conduct the procedure of concluding a PPP contract and of selecting the private partner within the deadlines and in the manner defined by this Law, at the lowest possible cost;
- e) Equal and fair treatment, which shall mean avoiding discrimination on any grounds;
- f) Transparency, which shall entail transparency in awarding contracts and putting in place proper recourse measures;
- g) Environment protection and promotion of sustainable growth, which shall entail the need to preserve natural resources; and
- h) Legitimacy, which shall mean that all actions and documents are in line with the law.

Article 8 (PPP models)

A public-private partnership in the meaning of this Law shall be exercised based on one of the following models:

- a) The basic model, as a model wherein the payment of consideration (fee) to the private

partner is made, mostly or entirely, from the budgetary funds of the public body, based on the availability of the public service in line with the contracted standards;

- b) The special model, as a model wherein the payment of consideration (fee) to the private partner is made, mostly or entirely, from the fees collected from the final beneficiaries, based on the use of the public service in line with the contracted standards.

Article 9 (Special purpose vehicle)

- (1) A special purpose vehicle (hereinafter: the SPV) shall be a company created by the selected tenderer for the purposes of concluding the PPP contract and implementing the PPP project.
- (2) An SPV shall carry out only the activity aimed at implementing the PPP project for which the SPV had been created.
- (3) An SPV shall be founded in line with the provisions of the law regulating the matters of starting and managing companies in the Federation of Bosnia and Herzegovina.

Article 10 (Body responsible for PPP projects)

- (1) The procedures for the award, implementation and implementation oversight of PPP contracts shall be carried out by the public partner.
- (2) The public partner shall submit the Report on the PPP contract implementation oversight for the previous calendar year to the Ministry of Economy of Tuzla Canton (hereinafter: the Ministry) no later than by January 31 of the current year.

PART II – AWARDING PUBLIC-PRIVATE PARTNERSHIP CONTRACTS

Article 11 (PPP contract awarding procedure)

The procedure of awarding a PPP contract shall include the following stages:

- a) Identification of a PPP project;
- b) Preparation of the PPP project proposal;
- c) Selection of the private partner;
- d) Negotiating and concluding the PPP contract.

Article 12 (Identification of PPP projects)

- (1) A public body interested in implementing projects using a PPP model must prepare a three-year (1+2) and an annual plan of potential PPP projects in the manner set by this Law.
- (2) The public body shall organise consultations to ensure that all interested public (associations of employers, chambers, civil society organisations, citizens, public institutions and other legal entities) participate in the identification of potential PPP projects.
- (3) The three-year plan referred to by paragraph (1) of this Article shall lay down the public services

to be improved over the planning period, the funds required for the implementation of the plan, the expected results in the meaning of contribution to the implementation of relevant strategic documents, risk assessment, and a project pipeline (including the name, short description, purpose, specific objectives and estimated value of the projects, and the expected PPP model). The three-year plan of potential PPP projects shall be prepared, adopted and published in parallel to the Budget Framework Paper, i.e. the Financial Plan of the given public body.

- (4) The annual plan referred to by paragraph (1) of this Article must be harmonised with the three-year plan of potential PPP projects and include:
 - a) Public services over the planning period;
 - b) A pipeline of PPP projects to be implemented over the planning period (including the name, short description, purpose, specific objectives and estimated value of the projects, and the expected PPP model);
 - c) Short descriptions of PPP projects, using the template required under the Regulation referred to by paragraph (7) of this Article;
 - d) Funding for the implementation of the plan, by individual activities.
- (5) The annual plan referred to by paragraph (4) of this Article shall be prepared, adopted and published in parallel to the Annual Budget, i.e. the Financial Plan of the given public body.
- (6) The public body shall publish the plans referred to by paragraph (1) of this Article on its web site and deliver them to the Ministry, who shall publish the plans on the web site of the Ministry and of the Tuzla Canton Government (hereinafter: Canton Government).
- (7) The Canton Government shall pass, as proposed by the Ministry, the Regulation on Identification, Preparation, Contracting and Monitoring of PPP Projects (hereinafter: the Regulation), laying down the criteria for the selection of potential PPP projects, the forms and the process of preparing annual and medium-term plans of potential PPP projects, the form for short description of potential PPP projects, the procedure for participation of private sector in the development of PPP project proposals, the procedure and criteria for selecting working bodies and consultants, rights and obligations of working body members, contents of a PPP project feasibility study, the procedure and criteria for the selection of private partner, additional contents of a PPP contract, the process of registering PPP contracts, and monitoring and reporting on the implementation of PPP contracts.

Article 13 (Preparation of PPP project proposals)

- (1) Preparation of a PPP project proposal shall include:
 - a) Establishment of the working body;
 - b) Development of the work plan, with timetable;
 - c) Preparation of the project description;
 - d) Development of the conceptual project design and/or the preliminary project design, depending on its complexity;
 - e) Development of the project feasibility study.
- (2) Decision on the project proposal and selection of the PPP model shall be adopted by the public

body, with prior approval of the Canton Government or the relevant LSGU body.

- (3) One or more public bodies may authorise another public body to prepare a PPP project proposal, choose the PPP model, select the private partner, conclude the PPP contract and implement the PPP project.
- (4) The public body shall deliver the Decision referred to by paragraph (2) of this Article to the Ministry within fifteen (15) days as of the date of its adoption.

Article 14 (Establishing working bodies)

- (1) For each potential PPP project, the public body shall establish a working body to prepare the project proposal and conduct the PPP contract award procedure.
- (2) Decisions on the establishing of the working bodies for all PPP projects falling within the competence of the Canton shall be subject to prior approval by the Canton Government and for all PPP projects falling within the competence of the LSGUs to prior approval by the relevant LSGU body.
- (3) The public partner may appoint a consultant to the working body, provided that the consultant does not have a conflict of interest in relation to the tenderer.
- (4) The procedure and the criteria for the selection of the members of working bodies and of the consultants, their rights and obligations, shall be provided for by the Regulation.

Article 15 (Developing work plans, with timetables)

The working body shall develop a plan for the preparation of the PPP project proposal, with a timetable, using the template the contents and the format of which would be defined by the Regulation.

Article 16 (Preparing descriptions of projects)

The working body shall prepare the PPP project description using the template the contents and the format of which would be defined by the Regulation.

Article 17 (Developing conceptual project designs and preliminary project designs)

Conceptual and preliminary project designs shall be developed in accordance with the law.

