

APPLICATION OF EPC CONTRACTS IN KAZAKHSTAN

Al-Farabi Avenue Bock 1B
Nurly Tau BC office 204
Almaty 050059
Republic of Kazakhstan

info@unicaselaw.com

www.unicaselaw.com

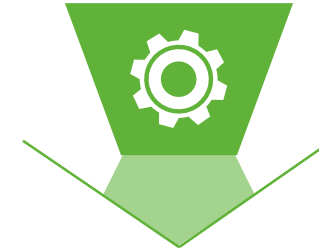
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CONSTRUCTION PROCESS



PRIOR CONSTRUCTION

- Getting a land plot
- Construction licenses and permits (3 categories)
- Work permits to hire foreign labor
- Project documentation development, approval and expertise



CONSTRUCTION

- Notice on beginning of construction
- Requirements to the construction (HSE, environmental permits, warranties)
- Architectural & construction control and supervision, Designer's supervision, Technical supervision
- Acceptance on the facility in operation:
 - State acceptance
 - Acceptance by the owner
- Registration of the completed facility

LICENSING REGULATION

CATEGORY I

It is issued for the most complicated design and construction activities at the facilities of highest complexity. The company needs:

- 10 years of proven design or construction experience; *and*
- at least one Kazakh qualified engineer for each types of works performed by the company.

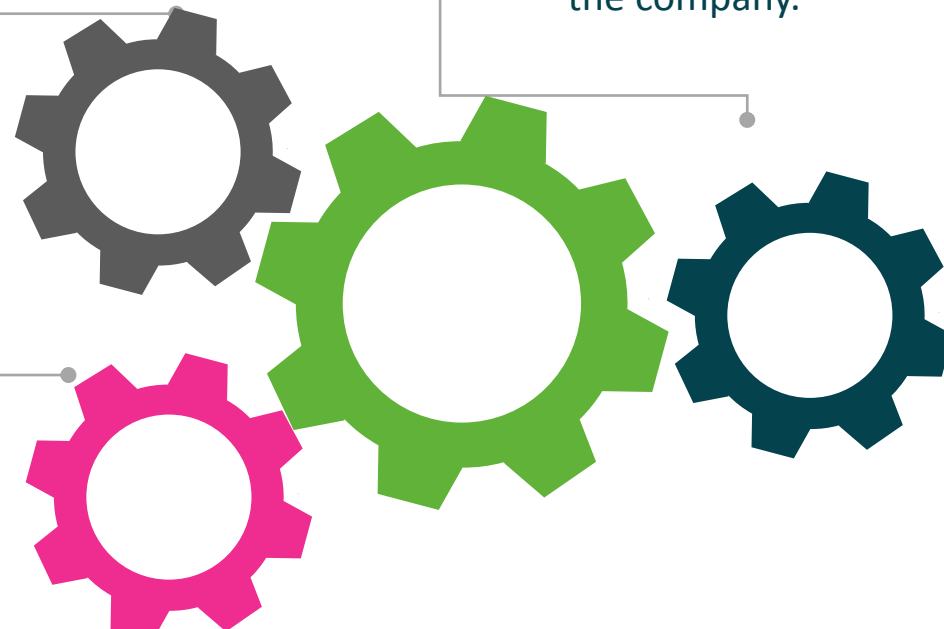
CATEGORY II

It is issued for more complicated design and construction activities at the facilities of higher complexity. The company needs:

- 5 years of proven design or construction experience; *and*
- at least one Kazakh qualified engineer for each types of works performed by the company.

CATEGORY III

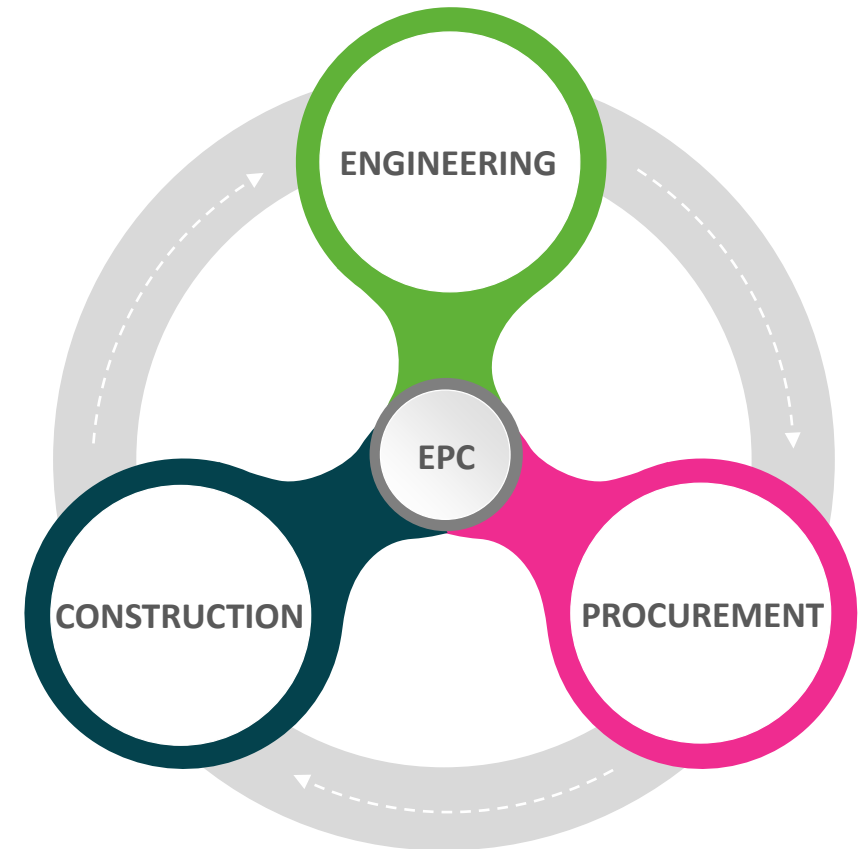
It is issued for simple construction works. No construction experience is required. At the same time, the applicant shall comply with certain qualification requirements.



