# TABLE OF CONTENTS

**Legal Guide to Investment in Iraq**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FOREWORDS</strong></td>
<td>Dr. Sami-Al Araji, Chairman of Iraq’s National Investment Commission</td>
<td>i</td>
</tr>
<tr>
<td></td>
<td>Secretary Penny Pritzker, Secretary of the United States Department of Commerce</td>
<td>ii</td>
</tr>
<tr>
<td></td>
<td>Foreword by the Contributing Authors</td>
<td>iii</td>
</tr>
<tr>
<td></td>
<td>Contributing Authors</td>
<td>iv</td>
</tr>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td></td>
<td>vi</td>
</tr>
<tr>
<td><strong>SECTION I. INVESTING IN IRAQ</strong></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Legal System and Litigation in Iraq</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>The Importance of the Private Sector and the Iraqi Investment Law</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Iraqi Laws Relevant to an Investment</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Procedures for Granting an Investment License</td>
<td>8</td>
</tr>
<tr>
<td><strong>SECTION II. INTERNATIONAL INVESTMENT CONTRACTS</strong></td>
<td></td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Introduction</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>Suggestions for Drafting an Investment Contract</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>Suggestions for Negotiating an Investment Contract</td>
<td>20</td>
</tr>
</tbody>
</table>
SECTION III. INVESTING, LICENSING AND THE KEY LAWS IN IRAQ .......... 24
القسم الثالث: الاستثمار، التراخيص والقوانين الأساسية في العراق
A. Investors & Investments .................................................. 24
أولا: المستثمرون والإستثمارات
B. Procedures of the NIC and PICs ........................................... 28
ثانيا: إجراءات الهيئة الوطنية للإستثمار وهيئات الاستثمار في المحافظات
C. Owning and Leasing Land .................................................. 33
ثالثا: تملك الأرض، وإيجارها
D. Incentives and Guarantees for Investors .................................. 38
رابعا: المزايا، والضمانات للمستثمرين
E. Investor Obligations .......................................................... 45
خامسا: الإلتزامات المستثمر
F. Disputes and Settlements ................................................... 50
سادسا: فض النزاعات، وتسويتها
Procedures for Establishing a National Company, Branch Office or Representation Office for a Foreign Company .................................................. 54
إجراءات تأسيس شركة وطنية، أو فرع أو مكتب تمثيل لشركة أجنبية
Procedures for Granting an Investment License ................................ 56
إجراءات منح اجازة الاستثمار

SECTION IV. MODEL INVESTMENT CONTRACT ................................... 58
القسم الرابع: نموذج عقد الاستثمار

SECTION V. MODEL INVESTMENT CONTRACT COMMENTARY ............. 102
القسم الخامس: تعليقات على نموذج عقد الاستثمار

SECTION VI. FREQUENTLY ASKED QUESTIONS (FAQs) ..................... 112
القسم السادس: أسئلة مكررة
Overall Investment Climate ...................................................... 112
المناخ العام للإستثمار
Project Logistics ........................................................................ 115
ejwaين الجانب اللوجستية للمشروع
Investor Rights, Incentives and Obligations .................................. 116
APPENDIX I - Main Privileges Granted to Iraqi and Foreign Investors as per the Second Amended Law of Investment Law No. 13 of 2006.............................................................. 133

الملحق 1: ابرز الامتيازات الممنوحة للسّثّمرين العراقيين والأجانب استنادا إلى قانون التعديل الثاني لقانون الاستثمار رقم 13 لسنة 2006

APPENDIX II - الملحق 2 ................................................................. 145

A. Iraqi Laws Relevant to the Investment Process ........................................... 145

القوانين العراقية ذات العلاقة بعملية الاستثمار

B. List of Relevant Investment Resources......................................................... 145

قائمة بالمراجع ذات العلاقة بالاستثمار في العراق
The Government of Iraq attaches great importance to the investment sector and views it with tremendous interest and satisfaction. This should convey to all investors an encouraging message: the path to working and investing in Iraq is now wide open following the improved political, legal and economic climate in Iraq, including two notable milestones: the enactment of the Second Amendment to the National Investment Law No. 13 of 2006, granting further privileges to investors, as well as Iraq’s recent accession to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (ICSID Convention).

As a result of this promising new environment, Iraq is witnessing greater momentum toward a free economy through a variety of mechanisms, including enabling the private sector to assume a leading role in running the affairs of the national economy. Further strengthening this new environment is a host of new ideas and initiatives spawned by a new spirit of free enterprise, such as greater freedom of movement, efficiency in allocating resources, and utilizing profitability as an indicator of sound economic performance. Moreover, this new spirit is acting as a catalyst for expanding investment, which will also help alleviate the burdens on the national government.

The Government of Iraq seeks to promote and diversify investment of every kind and create an attractive investment climate in the broadest sense by embracing the shift toward the private sector. By doing so, the present and future vision of the Government of Iraq rests on the fact that Iraq is now a peaceful and democratic nation that is working toward building a prosperous economy with markets that are competitive on the regional level and fully integrated into the global economy.

Dr. Sami Al-Araji
In March 2014, the U.S. Government and Government of Iraq signed a Trade and Investment Framework Agreement (TIFA) with the goal of increasing strategic cooperation to create jobs and attract investment in both countries. One of the principal challenges for U.S. investors seeking to do business in Iraq is the lack of legal certainty and general understanding of the existing regulatory framework underlining the investment process. The TIFA provides an enhanced understanding of the best practices used in structuring investment agreements in light of Iraq’s amended National Investment Law No. 13 (2006) as amended and commercial regulations, especially regarding private sector growth.

The U.S. Department of Commerce, through our Office of the General Counsel’s Commercial Law Development Program, with the National Investment Commission of Iraq and the Organisation for Economic Co-operation and Development, led the effort to create these mechanisms with funding from the U.S. Department of State. Over the course of a year, these entities gathered critical insights from partner governments, the private sector, and international organizations, and then brought together leading experts to incorporate those insights into a plain-language handbook. Legal Guide to Investment in Iraq provides both an overview of relevant legislation and regulations and a comprehensive understanding of the requirements for a functional and equitable investment agreement. Indeed, this publication is a significant step toward achieving President Obama’s goal of increasing trade and investment with Iraq.

Our collective goal is to help Iraq further integrate into the global economy and enhance our long-term strategic partnership. I am particularly proud of the Department of Commerce’s leading role in this inter-agency and international effort. Our successful collaboration is a powerful example of how the shared commercial interests of the United States and Iraq can be a force for the development of economic ties between both nations.

Penny Pritzker
Secretary, U.S. Department of Commerce
FOREWORD BY THE CONTRIBUTING AUTHORS

Mقدمة من قبل المؤلفين المشاركون

The authors of this Legal Guide include contributors from governments, NGOs, leading international and local law firms and private banks. Our hope is that by providing perspectives from all facets of the investment process, we can present the reader with a balanced understanding of the challenges involved in creating an investment contract and insight into the practical reality of overcoming these challenges when negotiating these complex agreements.

يتضمن قائمة مؤلفي هذا الدليل القانوني مشاركين من الحكومة والمنظمات غير الحكومية والشركات القانونية الدولية والعراقية الرائدة والبنوك الخاصة. ونأمل من خلال تقديم وجهات نظر متنوعة في مختلف جوانب العملية الاستراتيجية لتحقيق فهم متوازن للكافة التحديات التي تكتنفها عملية صياغة الاتفاق أو العقد الاستثماري، ورؤية للاوراق العملية للتغلب على تلك التحديات عند التفاوض على مثل هذه الإتفاقيات المركبة.

Special thanks go to each and every one of the contributing authors and their respective teams that contributed to this Legal Guide. We are especially thankful for the hard work and effort of John Furlow, Lana Khoury and the rest of the team at Mayer Brown LLP (Legal Advice/Proofreading), Firas Jawhari, Dr. Abdeljabber Al-Hayani, Rasha Nadeem and the rest of the team at Bayt Al Hikma (BHC Firm) (Iraqi Legal Advice/Proofreading), Hussein Bazzi and Mohammed Loraoui at the Commercial Law Development Program (CLDP) (Technical Support/Proofreading), and Osama Sadick and his team at Transword (Legal Translators). We would also like to recognize the funding of the US Department of State – Near East Affairs/Iraq, the support of the Organization of Economic Co-operation and Development (OECD), especially the leadership of Klaus Hachmeier, and the expertise of the NIC legal staff.

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Sincerely,
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This Legal Guide will be continually updated by the National Investment Commission in light of any amendments to legislation pertaining to investment activity or any changes to the procedures by which the administrative authorities facilitate investment activity.

The National Investment Commission welcomes any comments, suggestions or queries related to this Legal Guide to be sent to the following email:

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THE LEGAL TRANSLATION OF THIS GUIDE IS NOT OFFICIAL. PLEASE CONSULT THE ORIGINAL ARABIC LEGAL TEXT. ADDITIONALLY, THE ARABIC AND ENGLISH TRANSLATION OF THIS LEGAL GUIDE MAY NOT EXACTLY MATCH. RATHER, THE EDITORS HAVE PARAPHRASED SELECT PARTS. THIS APPROACH IS TO ENSURE A BETTER UNDERSTANDING OF THE LEGAL CONTEXT BY BOTH ENGLISH- AND ARABIC-SPEAKING READERS.
INTRODUCTION

“We want to move from a centrally-planned economy to a global economic system. We want to open ourselves to other countries and make all facilities available in order to encourage investors to invest. If we want to work with the outside world then we must engage in business in the international way.”


The purpose of this Legal Guide is to provide lawyers, public sector officials and investors with a comprehensive guide on the subject of investment contracts, and, in order to encourage investment and facilitate investor access, to provide uniform rules for the drafting of such contracts and to introduce investors to the way the Iraqi legal system operates.

With a skilled workforce and high demand for investment in housing, manufacturing, power and other infrastructure projects, Iraq offers considerable investment opportunities.

In recognition of the important role that private-sector investment will play in the reconstruction and development of Iraq and its economy, the Government of Iraq has put arrangements in place for the promotion of investment activities and mechanisms to facilitate investment.

This has been accomplished by significant changes to the legal regime governing investment in Iraq in order to attract and streamline investment. These changes include the creation of the National Investment Commission (NIC) and provincial investment commissions (PICs) as a “One-Stop Shop” for investors in order to facilitate and streamline the investment process. In addition, there are new provisions of the Second Amended National Investment Law No. 13 of 2006, and a host of new laws and regulations that have been enacted to promote investment in Iraq.

The aim of this Legal Guide is to provide lawyers, public sector officials and investors with a comprehensive guide on the subject of investment contracts, and, in order to encourage investment and facilitate investor access, to provide uniform rules for the drafting of such contracts and to introduce investors to the way the Iraqi legal system operates.

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(National Investment Law), which offer investors generous benefits, guarantees and exemptions for qualifying investments, including (See Appendix I for a brief summary of the Second Amended National Investment Law):

- Ten-year exemption from taxes from the date of commercial operations and for each stage of the project (Article 15/First/A of the Investment Law);

- Right to repatriate investments and revenues (Article 12/First of the Investment Law);

- Exemption from import duties for necessary equipment and materials throughout the period of project implementation, and before the start of commercial operations (Article 17/First of the Investment Law);

- Exemption from taxes and fees for primary materials imported for commercial operations based on the percentage of locally-produced materials being used in the project (Article 17/Fifth of the Investment Law);

- Protection from nationalization or expropriation (Article 12/Third/A and B of the Investment Law).

The purpose of this Legal Guide is to facilitate increased investment in Iraq by providing a common reference tool for use by public and private sector parties in evaluating and entering into investment contracts, including an overview of the procedures, rules and regulations applicable to investment contract negotiation.

 إن الهدف من هذا الدليل القانوني هو تسهيل زيادة الاستثمار في العراق من خلال توفير مرجع مشترك يتم استخدامه من قبل مؤسسات القطاع العام والخاص في دراسة وتنفيذ عقود الاستثمار، بما في ذلك الإجراءات والقواعد والشروط المتعلقة بالتفاوض على العقد الإستثماري.
Contents of Legal Guide

The Legal Guide has six principal Sections and an Appendix.

Section I – This Section provides an overview of the process of making a foreign investment in Iraq by laying out a general description of the relevant Iraqi laws and the Iraqi legal system. This includes, specifically, a summary of the Iraqi National Investment Law (as amended) and a description of the Iraqi court system. This Section also provides, as an example, a comprehensive summary of the processes and timetables applicable to an infrastructure investment project, which can be used as an example and adapted as needed for other types of investment contracts.

Section II – This Section provides an introduction to international investment contracts of the type that governs large investment projects. This Section also provides guidelines for drafting and negotiating such contracts. Many, although not all, investment projects in Iraq will involve a contract between the investor and a government agency. These guidelines are intended to aid investors in negotiating and preparing such contracts.

Section III – This Section provides a description of how to create an Iraqi company and how to obtain permits and licenses for a specific business, as well as a summary of the main Iraqi laws related to the investment process.

Section IV – This Section provides a sample investment contract between a foreign investor and the Iraqi government for an infrastructure project. This contract can also be adapted and varied to suit other types of investments.
Section V – This Section provides a commentary on select provisions of the sample investment contract.

Section VI (FAQs) – This Section provides the most frequent procedural and legal questions asked by investors when considering investing in Iraq.

Appendices – This includes a summary of Second Amended National Investment Law (2016), list of Iraqi laws relevant to investing in Iraq, and a list of resources related to investing and doing business in Iraq.

القسم الخامس – يقدم هذا القسم تعقيباً لأحكام نموذج عقد الاستثمار.

القسم السادس – يقدم هذا القسم أكثر الأسئلة الإجرائية والقانونية التي يطرحها المستثمرون عند تفكيرهم بالاستثمار في العراق.

الملاحق – تحتوي على إيجاز للتعديل الثاني لقانون الاستثمار وقائمة بالقوانين العراقية ذات الصلة بالاستثمار في العراق، وقائمة بالمراجع المتعلقة بالاستثمار وممارسة العمل التجاري في العراق.
SECTION I
INVESTING IN IRAQ

Legal System and Litigation in Iraq

Drafters of investment contracts must have expertise in Iraqi laws and the Iraqi court system. This is critical to accommodate international investors’ needs and ensure the validity and enforceability of investment contracts. Iraqi law is a written code of civil laws; judicial precedent plays only an advisory role, and the “will of the parties” principle in contractual agreements is virtually non-existent in terms of mandatory provisions, as opposed to default provisions. Therefore, when negotiating the drafting of an investment contract between a party with an Anglo-Saxon legal background and a second party with a civil law background, the following points should be taken into consideration:

1. Iraqi Civil Law No. 40 of 1951 has mandatory and default rules. Mandatory rules are binding and not subject to amendment by the parties to a transaction or contract. Default rules are those which parties are permitted to agree on amending or replacing. An example of mandatory rules in the Iraqi Civil Law is Article 508, which states “The sale of real estate is not complete unless it is registered with the relevant department and the registration complies with the format set forth in the law.” An example of a default rule can be found in Article 542 of the Iraqi Civil Law, which states that “the costs of delivering goods sold, such as volume and weighing fees, are incumbent upon the seller alone, unless

---

1 The legal systems of the United States of America and United Kingdom.
2. Iraqi Civil Law No. 40 of 1951 provides a set of rules on addressing conflict of laws in terms of time and place. These rules are outlined in Articles 10 to 33 of the Iraqi Civil Law. An example of a conflict of laws rule pertaining to time is provided in Article 10, which states that a “law is not enforceable until it goes into effect, and is not retroactive unless the new law states otherwise or is related to Public Order and Decency Laws.” Another example of a conflict of laws rule pertaining to place is addressed in Article 26, which provides that the “makeup of contracts is subject to the laws of the State in which they were concluded.” To ensure enforceability of a contract, drafters must be very familiar with these rules before selecting them.

3. The Iraqi Law of Civil Procedures No. 83 of 1969 covers arbitration in Articles 251 to 276. Article 251 states that: “An agreement on arbitration is allowed in a particular dispute; an agreement on arbitration is also allowed in all disputes arising from implementing a specific contract.” When a dispute arises concerning an investment contract in Iraq, an Iraqi judge will first apply the National Investment Law and all regulations and instructions promulgated thereunder as the primary law. If the National Investment Law is silent on a particular legal issue, the judge may resolve the issue through other relevant laws, such as Civil Law No. 40 of 1951, the Trade Law No. 30 of 1984, and the Companies Law No. 21 of 1997.

It is worth noting that the National


من الجدير بالذكر أن قانون الاستثمار العراقي قد حدد
Investment Law does outline the procedures for redress that investors can seek should a license not be initially granted or is subsequently revoked. If a request submitted to the PIC in a province is denied, the investor can ask that the Chairman of the PIC to reconsider the decision; and in the event this request is denied, the investor may appeal to the NIC. If the request submitted to the NIC is denied, the investor can ask that the NIC reconsider the request, and the NIC’s decision is subject to appeal by the Council of Ministers (Article 20/Fourth/A, B and C of the National Investment Law).

In the event of a disagreement between the NIC decision and a sectorial authority “regarding granting a license by other than the region’s [PICs], the dispute shall be brought before the Prime Minister for a decision” (Article 20/Third of the National Investment Law).

In the event of the revocation of an investment license by the issuing authority, the investor has the right to appeal the decision before the President of the license issuing commission within 15 days of the day of submitting the appeal. Not replying withing this period shall be considered a rejection to the appeal. If the appeal is rejected, the investor may appeal before the Chairmain of NIC within 15 days of the rejection and the Chairman of the NIC must reply within 15 days of the date the appeal was submitted to his office. If rejected by the Chairman of the NIC, or after 15 days of no decision, the investor has the right to appeal before competent courts (Article 20/Fourth/D, E and F of the National Investment Law).

There are three levels of Civil Courts in Iraq: the Courts of First Instance; the Courts of Appeal; and the Court of Cassation. A plaintiff or their legal counsel may take legal action in Iraqi courts. Please note, however,
The Importance of the Private Sector and the Iraqi Investment Law

Historically, the public sector has played a central role in overseeing the development of the Iraqi national economy. From 1958 to 2003, there was an unbalanced dependency on the State budget, which relied almost exclusively on oil revenues to finance government projects. During this time the public sector was strengthened at the expense of the private sector, which was largely neglected. Consequently, the public sector became the largest employer of Iraqis, the predominant engine of economic growth and the largest contributor to the Gross Domestic Product (GDP). This emphasis on public sector interests also resulted in the development of a judicial system that not only neglected, but at times inhibited, private sector interests. In fact, there was little to no legislation passed in support of private-sector funded investments. Successive governments pursued legal and economic policies that led to the enactment of laws that inhibited foreign investment, as demonstrated by policies prohibiting non-Iraqi nationals from owning real estate as well as the nationalization of private enterprises, especially in the 1960s and 1970s.

Since 2003, to counter this unsustainable reliance on the public sector, there has been a discernible shift in policies aimed at giving

Aهمية القطاع الخاص وقانون الاستثمار في العراق

على مدار التاريخ الحديث للعراق، لعب القطاع الحكومي دوراً حيوياً في الإشراف على تنمية الاقتصاد الوطني. وخلال الفترة الممتدة من عام 1958 إلى عام 2003، كان هناك إعتماد غير متوازن على الموازنة العامة للدولة، التي كانت تعتمد على العوائد النفطية إعتماداً شبه كاملاً في تمويل المشاريع الحكومية وتعمد القطاع العام على حساب القطاع الخاص الذي تعرض للاهانة بشكل عام. نتيجة لذلك، أصبح القطاع الحكومي المجال الأكبر لتوفير فرص العمل والمحرك الأكبر للنمو الاقتصادي والمساهم إجمالي الناتج المحلي. وإلى ذلك التركيز على القطاع العام إلى تطوير نظام قطاعي لم يجعل مصالح القطاع الخاص فحسب، وإنما عُرقل أيضًا. وبالفعل، لم يكن هناك إلا القليل من التشريعات لدعم القطاع الخاص الذي تموله الإستثمارات. وطبقت الحكومات المتقدمة سياسات قانونية وإقتصادية أدت إلى إصدار قوانين معرضة للإهانة الأجنبى، حيث تحلل ذلك في حظر إمتلاك العقارات على غير العراقيين، وتأميم الشركات الخاصة، ولا سيما خلال التسعينيات والسبعينيات.