Article 18 (Preparing feasibility studies)

- (1) The public body shall prepare a feasibility study on its own or with the assistance of consultants.
- (2) A PPP project feasibility study must include, at least:
 - a) Summary (total value of the project, recommended model, risk allocation table);
 - b) Introduction (short description of the project, with relevant output specifications and an overview of the study development methodology);

- c) Assessments and analyses, including:
 - 1) Analysis of the ability to pay/undertake the long-term commitments of the public sector;
 - 2) Financial and economic appraisal and determining the financial and economic impact indicators;
 - 3) Risk identification and assessment, with the risk allocation table showing the allocation of risks between the public and private partner;
 - 4) Analysis of alternative approaches and exit options;
 - 5) Value for money assessment (public sector comparator);
- d) Conclusion on whether the investment is justified and proposed model of project implementation;
- e) Literature;
- f) Other elements in line with the Regulation.

Article 19
(Selection of private partners)

- (1) The public body shall select the private partner through a public call for proposals and pass a formal decision on the selection.
- (2) The criteria and the procedure for the selection of private partner shall be defined by the Regulation.
- (3) The public body shall deliver the Decision on the selection of private partner to the Ministry within seven (7) days as of the date of its adoption.

Article 20
(Negotiating and concluding PPP contracts)

The procedure of negotiating and concluding a PPP contract with the selected private partner shall comprise three (3) stages:

- a) Preparation of a draft PPP contract;
- b) Negotiating on the elements of the draft PPP contract;
- c) Concluding the PPP contract.

Article 21
(Preparing draft PPP contracts)

- (1) The working body shall prepare a draft PPP contract based on the PPP project proposal referred to by Article 13 of this Law.
- (2) A draft PPP contract must include the following key elements:
 - a) The purpose and subject of the contract, and the set standard of the public service;
 - b) Rights and obligation of contracting parties;
 - c) Identification and allocation of risks between the contracting parties;
 - d) The contract term;
 - e) Project funding method and requirements;

- f) Cost, method of payment and terms for setting and harmonising considerations (fees);
- g) Settling tax liabilities;
- h) Sub-contracting requirements;
- i) Financial guarantees for the fulfilment of the contract;
- j) Financial guarantees for the fulfilment of the sub-contractor obligations;
- k) Insurance policies;
- l) Potentially damaging events considered as force majeure and the conduct of the contracting parties in relation to any such events;
- m) Sanctions and fines for failure to meet the contractual obligations;
- n) The right and method of contract implementation oversight by the public partner;
- o) Obligation to perform periodic external audit of the PPP project implementation;
- p) Conditions and the procedure for takeover of any buildings constructed under the PPP contract after its completion, provided that the contract includes construction of buildings;
- r) Environmental impact;
- s) Protection of copy rights, trade secrets and data confidentiality;
- t) Obligation to contract a subsequent contract audit;
- u) Dispute resolution;
- v) Severability clause;
- z) Termination and consequences of premature termination of the contract;
- aa) Entry into force;
- bb) Contract expiry;
- cc) Indication if it is permitted to carry out commercial activities;
- dd) Other elements of a PPP contract.

- (3) For all matters not specifically regulated under paragraph (2) of this Article, provisions of the Law on Obligations shall apply.

Article 22
(Negotiating on the elements of draft PPP contracts)

- (1) No later than within sixty (60) days as of the date of adoption of the Decision on the selection of private partner, the public body shall provide the private partner with a draft PPP contract.
- (2) The private partner shall provide a written response to the draft PPP contract within forty-five (45) days as of the date of its receipt.
- (3) The negotiations leading up to agreement on the final text of the PPP contract may not last longer than thirty (30) days as of the date of receipt of the private partner's written response to the draft contract.
- (4) In the event of failure to reach an understanding with the selected private partner, the public body shall deliver the draft PPP contract to the next-ranked tenderer.

Article 23
(Concluding PPP contracts)

- (1) The public body shall submit the agreed text of the PPP contract to the Public Attorney's Office

for their opinion.

- (2) The agreed texts of PPP contracts for all PPP projects falling within the competence of the Canton shall be subject to prior approval by the Canton Government and for the PPP projects falling within the competence of the LSGUs to prior approval by the relevant LSGU body.
- (3) Once the approvals referred to by paragraph (2) of this Article are obtained, the public body and the private partners shall sign the PPP agreement for a specified period that cannot be shorter than five (5) or longer than forty (40) years, unless different deadlines are set by a special law.

Article 24 (Amending PPP contracts)

- (1) Before concluding any amendments to a PPP contract, the public partner shall deliver a draft of those amendments to the competent bodies referred to by Article 23 (1) and (2) of this Law for their opinion, i.e. approval.
- (2) In addition to the proposed amendments to a PPP contract, the public partner must also provide the competent bodies referred to by paragraph (1) of this Article with an explanation and any documentation needed to support the changes, as well as with a prior opinion of the body responsible for the implementation of the law.
- (3) Before providing the requested approval, the competent body referred to by Article 23 (2) of this Law may seek opinions from other public bodies.
- (4) If the proposed amendments of a PPP contract do not change the original PPP contract in any substantial way, the competent body referred to by Article 23 (2) of this Law shall grant their approval to the public partner within thirty (30) days as of the date of receipt of all necessary documentation referred to by paragraphs (2) and (3) of this Article.
- (5) In the event that the proposed amendments to a PPP contract substantially change the original contract and express the intention of the contracting parties to revise the key elements of the contract, the public partner must initiate a new procedure for preparation of a PPP project proposal.
- (6) Substantial changes to a PPP contract in the meaning of paragraphs (4) and (5) of this Article shall be the amendments that:
 - a) Introduce the terms and conditions that, had they been part of the initial procedure of selecting private partner, would have enabled the submission of different tenders than had been the case or enabled the selection of a tender other than the one selected; or
 - b) Significantly broaden the subject of the PPP contract to include works or services that have not been covered by the original contract; or
 - c) Tip the economic equilibrium of the PPP contract in favour of the private partner in a way that has not been defined by the terms and conditions of the original contract.
- (7) Any amendments to a PPP contract concluded contrary to the provisions of this Article shall not be considered valid.