ENGINEERING, CONSTRUCTION AND PROCUREMENT (EPC)

EPC – engineering, procurement, and construction contracts are the most common form of contract used to undertake construction works by the private sector on large-scale and complex infrastructure projects:

- TURNKEY
- RISK MANAGEMENT
- BALANCE OF INTERESTS
- FIDIC



FIDIC BOOKS



GOLD BOOK: Conditions of Contract for Design, Build and Operate Projects

SILVER BOOK: Conditions of Contract for EPC/Turnkey Projects

YELLOW BOOK: Conditions of Contract for Plant and Design Build

RED BOOK: Conditions of Contract for Construction

GREEN BOOK: Short Form of Contract

VS

KAZAKH CONSTRUCTION NORMS



CONSTRUCTION NORMS OF THE REPUBLIC OF KAZAKHSTAN 1.03-00-2011 on the construction production, organisation of construction of enterprises, buildings and structures

CONSTRUCTION NORMS OF THE REPUBLIC OF KAZAKHSTAN 1.02-03-2011 on the procedure of development, coordination, approval and composition of the project documentation for construction

THE LAW OF THE REPUBLIC OF KAZAKHSTAN DATED JULY 16, 2001, NO. 242-II, on architectural, urban planning and construction activities in the Republic of Kazakhstan

01

The most common type of EPC contracts in Kazakhstan is FIDIC contract

02

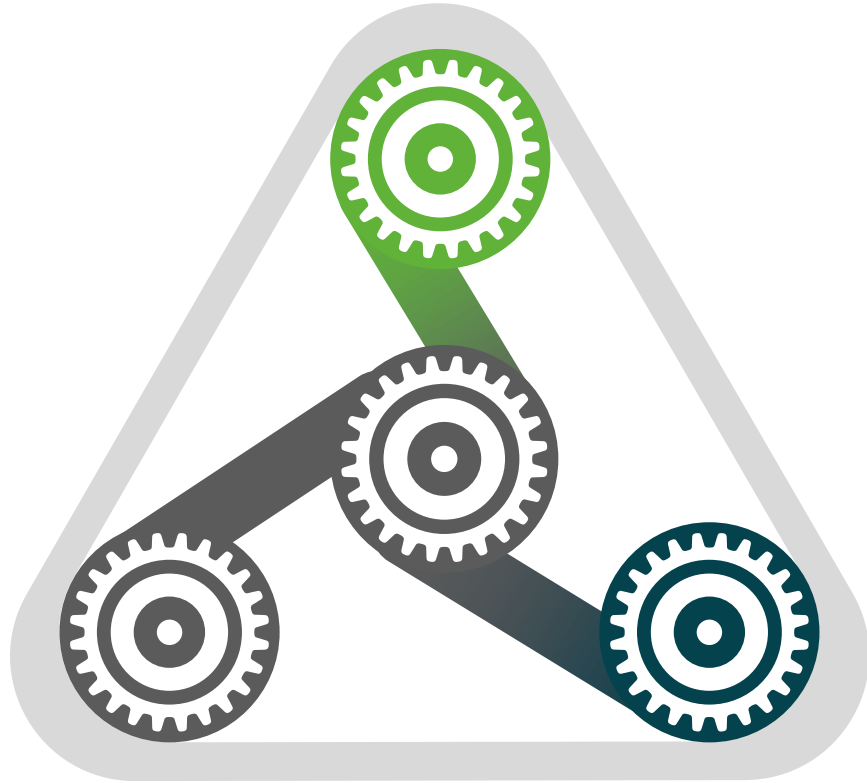
Some concepts of English law can be inapplicable or partially applicable in Kazakhstan (e.g. “reasonable efforts”, “sufficient”, “acceptable”)

03

FIDIC contract needs some amendments in order to be valid in Kazakhstan (e.g. object of the contract, project cost and timeline)

04

FIDIC contract cannot refer to the tender documents




Engineer/supervisor/project manager plays a fundamental role, therefore his/her duties and procedure for interaction with him/her are basically required to be discussed and determined in details


FIDIC contract must comply with “project documentation”

No exemption from liability


LAND RIGHT OF FOREIGNERS



Foreigners can obtain lands provided for building or with already built up industrial and non-industrial complexes, including residential constructions, and lands provided for the maintenance of such buildings.



Foreigners cannot obtain lands near the border line.



Foreigners cannot obtain lands provided for agricultural purposes until December 31, 2021.

OUR EXPERTISE IN EPC



CHINESE CONSTRUCTION CORPORATION

Advising Chinese construction corporation on reconstruction of irrigation network in Alakol district Almaty region including legal services on developing a subcontract agreement concluded with projects subcontractors in accordance with Kazakh legislation in accordance with the provisions and requirements of the main EPC contract (FIDIC Red book).



EAST KAZAKHSTAN MUNICIPAL STREET LIGHTING PROJECT

Advising on East Kazakhstan Municipal Street Lighting Project in Kazakhstan financed by EBRD including rendering legal services on developing/review of maintenance agreement, construction/installation works agreement based on principles of FIDIC Gold book EPC contract.



UTILITY-SCALE SOLAR AND ENERGY STORAGE PROJECT

Advising leading global developer for utility-scale solar and energy storage projects on permits and licenses required for the construction and commissioning of the solar plant and high voltage substation from relevant authorities in Kazakhstan.