إن سياسة الإعتماد المتزايد على القطاع الحكومي الممول من الموازنة العامة قد أدى إلى الإضرار باقتصاد الدولة. لعل أبرزها العجز التقليدي الواقع على عائق الدولة في توفير فرص عمل لآلاف المواطنين، وهو سبب أساسي في إرهاق الموازنة العامة للدولة.

ولمواجهة الإعتماد غير القابل للإستمرار على القطاع الحكومي، حدد تحول ملمحه منذ عام 2003 منح الثقة وتوفير الدعم الحيوي للقطاع الخاص. وتحقيقًا لهذه
confidence and providing critical support to the private sector. To that end, the Government of Iraq made a concerted effort to transform the Iraqi economy from a planned economy to a free-market economy, as set forth in the 2005 Constitution of the Republic of Iraq. Some key constitutional provisions include Article 25, which states, "the State shall guarantee reforming the Iraqi economy based on modern economic principles to ensure full utilization and diversification of its resources, and promoting and developing the private sector."

Moreover, Article 26 of the Constitution also states "the State shall ensure that investment is promoted in the various sectors, and this shall be regulated by law."

These constitutional provisions, which were geared toward spurring the development of the private sector, were implemented through the National Investment Law, as well as additional pieces of relevant legislation such as the Competition Law, Anti-Trust Law, Domestic Product Protection Law, and others. The main purpose behind enacting the National Investment Law, which is recognized as one of the most comprehensive and modern investment laws in the region, was to boost economic and social development, attract technical and scientific expertise, develop human resources, and create jobs for Iraqis. Such economic growth would be driven by promoting investment in all sectors based on local priorities, as well as developing existing projects at every economic level and granting privileges and exemptions to investors to ensure their long-term commitment to the country’s economic development.

Yet, the hallmark of the National Investment Law is that it removed the exclusion of non-Iraqi citizens from investment and trade in Iraq. This was achieved by allowing any
licensed investor to invest in a variety of economic sectors, and by treating Iraqi and foreign investors equally in terms of the rights and privileges established by law.

This law includes many rights and privileges for investors, including exemptions from customs and taxes, simplification of the process for bringing capital in and out of the country, and the ability to bring in foreign workers and provide them with residency permits to carry out investment projects, while at the same time protecting those investment projects from confiscation or nationalization.

Based on the principal of decentralization, and to promote domestic and international investment, the National Investment Law created the NIC and PICs in each province of Iraq. The underlying goal of the NIC and the PICs is to facilitate all essential and necessary approvals for obtaining an investment license, and to facilitate the creation of successful and sustainable investment projects through the ‘One-Stop Shop.’

The incremental shift toward backing the growth of the private sector is aimed at helping to spur investment projects in order to create jobs, provide essential services, and to minimize pressure on the State budget, which is largely dependent on oil revenues that are susceptible to price fluctuation.

It is now widely recognized that the private sector is best positioned to help diversify the Iraqi economy and firmly establish the country as a nation open for business to local, regional, and international investors.

**Iraqi Laws Relevant to Investment**

The provisions of the National Investment Law are the general provisions for standardizing the process of investment activity in Iraq and cannot be relied on...
exclusively as detailed instructions for establishing or operating an investment project. Rather, several laws work in concert to organize and govern investments in Iraq.

The Iraqi legal regime governing investment in Iraq consists of several related laws on establishing a project, including: Residency Law No. 118 of 1978, Companies Law No. 21 of 1997, as amended, Trade Law No. 30 of 1984, and Banking Law No. 94 of 2004, Civil Law No. 40 of 1951, Investment Law on Crude Oil Refining No. 64 of 2007, Industrial Investment Law No. 20 of 1998, and Free Trade Zone Law No. 3 of 1998, in addition to several related pieces of legislation, such as Regulation No. 5 of 1989. Additional information can be found in Section III of this Legal Guide.

Three points should be noted regarding these related laws:

First, when the text of any of these laws conflicts with the National Investment Law, application of the National Investment Law supersedes these laws, even if the conflicting law was enacted subsequent to the National Investment Law. This is pursuant to the principle that “specific rules restrict general rules,” and is also affirmed in the National Investment Law, which states, “any provision that contradicts the regulations of this law shall be null and void” (Article 33 of the National Investment Law).

Second, the general policy of the State is toward ensuring that investments are given priority. This is a critical point in terms of the application of related laws, drafting contracts, and removing ambiguities in applying laws and procedures.

While the National Investment Law lays out the general terms for providing benefits and protections for investors, there are areas on which the National Investment Law is silent and a series of related laws and regulations complement and govern investments in Iraq.
and the relevant laws outline more detailed procedures to be followed by the investor. At the same time, the National Investment Law does not absolve any investor from fully adhering to the requirements and mechanisms of other laws, as well as any legal requirements applicable under Iraqi law as a whole. For example, obtaining an investment license does not absolve a project investor from satisfying the requirements for registering a company under the Companies Law, nor from registering or satisfying the particular requirements for obtaining a building permit or import license. Moreover, while the National Investment Law provides exemptions for investors from paying income tax for a specified number of years, it does not exempt investors from submitting the required financial disclosures to the tax and regulatory authorities in Iraq, as required by Iraqi Income Tax Law No. 113 of 1982.

Third, it is noteworthy that Iraq is in the process of joining multilateral and bilateral agreements that regulate investment activities, as a means of providing additional privileges to investors. Once such agreements are joined and acceded to by the Government of Iraq, they will supersede local legislation and should be taken into consideration by those concerned with the drafting of investment contracts (Article 22 of the National Investment Law).

**Procedures for Granting an Investment License**

Simplifying the granting of investment licenses, obtaining the necessary approvals from relevant authorities, and ensuring the implementation of a project are some of the most prominent benefits of the National Investment Law No. 13 of 2006 as amended, and the regulations issued thereunder. The NIC and PICs in all Iraqi provinces seek to facilitate investors’ work through creation of the single-source solution department or
‘One-Stop Shop’, which is responsible for obtaining the necessary approvals for granting investment licenses and facilitating the implementation of investment projects on schedule (Articles 9/Third and 20/First and Second of the National Investment Law).

It should be noted that the National Investment Law grants the Council of Ministers the exclusive authority over approval of investment projects in excess of USD $250 million and no consideration is given to the NIC or PIC that will grant the license (Article 7/B of the National Investment Law). It should also be noted that Investment Regulation No. 2 in its Article 4/Second defined the projects that are specific to the NIC as “strategic investment projects,” in addition to federal projects; all other investments are under the jurisdiction of the PIC.

An investment project goes through several phases: (1) selecting an investment opportunity; (2) submitting the investor’s application and receiving an investment license from the NIC or relevant PIC; (3) project development and execution; and (4) commencement of commercial operations of the project.

The investment project may be in the form of an investment opportunity announced by the NIC or relevant PIC or result from a proposal expressed by an investor to carry out a particular project. The investor would then present the details of the investment project to the NIC or relevant PIC, obtain an investment license, conclude an investment contract, implement the project, and begin the commercial operation phase.

At each phase of the project, there are a number of procedures and requirements that an investor must meet or complete to be eligible for the benefits stated in the National Investment Law, whether the commission...
granting the investment license is the NIC or a PIC.

First – Presenting a Project as an Investment Opportunity

The NIC and PICs are tasked with identifying investment projects that could be presented as investment opportunities. The investment opportunities selected are then presented to potential investors. Investors can also submit proposals for investment opportunities that they consider suitable for the respective PICs or NIC.

The best way to promote investment projects is through the Investment Map, a publication issued by the NIC on investment projects in Iraq, which collects information from PICs in all provinces as well as information provided by the respective sectors, in accordance with the National Investment Law. Additionally, investment opportunities are announced to the general public on the NIC and PICs’ websites (Article 4/Sixth of the National Investment Law).

Second – Requesting and Granting an Investment License

If an investor is interested in an available investment opportunity, the investor can start the process of requesting full information about the investment project from the NIC or PIC. Usually, the ‘One-Stop Shop’ undertakes this task considering that its purpose under the law is to facilitate investors’ work.

A foreign investor is required to reach out to the NIC to apply, via email, for a visa to Iraq (Note: Iraqi nationals can simply visit the NIC or PIC to start the investment process). To obtain a visa, the investor needs to submit a request for a visa to the NIC stating the reasons for the visit, along with all

أولاً – عرض المشروع كفرصة استثمارية

تقع على عاتق الهيئة الوطنية للإستثمار وهيئات الاستثمار في المحافظات مهمة تحديد المشاريع الاستثمارية، ثم تُعرض الفرص الاستثمارية على المستثمرين المحتملين. ويمكن للمستثمرين أيضًا أن يقدموا عروضا لفرص استثمارية يرونها مناسبة للهيئة الوطنية للإستثمار أو هيئات الاستثمار في المحافظات.

ثانياً – طلب الحصول على إجازة الاستثمار ومنحها

في حالة إهتمام المستثمر بفرصة استثمارية معرضة، يمكنه البدء بعملية طلب المعلومات الكاملة عن المشروع الاستثماري من الهيئة الوطنية للإستثمار أو هيئة الاستثمار المحافظة. وعادة ما تتوالى دورة التفاعل الواحدة، وهي إدارة متخصصة، هذه المهنة، حيث أن الطلب منها بموجب القانون هو تسهيل مهمة عمل المستثمرين.

المطلوب من المستثمر الأجنبي مفاتحة الهيئة الوطنية للإستثمار، بواسطة البريد الإلكتروني، لتقديم طلب للحصول على تأشيرة دخول إلى العراق. (ملاحظة: يمكن للمواطنين العراقيين زيارة الهيئة الوطنية للإستثمار أو هيئة الاستثمار المحافظة لبدء عملية الاستشارة، ولكن يجب الحصول على التأشيرة قبل أن يتمدّد طلب إلى الهيئة الوطنية للإستثمار للحصول
supporting documents, including the visa application. The NIC will then directly coordinate with the Residency Directorate at the Iraqi Ministry of Interior to obtain the visa, usually in three business days.

Upon the investor’s arrival at the NIC or PIC, the investor may proceed directly to the ‘One-Stop Shop’ department, which receives investors and prepares the requirements for the investment project. While there, the investor can ask all necessary questions regarding the investment project, and the Department will answer all questions regarding the investment opportunity.

If the investor decides to proceed with the investment opportunity, the ‘One-Stop Shop’ will then provide the investor with all the requirements for obtaining an investment license, as provided by Article 19/Second of the National Investment Law, which include:

1. Filling out an application prepared by the NIC or relevant PIC. There is a specific application that includes details on the investor and the investment opportunity. The ‘One-Stop Shop’ is tasked with helping investors complete the application.

2. A Financial Capability Statement from an Accredited Bank. The purpose of this requirement is to demonstrate that the investor has a plan and the financial means to carry out the project, including the financial means of partners or parties supporting them. To qualify as an accredited bank, the bank must be on the Central Bank of Iraq’s (CBI) bulletin that includes a list of all accredited banks.

3. Investor’s Projects Within or Outside Iraq. The purpose is to identify past or
present similar work carried out by the investor, as well as partners or parties supporting them, as this is considered an indication of the investor’s ability to implement a project in a professional and timely manner.

4. Details of the Investment Project and Economic Feasibility Study. It is the investors’ responsibility to provide all the details of the project, such as blueprints and designs. The NIC or PICs will review and refer such documents to related authorities to obtain the necessary approvals. The investor must also submit a feasibility study for the project to highlight how the project will benefit the national economy.

5. Timetable for Completion of the Project. It is the investor’s responsibility to accurately determine the timeline required to complete the project and to assist the relevant parties in taking the necessary steps to comply with the progress of the work schedule of the investment project.

Assuming that all of the required information is provided, the investor will be granted an investment license that provides the investor with all of the rights and guarantees set forth in the National Investment Law. Once a license is granted, the investor then moves to complete the remaining contractual procedures with the relevant sectors and entities owning the land, in each case based on the particular nature of the project (Article 10 of the National Investment Law organizes discussions for ownership and lease of land by investors by the purpose of establishing their investment projects).

Third – Investment Project Implementation
At this phase, whether the project was granted for residential, commercial, industrial or agricultural purposes, the investor must establish and build project facilities in accordance with the investment license and/or the investment contract. Additionally, the National Investment Law outlines certain obligations that the investor must fulfill.

During the third phase, the investor enjoys numerous advantages. The following are just some of the benefits and exemptions provided to investors by the National Investment Law:

“Assets imported for the purposes of the investment project shall be exempt from import duties for the duration of project implementation and all phases of the project” (Article 17/First of the National Investment Law);

The investor shall have the right “to take out the capital he brought into Iraq and its proceeds in accordance with the provisions of this law and pursuant to the instructions of the CBI in an exchangeable currency after paying all its taxes and debts due to the Iraqi Government and all other authorities” (Article 11/First of the National Investment Law);

As for concessional loans, the National Investment Law authorizes Iraqi and foreign investors the common right to receive concessional loans. Iraqis and foreign investors have the right to partner with Iraqi investors to obtain concessional loans and financial facilitations in coordination with the Ministry of Finance and other financial institutions, provided that the investor completes 25% of the project, and is guaranteed by the facilities of the project; note that the interest will be concessional for

لابد أن يقوم المستثمر في هذه المرحلة بإنشاء وقامة منشآت المشروع طبقاً للإجازة الاستثمارية أو العقد الاستثماري، سواء كان مشارعاً سكنياً أم تجارياً أم صناعياً أم زراعياً. بالإضافة إلى ذلك، يحدد قانون الاستثمار الزامات معينة لابد أن يلتزم المستثمر بها.

خلال المرحلة الثالثة، يتمتع المستثمر بالكثير من المزايا. فيما يلي بعض المزايا والإعفاءات التي يقدمها قانون الاستثمار للمستثمرين:

- "إعفاء الموجودات المستوردة لأغراض المشروع الاستثماري من الرسوم الكمركية طول فترة تنفيذ المشروع وكافة مراحله" (المادة 17/أولاً من قانون الاستثمار).

- "وللمستثمر الحق في إخراج رأس المال الذي أدخله إلى العراق ووعوده وفق أحكام هذا القانون وتعليمات البنك المركزي العراقي وبعثة قابلة للتحويل بعد تسديد إلتزاماته وديونه كافة للحكومة العراقية وسائر الجهات الأخرى (المادة 11/أولاً من قانون الاستثمار).

أما من ناحية القروض الميسرة، فقد أجاز القانون للمستثمرين العراقيين والأجانب على حد سواء الحق بالشمول بالقرض الميسر، إذ يجوز للمستشارين العراقيين أو الأجانب بالمشاركة مع المستثمرين العراقيين الحصول على قروض ميسرة وتسهيلات مالية بالتنسيق مع وزارة المالية والمؤسسات المالية الأخرى، على أن يراعى أجرام المستثمر نسبة 25% من المشروع وبعض منشآت المشروع، فيما أن القائمة تكون ميزة بالنسبة للقرض المخصص للمشاريع السكنية (المادة 9 ثانياً من قانون الاستثمار).
housing project loans (Article 9/Eighth of the National Investment Law);

The investor shall have the right, as stated by the law, to “insure the investment project with any foreign or national insurance company it deems suitable” (Article 11/Fourth of the National Investment Law). In addition, the law has pardoned real estate registration fees, including the judicial fees to transfer housing units to citizens (Article 15/First/B of the National Investment Law);

The investor shall have the right to “open accounts in Iraqi or foreign currency or both at a bank inside or outside Iraq for the licensed project” (Article 11/Fourth of the National Investment Law);

The investor shall have the right to “participate in the Iraqi Stock Exchange, and acquire membership in private stock and mixed companies, even when there are properties within the assets of said companies” (Article 11/Second/A of the National Investment Law);

Moreover, the investor shall have the right “to employ and use non-Iraqi workers in case it is not possible to employ an Iraqi with the required qualifications and is capable of performing the same task in accordance with guidelines issued by the NIC” (Article 12/First of the National Investment Law). However, the investor should give priority to Iraqi citizens, if possible, before hiring non-Iraqi workers;

The National Investment Law guarantees, through Article 12/Third, the right of ownership and protection against confiscation or nationalization of the investment project, except in case of a final judicial decision, as well as protection against appropriation of the investment project’s ownership, partly or in full, unless
the public interest is involved and fair compensation is made.

In addition to the above, the NIC or PICs, in coordination with the relevant authorities, will provide utilities and infrastructure services such as water, electricity, sanitation services, roads and telecommunications, to the perimeter of the project land, as may be agreed in detail under the terms of the investment contract (Article 10/Third/I of the National Investment Law).

Fourth – Commercial Operations

After the development, design and construction of the investment project and the establishment of the facilities agreed by the parties, the investment project should commence operations. The commercial operations of an industrial project are considered to have commenced from the start date of production of goods and/or services. At this phase, and in accordance with the provisions of Article 15 of the National Investment Law, the project would be granted a tax exemption of up to ten (10) years and for each phase of project implementation, which can be increased to fifteen (15) years if the ownership ratio of the Iraqi partnership in the project is more than 50%.

The National Investment Law, according to Article 17/Fifth, grants exemption from taxes and fees for primary materials necessary for commercial operations based on the percentage of locally-produced materials that are used in the project. The exemption rate increases proportionately with the percentage of locally-produced primary materials, except for those included under ration cards, pharmaceuticals, and construction materials. All these are fully exempt as long as their primary materials are not available in Iraq.
The investment project retains a valid license until the end of the period agreed upon between the investor and the NIC or relevant PIC or other relevant authorities such as the Government of Iraq’s ministries and other bodies.
SECTION II
INTERNATIONAL INVESTMENT CONTRACTS

Introduction

On its face, an “investment contract” is simply a list of agreements in which two (or more) parties have entered into a particular investment. However, such a contract is more nuanced: it is a specific set of rules between the parties, which governs the relationship between the parties, each of their respective obligations to the other party, and the expectations of each party into the future.

There are also government-enacted public laws – such as the National Investment Law – that govern the general provisions and procedures for investing in all sectors in Iraq, except for the extraction and production of crude oil, and the banking and insurance sectors, which are covered by other legislation. Additionally, there are many matters, which the public laws do not cover or where they are unclear. While an investor should know what the public laws do and do not state, the parties to an investment contract should make certain that, between themselves, the contract covers all the matters and details that are important to the respective parties to the investment.

Negotiating and drafting a comprehensive, clear and effective investment contract is in the interest of every party to the contract. Such a well-crafted agreement enables the parties:

- To identify and consider in advance the points the parties are most
concerned with (and which they may disagree about in the future), and

- To state those business and legal points in words that will be understood by the parties and by others in exactly the same manner in the future.

This Section provides advice and suggestions on how to accomplish such goals.

**Suggestions for Drafting an Investment Contract**

A well-drafted investment contract should state what the parties want in a way that is clear, that will be useful and practical, especially as the project progresses, and that will prevent future disputes between the parties. Such an investment contract should have the following features:

- **User-friendly.** It should have a table of contents at the front, and every section should have a heading that accurately describes the section’s contents. It should be physically presented to be easy to read, using spacing, indentation, punctuation and type fonts that help achieve this goal.

- **Define terms at start of the contract.** Defining terms can facilitate better understanding of the contract and assure that a defined concept is used consistently throughout the contract. However, there are certain points to keep in mind when using defined terms, including: the number of defined terms should be kept to a minimum and they should be concise; they should not be used for terms which are used only once in the contract or are used later in the contract where they can be defined; and they should contain definitions

وضع هذه النقاط التجارية والقانونية في كلمات تكون مفهومة للأطراف وللاخرين بنفس الطريقة في المستقبل.

يقدم هذا الاسم المشورة و"الإقتراحات" لتحقق تلك الأهداف.

**إقتراحات لصياغة عقد الاستثمار**

ينبغي أن يبين العقد ذو الصياغة الجيدة ما تريده الأطراف بأسلوب واضح، يكون مفيداً وعملياً، لاسمه مع تقدم العمل في المشروع، يوفر يؤدي ذلك إلى الوضوح من وقوع نزاعات بين الأطراف. وينبغي أن يتمتع عقد الاستثمار بالآتي:

- سهل الاستعمال. يجب أن يحتوي على فهرس المحتويات في بداية، ويجب أن يكون كل قسم له عنوان يصف محتويات القسم بدقة. كما يجب أن يرتب بطريقة سهلة قراءاته، باستخدام المسافات وترك الفراغات في بداية الفقرات، وعلامات الترقيم، وتوزع الحروف الطباعية التي تساعد على تحقيق هذا الهدف.