Article 25 (Registering concluded PPP contracts)

- (1) The public partner must register a concluded PPP contract, including all its annexes and any subsequent amendments to that contract, within three (3) days as of the date of their signature in the manner defined by the Rulebook on Establishing and Keeping the Register of PPP Contracts (hereinafter: the Register) referred to by paragraph (2) of this Article.
- (2) The Ministry shall pass the Rulebook on Establishing and Keeping the Register, laying down the procedure for having PPP contracts entered into the Register, the methodology of keeping the Register, the contents and public availability of the PPP contracts data, in line with the principle of transparency and the regulations on free access to information, protection of copy rights, personal data, trade secrets and data confidentiality.

PART III – IMPLEMENTATION OF THE LAW

Article 26 (Body responsible for implementation of the Law)

The Ministry, as the body responsible for the implementation of this Law, shall conduct the following tasks:

- a) Prepare and submit to the Canton Government a written annual report on the implementation of the Law within the Canton area;
- b) Establish and keep the Register and ensure its availability to the public;
- c) Prepare and provide expert opinions on particular matters related to this Law and other regulations arising from this Law;
- d) Monitor the preparation of the plans referred to by Article 12 (1) of this Law;
- e) Prepare and publish an overview (pipeline) of potential PPP projects on annual basis;
- f) Organise, in cooperation with other relevant bodies, specialised PPP training programmes for working body members and public bodies;
- g) Cooperate with science and research institutions, social partners, business associations, non-governmental organisations and other stakeholders in the interest of improving the implementation of this Law;
- h) Promote and analyse the use of best PPP practice and, within its competence, cooperate with foreign national bodies and international organisations and institutions dealing with PPP;
- i) Perform all other duties in line with the provisions of this Law.

Article 27 (Oversight)

- (1) The oversight over the implementation of this Law shall be performed by the Ministry.
- (2) The oversight over the implementation of PPP contracts shall be performed by the respective public partner.

PART IV – RECOURSE

Article 28 (Recourse related to selection of private partners)

An objection to a Decision on the selection of private partner may be sent to the public partner who adopted the Decision within fifteen (15) days as of the date of its receipt.

Article 29 (Dispute resolution)

All disputes between the contracting parties related to or arising from a PPP contract shall be referred to and fall under the jurisdiction of the competent court according to the seat of public partner.

PART V – PENALTY PROVISIONS

Article 30 (Initiating misdemeanour proceeding)

Should the Ministry and/or another relevant public body determine that either a public or a private partner have breached the provisions of this Law, they shall submit a proposal to initiate misdemeanour proceedings to the competent court.

Article 31 (Fines)

- (1) The public body, i.e. public partner shall be liable to pay a fine in the amount between 500 and 5,000 convertible marks (hereinafter: BAM) for failing to act in line with Article 12 (6), Article 13 (2) and (4), Article 19 (3), Article 22 (1), Article 23 (1) and Article 25 (1) of this Law.
- (2) The public body shall be liable to pay a fine in the amount between 5,000 and 15,000 BAM for acting contrary to the provisions of Article 19 (1) and Article 23 (3) of this Law.
- (3) The private partner shall be liable to pay a fine in the amount between 5,000 and 15,000 BAM for failing to deliver or failing to deliver in due time or in the set manner the document referred to by Article 22 (2) of this Law.
- (4) The responsible person of the public body, i.e. the public partner shall be liable to pay a fine in the amount between 500 and 3,000 BAM for the misdemeanours referred to by paragraphs (1) and (2) of this Article.
- (5) The responsible person of the private partner shall be liable to pay a fine in the amount between 500 and 3,000 BAM for the misdemeanour referred to by paragraph (3) of this Article.

PART VI – TRANSITIONAL AND FINAL PROVISIONS

Article 32 (Adoption of bylaws)

- (1) No later than within sixty (60) days as of the date of entry into force of this Law, upon the proposal of the Ministry, the Canton Government shall pass the Regulation referred to by Article 12 (7) of this Law.
- (2) Within thirty (30) days as of the date of entry into force of this Law, the Ministry shall pass the Rulebook on Establishing and Keeping the Register referred to by Article 25 (2) of this Law.

Article 33 (Repeal)

As of the date of entry into force of this Law, the Law on Public-Private Partnership (“Tuzla Canton Official Gazette,” No. 14/12) shall become null and void.

Article 34 (Entry into force)

This Law shall enter into force eight (8) days as of the date of its publication in the “Tuzla Canton Official Gazette.”

Bosnia and Herzegovina
Federation of Bosnia and Herzegovina
TUZLA CANTON
Assembly
Number: 01-02-419-15/17
Tuzla, December 29, 2017

SPEAKER
of the Tuzla Canton Assembly

Senad Alić
/signature affixed/

Pursuant to Article 12 (7) of the Law on Public-Private Partnerships (“Tuzla Canton Official Gazette,” No. 19/17) and as proposed by the Ministry of Economy, the Government of Tuzla Canton, at their session held March 27, 2018, have passed the

REGULATION

ON IDENTIFICATION, PREPARATION, CONTRACTING AND MONITORING OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS

SECTION I – GENERAL PROVISIONS

Article 1 (Subject)

The Regulation on Identification, Preparation, Contracting and Monitoring of Public-Private Partnership Projects (hereinafter: the PPP) lays down the criteria for the selection of potential PPP projects, the form and the process of preparing annual and medium-term plans of potential PPP projects, the form for short description of potential PPP projects, the procedure for participation of private sector in the preparation of PPP project proposals, the procedure and the criteria for appointing the working bodies and consultants, rights and obligations of working body members, contents of a JPP project feasibility study, the procedure and the criteria for the selection of private partner, other contents of a PPP agreement, registration of PPP agreements, and monitoring and reporting on the implementation of PPP agreements.

Article 2 (Definitions)

- (1) For the purposes of this Regulation, the following terms shall have the following meanings:
- a) “The most economically advantageous tender” is the tender wherein other elements in addition to financial are considered. The public partner shall define and elaborate on the award sub-criteria and the sub-criteria weighting methodology, taking into account the nature and purpose of each PPP project separately;
 - b) “Output specifications” are the main element of a potential PPP project. They shall be defined based on the analysis of at least four (4) features of the given public service (physical availability, affordability, adaptability, and quality) and set the expected public service standards in both qualitative and quantitative terms;
 - c) “Research” is the research conducted to obtain specific technical information on a natural resource pending on the type of project that are required to prepare a feasibility study of public-private partnership for the project;
 - d) “PPP Project Pipeline” is an overview of all projects included in the public bodies’ medium-term and annual plans of potential PPP projects;
 - e) “Public sector costing comparator” is the comparison between the present value of whole life costs during the project agreement term according to traditional (budgetary) model

- and the same type of costs according to PPP model;
- f) “Short project description” is the summary of a PPP project concept prepared by the public partner, i.e. the working body founded by the public partner, and published on its web site to inform the public and the market of intentions to launch the PPP project;
 - g) “Project design” is the preparation of technical documentation required under the law, pending on the type of project;
 - h) “Conflict of interest” is a situation in which a natural person or legal entity engaged as consultant is in a position to receive and/or receives material and/or nonmaterial gain from an interested tenderer, i.e. future private partner, at any stage of preparation and implementation of the PPP project, such as may affect his/her legal right, transparency, objectivity and impartiality to perform his/her functions within the public partner working body;
 - i) “Medium-Term Plan of Potential PPP Projects” is a three-year plan of potential PPP projects prepared in line with Article 12 (3) of the Law on Public-Private Partnerships (“Tuzla Canton Official Gazette,” No. 19/17, hereinafter: the PPP Law);
 - j) “Strategy paper” is an official document expressing the public interest. A strategy paper may be, for example, development strategy, sector strategy, spatial planning documentation, capital investment plan, etc.

(2) The other terms used in this Regulation shall have the same meanings as in the PPP Law.

SECTION II – IDENTIFICATION AND PREPARATION OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS

Article 3 (Criteria for selection of potential PPP projects)

For a project to be included in the medium-term and annual plans of potential PPP projects at least the following criteria must be met:

- a) The potential PPP project concerns a public service which falls within the competence of the public body developing the medium-term and annual plan of potential PPP projects;
- b) The public service improvement the potential PPP project aims to achieve is provided for under a valid strategy paper.

Article 4 (Medium-Term Plan of Potential PPP Projects)

- (1) The administrative and government bodies of the Tuzla Canton (hereinafter: the Canton) and the administrative and government bodies of local self-government units from the Tuzla Canton area (hereinafter: LSGUs) shall draft a proposal of the Medium-Term Plan of Potential PPP Projects and submit it to the Government of Tuzla Canton (hereinafter: Canton Government) or the relevant LSGU authority for adoption.
- (2) The public institutions and public companies having the Canton or an LSGU as their founder and/or majority owner shall draft a proposal of the Medium-Term Plan of Potential PPP Projects and submit it, via the line ministry or an LSGU service, to the Canton Government or the relevant LSGU authority for adoption;

- (3) The medium-term plans of potential PPP projects shall be prepared using the template attached as Annex 1 to this Regulation.
- (4) In addition to the template referred to by paragraph (3) of this Article, a Short Project Description attached as Annex 3 to this Regulation shall be submitted also for each potential PPP project.
- (5) The medium-term plans of potential PPP projects shall be delivered to the Ministry of Economy of Tuzla Canton (hereinafter: the Ministry) within ten (10) days as of the date of their adoption and no later than within ten (10) days as of the date of adoption of the Budget Framework Paper, i.e. the Financial Plan of the given public body.

Article 5
(Annual Plan of Potential PPP Projects)

- (1) The administrative and government bodies of the Canton and of the LSGUs shall draft a proposal of the Annual Plan of Potential PPP Projects and submit it to the Canton Government or the relevant LSGU authority for adoption.
- (2) The public institutions and public companies having the Canton or an LSGU as their founder and/or majority owner shall draft a proposal of the Annual Plan of Potential PPP Projects and submit it, via the line ministry or an LSGU service, to the Canton Government or the relevant LSGU authority for adoption;
- (3) The annual plans of potential PPP projects shall be prepared using the template attached as Annex 2 to this Regulation.
- (4) In addition to the template referred to by paragraph (3) of this Article, a Short Project Description attached as Annex 3 to this Regulation shall be submitted also for each potential PPP project.
- (5) The annual plans of potential PPP projects referred to by paragraph (3) of this Article shall be accompanied by an evidence confirming that the current year budget, i.e. financial plan, includes the funding for preparation of the PPP project proposals. The costs of preparation of PPP project proposals shall include, inter alia, the costs of preparation of conceptual design and/or preliminary design of the project and/or feasibility study and/or consultants fees, fees of working body members, specialised training/mentoring of the working body members, costs of materials and of working body support services, including translation, communications, etc.
- (6) The annual plans of potential PPP projects shall be delivered to the Ministry within ten (10) days as of the date of their adoption and no later than within ten (10) days as of the date of adoption of the Annual Budget, i.e. the Financial Plan of the given public body.

Article 6
(PPP Project Pipeline)

- (1) The Ministry shall develop and publish a pipeline/catalogue of potential PPP projects (hereinafter: the Project Pipeline) once a year.
- (2) The Project Pipeline referred to by paragraph (1) of this Article shall be developed based on the public bodies' plans referred to by Articles 4 and 5 of this Regulation and published no later than by April 15 of the current year.
- (3) The Project Pipeline shall be published in electronic form on the Canton Government web site

(<http://vladatk.gov.ba/>) and in printed form in Bosnian and at least one (1) foreign language. The LSGUs may publish the Project Pipeline on their web sites as well.

Article 7
(Sequence of PPP project preparation and contracting)

- (1) The preparation and contracting of PPP projects shall be done in four (4) main stages provided for in Article 11 of the PPP Law.
- (2) The public body, in cooperation with the working body, shall regularly – following the completion of each stage – inform the public on the course of PPP project preparation via its web site.

SECTION III – PUBLIC PARTNER WORKING BODY

Article 8
(Procedure and criteria for selection of working body members)

- (1) The public body shall prepare a draft Decision on the appointment of the working body and submit it directly or via the line ministry/relevant LSGU service to the Canton Government or the relevant LSGU authority for prior approval.
- (2) The Canton Government, i.e. the relevant LSGU authority shall rule on the request referred to by paragraph (1) of this Article within fifteen (15) days as of the date of its receipt.
- (3) The Decision on the appointment of the working body referred to by paragraph (1) of this Article shall be sent at the same time also to the Ministry for their information.
- (4) The working body shall comprise five (5) or seven (7) members and shall be coordinated by the member representing the public body.
- (5) The working body may also include a consultant who would provide technical support to ensure the correct implementation of identification, preparation, contracting and/or monitoring of the PPP project. The Decision on the appointment of the working body shall define the type of support and terms of reference of the consultant.
- (6) The remaining members shall be selected based on the type and complexity of each project separately and may represent other public institutions and/or administrative bodies and/or public companies the support of which is needed for smooth preparation and implementation of the project.
- (7) The profile and expertise of the members shall depend on the type and complexity of each project. Each working body shall include at least a lawyer, an economist and a technical expert, pending on the type of project.
- (8) Upon request by the public body, another public body may also suggest one (1) member of the working body.
- (9) The public body may, as required, change the composition of the working body and/or add new members for different stages of the process of preparation and contracting of the PPP project.