- تعريف المصطلحات في بداية العقد. يمكن أن يؤدي تعريف المصطلحات إلى تحقيق قدر أكبر من الفهم للعقد، ويضمن أن المفهوم المعروف مستخدم بطريقة منتظمة في أجزاء العقد كافة. لذا توجد بعض النقاط المعينة التي يجب وضعها في الإعتبار عند صياغة المصطلحات المعروفة، بما في ذلك استخدام الحد الأدنى من المصطلحات المعروفة، وأن تكون هذه المصطلحات موجودة. ولا يجب وضع تعريف المصطلحات التي تستعمل مرة واحدة فقط في العقد أو التي تستخدم في جزء لاحق من العقد يمكن تعريفها فيه. يجب أن تكون مجرد تعريف فقط أي بمعنى أنها لا يجب أن تحدد الإلتزامات أو أحكام هامة أخرى.
only, meaning they should not state obligations or have other substantive provisions.

- **Concise.** A contract should not be longer than necessary and should not have unnecessary words or unnecessary elaboration or detail, because such superfluous detail can confuse the reader and create misunderstandings.

- **Avoid ambiguous terms.** A contract should avoid ambiguous or broad words or phrases, such as “insurance against ordinary risks” (i.e., what is meant by “ordinary risks” here?), or phrases that seek to obligate a party but ultimately carry no such legal obligation due to the ambiguity of the requested action. Moreover, it is important to avoid words that have multiple meanings, or are unfamiliar in general business lexicon. If the situation truly requires the use of a word or phrase that is known and used by both parties but is not more commonly known (for example, “insurance against ordinary risks”), then the meaning should be clarified by defining the word or phrase in the contract. Ultimately, even though each party to a contract may individually understand the details, the contract should be drafted so that an outside person – a third party involved in the investment or a judge or arbitrator – can understand the intent of the contracting parties.

- **Omit repetition.** A contract should not cover the same point twice or in two different manners or in two different places in the contract. Such repetition can create confusion and lead to contractual disputes.

- **Avoid the passive voice, especially in stating a party’s obligations.** For
example, a provision stating, “obtaining licenses will be undertaken” should instead clearly state the party obligated to undertake such work and the deadlines and other requirements for undertaking such work.

- **Comprehensive.** The contract should cover all subjects that a party considers important for the contract – a party should not assume that an important matter is “understood” and need not be specified in writing. This is particularly important for investment contracts where many topics may (or may not) be covered under the law or a separate investment treaty, such as expropriation, compensation, repatriation of capital, insurance, project expansion, the sale or financing of an investment project, procedures for obtaining a license, and dispute resolution.

**Suggestions for Negotiating an Investment Contract**

- Before starting the negotiation, the investor should be advised on, and aware of, Iraqi social customs, business etiquette and cultural/religious traditions.

- Before starting the negotiation, each party should identify the interests of the other party and consider the best solutions for achieving those interests. This can be best achieved by creating a careful, thought-out list of all issues the parties seek to cover.

- Take care to understand the wishes of both parties. It is key to consider both your and the other party’s negotiating strengths. Put yourself in the opposite party’s shoes before and during the negotiation as a way to build a good future relationship.

المثال، أن ينص بند على أن “الإجازات سوف يتم إصدارها”. فبدلاً من ذلك يجب أن يحدد الطرف الذي سيفعّل كأكاليل مسؤولية القيام بهذا العمل، والمهل الزمني النهائي، ومتطلبات القيام بهذا العمل.

الشمولية. يجب أن يغطي العقد كافة المواضيع التي يعتبرها طرف من الأطراف مهمة للعقد. فلا يجب أن يفترض طرف من الأطراف أن مسألة مهمة "مهمة" ولا حاجة لتحديدها كتابة. وهذه النقطة مهمة بصفة خاصة في عقود الاستثمار التي تكون فيها مواضيع كثيرة مشمولة (أو غير مشمولة) بقانون أو معاهدة استثمار منفصلة، مثل نزع الملكية، والاستغلال، وإعادة توطين رأس المال، والتأمين، وتسميع المشروع، وبيع أو تمويل الاستثمار، والإجراءات الخاصة بالحصول على الإجازة، وحل النزاع، وذلك على سبيل المثال لا الحصر.

**إقتراحات للتفاوض على عقد الاستثمار**

- قبل البدء بالتفاوضات، يجب أن يحصل المستثمر على النصح والمشورة بشأن العادات والأعراف الاجتماعية العراقية وأداب العمل التجاري، والتفاوض الثقافية أو/و الدينية.

- قبل البدء بالتفاوضات، يجب أن يعرف كل طرف على إهتمامات ومصالح الطرف الآخر، وأن يفكر في أفضل الحلول لتحقيق تلك المصالح. ويمكن أن يتحقق ذلك على خبر وجه إعداد قائمة دقيقة بكافة المواضيع التي تريد الأطراف تغطيتها.

- حاول أن تفهم رغبات كلا الطرفين. من المهم أن تفهم نقاط القوة التفاوضية لك ولطرف آخر. ضع نفسك في مكان الطرف الآخر قبل المفاوضات وخلالها كوسيلة لإقامة علاقة طيبة في المستقبل.
Avoid zero-sum thinking: look for ways that both parties can gain something together.

Do not hide issues from the other party; help the other party see issues it may have missed. Ensure that the other party does not feel lost or taken advantage of; otherwise, the business relationship could be undermined before it even begins.

International Construction Contracts: Overview and Drafting Practices Using FIDIC Terms

The terminologies used in drawing up contracts should be close to those that are internationally recognized, particularly for contracts that utilize FIDIC terms (International Federation of Consulting Engineers), because such investment contracts are considered international, not local, in nature.

1. Knowledge of FIDIC conditions and their usage based on the nature of the contract is as follows:

- **The Red Book** is used in contracts for construction work in which the employer is responsible for preparing the project designs, and in contracts where payments are made to the contractor based on the amount of work completed (bill of quantities).

- **The Yellow Book** is used in contracts where the contractor carries out the design as well as the actual construction. The Yellow Book is a model of a balanced contract between two parties, in which payment is made to the contractor on a lump-sum basis.

- **The Silver Book** is suitable for use in projects where the contractor prepares

- تجنب التفكير بعقلية "المحصلة الصفرية". إبحث عن وسائل يمكن للأطراف من خلالها أن تكسب شيئًا معًا.

- لا تخفي المواضيع عن الطرف الآخر. ساعد الطرفماذا عن المواضيع التي يمكن أن تكون من الطرف الآخر لا يشعر بالخسارة أو يشعر بأنه قد تعرض للإستغلال، ولا تعترض العلاقة التجارية للضرر حتى قبل أن تبدأ.

العقود البناء الدولية : نظرة عامة وممارسات الصياغة

(باستخدام قواعد (فديك)

يجب مراعاة أن تكون المصطلحات التعاقدية المستخدمة في الصياغة قريبة في صياغتها من المصطلحات الدولية المعترف عليها عالميًا، خاصة بالنسبة للعقود التي تستخدم شروط فديك (الشروط الموضوعة من قبل الإتحاد الدولي للمهندسين الإستشاريين)، نظرًا لكون عقود الإستثمار من العقود الدولية بطبيعتها وليس من العقود المحلية.

المعرفة والإلمام بشروط فديك وإستخدامها حسب طبيعة العقد، وكالاتي:

- الكتاب الأحمر: ويستخدم في عقود الإنشاء التي يتولى رب العمل فيها إعداد تصاميم المشروع، وفي العقود التي يتم السداد فيها إلى المقاول على أساس كمية الأعمال المنجزة (الذرعة).

- الكتاب الأصفر: ويستخدم في العقود التي يتولى المقاول فيها تنفيذ التصميم، بالإضافة إلى إعداد الإشراكات، وينتشر هذا العقد نموذج عدد متوازن بين طرفين ويتم السداد فيه إلى المقاول على أساس مبلغ إجمالي.

- الكتاب الفضي: ويستخدم في المشاريع التي يتولى المقاول فيها إعداد تصاميمها، على أن يتم سداد
the designs, in which payment is made on a lump-sum basis and based on full completion, whereby the contractor bears all risks involved.

- **The Green Book** is used for small, low-capital projects, or for recurring or short-term works, where the employer is responsible for preparation of the designs.

- **The Gold Book** is used for projects in which the contractor bears full responsibility for financing, construction and operation, with less oversight by the employer.

There are other publications available on the FIDIC website (www.fidic.org).

2. Use of FIDIC terms does not mean adhering to them literally as written; rather, they can be amended based on negotiations between the two parties. These conditions can also be adapted to the prevailing provisions under local legislation through what is known as “specially amended FIDIC conditions” – especially since investment projects do not entail cash payments by the employer and are established on the basis of investors bearing such risks – excluding exceptional cases. One can also utilize the guidelines on preparing special conditions, which is appended to the FIDIC Yellow Book.

3. **Contract drafters should pay attention to priority of documents in terms of application**, so they do not negate each other if there are contradicting provisions (particularly when using the FIDIC terms), as follows:

a. The contract.
b. The contract appendices, including specifications, quantities, schedules, designs and drawings, and scope of work.

ب. ملاحق العقد بما فيها (المواصفات، الكميات، الجداول الزمنية، الرسومات والتصميمات، نطاق الأعمال).

c. Special conditions.

ج. الشروط الخاصة.

d. General conditions.

د. الشروط العامة.

e. Employer requirements.

ه. متطلبات صاحب العمل.


بإمكان صائغي العقود الاسترشاد بدليل الأونسترال القانوني الخاص بصياغة العقود الدولية لتشييد المنشآت الصناعية لعام 1987 قدر تعلق الأمر بالمشاريع الاستثمارية ذات الطابع الصناعي.
A. INVESTORS & INVESTMENTS

Iraq’s National Investment Law No. 13 of 2006 as amended enables individuals and legal persons granted an investment license to enjoy the benefits and guarantees outlined by the National Investment Law.

- Domestic and foreign companies must be registered with the Ministry of Trade’s Companies Registration Department to do business in Iraq.

- Business registration requirements vary according to the nature of activity that the company will conduct.

1. Investors in Iraq have the choice of one of three options for the type of business they wish to establish in Iraq:

a. Representation Office of Foreign Company in Iraq – cannot engage in any business activities. The main purpose of a representation office is to study markets, businesses and production opportunities, identify products and services, and expedite contact with the offices of foreign companies and establishments. The representation office must appoint an Iraqi attorney, chartered accountant, and executive manager.

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أ. مكتب تمثيل لشركة أجنبية في العراق – لا يزاول هذا المكتب أية أعمال تجارية، ويعتبر مقجبا لإتقان أسواق وإنجازات العمل والتسويق، وتحقيقها واستلام الأعمال وتعزيز الصولابة في مؤسسات الشركات أو الشركات الأجنبية، وبعد تسجيل المكتب التمثيلي يجب تعيين محامي عضو في نقابة المحاميين ومراقب حسابات ومدير تنفيذي.

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1. يختار المستثمرون في العراق واحدة من ثلاثة خيارات من حيث نوع العمل التجاري الذي يريد أن يدشنه في العراق:

أ. مكتب تمثيل لشركة أجنبية في العراق – لا يزاول هذا المكتب أية أعمال تجارية، ويعتبر مقجبا لإتقان أسواق وإنجازات العمل والتسويق، وتحقيقها واستلام الأعمال وتعزيز الصولابة في مؤسسات الشركات أو الشركات الأجنبية، وبعد تسجيل المكتب التمثيلي يجب تعيين محامي عضو في نقابة المحاميين ومراقب حسابات ومدير تنفيذي.

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b. **Branch Office of Foreign Entity** –
can be established by foreign companies that have signed contracts with the government, the public or mixed sectors, associations, cooperatives or companies whose nominal capital is over 1 million IQD, and have received approval from the respective sector or an investment license from the NIC or relevant PIC. Once a Branch office is registered, the Branch must appoint an Iraqi attorney, chartered accountant, and executive manager.

c. **Domestic Companies** – established under Iraqi law as a domestic entity, including types of companies such as joint stock companies, single-project companies, corporations, and/or limited liability companies, etc.  

Relevant Iraqi Laws for investors to Register a Company:

- Companies Law No. 21 of 1997 as amended, and Regulation No. 5 of 1989 on Branches and representative Offices of Foreign Companies and Economic Establishments, which allow foreign companies to open a branch or a representative office in Iraq.

2. **Strategic Projects** – The NIC has the responsibility to announce and follow up on strategic projects as defined in Article 4/Second of Investment Regulation No. 2 of 2009.

- The NIC particularly looks to grant licenses for projects in specific economic sectors.

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3 The limited liability company is the most common form of business entity in Iraq.

الشركة ذات المسؤولية المحدودة هي أكثر أنواع الشركات شيوعاً في العراق.
“Strategic projects” include:

- Infrastructure projects with capital greater than USD $50 million;
- Joint projects involving more than one region or province;
- Projects related to extracting natural resources, with the exception of oil and gas extraction and production;
- Engineering and metal industries projects, and those involving petrochemicals, pharmaceuticals and vehicle production, with capital of no less than USD $50 million;
- Projects to develop historical and archaeological sites;
- Telecommunications projects;
- Transportation projects with capital greater than USD $30 million;
- Projects established under agreements to which the Republic of Iraq is a party;
- Power projects that generate more than 30 megawatts; and
- Dams, reservoirs and irrigation projects that irrigate an area of no less than 20,000 donums (approx. 5,000 acres).

Promotion of Specific Sectors, such as Housing Projects:

- “المشاريع الإستراتيجية” التي تقع ضمن اختصاص الهيئة الوطنية للإستثمار هي:
- مشاريع البنية التحتية الأساسية التي يزيد أراؤها عن 50 مليون دولار أمريكي.
- المشاريع المشتركة بين أكثر من إقليم أو محافظة.
- المشاريع المتعلقة باستخراج الموارد الطبيعية، إنتاج وإنتاج النفط والغاز.
- مشاريع تطوير المناطق الأثرية والتاريخية.
- مشاريع الاتصالات.
- مشاريع النقل التي تزيد عن 30 مليون دولار أمريكي.
- المشاريع المؤسسة بموجب إتفاق تكون جمهورية العراق طرف فيها.
- مشاريع توليد الكهرباء التي تزيد طاقتها عن 30 ميكا واط.
- مشاريع الخزانات والسدود وم المشاريع الري التي لا تقل المساحة المروية منها عن 20,000 (عشرين ألف) دونم.

بالإضافة إلى تشجيع المشاريع ذات الطابع الاتحادي. تختص الهيئة الوطنية للإستثمار.

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5 See National Investment Law No. 13 of 2006, as amended (hereafter in citations as “id.”), Article 29.
• For example, the proposed Bismayah New City Housing Program (BNCP), located southeast of Baghdad, will accommodate up to 600,000 occupants in a total of 100,000 residential units.\(^6\) The BNCP will be:

- Constructed according to the latest international standards and provide full services, including schools, clinics, and commercial, social and recreation centers;

- Connected to Baghdad by a modern network of roads built specifically for the project, which will link it to national highways and the Iraqi capital; and

- Furnished with basic utilities such as water, electricity and sewage treatment plants.\(^7\)

See “Owning & Leasing Land” of this Section for housing program land allocation.

Relevant Iraqi Laws related to Industrial Projects:

- Law No. 20 of 1998, the Industrial Investment Law, under which the Department of Industrial Development may grant investors a small-project license so they can enjoy the benefits and guarantees under this law.

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\(^{6}\) For more information on the BNCP, see www.bismayah.org.


• قانون 20 من سنة 1998 "قانون الاستثمار الصناعي"، الذي تمنح المديرية العامة للتنمية الصناعية بوجبة إجازة استثمار للمشاريع الصغيرة لتتمتع بمزايا وضمانات هذا القانون.

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6 For more information on the BNCP, see www.bismayah.org.


• Law No. 64 of 2007 on Private Investment in Crude Oil Refining, which allows Iraqi and foreign companies that meet the qualifications for establishing refineries with technical specifications approved by the Ministry of Oil to be granted a license to invest.\(^8\)

• Commerce Act No. 30 of 1984, which contains provisions related to merchants, commercial sales and commercial papers.

B. PROCEDURES OF THE NIC AND PICs

1. Formations of NIC and PICs

The NIC consists of the following departments and sections:

• Administrative and Financial Department;

• Legal Department;

• Economic and Technical Department;

• Relations and Media Department;

• ‘One-Stop Shop’ and Investor Services Department;

• Monitoring and Internal Auditing Division;

• Information Technology Division;

• Provincial Coordination Division;

• Contracts Division;

• Security Clearance Division; and

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انظر قانون رقم 10 لسنة 2011، الذي عدل “قانون الاستثمار الخاص في تصفية النفط الخام” رقم 64، لسنة 2007.
The following is a detailed description of the departments that provide services to investors:

a. ‘One-Stop Shop’

This innovative department expedites and streamlines the necessary procedures for granting investment licenses to investors, as well as obtaining approvals for the respective sectoral agencies for the investment project, and seeking the NIC’s opinion on projects’ economic and technical viability and presenting the investment project’s plan of action.

In addition, the National Investment Law allowed this department an important discretionary authority in cases of arbitrary or unjustifiable refusal by a given sector. The NIC can make a recommendation to the Chairman of the competent investment commission or the Board of Directors to issue the investment license in accordance with law (Article 20/First and Second).

The department also seeks the opinions of the Commission’s departments on the economic and technical feasibility of the project.

b. Public Relations & Media Department:

Expedites requests for business visa


انظر موقع هيئة الاستثمار الوطنية – دائرة النافذة الواحدة

applications by investors to visit Iraq and coordinates arrangements for field visits. This department also explains investment opportunities to investors and organizes promotional conferences.

c. Legal Department

Prepares sample investment contracts, conducts contractual negotiations, provides legal advice on all questions submitted, and expedites importation and tax-exemption procedures.

d. Provincial Investment Commissions:

PICs enjoy a form of autonomy that enables them to facilitate their missions, as they are connected with the local province. The PICs consult with local governments regarding investment plans and facilities, and coordinate their activities with the NIC on drafting investment policies. These offices also draw investment maps of their respective provinces and grant investment licenses for non-strategic projects (Article 5 of the National Investment Law).

2. Obtaining an Investment License

- Article 19/Second of the National Investment Law states that the applications for investment licenses submitted by investors must include:
  - Filing an investment license form prepared by the NIC.
  - A financial capability statement from an accredited bank.

- Article 19/ثانياً من قانون الاستثمار نصت على المتطلبات التي يجب أن يقدمها المستثمر للحصول على إجازة الاستثمار، والتي تتمثل بالآتي:
  - طلب إجازة استثمار تعده هيئة الاستثمار.
  - خطة تمويل المشروع مثبتة بضمان جهة التمويل من مؤسسة مالية معتمدة.
Documented evidence of similar projects completed outside Iraq.

Details on the investment project and economic feasibility study.

Timetable for project completion.

(See Section 1, “Investment Phases and Licensing.”)

Relevant Iraqi Laws on Providing Financial Records:

- Central Bank of Iraq Law No. 64 of 1976, which requires written verification of financial viability issued through a bank that is accredited by the Central Bank.

- Banking Law No. 94 of 2004, which establishes guidelines for funding plans submitted by investors and for loans that investors intend to obtain from banks, using project income as collateral without the land.

3. Granting an Investment License

- After the NIC or the relevant PIC receives a complete application for an investment license, they contact the relevant sector and government authority owning the land to approve or deny the application (within 15-business days) (Article 20/Second/A of the National Investment Law), including:

We refer you to the National Investment Law, Article 19 (“Procedures for Granting Investment License”), for more information.

10 See National Investment Law, Article 19 (“Procedures for Granting Investment License”).

Examine and reviewing investor applications;

Studying the economic and technical feasibility of projects;

Issuing a Statement of Opinion on whether to grant a license for an investment project; and

Approval by the relevant authorities is required; and the reason(s) for rejection must be provided (Article 20/Second/A of the National Investment Law).

In case of a dispute between the NIC and any other relevant entity other than the PICs as to whether to grant the license, the dispute shall be brought before the Prime Minister for resolution (Article 20/Third of the National Investment Law).

After approval by the relevant sector, the NIC or PIC will evaluate investor applications through a review process (within 30 business days), including:

- Studying the investor’s application;
- Analyzing the statement of economic feasibility;
- Assessing legal issues involved; and
- Assisting the investor in obtaining land allocated for the project.

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12 See Investment Regulation No. 2 for 2009, Article 25.
13 See National Investment Law, Article 20(2).
If the investment license was granted, all government sectors shall commit to cooperate with the awarding body to complete the direct requirements of the investment project within 30 days of the date of issuance of the license (Article 20/Second/C of the National Investment Law).

An investor whose application for an investment license is rejected can file an appeal in accordance with the provisions of the National Investment Law.

(See Section I, “Iraqi Legal Systems and Courts” of this Legal Guide on procedures for investor redress if an application is denied.)

(See also “Investor Obligations” of this Section for the applicable requirements once an investment license is granted and commercial operations begin.)

C. OWNING AND LEASING LAND

There are two important sources of Iraqi investment legislations that provide guidelines for the Owning and Leasing of Lands by potential Iraqi or foreign investors:

- The National Investment Law mandates that Iraqi and foreign investors can own publicly owned land for housing and industrial projects (Article 10 of the National Investment Law).
- Regulation No. 7 (2010) outlines “The Sale and Leasing of Real Estate and Landed Property belonging to the State and Public Sector for Investment Purposes.” This regulates how rent is

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- Regulation No. 7 (2010) outlines “The Sale and Leasing of Real Estate and Landed Property belonging to the State and Public Sector for Investment Purposes.” This regulates how rent is
assessed in housing projects and other specified investment projects when leasing or buying of public real estate.

1. Owning Land

- An investor has the right to own the land required to implement multi-purpose urban residential projects, provided the price of the land is not calculated into the price of the residential units sold (Article 5/First of Regulation No. 7 of 2010 as amended).

  - The Iraqi or foreign investor is obligated to build residential units throughout the time period specified in the agreement, and to sell or lease such residential units to citizens for so long as the investment license is valid (Article 10/Second/F of the National Investment Law, and Article 6/Fourth of Regulation No. 7 of 2010 as amended).

- In accordance with Article 4 of Regulation No. 7 of 2010 as amended, Committees shall be formed in the NIC and PICs to determine the value of State-owned land and real estate for investment purposes.

  - Members of these committees will include representatives from the General Tax Authority and Real Estate Administration, and a representative of the government entity owning the land, to share input in assessing land value.15

  - The investor must abide by the purpose for which the land or property ownership was allocated under the investment license, or the

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15 See id., Articles 3-4.

أنظر المواد 3-4 من المرجع السابق.
Real Estate Registration Administration will cancel the registration and return the land/property to its former owner, at the request of the NIC or the PIC issuing the license (Article 10/Second/E of the National Investment Law, and Article 6/Third of Regulation No. 7 of 2010 as amended).

2. Leasing Land

- To establish an investment project, the investor may lease land and real estate from the government, private owners or mixed sectors for a term of not more than 50 years, which is renewable after consideration of the nature of the project and its economic viability (Article 10/Third/A of the National Investment Law).

- Articles 8 and 9 of Regulation No. 7 of 2010 as amended explained the leasing mechanism in place, where the NIC leases the land required for commercial, industrial, agricultural, service, recreational and other investment projects, beginning on the date that commercial operations commence. Leasing rates of return for sectors are calculated as follows:
  
  - Strategic agricultural projects leading to increased and improved animal and plant production, as follows:
    
    i. Reclaimed agricultural land with water share, at a return of 20% of the estimated annual lease return;
    
    ii. Non-reclaimed agricultural land with water share, at a return of 10% of the estimated annual lease return;
iii. Non-agricultural land with no water share, at a return of 1% of the estimated annual lease return.

- Industrial projects built in areas allocated for industrial investment projects, at a return of 2% of the estimated annual lease return.

- Electric power and oil projects located beyond municipal borders and implemented to build, operate and either own or transfer to the authority at a return of 2% of the estimated annual lease return.\(^{16}\)

- Service projects (hospitals, educational centers, universities, etc.) at a return of 5% of the estimated annual lease return.\(^{17}\)

- Tourism Projects (sporting and entertainment complexes), in exchange for a State share of 10% of the estimated annual lease rate.\(^{18}\)

- Commercial Projects (shopping centers and hotels), in exchange for a State share of 10% of the estimated annual lease rate for the first three years of the start of commercial operations date. By the end of the first three years the rate becomes 5% of the value of the land.

It is worth mentioning that the NIC is

\(^{16}\) See Regulation No. 7 for 2010, Article 8.
\(^{17}\) See Regulation No. 7 for 2010, Article 8.
\(^{18}\) See id., Article 9.
\(^{19}\) See id., Article 9.
working on an amendment to Regulation No. 7 of 2010 in order to adopt a new rate that will reduce the rates of some projects in order to support the investment activities and encourage the investors.

If the investment license was granted, all government sectors shall commit to cooperate with the awarding body to complete the direct requirements of the investment project within 30 days of the date of issuance of the license (Article 20/Second/C of the National Investment Law).

Relevant Iraqi Laws on Leasing and Owning Land:

There are certain laws and regulations that are related to owning and leasing land, such as the Sale and Lease of Government Assets Law. These laws have contradicted, explicitly or implicitly, the mechanisms used for the allocation of land under the National Investment Law. Accordingly, there are exclusions for real estate allocated for the establishment of investment projects from the provisions of the following laws and regulations:

- The Sale and Lease of Government Assets Law No. 21 of 2013 (the basis of calculating the sale and rent amounts shall be determined in accordance with the regulations to be issued for this purpose).


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- Article 20/Second/C of the National Investment Law.

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- The Sale and Lease of Government Assets Law No. 21 of 2013 (the basis of calculating the sale and rent amounts shall be determined in accordance with the regulations to be issued for this purpose).

- Industrial Investment Law No. 20 of 1998, with regards to retaining the investment land by the investor in accordance with the law’s provisions.


- In addition to the laws that contradict with the National Investment Law, which the latter clarified in its latest amendment, there are other laws that relate to using lands, including for example, the Baghdad Municipality Law, whereby the Mayoralty of Baghdad has established certain guidelines and conditions for obtaining a building permit. If the project land is located within Mayoralty limits, the province and the entity owning the land should approve the project. If it is located beyond the Mayoralty, the Directorate of Urban Housing under the Ministry of Construction and Housing and the entity owning the land should approve the project. In addition, the Real Estate Registration Administration issues the necessary title work and documentation for residential units.

D. INCENTIVES AND GUARANTEES FOR INVESTORS

The legal benefits and privileges from obtaining an investment license for Iraqi and foreign investors under the NIC are listed in:

- Chapter Three of the National Investment Law No. 20 of 1998, relating to retaining the investment land by the investor in accordance with the law’s provisions.


In addition to the laws that contradict with the National Investment Law, which the latter clarified in its latest amendment, there are other laws that relate to using lands, including for example, the Baghdad Municipality Law, whereby the Mayoralty of Baghdad has established certain guidelines and conditions for obtaining a building permit. If the project land is located within Mayoralty limits, the province and the entity owning the land should approve the project. If it is located beyond the Mayoralty, the Directorate of Urban Housing under the Ministry of Construction and Housing and the entity owning the land should approve the project. In addition, the Real Estate Registration Administration issues the necessary title work and documentation for residential units.

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- Chapter Three of the National Investment Law No. 20 of 1998, relating to retaining the investment land by the investor in accordance with the law’s provisions.


In addition to the laws that contradict with the National Investment Law, which the latter clarified in its latest amendment, there are other laws that relate to using lands, including for example, the Baghdad Municipality Law, whereby the Mayoralty of Baghdad has established certain guidelines and conditions for obtaining a building permit. If the project land is located within Mayoralty limits, the province and the entity owning the land should approve the project. If it is located beyond the Mayoralty, the Directorate of Urban Housing under the Ministry of Construction and Housing and the entity owning the land should approve the project. In addition, the Real Estate Registration Administration issues the necessary title work and documentation for residential units.

D. INCENTIVES AND GUARANTEES FOR INVESTORS

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D. INCENTIVES AND GUARANTEES FOR INVESTORS

The legal benefits and privileges from obtaining an investment license for Iraqi and foreign investors under the NIC are listed in:

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Investment Law, which outlines general guarantees, benefits and privileges (Articles 10 to 13 of the National Investment Law).

- Chapter Five of the National Investment Law, which outlines tax and customs duties exemptions (Articles 15 to 18 of the National Investment Law).

- Local Partnership information and application available on the NIC website.

1. **Guarantees and Privileges**

- The right to buy and sell stocks and Treasury securities listed on the Iraq Stock Exchange (Article 11/Second/A of the National Investment Law);

- The ability to create investment portfolios of stocks and bonds (Article 11/Second/B of the National Investment Law);

- Protection against seizure and nationalization of all or any part of the relevant project; except for public benefit, in exchange for fair and just compensation (Article 12/Third of the National Investment Law);

- Insuring the project through any foreign or domestic insurance company (Article 11/Fourth of the National Investment Law);

- Opening bank accounts in local and foreign currency, both in Iraq and overseas, in connection with the project (Article 11/Fifth of the National Investment Law);

- Hiring foreign workers when needed, after priority is given to Iraqi workers (Article 12/First of the National Investment Law);
Investment Law.20

- Opening a branch of the foreign company (Article 11/Second/C of the National Investment Law).
- Registering a patent for an investment project (Article 11/Second/D of the National Investment Law).

(See “Employment and Labor Requirements” of this Section for investors’ guarantees for workforce management.)

- The right for non-Iraqi workers to transfer salaries and compensation in and out of Iraq, after paying fees and debts owed to the State (Article 12/Fourth of the National Investment Law); and

- The right to obtain more than one investment license in a certain sector or in different sectors, as well as purchasing other investment projects that have an investment license, in accordance to the National Investment Law regulations and without land speculation.

2. Tax and Customs Incentives and Exemptions

- Exempts investors from taxes and fees for a period of ten years from the date that commercial operations begin (Article 15/First/A of the National Investment Law).21

- An increase of up to 15 years in the period of exemption from taxes and fees in the event that participation by

- An increase of up to 15 years for a period of ten years from the date that commercial operations begin (Article 15/First/A of the National Investment Law).

20 See Alien Residency Law No. 118 of 1978 (pertaining to obtaining entry visas for foreign workers).
21 See id., Articles 15-17.
Iraqi investors is over 50% (Article 15/Third of the National Investment Law).

- Exemption from import duties for the project’s fixed assets for the duration of project’s implementation and for each phase of the project (Article 17/First of the National Investment Law).

  - Article 1/Eighth of the National Investment Law defines “assets” as the “tools, equipment, machinery, gear, means of transportation and office furniture dedicated for exclusive use in a project, and the furniture, furnishings and required items for hotels, tourist sites, hospitals, schools and colleges.”

  - These exemptions include:
    - Fees for importing assets used to expand, develop, or update the project shall be waived if those assets led to an increase in the design capacity of that project (Article 17/Second of the National Investment Law).
    - Imported spare parts for an unlimited period, if the value of those parts does not exceed 20% of the value of those assets (Article 17/Third of the National Investment Law); and
    - Imports for refurbishment and updating made at least once every four years for certain projects, including hotels, hospitals and education centers, provided they are imported.

22 See id., Article 1, Definitions.
within three years of NIC approval of their importation (Article 17/Second of the National Investment Law).

- If any customs-exempt assets are sold in violation of the provisions of this law or used for purposes other than the project, the investor must pay the taxes, fees and fines applicable by law (Article 30 of the National Investment Law).

- In addition, there is an exemption from taxes and fees for primary materials used to manufacture products based on the percentage of locally-produced material used in the process (Article 17/Fifth/B of the National Investment Law).

Relevant Iraqi Laws on Taxes and Duties:

- Income Tax Law No. 113 of 1982 and Customs Law No. 23 of 1984. Although the National Investment Law exempts investors from paying income tax for a limited number of years, it does not exempt investors from submitting the required financial disclosures to tax and customs regulatory authorities in Iraq, as well as any documents required under those laws.

- Customs Tariff Law No. 22 of 2010 regulates the percentage of customs fees on imported goods according to the rates set forth in the tariff tables of customs duties and the agricultural calendar attached herein. Iraq’s customs system utilizes Harmonized System (HS) coding.  

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\[\text{See also, p. 35, Investor Guide to Iraq 2015.}\]
3. Investment/Industrial Zones (IZs)\textsuperscript{24}

- With approval from the Council of Ministers, the NIC can create industrial zones to provide optimum environmental and health, water, sewage, road, electricity and communications services to investors, including to industrial zones.\textsuperscript{25}

  o Industrial zones are aimed at supporting small- and medium-size industrial enterprises and private-sector management.

  o There is also the objective of balanced regional development.

  o The NIC is exploring investment areas for IZs in:\textsuperscript{26}
    - Baghdad (Baghdad International Airport); Basra (Khor Al-Zubair area); Babylon (Hittin area); Anbar; mid-Euphrates (between the provinces of al-Najaf al-Ashraf and Holy Kerbala); Nineveh; and Diyala.

- Aside from Free Zone Commission Law No. 3 of 1998, the National Investment Law provides the framework for IZs, where:\textsuperscript{27}

  - The NIC is exploring investment areas for IZs in: Baghdad (Baghdad International Airport); Basra (Khor Al-Zubair area); Babylon (Hittin area); Anbar; mid-Euphrates (between the provinces of al-Najaf al-Ashraf and Holy Kerbala); Nineveh; and Diyala.

  - Aside from Free Zone Commission Law No. 3 of 1998, the National Investment Law provides the framework for IZs, where:


The zones themselves are strategic investment projects.

They are under the authority of the NIC.

A board of directors will be formed for each zone, comprised of:

- The developer/investor;
- Representative from each of the NIC, the relevant PIC and the ‘One-Stop Shop’;
- Representative of the province;
- Representative of the investors.

IZs will provide:

- Appropriate new infrastructure and an increasingly experienced workforce;
- Alleviation of pressure from economic growth on sub-standard existing infrastructure;
- Diversification of investment and commerce for all regions of Iraq;
- Creation of a specialized industry in each geographic region; and
- The right to benefit from all incentives and exemptions under the National Investment Law.

4. Local Partnerships

There are benefits from adopting strategic partnerships between foreign investors and local Iraqi partners, including:

- Knowledge of the dynamics of the market;
- Experience with regulatory requirements;
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- Knowledge of the dynamics of the market;
- Experience with regulatory requirements;
- Knowledge of the dynamics of the market;
- Experience with regulatory requirements;
- Knowledge of the dynamics of the market;
• Ability to provide labor and other inputs at competitive prices; and

• Established sales networks and work relations with others, *i.e.*, banking and distribution.

5. **Bilateral and Multilateral International Agreements:**

Foreign investors will benefit from Iraq’s international agreements and current accession attempts related to the promotion and protection of investments.

• Iraq currently has multilateral trade agreements with the Arab League, as well as other countries.

• Iraq has bilateral investment treaties with countries including the United States, France, Japan, Kuwait, Jordan, and Armenia.

E. **INVESTOR OBLIGATIONS**

There are certain Investor Obligations in terms of project implementation and commercial operation after the investment license is granted, which can be broken down into three major types of requirements:

• Notification and Reporting Requirements

• Employment and Labor Requirements

• Environmental, Safety, and Public Order Requirements

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30 *Id.: see also Investor Guide 2015, Table of Multilateral and Bilateral Treaties, p. 20.*
1. Notification and Reporting Requirements:

After an investment license has been granted and a project has commenced, the investor still has certain obligations to meet to keep the NIC, the PICs and other relevant agencies informed of the status of the investment project, as well as to honor the commitments made when applying for a license. These obligations include:

- Notifying the NIC or PIC in writing immediately after the installation and equipping of the fixed assets for the purposes of the project and the date of commencement of commercial operations (Article 14/First of the National Investment Law).

- Keeping proper records audited by a certified accountant in Iraq in accordance with Iraqi law (Article 14/Second of the National Investment Law).

- Providing an economic and technical feasibility study for the project and any information, data, or documents required by the NIC or other competent authorities regarding the budget of the project and the progress made in its execution (Article 14/Third of the National Investment Law).

- Keeping records of the projects’ duty-free imported materials and specifying the depreciation periods of these materials (Article 14/Fourth of the National Investment Law).

- The time difference between the start of actual work on the project and the proposed work progress schedule submitted by the investor during application shall not exceed six months, or the investor will face punitive conditions or possible

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بعد منح رخصة الاستثمار وبدء المشروع مازال المستثمر على المستمر تلبية إلتزامات معينة، من حيث إحاطة الهيئة الوطنية للإستثمار وهيئة الاستثمار بالمحافظة والجهات الأخرى ذات العلاقة بوضع المشروع الاستثماري، ووفاء بالالتزامات التي قطعها المستثمر على نفسه عند تقديم طلب الإجازة. وتشمل تلك الإلتزامات:

- إبلاغ الهيئة الوطنية للإستثمار أو هيئة الاستثمار بالمحافظة كتابياً فور الإنتهاء من تركيب وتجهيز الموجودات الثابتة لأغراض المشروع وتاريخ البدء في التشغيل التجاري (المادة 14/أولاً من قانون الاستثمار).

- مسك الدفاتر المدقّقة من مراقب الحسابات في العراق طبقاً للقانون العراقي (المادة 14/ثانياً من قانون الاستثمار).

- تقديم دراسة جدوى إقتصادية وفنية للمشروع وأي معلومات أو بيانات أو وثائق تطلبها الهيئة أو أي سلطات مختصة أخرى عن ميزانية المشروع والتقدم الذي أحرز في تنفيذها (المادة 14/ثالثاً من قانون الاستثمار).

- مسكات كATALOGات خاصة بالمواد المستوردة للمشروع والمتعلقة بالضرائب، وتحديد قيمة إدثار تلك المواد (المادة 14/رابعاً من قانون الاستثمار).

- يجب أن لا يزيد الفارق الزمني بين بدء العمل الفعلي في المشروع والجدول المقترح لتقدم العمل المقدم من المستثمر أثناء التقييم عن ستة أشهر، وفي غير ذلك تتخذ إجراءات جزائية تجاه المستثمر منها سحب الإجازة (المادة 14/سابعاً من قانون الاستثمار).
revocation of its license by the NIC (Article 14/Seventh of the National Investment Law).

2. **Employment and Labor Requirements:**

Investors need to meet Iraqi and international legal standards for labor regarding salaries, vacations and work hours and conditions, in addition to other requirements. 31

- Employment priority must be given to Iraqi workers, if possible:
  - Iraqi nationals must make up at least 50% of the workforce in the project (Article 30/First of Investment Regulation No. 2 of 2009).
  - However, investors have the right to employ non-Iraqi workers, only where Iraqis with the requisite skills and qualifications are not available (Article 12/First of the National Investment Law).

(See “Investor Guarantees” in this Section of the Legal Guide).

- A foreign investor’s business must “train and rehabilitate its Iraqi employees as well as raising their efficiency, skill and capabilities” (Article 14/Eighth of the National Investment Law).

- All companies must register with the Ministry of Labor Worker’s Retirement and Social Pension Organization. 32
  - Companies must deposit funds

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31 See id., Article 14(6).
equal to three months estimated social security deductions for all employees.

- Investors will then be given a receipt voucher from the Ministry of Labor certifying the payment as well as the social security number issued to the company.

- The investment project must utilize local materials and satisfy the potential local demand for the project’s product, in order to benefit from the taxes and import duties’ exemptions as determined by the National Investment Law.  

Relevant Iraqi Laws on Employment and Labor Requirements:

- Iraqi Labor Law requires that the investor maintain required work conditions and hours and train Iraqi employees based on requirements under the Ministry of Labor and Social Affairs (Article 14/Sixth and Eighth).

- The Pension and Social Security Law No. 39 of 1971 for Workers, as amended, establishes the retirement and social pension requirements, which includes Social Security deductions equal to 17% of an employee’s wages (5% from the employee and 12% from the employer).

- The investor must adhere to the provisions stipulated in the Commercial Bookkeeping Regulation No. 2 of 1985 required for income tax.

- Depreciation of materials imported for

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See Investment Regulation No. 2 for 2009, Article 30.  
See id., Article 17 of the National Investment Law.

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the project shall be determined according to Depreciation Regulation No. 9 of 1994, which includes using the historical value of fixed assets as a base for calculating depreciation.  

3. **Environmental, Safety and Public Order Requirements:**

Investors must protect the safety of the environment, according to Article 14/Fifth, and adhere to valid quality control systems in Iraq and under international regulations, in addition to the laws relating to security, health, public order and Iraqi values.  

• These include specific requirements such as:

  o Soil testing requirements, where the investor must submit a complete study of soil tests on the land designated for the project, which should be conducted by a professional testing center and the costs for which the investor will be responsible.

  o Paying for the removal of any antiquities, if found, on the project’s land.