Article 9
(Rights and obligations of working body members)

- (1) The rights and obligations of the working body members shall be laid down in the Decision on

the appointment of the working body.

- (2) The public body shall use the Decision on the appointment of the working body to define the terms of reference of the members of the working body, as well as the context, objectives of the working body, expected outputs, deadlines and any other necessary elements.
- (3) Members of the working body shall be entitled to a remuneration for performing the tasks and responsibilities described in the Decision referred to by paragraph (1) of this Article, as determined by the public body within the proposal of the Decision on the appointment of the working body, in line with valid regulations and available funding.
- (4) The public body, in coordination with the Ministry, must provide the working body members with adequate resources needed for the performance of the tasks and responsibilities described in the Decision referred to by paragraph (1) of this Article, including access to adequate specialised knowledge and skills related to public-private partnerships, either through insourcing or by hiring external consultants. The obligation and the type of resources that need to be provided shall be laid down by the Decision on the appointment of the working body.

Article 10

(Procedure and criteria for selection of consultants)

- (1) The public body may engage one or more consultants to support the entire PPP process (PPP Process Consultant) and/or legal, economic or technical consultants for any of the PPP project stages (identification, preparation, contracting, implementation, and monitoring of a PPP project).
- (2) If the public body needs to engage one or more natural persons as consultants, be it on individual basis or as a group, it shall select the consultant/s by means of a public call and sign service contracts with the selected candidate/s, hiring the person/s as external associates providing expert support.
- (3) If the public body needs to engage a legal entity as a consultant, it shall select qualified entity in line with the Public Procurement Law ("BiH Official Gazette," No. 39/14).
- (4) Documentation for selection of consultants must include terms of reference for the consultancy services required and the relevant selection criteria.
- (5) Eligibility criteria for the selection of consultants referred to by paragraph (1) of this Article shall include:
 - a) For natural persons: relevant university degree, i.e. a diploma for the first (minimum 240 ECTS), cycle of higher education as defined in the Bologna Declaration; minimum five (5) years of work experience acquired after graduation; and at least three (3) positive references (written and/or oral) from former employers and/or clients;
 - b) For legal entities: having the appropriate type of business registered; having at least three (3) employees who meet the criteria referred to by item (a) of this paragraph; and at least one (1) confirmation of a properly implemented contract (preferably, a PPP-related contract).
- (6) Minimum technical and financial criteria for the selection of consultants shall include:
 - a) Demonstrated understanding of the project terms of reference (on one A4 page at the most);

- b) Financial offer (gross per diem and expenses);
- c) Certified statement that the applicant does not have a conflict of interest referred to by Article 2 (1) (h) of this Regulation.

- (7) The public body shall reserve the right to verify all elements of the application.
- (8) The public body shall sign an appropriate contract with the selected consultant providing for their mutual rights and obligations. The terms of reference referred to by paragraph (4) of this Article shall form an integral part of the contract.
- (9) The funds for engaging consultants shall be secured under the public body's budget and accounted for as part of public investment into the PPP project.

Article 11

(Work Plan with Timetable)

- (1) The working body, on their own, shall prepare a detailed Work Plan with Timetable facilitating the implementation and monitoring against the expected results as defined by the working body's terms of reference and the Decision on the appointment of the working body.
- (2) The Work Plan with Timetable shall be prepared using the template attached as Annex 4 to this Regulation and it shall include the working body objectives, description of activities, provisions on accountability (person responsible for implementation of the activities), needed support and deadlines for achieving the set objectives.

SECTION IV – PPP PROJECT FEASIBILITY STUDY AND CALL FOR PROPOSALS FOR SELECTION OF PRIVATE PARTNER

Article 12

(Feasibility study contents)

- (1) In addition to the minimum required contents of a feasibility study laid down by the Article 18 of the PPP Law, a PPP project feasibility study may include also other elements, pending on the type and/or specific properties of the project.
- (2) The risk assessment referred to by Article 18 (2) of the PPP Law shall cover the following risk areas:
 - a) Project development risk (risks related to definition and specification of the project objective, expected standard of service, and project management);
 - b) Construction risk (design risk, cost of construction risk, completion risk);
 - c) Maintenance risk (technology risk, risks related to procurement of raw materials, operating costs and administrative risks);
 - d) Revenue risk (demand risk, price risk);
 - e) Risks pertaining to sources of funding (financial risks related to both fixed and variable payments, interest rate risk, currency risk);
 - f) Other risks (regulatory, political, environmental risks, force majeure, etc.).

Article 13

(Call for proposals for selection of public partner)

- (1) No later than within thirty (30) days as of the date of adoption of the Decision expressing

commitment to the establishment of a PPP, the public body shall publish a call for proposals for the selection of private partner.

- (2) The call for proposals shall include, at least:
- a) Subject of the call;
 - b) Summary of the feasibility study, including short project description with output specifications;
 - c) Eligibility criteria for the selection of private partner;
 - d) Economic (qualitative aspects of the tender) and the financial criteria;
 - e) Evaluation methodology and the methodology of weighing the economic and financial criteria and sub-criteria;
 - f) Instructions for submission of tenders (method, deadlines, contact person, etc.);
 - g) Expected standard of the public service subject to the PPP project (in the event that the standards for the given type of public service are not already regulated, the public body shall adopt a decision laying down those standards before publishing the call for proposals);
 - h) Other relevant information.
- (3) The call for proposals shall be published in a way that ensures maximum circulation of the information to all potential private partners, including, at least, on the web site of the public body, the web site of the Canton Government, and in one (1) daily newspaper distributed throughout Bosnia and Herzegovina.
- (4) The public body may publish a shorter version of the call for proposals, translated at least to the English language, in the Official Journal of the European Union and/or on the web site of at least one (1) institution, agency, network or organisation that may circulate that information to potential foreign private partners.
- (5) In all PPP-related procedures, the public body must abide by the Decision on Obligatory Application of Domestic Preferences in the Process of Public Procurement.