• The investor must conform to the standards of products and production processes covered by Iraqi specifications and standards and with the International Standards Organization (ISO).  

**Relevant Iraqi Laws on Environment, Safety, and Public Order Requirements:**

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35 *See id.*, Article 18 of the National Investment Law.  
See id. Article 14th.  
See id., Article 14(5).  
See *id.* Article 21.  

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36 Anbar (9) 2 of 2009.  
See *id.* Article 18 of the National Investment Law.  
See id. Article 14(5) of 2006.  
See *id.* Article 21.  

37 Anbar (14) 13 of 2006.  
See *id.* Article 18 of the National Investment Law.
• Ministry of Environment Law No. 37 of 2008, on studying the environmental impact of the project and the degree to which it conforms to the environmental conditions required.

• Antiquities and Heritage Law No. 55 of 2002, on investigating and digging for antiquities on the land designated for the investment project.

• Ministry of Oil Law No. 101 of 1976, Ministry of Oil/Technical Directorate/Environment Section requires that licensing only be granted after verification that there are no oil pipeline restrictions within the land area of the project.

• Ministry of Industry and Minerals No. 38 of 2011, which emphasizes the implementation of scientific methods and quality control, to ensure optimum mineral investment through effective exploitation while preserving natural resources, protecting the environment and improving quality; for the purpose of encouraging extraction and transformation-based industries in the public, mixed and private sectors, to facilitate and clarify procedures, and to remove legal obstacles and secure the state’s rights in natural mineral resources.

F. DISPUTES AND SETTLEMENTS

If there is a conflict between a provision of the National Investment Law and a provision of another Iraqi law that pertains to investment, then the National Investment Law shall govern.\textsuperscript{38}

1. Dispute Settlement

\textsuperscript{38} See id., Article 34 (“No text shall be valid which contradicts the provisions of this law.”).
• Investors and related parties are to follow the procedures set forth in the National Investment Law for dispute settlement and investor violations pertaining to projects covered by the National Investment Law and related Iraqi laws.  

• If a dispute arises between the investment project partners resulting in a stoppage to the project for a period that exceeds three months, a warning shall be sent to the investor to settle the dispute within 30 days of the date of the warning. If there is no response, the delaying investor will bear a delay penalty that is commensurate with the period of the delay, provided that it does not exceed 10% of the project capital (Article 27/Second/A of the National Investment Law).

• The party in breach of its obligation shall be excluded after the period stipulated by law, which is 30 days, and shall be replaced by the partner not in breach, or an approved replacement. This must be undertaken without prejudicing the relevant Commission’s right to revoke the investment license after the expiration of the 30 days period (Article 27/Second/B of the National Investment Law).

• If an investment stoppage occurred because of a dispute between the investor and others, and after considering the time period stated by the law, the relevant Commission shall commence the legal procedures to to inform the project owner and liquidate the project and deposit the liquidated assets in a bank after deducting the

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See id., Article 27, Procedures for Dispute Settlement.
right of the State and any other rights provided by a judicial decision. A lender or a financier also has the right, before the commencement of liquidation, to request from the Commission that issued the investor license to replace the investor. Accepting or rejecting such a request is at the Commission’s discretion (Article 27/Third of the National Investment Law).

Disputes arising between parties who are subject to the provisions of the National Investment Law are also subject to Iraqi law. An agreement with between the parties to resort to commercial arbitration is allowed whereby arbitration procedures, location, and prevailing law are outlined and agreed to (Article 27/First of the National Investment Law).

2. Investor Violations

Article 28 of the National Investment Law outlines the recourse for the relevant Commission to take against an investor who has breaches an agreement, as follows:

- Warn the investor in writing to remedy the violation or to start executing the project within a specific period decided by the license issuing committee.

- If the investor does not remedy the violation within the specified period, a final warning shall be sent to the investor who has 30 days to cure from the date of the final warning. If the period of the final warning expires, a penalty shall be imposed that is proportional to the disparity in time, provided that the accumulated amount shall not exceed 10% of the cost of the project.

- In case there is no response by the invester within the aforementioned
period, the license issuing commission can retain the right to revoke the project license starting from the date of the violation, while retaining the right of others to demand compensation for the damage caused by the violation, without prejudice to any other penalty.

- In addition to the above, the license issuing commission shall withdraw the investor’s license if the investor provided incorrect or misleading information, or used unlawful methods that resulted in obtaining any privileges or benefits in accordance with the provisions of the National Investment Law.
Procedures for Establishing a National Company, Branch Office or Representation Office for a Foreign Company

Ministry of Trade/Companies Registration Department

Foreign Branch Office
- Submit an Application
- Foreign Companies Office
- Minister
- 60 days to approve the request
- Published in the local newspaper and the Internal Bulletin of the Companies Registration Department
- 15 days to issue branch license

Representation Office
- Submit an Application
- Foreign Companies Office
- Minister
- 60 days to approve the request
- Published in the local newspaper and the Internal Bulletin of the Companies Registration Department

National Company
- Submit an Application
- Companies Establishment Office
- 10 days to issue a certificate to establish a company
- Draft of Memorandum of Association and Launch of Deposit Capital within 30 days
- Published in the local newspaper and the Internal Bulletin of the Companies Registration Department
- 15 days to issue office license
إجراءات تأسيس شركة وطنية أو فتح فرع أو مكتب تمثيل لشركة أجنبية

وزارة التجارة / دائرة تسجيل الشركات

فرع أجنبي

막كر تمثيل

شركة وطنية

تقديم طلب

قسم الشركات الأجنبية

وزير

الوزير

يوم الموافقة على الطلب 60

نشر في الصحيفة المحلية والنشرة الداخلية لدائرة مسجل الشركات

يوماً لإصدار إجازة الفرع 15

قسم الشركات الأجنبية

قسم تأسيس الشركات

أيام لإصدار شهادة تأسيس 10

خلال 30 يوم إعداد محضر تأسيس وإطلاق وديعة رأس المال

نشر في الصحيفة المحلية والنشرة الداخلية لدائرة مسجل الشركات

يوماً لإصدار إجازة المكتب 15
Procedures for Granting an Investment License

Investor (Individual or Legal Person)

Submit an Application

The Relevant Investment Commission (the “One-Stop Shop”)

Ministry of Oil
Ministry of Municipalities
Baghdad Municipality
Ministry of Finance-State Real-Estate Department
Ministry of the Environment

15 days

NIC or relevant PIC

45 days

Investment License

NOTES:

- The 45-day period necessary for granting an investment license begins from the date all the requirements for granting a license have been completed.

- The responsible sectoral bodies (shown in the diagram above) change according to the nature of the project and the entity owning the land.

- An investor may submit more than one application to obtain an investment license to carry out activities in a particular sector or various sectors.
المستثمر شخص طبيعي أو معنوي

تقديم الطلب

هيئة الاستثمار المعنية (دائرة النافذة الواحدة)

وزارة النفط
وزارة البلديات
أمانة بغداد
وزارة المالية / دائرة عقارات الدولة
وزارة الكهرباء
وزارة البيئة

يبدأ مدة الـ 45 يوماً اللازمة لمنح الإجازة الاستثمارية من تاريخ إستكمال متطلبات منح الإجازة.

التغير الجهات القطاعية المذكورة في المخطط وفقاً لطبيعة المشروع والجهة المالكة للأراضي.

يجوز للمستثمر تقديم أكثر من طلب للحصول على إجازة استثمارية لممارسة نشاطه في قطاع معين أو قطاعات مختلفة.

ملاحظات:

هيئة الاستثمار المعنية

ياماً 15

ياماً 45

إجازة استثمار

57
The following form investment contract was originally drafted for a housing project in Iraq. The model contract has since been modified so that drafters can adapt the contract to suit different sectors and projects throughout Iraq.

INVESTMENT CONTRACT
Between
FIRST PARTY
And
SECOND PARTY
Dated as of DATE

NOTE: THIS DRAFT IS FOR DISCUSSION PURPOSES ONLY AND HAS NOT BEEN AGREED TO BY THE NATIONAL INVESTMENT COMMISSION. THIS DRAFT DOES NOT CONSTITUTE AN AGREEMENT BY THE INVESTMENT COMMISSION OR A COMMITMENT BY THE INVESTMENT COMMISSION TO ENTER INTO AN AGREEMENT AND REMAINS SUBJECT TO CHANGE. ANY REPRESENTATION TO THE CONTRARY IS VOID.

This Investment Contract (this “Contract”) is entered into by and between THE CONCERNED INVESTMENT AUTHORITY in the Republic of Iraq (hereafter referred to as the “First Party”) and FULL NAME OF INVESTING Authority.
COMPANY, which is registered in PLACE OF REGISTRATION (hereafter referred to as the “Second Party”) as of DATE. This contract entered into in the province of NAME OF PROVINCE in the Republic of Iraq as of this Day, the DAY of MONTH, YEAR, between:

**First Party:**

The Investment Commission of NAME OF PROVINCE OR FEDERATION in the Republic of Iraq, represented and authorized by FULL NAME, in addition to his official capacity (hereafter referred to as the “First Party”), represented by FULL NAME, and

**Second Party:**

FULL NAME OF COMPANY, a TYPE OF COMPANY registered in NAME OF JURISDICTION and established by the laws of NAME OF JURISDICTION (hereafter referred to as the “Second Party”), represented by FULL NAME, who is authorized to sign according to the by-laws of the Second Party.

**Section 1. Defined Terms**

1. Definitions. In this Contract, including the Exhibits and Schedules hereto, all Capitalized terms shall have the following meanings, unless explicitly stated otherwise:

   “Actual Knowledge” means, with respect to any Party, such Party, or any of its directors, or any other Person that represents or is authorized by such Party in an official or legal capacity, knows or should reasonably know, of the incident or occurrence; provided,
however, that the receipt of notice of any such incident shall be deemed to be Actual Knowledge.

“Action Plan” means the master plan, scope and schedule of work, and project description submitted by the Second Party to the First party.”

“Applicable Legislations” means and includes without exception all laws, regulations, instructions, guidelines, ministerial decrees or relevant agreements applicable in Iraq at the time of signing this Contract.

“Approval” or “Approved” means all approvals, permits and licenses (including the Council of Ministers’ approval, and/or other related approvals, to the Project, as well as their execution and operation) necessary to carry out this Contract or grant an investment licenses in accordance with the Law.

“Business Day” means any Day of the week with the exception of Friday.

“Change in Law” means any change enacted by Competent Government Authorities that results in Serious Damage to the Second Party, or might prejudice the Second Party's ability to carry out its obligations and exercise its rights under this Contract, or prejudice the viability of the Project, which by way of example may include but are not limited to the following: (i) amendment or nullification of an Applicable Law, or change in the mechanism of its execution, (ii) passage of a new Law, and (iii)
issuance of regulations, guidelines, or binding interpretative decisions.

“Common International Practices” means exercising a degree of professional skill, precision and observance that would be normally or reasonably expected from any entity undertaking a project similar to the Project, possessing the skills, abilities, expertise and responsibility required to carry out the activities that encompass the tasks of the Project, which are in accord with the practices, methods, specifications and standards of management, safety and performance generally expected for a project similar to the Project.

“Competent Government Authorities” means any official authority or entity of the Government of Iraq, including its ministries, independent government commissions, diplomatic or consular bodies, and any individual person or entity carrying out executive, organizational or administrative responsibilities on behalf of the above-mentioned commissions or entities.

“Confidential Information” has the meaning ascribed in Section 28.

“Contract” means this Investment Contract including its annexes, exhibits, schedules and amendments.

“Creditors” means banks, other financial institutions and bondholders (including guarantors, sponsors, or shareholders of Second

الممارسات العالمية المتعارف عليها” تعني ممارسة درجة من المهارات المهنية والدقة والعناية حسبما يكون متوقعاً بشكل عادي ومعقول من أي كيان يقوم بمشروع مماثل للمشروع، لديه القدرة والخبرة والمسؤولية اللازمة لتنفيذ النشاطات التي تشملها مهام المشروع والتي تنסמ مع تلك الممارسات والأساليب والمواصفات والمعايير الخاصة بالإدارة والسلامة والأداء، والمتوافقة بشكل عام لمشروع مماثل للمشروع.

الجهة الحكومية المختصة” تعني أي سلطة أو جهة رئيسية لحكومة العراق، وتشمل ذلك وزارتها أو هيئاتها الحكومية المستقلة وهيئاتها الدبلوماسية أو القنصلية، وأي شخص أو جهة تمارس مهاماً تنفيذية أو تنظيمية أو إدارية نياحة عن الهيئات أو الجهات آنفة الذكر.

المعلومات السرية” يكون لها المعنى المحدد لها في القسم 28.

"العقد" يقصد به هذا العقد الاستثماري، ويشمل ذلك ملاحقه ومستنداته وجدولاته وتعديلاته.

"المقرضون/الدائنين" يقصد بهم المصارف وغيرها من المؤسسات المالية وحاملِ السندات (بما في ذلك ضامنين أو الكافلين أو المساهمين مع الطرف الثاني، أو آخرين.
Party, or others who have economic rights or interests in Second Party’s shares or under contracts between them and Second Party), which have committed to provide credit, loans or financing towards the Project.

“Day” means 24 consecutive hours, beginning at 00:00 o’clock and ending at 23:59, Baghdad local time.

“Dispute” means any dispute or disagreement between the Parties relating to interpretation and/or performance of this Contract or any other dispute associated with or pertaining to the Contract.

“Effective Date” means the date on which the obligations of both Parties to this Contract become enforceable and effective.

“Engineering Standards” means the common engineering standards and specifications for execution of the Project in accordance with this Contract.

“Exclusive Rights” means those rights enjoyed by the Second Party for the duration of this Contract.

“Extension” has the meaning ascribed in Section 14(2).

“First Party” has the meaning ascribed in the introduction to this Contract.

“Force Majeure” means any event or circumstance (or series of events or circumstances) beyond the concerned party’s control and which, at the time of the signing of
the contract, was unanticipated by the average individual, was not due to breach or negligence on its part, and makes it impossible for that party to meet any of its obligations in a normal manner in accordance with this contract (either wholly or in part, temporarily or permanently, for the duration of the Force Majeure), in a manner that such inability cannot be avoided or overcome in a normal manner, and cannot be realistically attributed to the other party, including, but not limited to:

a. Any general, exceptional and permanent event or circumstance (or series of events or circumstances), which was unforeseeable and makes it impossible for such Party to meet any obligations in a normal manner under this Contract, in which case, such obligation under this Contract is null.

b. Any general and exceptional and temporarily event or circumstance (or series of events or circumstances), which was unforeseeable, and which establish a hardship to such Party’s ability to meet its obligations in a normal manner under this Contract, in which case, such obligation is subject to the discretions of the relevant court to rebalance the rights and obligations under the Contract.

“Investment Law” means Law No. 13 of 2006, as amended, and any Applicable Law that replaces it, and regulations and instructions issued in accordance with it.

In the event of a breach or negligence of this contract by any Party, it shall be null and void, and the other Party shall have the right to terminate the contract and receive compensation for any loss or damage incurred.

"قانون الاستثمار" يقصد به القانون رقم 13 لسنة 2006 المعدل، وقانون نافذ يحل محله، والأنظمة والتعليمات الصادرة بموجبه. ينص على أن في حالة خرق أو إهمال من أي من الأطراف، يصبح العقد من يعفي من الإلتزامات، وحق الإلغاء، وحق التعويض عن أي خسائر أو أضرار.
“Investment Period” means a period of NUMBER OF YEARS from and including the Execution Date, as may be extended pursuant to Section 14.

“Losses” shall mean all costs incurred by the affected Party that the liable Party must pay for those losses to ensure that the affected Party receives economic compensation for the situation that the affected Party would have been in had the damage not taken place, or is compensated for (in case of litigation, or based on the case).

“Month” shall mean the month based on the Gregorian calendar.

“Notice of Alert” shall have the meaning ascribed in Section 22(2) or Section 23(2), as context requires.

“Notice of Breach” shall have the meaning ascribed in Section 22(5)(b)(i).

“Notice of Confirmation” shall have the meaning ascribed in Section 20(2)(a).

“Notice of Objection” shall have the meaning ascribed in Section 22(3).

“Notice of Termination” shall have the meaning ascribed in Section 23(7).

“Notice of Termination Due to Force Majeure” shall have the meaning ascribed in Section 19(7).
“One-Stop Shop” means the department through which the First Party coordinates with the relevant Competent Government Authorities with respect to its obligations under this Contract.

“Person” means any individual, firm, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization, government authority, committee, department, authority or any other body, incorporated or unincorporated, whether having a distinct legal personality or not.

“Project” means the project described on Annex I, which includes all Engineering Standards submitted by the Second Party in accordance with standard Iraqi specifications Approved by Competent Government Authorities.

“Project Land” means the Project Land described on Annex I.

“Second Party” has the meaning ascribed to such term in the introduction to this Contract.

“Serious Damage” is any damage resulting from a substantive breach of this Contract by one Party that substantially infringes on the rights of the other Party with respect to the profit rate or margin, execution and/or economic viability of the Project.

“Schedule” shall mean the schedule prepared by the Second Party for executing the project (the phases of the project) agreed upon with the
First Party. Such schedule may be amended or extended by mutual consent due to force majeure or a change in the law pertaining to the additional time periods, or for any reason stated in this Contract.

“Standards” shall mean the common international regulations, specifications and systems contained in the Main Final Drawings that are applicable to the components of the project, provided that such standards are no less than comparable to applicable Iraqi standards.

“Technical Specifications and Designs” shall mean the technical specifications, designs and tables of the quantities that will be used for the Project set forth as Annex III, and were Approved by the Competent Government Authorities and accepted by the Second Party, including any amendments pursuant to Section 12.

“Year” shall mean the Gregorian year beginning on the first of January and ending on the thirty-first of December of the same year.

2. Interpretation. This Contract is interpreted according to the meanings set forth below, unless otherwise specified:

a. Words in the singular form shall be construed to include the plural and vice versa,

b. All words and phrases not defined in this Contract shall have the meaning ascribed to such term by the Arabic
Language Academy (if the Contract is signed in Arabic),

c. References to the preamble, Sections and schedules attached to the Contract form an integral part of the Contract, unless otherwise stated or the context requires,

d. Unless otherwise specified in this Contract, any reference to any legislation or ministerial or administrative decree, including any amendments thereof refers to the one issued before the Effective Date,

e. Any references to “Party” or “Parties” mean the First Party and/or the Second Party, including their successors and those delegated and authorized by them and whose powers and obligations were transferred to them in accordance with Applicable Law and the provisions of this Contract,

f. References to amendments shall include any amendment, addition, deletion, clarification, change or alteration, wherever mentioned in this Contract, and

g. If there is any contradiction between the provisions of this Contract and any non-binding provisions of the Investment Law or other Applicable Law, the provisions of this Contract shall apply.
Section 2. Rights of Second Party as to Financing, Subcontracting and Transfers:

a. The Second Party has the right and without consent of the First Party, to finance itself and the Project using funding from Creditors, whether or not located inside Iraq, and to enter into any related agreements, including collateral security assignments, with such Persons, provided that such financing is in compliance with Applicable Law, including any applicable regulations and instructions issued by the Central Bank of Iraq.

b. The Second Party has the right, without consent of the First Party, to contract with Project Contractors and to delegate to such Project Contractor, any of its rights and obligations relating to the development, completion and operation of the Project, provided, however, that the Second Party shall remain responsible for any violation of a Project Contractor of any obligations under this Contract.

c. To the extent permitted by Applicable Laws, the Second Party has the right to own and transfer any occupancy rights, contracts, representations, rights and exclusive and non-exclusive rights to use trade signs and marks or any other
intellectual-property rights to any Person chosen by the Second Party.

Section 3. Right of the Second Party to Collect Revenue from the Project

The Second Party has the right to collect all revenues from the Project in accordance with the terms of any agreement between the Second Party and any off-taker of any product or consumer of service from the Project.

Section 4. Rights of the Second Party to Import, Re-export and Sell Machinery and Other Assets

1. The Second Party has the right to import all Project Assets used to execute the project.

2. The Second Party has the right to re-export all Project assets used to execute the project, in accordance with Applicable Laws and relevant regulations for export, taking into account the special nature of the Project.

3. The Second Party has the right, after notifying the first party, to sell exempted assets used to execute the investment project to non investment project after paying due fees and taxes or re-export it.

Section 5. Rights of the Second Party in Intellectual Property

The Second Party has the exclusive right to own and exploit all intellectual property rights of the Project or any of its components, including, without limitation, all trademarks and names, patents of
inventions, innovations, and designs, including the Technical Specifications and Designs set forth on Annex III.

Section 6. Obligation of the Second Party for Continuing Maintenance of the Project

The Second Party shall provide, directly or indirectly, maintenance for the Project for the duration of the Investment Period, in a manner that enables it to be operational after the end of the Investment Period.

Section 7. Permits and Licenses

1. The First Party, through the One-Stop Shop, shall coordinate with the relevant Competent Government Authorities and take all necessary measures within the schedule to be agreed with the Second Party to ensure that all Approvals required to enable the Second Party to carry out the Project are in accordance with the terms of this Contract.

2. The First Party, through the One-Stop Shop, shall coordinate with Competent Government Authorities to ensure that any other Approval pertaining to the Project, or which the Second Party requests, shall be issued within a reasonable time period to be agreed with the Second Party.

Section 8. Obligations of the Second Party as to Environment

1. The Second Party shall use best efforts to adhere to Common International Practices to protect the environment on the Project Land, to the extent that such practices are not lower than Iraqi standards.

2. يلتزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

3. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

4. يلتزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

5. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

6. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

7. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

8. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

9. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

10. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

11. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

12. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

13. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

14. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

15. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

16. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

17. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

18. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

19. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

20. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

21. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

22. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

23. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

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43. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

44. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

45. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

46. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

47. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

48. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

49. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.

50. يلزم الطرف الثاني بصيانة المشروع، بصورة مباشرة أو غير مباشرة، طوال فترة الاستثمار وعلى نحو ي يؤهله للتشغيل بعد انتهاء المدة الاستثمارية.
To the extent possible, the Second Party shall remediate any substantial environmental damage on the Project Land directly caused by carrying out the Project.

Section 9. Workforce and Employment

1. The First Party shall, in coordination with Competent Government Authorities, expedite the entry of foreign labor to the Second Party (including Project Contractors, consultants and others who are associated with the Project and their respective employees), and the issuance of all necessary Approvals with respect to such Persons.

2. Notwithstanding the foregoing, the Second Party shall exert reasonable efforts to grant priority of employment for Iraqis. However, the Second Party has the right to recruit and employ foreign labor, skilled or non-skilled, and the First Party shall obtain work and residency permits for such Persons in accordance with the following:

   a. The requirements of the Project in terms of the time needed to carry out the activities of the Project, and

   b. Activities of the Project, and the availability of appropriately qualified labor in terms of the requirements for labor with special skills.

3. The Second Party, in coordination with the First Party, shall carry out training programs for Iraqi labor,
and for adequate numbers of Iraqi citizens who have academic degrees related to the Project’s activities to take part in such training programs, all such training programs to be carried out by the Second Party in accordance with the requirements of such programs.

4. The Second Party shall guarantee that the average of the total labor force of Iraqis associated with the Project for the duration of the execution of the Project will equal or exceed 50% (fifty percent).

5. If the Second Party wishes to recruit and employ foreign labor, skilled or non-skilled, in relation to the Project, the First Party shall endeavor to achieve the following in consultation with the Second Party:

a. Obtain (i) within NUMBER OF DAYS Days after the date of filing the application, all work permits and visas, both single and multiple, and (ii) within NUMBER OF DAYS Days, the residency and work permits for guest workers as is necessary to meet the labor force requirements of the Second Party, taking into consideration the security aspects in Iraq.

b. Expedite the process of obtaining within a reasonable period of time all work permits and individual and multiple visas, as well as residency and work permits for guest workers as needed to meet the labor force of all contractors and companies - without any
limitations - that will carry out any of the construction work, investment or necessary management for the Project during the execution phases of the Project, to enable the Second Party to meet its obligations under this Contract.

Section 10. First Party Acknowledgements

The First Party acknowledges and agrees for the benefit of the Second Party that:

1. The Second Party shall be entitled to exercise all of its rights under this Contract.

2. The Second Party has the right to freely transfer investment capital outside of Iraq, along with debts, revenues, and amounts payable, in foreign currency, as well as the right to freely apply such amounts as contributions to the capital of any other company in accordance with the instructions of the Central Bank of Iraq.

3. In accordance with the Applicable Law, no Competent Government Authority may take any measure that may, directly or indirectly, impede the Second Party from:
   
a. Purchasing any foreign currency for the Project from legally licensed exchange firms, or

b. Open and operate bank accounts in foreign currencies and the Iraqi Dinar (IQD) in Iraq or any other country for the Project, or

Section 10. إقرارات الطرف الأول

القسم 10. إقرارات الطرف الأول

يفقر الطرف الأول ويوافق لصالح الطرف الثاني بما يلي:

1. يحق للطرف الثاني ممارسة كافة حقوقه بموجب هذا العقد.

2. يحق للطرف الثاني تحويل رأس المال المستثمر بحرية خارج العراق، إضافةً إلى الديون والمعاود والبالغات الفائدة بالعملة الأجنبية، وله الحق في استعمال تلك المبالغ كمساهمات في رأس مال أية شركة أخرى وفقاً لتعليمات البنك المركزي العراقي.

3. وفقاً للقانون النافذ، لا يجوز لأي سلطة حكومية نافذة أن تتخذ أي إجراء، بشكل مباشر أو غير مباشر، من شأنه أن يعيق الطرف الثاني من:
   
   a. شراء أي عملة أجنبية للمشروع من مؤسسات الصرف المجازة قانوناً.

   b. فتح وتشغيل حسابات مصرية للمشروع بعملات أجنبية وبالدينار العراقي في العراق أو في أي بلد آخر.
c. Make payments in any foreign currency and transfer such amounts outside Iraq.

4. All foreign workers and employees of the Second Party shall have the right to transfer their financial assets abroad after collecting their dues to the public treasury or to others in accordance with Applicable Law by the Second Party, and the payment of such amounts to the relevant Competent Government Authorities.

5. The First Party shall appoint a resident engineer and a consulting firm for the purposes of monitoring the Project and ensuring compliance with this Contract at the expense of the Second Party.

Section 11. Obligations of the Second Party in Carrying Out the Project

1. The Second Party shall carry out the Project in accordance with the Technical Specifications and Designs, Action Plan and Schedule.

2. The Second Party shall submit detailed Technical Specifications and Designs, including any specific designs, drawings and specifications requested by the First Party or any relevant Competent Government Authority.

3. The Second Party shall ensure that (i) all materials used are in accordance with the Technical Specifications and Designs, (ii) all materials used carry the certificate of origin, a third party inspector and the manufacturing certificate that
contain all tests that were performed during the manufacturing process and supported by the third party inspector after agreeing to the requested activities and Approved by the technical entity (the engineering inspection), and (iii) issue a certificate to that effect.

4. The Second Party’s requirements of space needed to establish headquarters during the execution and investment phases shall be determined in accordance with Annex ANNEX NUMBER.

5. The Second Party shall adhere to environmental limitations and refrain from taking any action that may harm the environment and shall abide by applicable guidelines in this regard, in each case to the extent required by Applicable Law and Common International Practices.

6. The Second Party shall carry out the internal infrastructure of the Project in accordance with the Technical Specifications and Designs.

Section 12. Amendment to the Technical Specifications and Designs, Action Plan and Schedule

Any amendment to the Technical Specifications and Designs, Action Plan or Schedule, presented by the Second Party to the First Party, shall be subject to the First Party’s approval.

Section 13. Total Cost of the Project

The Second Party shall carry out the Project on the basis of investment, where the total cost of the Project will be in the amount of TOTAL COST.
The Second Party shall have the exclusive right to develop the Project during the Investment Period. Immediately upon the expiration of the Investment Period, the Project shall be handed over to the First Party without any compensation (non-housing and industrial projects, if the investor has become the owner of the land). The First Party has the right to renew the Investment Period after obtaining a no-objection letter from the concerned sectoral entity and in accordance with terms to be negotiated at the time.

The Project will be executed as follows:

1. The Project will be executed during a period of NUMBER OF YEARS Years according to the Action Plan presented by the Second Party and approved by the First Party.

2. If any delay in meeting its obligations regarding the execution of the Project or if Losses are incurred resulting from Force Majeure or Change in Law or any reason granting additional time to the Second Party, the Second Party shall have the right to increase the time period for a time equal to the delay, and such delay and increase (i) shall not be a breach of this Contract and (ii) shall not prejudice and shall grant the Second Party a corresponding increase in the time period applicable to, any rights of the Second Party under the Applicable Law or this Contract (such period, an “Extension”).
3. If the Second Party fails to meet its obligations because of the First Party, an additional period will be granted equal to the period required to meet the obligation.

4. Without violating the above provisions of this Section 13, if a case of work stoppage occurs, the First Party shall have the right to warn the Second Party to resume the execution of the Project. However, if the work stoppage continues for more than NUMBER OF DAYS OR MONTHS, the First Party shall have the right to impose punitive terms based on the Project’s cost, not to exceed PERCENTAGE percent of the cost and in accordance with the mechanism set forth in Annex ANNEX NUMBER, provided that it does not include executed portions of the Project unless the Parties mutually agree to terminate this Contract.

Section 15. Privileges and Exemptions from Taxes and Fees

The Project shall enjoy all privileges and exemptions from taxes and fees set forth in the Investment Law and any other Applicable Law.

Section 16. Transfer of Project Rights by the Second Party

The Second Party has the right to transfer the ownership of the Project in whole or in part during the investment’s license period to any Iraqi or foreign investor, provided that a minimum of 40% of the project has been completed, and on condition that the new investor continues to implement the Project in the same field or another field, upon approval from the First Party. The
new investor shall replace the Second Party in rights and obligations transferred to it in accordance with the Investment Law and this Contract. If ownership of the Project is transferred during the period in which the investor enjoys the privileges, facilities and guarantees granted to him in accordance with this Contract and the Investment Law, the new investor shall continue to enjoy such rights until the expiration of the period of the privileges, facilities and guarantees granted to the Second Party in accordance with this Contract and the law, provided that the Second Party’s responsibility continues in accordance with this Contract and the Action Plan.

Section 17. The Parties’ Representations and Warranties as to Authority and Validity

1. The Second Party represents and warrants that:

   a. It has all necessary corporate and other power and authority to enter into and perform this Contract.
   b. This Contract is a valid and enforceable obligation of the Second Party and all necessary authorizations under its charter and by-laws or other requirements have been taken.

2. The First Party represents and warrants that:

   a. It has all necessary power and authority to enter into and perform this Contract and abide by its provisions in accordance with the Investment Law.
Section 18. Insurance

1. The Second Party shall provide all necessary insurance for the entire duration of the Project through Iraqi or foreign insurance companies.

2. The Second Party and its Creditors have the right to obtain insurance coverage against all dangers relating to their investments in the Project.

3. The Second Party shall not be entitled to any compensation from the First Party for Losses covered by insurance.

Section 19. Force Majeure

1. If either Party is unable to meet its obligations due to Force Majeure, such Party shall be excused from meeting its obligations during that period in accordance with this Contract and shall not be obliged to pay any fees or compensation resulting from such Force Majeure.

2. If a Party is unable to perform its obligations in whole or part due to Force Majeure, or if such Party knows of its inability to meet its obligations because of that, such Party shall notify the other Party in writing as soon as possible, provided that such notification shall not exceed DAYS days after Actual Knowledge of the occurrence or the possible occurrence of Force Majeure.
3. Without prejudice to the other provisions of this Section 18, the Parties shall consult for the purpose of taking appropriate steps and procedures to alleviate the consequences of Force Majeure.

4. The Party whose obligations are affected by such Force Majeure shall do the following:

a. Exert its utmost efforts to remove the consequences of the Force Majeure, resume meeting its obligations in accordance with this Contract as soon as possible after the Force Majeure has ended or to the extent that it is allowed to resume meeting its obligations, and

b. Notify the other Party of its knowledge that the Force Majeure has ended and of the date of the resumption of meeting its obligations in accordance with this Contract or the possible date of resumption.

5. If the First Party and the Second Party have consulted in accordance with Section 20(3) and were unable to accomplish the following within a period of NUMBER OF DAYS OR MONTHS after the date of receipt of the notification referenced in Section 20(2), they shall:

a. Reach an agreement on the occurrence of Force Majeure, and

b. Agree on appropriate steps to alleviate the consequences of Force Majeure.
the Force Majeure;

The inability to reach an agreement on clause (a) and (b) above shall be considered a Dispute to be resolved in accordance with Section 26.

6. If the Second Party has been unable to complete the Project or any part thereof in accordance with the Schedule due to the occurrence of Force Majeure, the period during which the Project’s tasks were supposed to have been completed shall be extended, as well as the period during which the Force Majeure is present, provided that its consequences, if any, are removed.

7. If Force Majeure and its consequences continue for a period exceeding DAYS days and either Party’s performance was late or such Party was unable to meet its obligations in accordance with this Contract for that period or longer, and the affected Party has determined that it would not be possible to resume its obligations in accordance with this Contract within a reasonable period of time and that the Project was hampered or that its completion was permanently hampered due to the Force Majeure, then the First Party shall state its desire to postpone the execution and/or the operation of the Project or, if so required, its desire to terminate this Contract in whole or part or to amend the provisions of the Contract affected by such Force Majeure. (“Notice of Termination Due to Force Majeure”).

8. If Force Majeure continues for a period exceeding DAYS days and
the First Party and/or Competent Government Authorities were unable to meet their obligations in accordance with this Contract or if that was not possible due to the Force Majeure, and the Second Party determines that the delay by the authorities in meeting their obligations as a result of such Force Majeure would not permanently hinder the Project, then the First Party shall negotiate in good faith to agree on determining a new schedule for meeting the obligations of those Competent Government Authorities due to Force Majeure. The First Party and the Second Party should also agree to settle their obligations, including any change in the special Schedule relating to the execution of the Project’s tasks.

9. The First Party shall send its response within DAYS days after the date of receipt of the Notice of Termination Due to Force Majeure (the date of receipt shall be considered the date of Notice of Termination Due to Force Majeure) either accepting the content of that notification or rejecting it according to the following:

a. If the First Party accepted the content of that notification, this Contract shall terminate to the extent set forth in that notification as of the date of the Notice of Termination Due to Force Majeure. In that case, the Competent Government Authorities shall not be obligated to pay any compensation to the Second Party to the extent that the Force Majeure was the only

الجهات الحكومية المختصة من أداء إلتزاماتها بموجب هذا العقد أو تعذر ذلك بسبب القوة القاهرة وقرر الطرف الثاني أن تأخر تلك الجهات في أداء إلتزاماتها نتيجة هذه القوة القاهرة لن يعرقل المشروع بصفة نهائية، فذا يشاار الطرف الأول بحسن نية للاتفاق على تحديد جدول جديد لتنفيذ إلتزامات تلك الجهات نتيجة القوة القاهرة. كما يجب أن يتفق الطرفان على تسوية إلتزامهما، بما في ذلك أي تغيير في الجداول الخاصة بتنفيذ مهام المشروع.

9. يرسل الطرف الأول ردًا خلال (عدد الأيام) يومًا من تاريخ إستلامه إشعار الإنهاء بسبب القوة القاهرة (ويعتبر تاريخ الإستلام ذلك هو تاريخ إشعار الإنهاء بسبب القوة القاهرة) إما الموافقة على مضمون ذلك الإشعار أو رفضه يكون وفقًا لما يلي:

أ. إذا وافق الطرف الأول على مضمون ذلك الإشعار، ينتهي هذا العقد إلى المدى الوارد في تلك الإشعار اعتبارًا من تاريخ إشعار الإنهاء بسبب القوة القاهرة ولا تلتزم الجهات الحكومية المختصة بدفع أي تعويض إلى الطرف الثاني في هذه الحالة وذلك إلى الحد الذي تكون القوة القاهرة السبب الوحيد في الإنهاء.
reason for the termination.

b. If the First Party rejected the content of the notification and the two Parties were unable to resolve the difference within DAYS days after the receipt of the rejection notification, the dispute shall then be considered a Dispute to be dealt with in accordance with Section 26.

Section 20. Change in Law

1. The First Party shall immediately inform the Second Party of any Change in Law if that change would have any substantial effect on this Contract.

2. If a Change in Law may cause Serious Damage to the Second Party regarding the performance of its obligations in accordance with this Contract or prejudice the exercise of its rights or its obligations, the following provisions shall apply:

   a. If the Change in Law was made after this Contract’s entry into force, the Second Party shall, within a period not to exceed DAYS days after the date on which it was published in the official gazette of Iraq or the date of its Actual Knowledge of, inform the First Party of such change by written notice, explaining in detail the possible effect of that change and its expected financial consequences on the Second Party (“Notice of Confirmation”). The Notice of Confirmation shall also

ب. إذا رفض الطرف الأول مضمون ذلك الإشعار، ولم يتمكن الطرفان من حل ذلك الخلاف خلال (عدد الأيام) يوماً بعد إستلام إشعار الرفض، عندئذ يعتبر ذلك الخلاف نزاعاً يتم التعامل معه وفقا للقسم 26.

القسم 20. التغيير في القانون

1. يتزامن الطرف الأول بإعلام الطرف الثاني فوراً بأي تغيير في القانون إذا كان لهذا التغيير أثر جوهرى على هذا العقد.

2. إذا حدث تغيير في القانون يؤدي إلى ضرر جسيم على الطرف الثاني فيما يتعلق بتنفيذ إلتزاماته بموجب هذا العقد أو يؤثر على ممارسته لحقوقه أو تنفيذ إلتزاماته، تطبق الأحكام التالية:

   أ. إذا كان التغيير بعد تاريخ سريان العقد، يقوم الطرف الثاني، وفي موعد أقصاى (عدد الأيام) يوماً من تاريخ نشر القانون بالجريدة الرسمية للعراق أو من تاريخ علمه الراقي، بتبلغ الطرف الأول بإشعار كتابي، مبينا فيه التفاصيل، الأثر المتوقع لذلك التغيير وآثاره المالية المتوقعة على الطرف الثاني ("إشعار التأكيد"). ويتضمن إشعار التأكيد أيضاً سبيل المعالجة التي يرى الطرف الثاني أنها مناسبة لإزالة آثار التغيير في القانون أو منعها أو التخفيف منها.
include the ways that the Second Party sees appropriate for removing the consequences of the Change in Law or blocking or alleviating such consequences.

3. The First Party shall, within DAYS days after the date of receipt of the Notice of Confirmation, notify the Second Party in writing of its acceptance or rejection of the Notice of Confirmation. Lack of response by the First Party during that period shall be considered an implied acceptance with the Notice of Confirmation.

4. If the First Party rejected the Notice of Confirmation, the Parties may negotiate in good faith to determine the applicability, nature and effect of the Change in Law. If the Parties were unable to agree within DAYS days after the date of the rejection confirmation or did not exercise the right to negotiate, the Second Party may refer the Dispute to be resolved in accordance of the provisions of Section 26.

5. The Parties shall use reasonable effort to agree to the additional periods within DAYS days referenced in clause (4) above. If an agreement is not reached, the issue in question shall be considered a Dispute to be dealt with in accordance with Section 26.

6. Notwithstanding the foregoing, if a Change in Law took place after the Execution Date and before the Effective Date of this Contract, the Second Party shall inform the First Party in writing of the Change in
Law within PERIOD after the date on which it was published in the official gazette of Iraq or the date of its Actual Knowledge. This notification shall include an explanation of that change and its expected consequences and financial ramifications on the Second Party. Following that notification, the Parties shall immediately meet to agree on the validity, applicability, consequences and financial ramifications resulting from the Change in Law and the steps that must be taken to remove the consequences of the Change in Law. If the Parties fail to reach agreement within DAYS days after the date of notifying the Second Party regarding the Change in Law, the issue that is the subject of the Dispute shall be resolved in accordance to Section 26.

7. The Second Party shall benefit from any additional rights or privileges that may arise from any amendment to the Investment Law or other Applicable Laws, provided that they would not be retroactive, unless otherwise stipulated by the Applicable Law.