Article 14

(Eligibility criteria for selection of private partner)

- (1) The eligibility criteria for the selection of private partner shall include that a tenderer:
- a) Is a registered local or foreign company;
 - b) Is not subject to bankruptcy or liquidation proceedings;
 - c) Had a positive balance at the last three (3) year-ends;
 - d) Has a tender guarantee equal to one percent (1%) of the estimated project value;
 - e) Has sufficient seed capital for the SPV;
 - f) Has own capital equal to at least twenty percent (20%) of the estimated project value.
- (2) The call for proposals shall specify any other private partner eligibility criteria pertaining to personal and professional competences of the persons employed with the tenderer depending on the properties of the PPP project.

Article 15

(Criterion for selection of private partner)

- (1) The criterion for the selection of private partner shall be the most economically advantageous tender.
- (2) The public body shall elaborate on the criterion of the most economically advantageous tender in the tender documentation in a way to define and provide details on the evaluation sub-criteria in line with the type and purpose of the service addressed. The sub-criteria may include the quality of the service addressed by the PPP project, price, functional and environmental aspects, operating costs, cost-effectiveness, maintaining the public service standards, implementation deadline, etc. The tender documentation must specify the exact methodology for evaluating each of the sub-criteria.
- (3) In case that only one (1) tenderer meeting the eligibility criteria outlined in the call for proposals applies, the public body shall not be obliged to choose that tenderer as the private partner should they find that, based on the evaluation of the sub-criteria referred to by paragraph (2) of this Article, the tender is not economically advantageous and/or carries too great risks for the public body.

Article 16

(Evaluation of tenders)

- (1) The working body shall open and evaluate the received tenders, take minutes and propose, by majority vote, a Decision on selection of private partner or a Decision on cancellation of tendering procedure to the public body.
- (2) The public body may, if requested by the working body, engage one or more consultants with specific technical or specialised knowledge and skills to help with the evaluation, provided that such knowledge and skills are not available within the working body. The consultants shall give opinions on the received tenders from their own field of expertise and shall not have voting rights.
- (3) The working body shall rank the tenders by majority vote, prepare a report on the procedure and submit to the public body a draft Decision on selection of private partner or Decision on cancellation of tendering procedure no later than within thirty (30) days as of the final deadline for submitting tenders.
- (4) The working body may propose to the public body not to accept any of the received tenders should the members find that, based on the evaluation of the sub-criteria referred to by Article 15 (2) of this Regulation, the tenders are not economically advantageous and/or carry too great risks.

Article 17

(Decision on selection and Decision on cancellation of procedure)

- (1) The public body shall adopt a Decision on selection of private partner or a Decision on cancellation of tendering procedure within forty-five (45) days as of the final deadline for submitting tenders.
- (2) A tendering procedure may be cancelled in the cases when:
 - a) No tenders have been received within the specified deadline; or
 - b) None of the tenders received have been found to be compliant;

- c) The tenders received meet the eligibility criteria outlined in the call for proposals but have not been accepted because they are not economically advantageous and/or carry too great risks;
- d) Only one (1) tenderer meeting the eligibility criteria for the selection of private partner has applied but was not chosen as the private partner by the public body due to the reasons outlined in Article 15 (3) of this Regulation.

(3) The public body shall deliver the Decision on selection of private partner or the Decision on cancellation of tendering procedure to all tenderers and to the Ministry within seven (7) days as of the date of its adoption, advising on legal remedy.

SECTION V – CONTRACTING AND MONITORING PPP PROJECTS

Article 18 (Additional content of PPP agreements)

- (1) The additional content of a PPP agreement shall include the relevant contracts, arrangements and standards from the call for proposals and it shall be determined in line with the Law on Obligations and sector regulations, depending on the purpose, subject and objective of the PPP agreement.
- (2) The additional content of a PPP agreement may include the location and service standards, projections of whole life costs, payment mechanisms, financial arrangements indicating the sources of funding, agreement on building rights and/or concessions, agreement/s providing for mutual rights and obligations between two or more public bodies involved in the PPP project, etc.

Article 19 (Registration of PPP agreements)

The public partner must register a PPP agreement with the Ministry in line with the Rulebook on Establishing and Keeping the Register of Public-Private Partnership Agreements.

Article 20 (Monitoring and reporting on implementation of PPP agreements)

- (1) The public partner must provide the necessary human and financial resources for monitoring and reporting on PPP agreements.
- (2) The elements of the monitoring and reporting (method, frequency, scope, etc.) shall be defined by the PPP agreement for each project separately.
- (3) The resources referred to by paragraph (1) of this Article may not be considered as part of the overall financing structure of a PPP project and shall be provided under regular budgetary public administration funding.

Article 21 (Annual Report on Implementation of PPP Law)

(1) The Annual Report on the Implementation of the PPP Law referred to by Article 26 (a) of the PPP Law shall include at least:

- a) Information on the PPP Project Pipeline, with the following data:
 - 1) Total number of potential PPP projects, indicating the ratio between Canton and LSGU projects;
 - 2) Total estimated value of potential PPP projects, expressed as a percentage of the overall Canton budget;
 - 3) An overview of the prioritised subjects of the potential PPP projects, expressed as the three (3) most frequently addressed public services/areas;
 - 4) Chosen methodology of preparing project proposals, indicating the ratio of different project preparation methods;
 - 5) Total funding for project preparation, expressed as a percentage of the overall Canton budget;
 - 6) Information on the status of potential PPP projects from the Pipeline;
- b) Information on newly registered PPP agreements:
 - 1) Total number of newly registered PPP agreements, indicating the ratio between Canton and LSGU agreements;
 - 2) Total value of the newly registered PPP agreements, expressed as a percentage of all investments at Canton level;
 - 3) Total number of newly employed persons, expressed as a percentage of the total number of newly employed persons in the Canton area;
 - 4) An overview of the subjects of the newly registered PPP agreements, expressed as the three (3) most frequently addressed public services/areas;
 - 5) Total financial liabilities of the public partner for the implementation of PPP agreements on annual and three-year basis, for the purposes of preparation of annual budgets and budget framework papers, i.e. the relevant financial plans of the public partner;
 - 6) Information on the status of newly registered PPP agreements;
- c) Information on the implementation of the signed PPP agreements;
- d) Brief overview of the received initiatives/complaints/suggestions for legislative changes;
- e) Information on conducted trainings and established co-operations with other relevant organisations and institutions;
- f) Other information relevant to the implementation of the Law.