Section 21. Breach by the First Party

The following, without limitation, shall constitute a breach by the First Party:

1. Not issuing or withdrawing any Approvals for unexplained and unreasonable reasons or delaying them in an unreasonable way after double the period specified in writing by the first party to the second party after an application has been filed to have the Approvals

وهو يشمل هذه الإشعار شرحاً لهذا التغيير وتأثيره الموجب وتبوعاته المالية على الطرف الثاني. وبعد ذلك الإشعار يجب أن يجتمع الطرفان قريباً لتفكير على صحة وإطلاق وآثار والواقعة المالية المترتبة على التغيير في القانون والخطوات التي ينبغي إتخاذها لمعالجة آثار التغيير في القانون. فإذا فشل الطرفان في الوصول إلى إتفاق خلال (عدد الأيام) يوماً بعد تاريخ إشعار الطرف الثاني بشأن التغيير في القانون، يحل الموضوع محل النزاع وفقاً للقسم 26.

7. يستفيد الطرف الثاني من أي حقوق أو إمتيازات إضافية تنشأ عن أي تعديل في قانون الاستثمار أو القوانين الأخرى على أن لا يترتب عنها أي آثر رجعي، إلا إذا نص القانون النافذ على خلاف ذلك.

القسم 21. الإخلال من جانب الطرف الأول

تشكل الأحداث التالية، دون حصر، حالات إخلال من جانب الطرف الأول:

1. عدم إصدار أو سحب أي موافقات لأسباب غير مبررة وغير معقولة أو تأخيرها بشكل غير معقول بعد ضمف المدة المحددة كتابياً من قبل الطرف الأول للطرف الثاني بعد تقديم طلب لإصدارها أو إنهاء صلاحيتها بدون تجديدها أو تأخير تجديدها أو سحبها أو تعديلها بما يتناقض مع الإجراءات العادية وفقاً للشروط التي صدرت على أساسها.
issued, or the expiration of which
without renewing them or delaying
their renewals, withdrawing or
amending them in contradiction to
normal procedures in accordance
with the terms based on which they
were issued, which may affect the
Second Party’s ability to meet its
obligations in accordance with this
Contract or inflict a Serious Damage
on it.

2. A breach by the First Party and/or
Competent Government Authorities
of any of the terms and provisions
of this Contract that may prejudice
the Second Party’s ability to meet its
obligations in accordance with this
Contract or exercise its rights
hereunder.

Section 22. Termination by the First
Party

1. The First Party may terminate if a
material breach by the Second Party
has occurred and the First Party has
followed the provisions set forth
below.

2. If the First Party wishes to terminate
this Contract in the case of a
material breach by the Second Party,
it shall first send a written notice
(“Notice of Alert”) to the Second
Party including the following:

a. The nature of the breach claimed,

b. Actions that may be considered reasonable and
necessary to remove the breach, and

c. The time period that may be considered reasonable and
adequate to remove the breach, provided that such a period is not less than DAYS days or not to exceed DAYS days after the date of receiving the Notice of Alert.

3. The Second Party has the right to object to the Notice of Alert within a period not less than DAYS days or not to exceed DAYS days after the date of receiving the Notice of Alert by providing a Notice of Objection (“Notice of Objection”) to the First Party.

4. If the First Party does not respond to the Notice of Objection within a period of DAYS days after the date of receiving it or if the First Party consents in writing, the Notice of Alert may then be considered null and void and has no effect.

5. If the First Party rejected the Notice of Objection, the following two conditions may apply:

a. The rejection may be considered a Dispute to be resolved in accordance with Section 26 of this Contract, or

b. The following action may be taken:

i. If the Second Party does not remove the breach referenced in the Notice of Alert and if measures were not taken to address it, the First Party may then provide another notification (“Notice of Breach”) to the Second Party, explaining the facts

أن لا تقل هذه الفترة عن (عدد الأيام) يوماً ولا تزيد عن (عدد الأيام) يوماً بعد إستلام إشعار التنبيه.

3. يحق للطرف الثاني الإعتراض على إشعار التنبيه خلال مدة لا تقل عن (عدد الأيام) يوماً ولا تزيد عن عدد الأيام يوماً بعد تاريخ إستلامه إشعار التنبيه وذلك بإرسال إشعار اعتراض للطرف الأول ("إشعار الإعتراض").

4. إذا لم يرد الطرف الأول على إشعار الإعتراف خلال مدة (عدد الأيام) يوماً من تاريخ إستلامه أو إذا أقرَ بمضمونه فيعتبر إشعار التنبيه لاغياً وباطلاً عديم الأثر.

5. إذا رفض الطرف الأول إشعار الإعتراف الإعتراف.

أ. يعتبر الرفض نزاعاً يحسب وفقاً لنص القسم 26 من هذا العقد.

ب. اللجوء إلى الإجراء التالي:

1. إذا لم يتم حل الخلاف المذكور في إشعار التنبيه، وإذا لم تتخذ إجراءات لمعالجته، فيجوز للطرف الأول توجيه إشعار آخر ("إشعار الخلاف") إلى الطرف الثاني، مبيناً فيه تلك الوقائع، وعديدًا لمدة أخرى معقولة لا تقل عن (عدد الأيام) يوماً للطرف الثاني.
and specified for another reasonable period of time of no less than DAYS days for the Second Party to address the breach, if the breach by the Second Party could not be corrected and a reasonable period of time of no less than DAYS days were specified to allow Creditors to exercise any rights as set forth in Section 23.

6. While taking into consideration items 23(8) and 23(9) and after a Notice of Alert and Notice of Breach were sent in accordance with item 23(2), if the breach was not addressed within the period specified in the Notice of Breach, the First Party shall have the right to terminate this Contract by sending a notification of its intention to terminate the Contract to the Second Party through a Notice of Termination.

7. Either Party has the right to refer any disputed question relating to the claimed breach, the Notice of Alert or the Notice of Breach to be resolved in accordance with Section 26 of this Contract at any time between the date of the Notice of Alert and the date specified in the Notice of Breach. The First Party does not have the right to terminate this Contract during the time in which the disputed question referenced in this item is being considered in accordance with item 26.

8. The First Party may not terminate the Contract after sending a Notice of Alert or the Notice of Breach.

6. مع مراعاة القسمين (8) و (9) وبعد إرسال إشعار التنبيه وإشعار الإخلال وفقاً للقسم (2) ، إذا لم يتم معالجة الإخلال خلال المدة المحددة في إشعار الإخلال فيحق للطرف الأول إنهاء هذا العقد بإرسال إشعار برغبته في إنهاء العقد إلى الطرف الثاني بواسطة إشعار الإنهاء.

7. يجوز لأي طرف أن يحيل أي مسألة مختلف حولها تتعلق بحالة الإخلال المدعى بها أو إشعار التنبيه أو إشعار الإخلال لحسمها بموجب القسم 26 من هذا العقد خلال أي وقت بين تاريخ إشعار التنبيه والتاريخ المحدد في إشعار الإخلال. ولا يحق للطرف الأول إنهاء هذا العقد في وقت تكون مسألة النزاع المشار إليها في هذا القسم جاري النظر فيها وفقاً للقسم رقم القسم 26.

8. لا يجوز للطرف الأول إنهاء العقد بعد إرسال إشعار الإخلال إذا قام أحد الدائنين بإرسال
of Breach if a Creditor sent a notification expressing its desire to exercise its rights in accordance with Section 24, provided that such Creditor shall abide by its obligations regarding such rights.

Section 23. Termination by the Second Party

1. The Second Party may terminate this Contract only if the First Party and/or the Competent Government Authorities carried out the breach of the Contract at case and the Second Party has followed the procedures set forth below.

2. If the Second Party wishes to terminate this Contract in case of a substantial breach by the First Party or the Competent Government Authorities, the Second Party must send a written notification to the First Party ("Notice of Alert"), including the following:

   a. The nature of the breach claimed,

   b. Reasonable and necessary actions to address the breach, and

   c. A reasonable and adequate period of time to address the breach, provided that such period is not less than DAYS days and does not to exceed DAYS days, measured from the date of receipt of the Notice of Alert.

3. The First Party has the right to object to the Notice of Alert within a period of DAYS days after
receiving it by sending a Notice of Objection to the Second Party ("Notice of Objection").

4. If the Second Party does not respond to the Notice of Objection within a period of DAYS days after the date of receiving it or if the First Party consents in writing, the Notice of Alert may then be considered null and void and has no effect.

5. If the Second Party has rejected the Notice of Objection, one of two options shall apply:

a. The rejection shall be considered a Dispute to be resolved in accordance with the provisions of Section 26 of this Contract, or

b. The provisions below shall apply.

6. If the First Party did not address the breach referenced in the Notice of Alert, the Second Party may send a Notice of Breach to the First Party, explaining those facts and specified for another reasonable period of time not less than DAYS days for the First Party to address the breach or if the breach by the First Party cannot be cured.

7. While taking into consideration items 23(8) and 23(9) and after a Notice of Alert and a Notice of Breach were sent in accordance with item ITEM, if the breach was not addressed within the period specified in the Notice of Breach, the Second Party shall have the right to terminate this Contract by sending a notification of its
intention to terminate the Contract to the First Party (“Notice of Termination”).

8. Either Party has the right to refer any disputed question relating to the claimed breach by Either Party, the Notice of Alert or the Notice of Breach to be resolved in accordance with Section 26 of this Contract at any time between the date of the Notice of Alert and the date specified in the Notice of Breach. Either Party does not have the right to terminate this Contract during the time in which the disputed question referenced in this item is being considered in accordance with Section 26.

9. The Second Party has the right if it so chooses to not exercise its right to terminate the Contract within a period of DAYS days and complete the development stage relating to the breach carried out by the First Party. In that case, all incentives and privileges granted in accordance with this Contract and Applicable Law shall continue and the Second Party shall be granted an additional period of time equivalent to the duration of addressing the breach and its consequences perpetrated by the First Party.

Section 24. Creditors’ Rights to Guarantees from, and to Replace the Second Party

1. Creditors have the right to obtain collateral security over all assets relating to the Project, including Project Assets, contract rights, and ownership interests of the Second Party except using the project land as collateral security.

يجوز لأي طرف أن يحيل أي مسألة عليها خلاف تتبعه بحالة الإخلال المدعى بها من قبِل أي طرف أو بإشعار التنبِئ أو بإشعار الإخلال لحسمه بموجب الفصل 26 من هذا العقد في أي وقت بين تاريخ إشعار التنبِئ والتاريخ المحدد في إشعار الإخلال. ولا يحق لأي من الطرفين إنهاء هذا العقد خلال الوقت الذي تكون مسألة النزاع المشار إليها في هذا الفصل جاري النظر فيها وفقًا للفصل 26.

يحق للطرف الثاني، عدم استخدام حقه في إنهاء العقد خلال مدة (عدد الأيام) يوماً وإكمال المرحلة التطويرية المتعلقة بحالة الإخلال التي قام بها الطرف الأول. في هذه الحالة تستمر كافة الحوافز والتسهيلات الممنوحة بموجب هذا العقد والقانون النافذ، ويُمنح الطرف الثاني مدة إضافية تعادل مدة معالجة حالة الإخلال التي قام بها الطرف الأول وآثارها.

القسم 24. حقوق الدائنين بطلب الضمانات من الطرف الثاني وفي الحلول محله

1. يحق للدائنين الحصول على ضمانات عينية لكافة الموجودات المتعلقة بالمشروع، بما في ذلك أصول المشروع وحقوق العقد وحقوق الملكية والتنفيذ للطرف الثاني، فيما عدا استخدام أرض المشروع كضمان إضافي.
2. Creditors have the right to replace the Second Party in this Contract in whole or in part in the event that the Second Party breaches its obligations under the financing documents with such Creditors, provided that such replacement does not have a material adverse effect on the Project or the rights of the First Party in this Contract.

Section 25. Notices under This Contract

1. Any additional notifications or correspondence sent in accordance with this Contract or regarding this Contract shall be in writing and signed by or on behalf of the Party sending such notifications. Such notifications or correspondence must be delivered either (a) in person or (b) by express mail or prepaid registered mail. Any notification delivered by hand or mail shall be considered delivered as follows:

a. In case of delivery by hand or delivery by prepaid registered mail or express mail, upon its delivery on an official holiday or after 5:00 in the evening of a Work Day, delivery shall be considered as delivered at 9:00 a.m. of the following Work Day. All references to time and date in this item shall be references to the local time and date of the site of delivery.

b. For the purpose of this Section 24, both Parties’ addresses for the delivery of notifications and other correspondence shall be as follows, unless the
Parties agree on another address by official notification, provided that each Party would provide the other with the names of the individuals authorized to sign, as well as forms of the Approved official documents:

To First Party:
Baghdad, Iraq
Address: ADDRESS
Attention: NAME, TITLE
CC: CC
E-mail Address: E-MAIL

To Second Party:
NAME OF CITY/STATE
Address: ADDRESS
Attention: NAME, TITLE
CC: CC
E-mail Address: E-MAIL

2. All official notifications or correspondence in accordance with this Contract or relating to it shall be in Arabic.

Section 26. Choice of Law and Dispute Resolution

1. This Contract is governed by Iraqi Law and is to be interpreted in accordance with it.

2. Dispute Resolution Procedures:
   a. Except as otherwise provided in this Contract, the Parties shall endeavor to settle all Disputes resulting from an interpretation or application of this Contract or any of its items in a cordial manner.
within DAYS days as of the date on which one Party sent a written notification of the Dispute to the other Party, through talks between the Parties.

b. A board represented by the First Party or its representative and the executive president of the Second Party or its representative shall be established to resolve any Dispute concerning the interpretation, execution and application of this Contract, and to consider and decide on it within a period not to exceed DAYS days of the date that the Dispute is referred to such board.

c. If any Dispute is not settled within the periods or procedures set forth above, such Dispute shall be referred to arbitration in accordance with the provisions of this Contract, unless the Parties otherwise agree in writing.

3. Arbitration Procedures:

a. Any Dispute that may arise from this Contract, its interpretation or execution shall be referred to and resolved in a final manner to arbitration, which takes place in PLACE and shall be conducted in accordance with the rules of RULES agreed by both parties.

b. Three (3) arbitrators shall conduct arbitration, with each
Party appointing one (1) arbitrator and such arbitrators appointing the third. In the event that the arbitrators are unable to agree on the selection of a third arbitrator, the third arbitrator shall be appointed by PARTY. The language of arbitration shall be Arabic and arbitration decisions shall be in LANGUAGE.

c. Each Party shall be responsible for the arbitration costs according to the manner decided by the arbitration board.

d. Either Party may file a petition to any Iraqi court to enforce any decision issued by the arbitration board, including any arbitration decision containing a temporary injunction against the other and may obtain any evidence (either through discovery of documents, questioning, or under oath affidavits, witness statements, etc.) determined by the arbitration board as a result of its accepting the arbitration procedures or in terms of expedited measures or for the purposes of appealing the arbitration decision.

e. The First Party shall, without any conditions or reservations of any kind and unconditionally, accept the decision or the order issued by the arbitration board as binding and executable and undertakes that it will take

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whatever actions as may be necessary to expedite the execution of that decision or order.

Section 27. Complete Agreement

The terms and provisions set forth in this Contract constitute the full agreement between the two Parties relating to the subject matter hereof. All previous correspondence, statements and agreements between the Parties concerning the Project, verbal or written, shall be annulled. Any amendment to this Contract shall be invalid unless it is in writing and officially signed by the two Parties.

Section 28. Confidentiality and Disclosure

1. The Parties shall maintain and endeavor to have their employees maintain the confidentiality of all financial information, clients’ lists, activities and operation statistics, trade secrets, technical data and other information of a secret nature (“Confidential Information”) owned by either Party or that neither Party would obtain it from the other Party except any information that:

a. Is or becomes publicly available in any form other than as a result of an action by the receiving Party or its agents, representatives, advisers or employees.

b. Is or becomes available to the other Party in such a manner that such Party may reasonably believe that it is not Confidential Information and that the receiving Party may
reasonably believe that it has the right to freely disclose without restriction.

c. Is required to be disclosed (i) in accordance with a decision by any court of jurisdiction, (ii) in accordance with any discovery procedures for documents in any judicial procedures with a court of competent jurisdiction or any other way by the force of law, (iii) by any entities that have the power of the law, or (iv) by the jurisdiction of a recognized stock of exchange or regulatory agency.

d. Is required to be disclosed to the receiving Party’s legal counsel, advisors or consultants, provided that such Persons have a legal or contractual obligation not to further disclose such Confidential Information.

e. Is required to be disclosed to any Creditors or potential Creditors and their advisors for the purpose of financing the Project.

2. Confidential Information includes all: (a) written information clearly labeled as confidential or special information, (b) verbal information described in writing as Confidential Information after they were disclosed regardless of the fact that such written or verbal information was issued from the divulging Party or others. Confidential Information also includes all written information issued by any Party or its
representatives, which include, reflect, or gleaned from Confidential Information submitted. The “written information” phrase includes all written, recorded or stored digitally on electronic, magnetic or visual media.

3. Upon learning of an order to disclose information or any other action as set forth in Section 28(1)(c), the disclosing Party shall inform the other Party of such Confidential Information immediately and shall cooperate with the other Party in any effort to have a protective order issued to prevent or minimize the scope of such disclosure.

4. Upon submitting a reasonable request by a disclosing Party at the time of termination of this Contract, all Confidential Information submitted in accordance with this Contract or concerning such Party shall be destroyed, with the exception of the Confidential Information that may be in the collected information, studies or other documents prepared by the receiving Party, its agents, representatives or associates, or be returned to the Person from whom it was received by a written request, along with an appropriate assurance that all copies have been destroyed.

5. While taking account of any Applicable Laws, neither Party may announce, disclose or inform the public in any other way of any information regarding this Contract, transactions or arrangements included, without prejudicing the public nature of the aforementioned

في حال وجود قواعد أو ممارسات تنظيمية تتجاوز هذه العمومية لا يجوز لأي من الطرفين الإعلان أو الكشف أو الإبلاغ عن أي معلومات بخصوص هذا العقد أو إطلاع العامة عليها بأي نحو آخر، أو المعايير أو الترتيبات المتعلقة بما في ذلك، دون الإخلال بالطبيعة العمومية للمعلومات المذكورة أعلاه؛ وحقيقية أن هذا العقد قد أبرم بين الطرفين أو أي مسألة أخرى

3. عند العلم بصدور أي أمر بإفشاء معلومات أو أي إجراء آخر كذا هو منصوص عليه في القسم (1)(c)، يخطر الطرف المفشي الطرف الآخر بتلك المعلومات السرية فورًا، ويعاون مع الطرف الآخر بأي مجهود لإنشدار أمر وقائي لمنع ذلك الإفشاء أو الحد من نطاقه.

4. عند تقديم طلب معقول من طرف مفشي وقت إنهاء هذا العقد، يتم إتلاف جميع المعلومات السرية المقدمة بموجب هذا العقد أو بخصوص ذلك الطرف، بإستثناء المعلومات السرية التي قد توجد في المعلومات المجمعة أو الدراسات أو غيرها من المستندات التي يدتها الطرف المتلقى أو وكلاً أو ممثلوه أو معالونه، أو تبدأ إلى الشخص الذي استلمته منه بدأً على طلب كتابي مع تأكيد مناسب. بأن جميع النسخ قد تم إتلافها.

5. مع مراعاة أية قواعد تنظيمية تتجاوز هذه العمومية لا يجوز لأي من الطرفين الإعلان أو الكشف أو إبلاغ عن أي معلومات بخصوص هذا العقد أو إطلاع العامة عليها بأي نحو آخر، أو المعايير أو الترتيبات المتعلقة بما في ذلك، دون الإخلال بالطبيعة العمومية للمعلومات المذكورة أعلاه، وحقيقية أن هذا العقد قد أبرم بين الطرفين أو أي مسألة أخرى
information, the fact that this Contract was signed by the Parties or any other question associated with that without prior written information from the other Party. If a request was made to make a public statement in accordance with the Applicable Law, the rules of any court of jurisdiction, or the regulations of any stock exchange where the securities of any Party in question are traded, such a public announcement may be made provided that a notification should be submitted to the other Party while taking into account any deadline stipulated by the Applicable Law, the court or the stock exchange.

6. The Parties shall agree on the format and the content of any press statements regarding this Contract.

Section 29. Judicial Immunity Waiver

The First Party agrees that it will not invoke its judicial immunity against the Second Party in pursuing its right to seek arbitration and shall waive any motion or objection relating to such immunity. The First Party agrees to the jurisdiction of the arbitration board provided in Section 26 of this Contract in case any Dispute arose regarding the interpretation or execution of this Contract, as well as any decisions issued by the arbitration board regarding this Contract.

Section 30. Schedules and Annexes to this Contract

The Schedules and Annexes attached to this Contract represent an integral part of it.