Article 22 (Evaluation)

- (1) The Ministry must ensure an external evaluation of the Law every three (3) years.
- (2) The Ministry must propose relevant amendments to the Law and its bylaws no later than within

sixty (60) days as of the date of receipt of the evaluation report.

SECTION VI – FINAL PROVISIONS

**Article 23
(Entry into force)**

This Regulation shall enter into force eight (8) days as of the date of its publication in the “Tuzla Canton Official Gazette.”

BOSNIA AND HERZEGOVINA
Federation of Bosnia and Herzegovina
TUZLA CANTON
GOVERNMENT
Number: 02/1-05-8608/18
Tuzla, March 27, 2018

CANTON PRIME MINISTER

Jakub Suljkanović /signed/

Annex 1
(filed electronically)

PROponent (NAME AND SEAT OF PUBLIC PARTNER):

MEDIUM-TERM PLAN OF POTENTIAL PPP PROJECTS
FOR THE PERIOD FROM YEAR _____ TO YEAR _____

No.	Project title	Project purpose and specific objective (Indicate the expected public service improvement)	Reference strategy paper (Indicate one or more strategy papers as grounds for the proposed PPP project and the related objectives/ measures/activities)	Level of project development (Select an option from drop-down menu*)	Expected PPP model (Select an option from drop-down menu**)	Estimated total value of the project (costs of investment + maintenance + risk transfer)	Contact person
1.							
2.							
3.							
I, hereby, confirm that all potential PPP projects listed in this Plan meet the minimum criteria referred to by Article 3 the Regulation on Identification, Preparation, Contracting, and Monitoring of Public-Private Partnerships Projects.							

Date: _____
On behalf of the Proponent: _____

- *Project status**
- 0. Project idea only
 - 1. Appropriate public service analysis prepared
 - 2. Appropriate conceptual project design prepared
 - 3. Appropriate preliminary project design prepared
 - 4. Appropriate feasibility study prepared

- **Expected PPP model**
- Basic PPP model
 - Special PPP model

PROPONENT (NAME AND SEAT OF PUBLIC PARTNER):

ANNUAL PLAN OF POTENTIAL PPP PROJECTS

FROM THE PERIOD FROM _____ TO _____

No.	Project title	Project purpose and specific objective (Indicate the expected public service improvement)	Reference strategy paper (Indicate one or more strategy papers as grounds for the proposed PPP project and the related objectives/ measures/activities)	Level of project development (Select an option from drop-down menu*)	Expected PPP model (Select an option from drop-down menu**)	Estimated total value of the project (costs of investment + maintenance + risk transfer)	Amount of budgetary funds allocated for the preparation of PPP project proposal (in BAM)	Contact person
1.								
2.								
3.								
I, hereby, confirm that all potential PPP projects listed in this Plan meet the minimum criteria referred to by Article 3 the Regulation on Identification, Preparation, Contracting, and Monitoring of Public-Private Partnerships Projects.								

Date:

On behalf of the Proponent:

***Project status**

- 0. Project idea only
- 1. Appropriate public service analysis prepared
- 2. Appropriate conceptual project design prepared
- 3. Appropriate preliminary project design prepared
- 4. Appropriate feasibility study prepared

****Expected PPP model**

- Basic PPP model
- Special PPP model

SHORT PROJECT DESCRIPTION
(INFORMATION ON THE PPP PROJECT IMPLEMENTATION INTENT)

PROJECT TITLE	
PROPONENT	
PROJECT COORDINATOR (First and family name, address, contact phone and e-mail)	
PROJECT PURPOSE AND SPECIFIC OBJECTIVE	
DESCRIPTION OF THE PUBLIC SERVICE STATE OF PLAY (in all four public service areas, namely, physical availability, affordability, quality, and adaptability)	
DESCRIPTION OF THE EXPECTED PUBLIC SERVICE STATUS (in one or all four public service areas)	
EXPECTED PPP MODEL	<input type="checkbox"/> Basic model <input type="checkbox"/> Special model
EXPECTED AGREEMENT TERM	<input type="checkbox"/> Up to 10 years <input type="checkbox"/> 10-15 years <input type="checkbox"/> Over 15 years
ESTIMATED TOTAL VALUE OF THE PROJECT	<input type="checkbox"/> Up to 15 million convertible mark (BAM) <input type="checkbox"/> Over 15 million convertible mark (BAM)
PROJECT PROPOSAL STATUS	<input type="checkbox"/> Project idea only <input type="checkbox"/> Project proposal prepared in part <input type="checkbox"/> Completed project proposal (conceptual project design/ preliminary project design, feasibility study) <input type="checkbox"/> Decision committing to the establishment of the PPP adopted
EXPECTED DATE OF PUBLISHING THE CALL FOR PROPOSALS FOR SELECTION OF PRIVATE PARTNER	

WORK PLAN WITH TIMETABLE

STAGE 1: PREPARATION OF PROJECT PROPOSAL

No.	Objective	Description of activities	Responsible party	Support	Deadline for achieving the objective

STAGE 2: SELECTION OF PRIVATE PARTNER

No.	Objective	Description of activities	Responsible party	Support	Deadline for achieving the objective

STAGE 3: OVERSIGHT, MONITORING AND REPORTING ON IMPLEMENTATION OF PPP AGREEMENT

No.	Objective	Description of activities	Responsible party	Support	Deadline for achieving the objective

RULEBOOK

on Establishing and Keeping the Register of Public-Private Partnership Agreements

Pursuant to Article 66 of the Law on Organisation of Administrative Bodies in the Federation of Bosnia and Herzegovina ("Federation of BiH Official Gazette," No. 35/05) and Article 25 (2) of the Law on Public-Private Partnerships ("Tuzla Canton Official Gazette," No. 19/17), the Ministry of Economy of Tuzla Canton have passed the

R U L E B O O K

ON ESTABLISHING AND KEEPING THE REGISTER OF PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS

I GENERAL PROVISIONS

Article 1 (Subject)

The Rulebook on Establishing and Keeping the Register of Public-Private Partnership Agreements (hereinafter: the Rulebook) provides for the Register of Public-Private Partnership Agreements (hereinafter: the Register) and, in particular, for the contents and methodology of keeping the Register, subjects of registration, procedure for having public-private partnership agreements (hereinafter: PPP agreements) entered into the Register, content and format of the documentation supporting the registration, entering and storing data, persons with access to the Register, and keeping and protection of the data.

II DEFINITION OF THE REGISTER AND THE RESPONSIBLE BODY

Article 2 (Definition of the Register and data entered into the Register)

The Register shall constitute official record and source of information on all PPP agreements concluded in the Tuzla Canton area, kept in both electronic form and in hard copies.

Data from PPP agreements and other documentation specified under this Rulebook shall be entered into the Register and the Register shall be used to manage the database, ensure availability and protection of the data.

Article 3 (Body responsible for keeping the Register)

The Register shall be kept by the Ministry of Economy of Tuzla Canton (hereinafter: the Ministry).

III SUBJECTS OF REGISTRATION, DATA ENTRY AND VERIFICATION DOCUMENTS

Article 4 (Subject of registration)

(1) The subject of entry into the Register shall be the public partner.

(2) The public partner must have a PPP agreement entered into the electronic Register and registered with the Ministry by delivering the verification documents within eight (8) days as of the date of signature of the agreement.

Article 5 (Data entry and Register contents)

- (1) The PPP agreements shall be registered electronically by entering the relevant data into the electronic Register kept and updated by the Ministry.
- (2) The Register shall comprise two (2) parts, one with the data relating to registration of PPP agreements and the other with the data concerning changes to the original entries.
- (3) The data used to register a PPP agreement or changes to an agreement shall be the data on the public partner, the private partner and on the special purpose vehicle.
- (4) Once all required data have been entered, the public partner shall print from the electronic application the forms containing the data referred to by paragraph (3) of this Article and send the forms, along with the supporting documents, to the Ministry for verification of the entered data.
- (5) Verification of the data entered into the Register shall result in assigning a reference entry identification number for the current year (hereinafter: the ID number) to the PPP agreement, starting with 001/year of registration.
- (6) Verification of the PPP agreements entered into the Register shall be based on completely and correctly filled in Registration Forms and of any changes to the registered agreement based on completely and correctly filled in Forms for Change of Registration.
- (7) The Ministry shall inform the registration subjects that the verification of their agreement has been completed by providing them with the notification of registration and the ID number assigned to the registered PPP agreement, electronically and in writing.

Article 6 (Verification documents and deadline for submission)

- (1) The Registration Forms and the Forms for Change of Registration serving as basis for the verification of the entered data referred to by Article 5 (4) of this Rulebook shall include:
 - a) Form 1: Information on the Agreement;
 - b) Form 2: Information on the public partner;
 - c) Form 3: Information on the private partner; and
 - d) Form 4: Information on the special purpose vehicle.
- (2) In addition to the forms required for verifying the entered data, the public partner shall provide the Ministry with the original PPP agreement, including all annexes and attachments, or with a photocopy of that agreement stamped by the public partner, within fifteen (15) days as of the date of signature of the agreement.
- (3) The forms required to register any change to the original entry shall be accompanied by the original of all amendments to the agreement, including annexes and attachments, or by a photocopy of those amendments stamped by the public partner. The set of documents shall be submitted within fifteen (15) days as of the date of change.

- (4) The forms delivered for the purpose of verifying the registration of changes to the original agreement must include the ID number of the agreement being amended and be accompanied by the forms referred to by paragraph (1) of this Article subject to the changes.
- (5) The forms referred to by paragraph (1) of this Article shall be signed and stamped by the public partner.
- (6) All forms and other required documentation shall be marked "To the Register of PPP Agreements" and sent as registered post with proof of delivery to the postal address of the Ministry published on the web site of the Tuzla Canton Government or to the e-mail address jpp@tk.kim.ba.
- (7) The dated delivery note, signed and stamped by an official, or the electronic confirmation of the receipt of the message shall be returned to the sender.

Article 7
(Reviewing submitted documentation)

- (1) When verifying registration of PPP agreements, the Ministry shall always check if the data indicated in the Registration Form or in the Form for Change of Registration match the data in the PPP agreement or its amendment.
- (2) Should the Ministry find that some of the data in the forms referred to by paragraph (1) of this Article are missing or do not correspond to the data in the PPP agreement, they shall notify the public partner, both electronically and in writing, that the documentation received is incomplete and/or incorrect, thus inviting the public partner to supply new (amended or corrected) Registration Form, i.e. Form for Change of Registration.
- (3) The public partner must submit new Registration Form or Form for Change of Registration to the Ministry no later than within eight (8) days as of the date of receipt of the notification referred to by paragraph (2) of this Article.

IV ACCESS, STORING AND KEEPING THE REGISTER DATA

Article 8
(Transparency of the Register data)

- (1) The Register data shall be public and, therefore, available to all natural persons and legal entities by means of the electronic application, free of charge and without any restrictions, notwithstanding the restrictions arising from regulations on the protection of copy rights, personal data and trade secrets, as well as on data confidentiality.
- (2) In line with the provisions of this Rulebook and upon a written request, the Ministry shall issue a certificate with a printout of the data from a registered PPP agreement.
- (3) The certificate referred to by paragraph (2) of this Article shall be subject to payment of a fee in the amount determined by the Law on Canton Administrative Fees and Administrative Fee Tariffs.

Article 9
(Storing, keeping and protecting the Register data)

- (1) A PPP agreement, including all its annexes and attachments, any amendments to those documents, the Registration Form and the Form for Change of Registration, as well as any other

accompanying documentation form part of the Register File and shall be permanently stored and kept in the archives of the Ministry.

- (2) A PPP agreement, including all its annexes and attachments, shall be used to verify the correctness of data in the Registration Forms or the Forms for Change of Registration in the manner specified in Article 7 of this Rulebook and may not be used for any other purposes.
- (3) The Ministry shall be responsible for managing the electronic database and the Register Files, as well as to ensure the protection of the database and of the documents stored in its archives.

V FINAL PROVISIONS

Article 10
(User manual)

For the purposes of presenting the manner of use of the Register, the procedure of entering and deleting data from the Register, and any other information pertaining to the Register, the Ministry shall prepare a Manual for the Use of Register of PPP Agreements and make it available to all users as part of the electronic application and on the web site of the Tuzla Canton Government.

Article 11
(Entry into force)

This Rulebook shall enter into force eight (8) days as of the date of its publication in the "Tuzla Canton Official Gazette."

BOSNIA AND HERZEGOVINA
Federation of Bosnia and Herzegovina
Tuzla Canton
Ministry of Economy
Number: 03/1-02-11534/18
Tuzla, April 13, 2018

MINISTER

Osman Puškar /signed/