Section 31. Copies and Language
1. The Parties shall sign the Contract in 4 (four) additional copies. Each Party shall keep at least 1 (one) original copy.

1. يوقع الطرفان على هذا العقد من 4 (أربعة) نسخة أصلية. ويحتفظ كل طرف بنسخة أصلية واحدة على الأقل.

2. This Contract was initially written in LANGUAGE.

2. حُرر هذا العقد بداية باللغة (اللغة).

3. Both Arabic and English shall have the same force, and in case of any divergence, the LANGUAGE version shall prevail.

3. يكون للغة العربية والإنجليزية نفس النّسخة الحجّية، وفي حالة وجود أي اختلاف يُغلّب النص (اللغة).

Section 32. General Provisions

1. At the requesting Party’s expense, each Party shall cooperate with the other and sign any documents as may be reasonably requested by the other Party to enable the requesting Party to fully benefit from its rights, powers and obligations under this Contract.

1. على نفقة الطرف الطالب، يتعاون كل طرف مع الطرف الآخر، ويوقع على أية مستندات عند طلب الطرف الآخر، حسبما يكون مطلوباً بشكل معقول من الطرف الآخر لتمكين الطرف الطالب من الاتفاق بشكل تام بحقوقه وصلائبه والالتزاماته بموجب أحكام هذا العقد.

2. The failure of any Party to exercise any of its rights under this Contract shall not be interpreted as a waiver of such Party’s rights unless expressly waived in writing by such Party.

2. إخفاق أي طرف عن ممارسة أي من حقوقه بموجب هذا العقد لا يُفسّر كتنازل عن تلك الحقوق مالم يتنازل ذلك الطرف صراحة كتابياً.

3. No delay in exercising any right or its execution in accordance with this Contract shall be considered a waiver of such right unless explicitly waived in writing by the Party entitled to such right.

3. لا يُعتبر أي تأخير في التمكّن بأي حق بموجب هذا العقد أو تنفيذه بمثابة تنازل عن ذلك الحق مالم يتنازل ذلك الطرف المستحق لهذا الحق صراحة كتابياً.

4. This Contract and the annexes and schedules attached to this Contract constitute the final agreement between the Parties with respect to the subject matter of this Contract; any previous correspondence, conversations and/or memoranda of

4. يشكل هذا العقد والملاحق والجدول المرفقة بهذه الإتفاق النهائي بين الطرفين فيما يخص موضوع هذا العقد. غير نافذة أية مرسالات أو محادثات أو مذكرات تفاهم أو إتفاقات سابقة فيما يخص موضوع هذا العقد.
understanding or agreements with respect to the subject matter of this Contract shall be invalid.

5. This Contract shall not constitute or be interpreted to constitute any partnership or joint venture of or between the Parties.

6. Each Party shall act in good faith towards each other regarding anything relating to this Contract and/or implementation of the Project.

7. In the event that either Party requests any consent from the other Party as set forth in this Contract, such consent shall not be unreasonably withheld or delayed.

This Contract was signed in PLACE on DATE.

First Party:
Name:
Title:

Second Party:
Name:
Title:
SECTION V

MODEL INVESTMENT CONTRACT COMMENTARY

This section provides guidance and insight for drafters utilizing the Model Investment Contract in Section IV (the enumerated sections below correspond to the relevant sections in the Model Investment Contract). The provisions highlighted below were selected based on their degree of complexity and commonality in investment contracts in Iraq.

Note: The information below is not a comprehensive account of every possible issue for these specific provisions in the contract. Drafters are strongly advised to seek legal counsel and consider the suggestions in Section II when negotiating and drafting investment contracts in Iraq.

SECTION 2. RIGHTS OF THE SECOND PARTY AS TO FINANCING, SUBCONTRACTING AND TRANSFERS

With the consent of the First Party, the Second Party has the right to assign the contract and transfer its rights and obligations under the investment license/agreement to new investor who agrees to implement the project according to the timetable devised for the project, on condition that 40% of the project has been completed.

This right of assignment gives assurances to the new investor that he has the (same) rights and benefits as the previous investor under the investment license/agreement, and...
also gives assurances to the First Party that the new investor will be bound by the pre-existing obligations under the investment license/agreement. This ultimately ensures that the new investor will complete the project without delay. In general, the assignee must apply for and receive qualification as a new investment licensee under the National Investment Law and accept all legal and financial commitments associated with the assigned project.

Occasionally, lenders or equity investors may also require the concerned party to place all assets of the Project, including the investment license, in a new company that is 100% owned by the investor and created for the specific purpose of undertaking the Project. The goal of this structure—which is commonly used in most countries and is accepted in Iraq and also known as a Special Purpose Vehicle (SPV)—is to limit the investor’s liability with respect to the Project, as an individual, to the extent of its investment as long as the company is a limited liability company; the liability of the SPV remains directly within the extent of the company’s capital. SPVs and specific companies may, on approval by the NIC, assign/transfer the investment license and contract expeditiously, making them the preferred means of most financiers and lenders for funding investment projects.

SECTION 7. PERMITS AND LICENSES

The First Party agrees to help the Second Party in obtaining all relevant approvals and authorizations. In the event of a dispute with any of the relevant government agencies concerned with granting any relevant approvals or authorizations, the Second Party may seek the First Party’s assistance in settling such disputes (See Legal Guide – Section I).
SECTION 10. FIRST PARTY ACKNOWLEDGEMENTS

These acknowledgements establish the obligations of the First Party as a government entity, and address the issues of currency transfer, convertibility, and repatriation outside of Iraq. Investors may agree on additional covenants and conditions based on the specific nature and priority of each case.

SECTION 17. THE PARTIES’ REPRESENTATIONS AND WARRANTIES AS TO AUTHORITY AND VALIDITY

In relation to this section, both parties have legal authority to sign the contract or have a recognized presence under the law. By this, the parties to the contract affirm and accept the veracity of the representations and warranties as an actual fact; the breach of which constitutes an event of default. Investors may request additional representations and warranties specific to the investment, which can only be provided by the First Party on a case-by-case basis.

Note: In Iraqi legal terminology, the term for “warranties and representations” is undertaking and affirmation.

SECTION 19. FORCE MAJEURE

This provision excuses contractual non-performance or modification thereof due to events beyond the control of a given party. These events are generally floods, fires or other natural disasters, or certain political risks (e.g., war, strikes, riots, expropriation and host government action/inaction or delay). [Iraqi Civil Code, Articles 146, 168, and 425].

القسم 10. إقرارات الطرف الأول

وتنناول مسألة تجديد العملة وصرفها وتحويل الأموال إلى خارج العراق. ويجوز للمستثمرين أن يتفقوا على تسهيلات أو شروط أخرى حسب خصوصية المشروع وأهميته وكل حال.

القسم 17. الإقرارات والتعهدات

مثال ذلك أن كلًا منهما يمتلك السلاحية القانونية لتوقع دخلي أو أن كلًا منهما لديه وجود قانوني معترف به. وهذا يقر أطراف العقد بقبول صحة الإقرارات والتعهدات كواقعية يكون من خلالًا للإخلال العقدي. ويجوز للمستثمرين طلب إقرارات وضمانات إضافية خاصة بالإستثمار، لا يمكن أن يقدمها إلا الطرف الأول على أساس كل حالة حدة.

ملاحظة: في الإصطلاحات القانونية العراقية، المصطلح المستعمل للضمانات والإقرارات هو التفاوض والتعهدات.

القسم 19. القوة القاهرة

هذا البند يعطي المبرر لعدم أداء الالتزام التعاقدي أو تعديل ذلك الالتزام بسبب أحداث خارج إرادة الطرف المعين. هذه الأحداث تكون خارج إرادة الأطراف (العاصفة أو الحرائق أو الكوارث الطبيعية) أو مخاطر سياسية معينة (مثل الحرب والإضرابات وأعمال الشغب أو المصادر أو إجراء من جانب الحكومة المضيفة أو عدم إتمامها إجراء أو التأثير). (القانون المدني العراقي المواد 146 و168 و425).
Under Iraqi Civil Law, Force Majeure is a legal concept, not a contractual one. In other words, the parties cannot agree to a Force Majeure clause that contradicts Article 146 of the Civil Law, otherwise, the Force Majeure clause would be unenforceable and void.

When an Iraqi court concludes that there has been an incidence of Force Majeure, the court will try to balance the interests of both parties; Iraqi courts have discretionary power to determine how to balance the parties’ interests. Finally, the remedies for Force Majeure may include reducing the obligations of the non-performing party or extending the time period for carrying out its obligations. Compensation for the investor’s losses is not permissible under Article 146 unless otherwise agreed by the two parties.

A Force Majeure event generally does NOT include the following:

- General changes in market conditions;
- Delay/non-performance by any contractor or sub-contractor;
- Normal wear and tear or breakdown of material and/or equipment; and
- Strikes or other work stoppages specific to the Project.

Points of negotiation between parties can include:

- Scope of definitions and exclusions;
- Notices and procedures;
- Mitigation requirements; and
- Remedies for prolonged Force Majeure Events (e.g., termination).

SECTION 20. CHANGE IN THE LAW

A change in the Investment Law provisions does not impact the guarantees and incentives already granted to the investor by

By virtue of Article 146 of the civil law, the concept of Force Majeure is a legal one, not a contractual one. In other words, the parties cannot agree to a Force Majeure clause that contradicts Article 146 of the Civil Law, otherwise, the Force Majeure clause would be unenforceable and void.

When an Iraqi court concludes that there has been an instance of Force Majeure, the court will endeavor to balance the interests of both parties; Iraqi courts have discretionary power to determine how to balance the parties’ interests. Finally, the remedies for Force Majeure may include reducing the obligations of the non-performing party or extending the time period for carrying out its obligations. Compensation for the investor’s losses is not permissible under Article 146 unless otherwise agreed by the two parties.

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- Delay/non-performance by any contractor or sub-contractor;
- Normal wear and tear or breakdown of material and/or equipment; and
- Strikes or other work stoppages specific to the Project.

Points of negotiation between parties can include:

- Scope of definitions and exclusions;
- Notices and procedures;
- Mitigation requirements; and
- Remedies for prolonged Force Majeure Events (e.g., termination).

SECTION 20. CHANGE IN THE LAW

A change in the Investment Law provisions does not impact the guarantees and incentives already granted to the investor by...
the National Investment Law. This clause is important to investors because they make their financial decision to invest based on certain regulatory frameworks, and any change to those laws, which are beyond the control of the investor may negatively impact the investment. Consequences of changes to Iraqi law, including investment law provisions, include creating events that adversely affect a given party. Examples of such consequences may include but limited to being excused from contractual non-performance, extensions of time, financial remedies, waiver of penalties, and/or termination of the contract, all of which are subject to other provisions in Iraqi law.

Note: The National Investment Law guarantees investors a form of stability and reliability through Article 13 that states that any modification of its provisions will not have any retroactive effect on the assurances, exemptions and rights affirmed thereunder. Should there be a change in the National Investment Law that is damaging to the investor, the investor is entitled to compensation for losses sustained if such change impinges on his rights (e.g., if the National Investment Law were changed such that the tax-free period applicable to the Project is reduced from ten years to seven years, the investor would be entitled to compensation for the three years of taxes that it would now be required to pay). However, the investor would not be entitled to compensation for changes in other Iraqi laws or policies unless the Force Majeure clause provides otherwise.

SECTION 24. CREDITORS’ RIGHTS TO GUARANTEES FROM, AND TO REPLACE, SECOND PARTY

Investors who obtain financing for the Project will be accountable to the lenders providing that financing. At a minimum,
lenders will seek provisions in the contract that guarantee a transfer of an investor’s rights to the lenders in the event the investor fails to meet its commitments, and the Commission granting the license will approve such provisions.

Note: It is generally not permissible to allow the use of investment contracts as collateral except when authorized by the NIC or PIC.

- Lenders typically request a collateral assignment of all of the borrower’s assets, as well as all rights and interests under contracts or licenses or other approvals. Examples of assigned rights include:
  - Investment Agreements;
  - Operating, Investment and Other Licenses and Permits; and
  - Land Rights.

- Lenders then request that the Second Party enter into a consent agreement under which the First Party agrees to such collateral assignment and which provides other protections for lenders.

- Lender consent agreements may include:
  - “Step-in Rights” providing the lender the right to take over or transfer the Project in the event of default by the company;
  - “Lender Cure Rights” providing the lender the opportunity, but not obligating it, to cure any default by the company under any agreements entered into between the company and the host country; and
  - “Other Confirmations and Clarifications” by the Government of Iraq for the benefit of the lender, with respect to terms of the underlying agreement.

Note: Lenders generally do not accept

Note: It is generally not permissible to allow the use of investment contracts as collateral except when authorized by the NIC or PIC.
consent agreements governed by the laws of the host country due to concerns of neutrality, especially with disputes that involve governmental entities.

SECTION 26. CHOICE OF LAW AND DISPUTE RESOLUTION

Under the Iraqi legal system, the general rule is that the law governing the contract is the one in place on the date the contract is signed, unless otherwise agreed upon. A distinction must be made between the law that is in effect over the contract and the law applied in the event of arbitration, i.e., the law governing arbitration procedures.

Dispute resolution provides the parties an alternative forum to the local court system for resolving disputes that arise from the contract. Such mechanisms include mediation and arbitration. Investors prefer this forum for neutrality, legal certainty, and efficiency.

Provisions on the requirements of arbitration are among the fundamental provisions that require drafters to make the utmost effort to cover all of the relevant aspects, in terms of the mechanism and conditions for arbitration, the law that must be applied and the arbitration location.

SECTION 29. JUDICIAL IMMUNITY WAIVER

The First Party waives any right it might have to claim immunity from any legal proceedings brought against it. This provides investors with assurance that they can legally claim their rights against any government entity. This is standard legal practice in international contracts and is permissible under Iraqi Law.

Note: In Iraq, this immunity is referred to as judicial immunity.

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تتضع لقوانين الدولة المضيفة بسبب دواعي القلق من الجواب، ولأسماها في النزاعات التي تشمل الجهات الحكومية.

القسم 26. اختيار القانون وحل النزاع

القاعدة العامة في النظام القانوني العراقي هي أن القانون الذي يحكم العقد هو قانون محل إبرام العقد، الا إذا اتفق عليه خلاف ذلك. ويجب التمييز بين القانون الذي يسري على العقد وبين القانون الذي يطبق في حالة اللجوء إلى التحكيم، أي القانون الذي يحكم إجراءات التحكيم.

حل النزاع يقدم للأطراف وسيلة بديلة لنظام المحاكم المحلية لحل نزاع نشأ عن العقد. ويشمل هذه الآليات الوساطة والتحكيم. ويضمن المستثمرون هذه الوسيلة لحيادها ووضوحها القانوني وفائحتها.

النصوص المنظمة لشرط التحكيم هي من النصوص الجوهرية التي تتطلب من القائمين على صياغها بذل العبء الفاقع لتنفيذها من حيث آلية التحكيم وشروطه والقانون الواجب التطبيق ومكان التحكيم.

القسم 29. التنازل عن الحصانة القضائية

يتنزل الطرف الأول عن أي حق لديه في التمتع بالحصانة من أي إجراءات قانونية ترفع ضده. وينحى ذلك للمستثمرين الضمانة بأن لهم الحق برفع مطالباتهم القانونية ضد أي جهة حكومية. ويُعتبر ذلك إجراء قانونياً معيارياً في التعاملات الدولية ويجيده القوانين العراقي.

ملاحظة: يفضل في العراق أن يُشار إلى التنازل عن
“judicial immunity,” not sovereign immunity, and it means that the State is immune when it acts as a sovereign (e.g., when the government appoints an ambassador).

SECTION 31. LANGUAGE OF CONTRACT

The parties agree in which language the contract will be interpreted in the event of a dispute. This clause is common in cross-border transactions. While a contract may be executed in more than one language, only one language should be selected to prevail in the event of a dispute arising from the language of the contract.

Note: It is advisable to match the language of the contract with the jurisdiction of the governing law to minimize the potential for disputes regarding the text.

KEY LEGAL TERMS

As Soon as Practicable: A standard phrase that generally means as soon as is feasible in a particular situation, or as soon as a party is reasonably capable of fulfilling the applicable obligation or endeavor. A determination of the objective facts surrounding its use is important when assessing what is deemed to be “as soon as practicable.”

Best Efforts: This term means using diligent efforts to carry out an obligation and includes doing everything known to be usual, necessary and proper for ensuring the success of the endeavor. As a standard, a best-efforts obligation is stronger than a “good faith” or “reasonable efforts” obligation. Best efforts are gauged by the measures that a diligent and reasonable person would make in the same circumstances and of the same nature as the
Business Day: A measurement of time that typically refers to any day in which normal business is conducted, excluding weekends and major public holidays. In Iraq and the rest of the Middle East, this is generally considered to be Sunday through Thursday from 8:00 a.m. to 4:00 p.m. local time, and elsewhere in the world, this is generally considered to be Monday through Friday from 9:00 a.m. to 5:00 p.m. local time. A “Business Day” is usually defined as including one or more jurisdictions (e.g., Business Day in Baghdad, Iraq; Business Day in New York, NY, USA; Business Day in London, England).

Commercially Reasonable: This term means conducted in good faith and in accordance with commonly accepted commercial practices.

Commercially Reasonable Efforts: This term means efforts conducted in good faith and in accordance with commonly accepted commercial practice for the particular situation. Commercially reasonable efforts are measured by the measures that a reasonable person in the same circumstances and of the same nature as the acting party would take as judged by the standards of the applicable business community. A party obligated to use commercially reasonable efforts may give reasonable consideration to its own interests, exercising discretion within its good faith business judgment, in devising a strategy for achieving its ultimate goal. Commercially reasonable efforts should be consistent with good faith business judgments. It is generally understood to impose a lower obligation than “best efforts.”

Good Faith: An abstract and comprehensive term that encompasses a general
presumption that the parties to a contract will deal with each other fairly and with a sincerity of intention, motive and belief and without any malice or intent to defraud the other party. While the parties to an agreement are expected to understand this, it is nonetheless good practice to include such language in the agreement. It is generally understood to impose a lower obligation than “best efforts.”

Material/Materiality: A standard which is used in judging how significant or essential the issue or matter at hand is to a party and if it is of such a nature that knowledge of the issue or matter would affect a party’s decision-making.

Reasonableness: Refers to a standard that involves a subjective test of what a reasonable person in the same circumstances and of the same nature as the acting party would take.

Reasonable Efforts: This term means reasonable efforts that an average, reasonable person would take to carry out an obligation. Reasonable efforts are measured by the measures that a reasonable person in the same circumstances and of the same nature as the acting party would take. It is generally understood to impose a lower obligation than “best efforts.”
SECTION VI

FREQUENTLY ASKED QUESTIONS

OVERALL INVESTMENT CLIMATE

1. With which private sector entities and/or international non-governmental organizations does the Iraqi government consult when shaping its national economic/investment policy?

The Government of Iraq, represented by the NIC, consults with a number of Iraqi private sector and civil-society entities, such as the Iraqi National Business Council, the Iraqi Businessmen Union, the Private Sector Development Center and the Iraqi Institute for Economic Reform.

The Government of Iraq also consults with several international governmental and non-governmental organizations and agencies, such as the Organisation for Economic Co-operation and Development (OECD), the U.S. Department of Commerce and various United Nations specialized agencies and bodies, including the United Nations Industrial Organization (UNIDO), the United Nations Development Programme (UNDP) and the World Bank.

2. What are the respective roles of the following bodies of the Government of Iraq relating to foreign investment?

a. National Investment Commission

The NIC is the agency responsible for establishing national investment policy and overseeing its implementation.
The NIC was created to be Iraq’s principal governmental agency dealing with direct investment and to serve as “promoter, facilitator, and monitor of investment.” The NIC is also responsible for overseeing investment projects of a strategic nature, based on the overall national strategic policy.

b. Provincial Investment Commissions

All projects not on the strategic project list for implementation by the NIC fall under the authority of one of the PICs. PICs consult with local governments regarding investment plans and facilities, and coordinate their work with the NIC in granting investment licenses and creating investment policies.

Source: Article 4 of Investment Regulation No. 2 (2009) of the National Investment Law.

c. Ministry of Finance

The Ministry of Finance is responsible for allocating land for investment projects. In addition, the General Commission for Free Zones under the Ministry of Finance administers Free Zone Authority Law No. 3 of 1998, which permits investment in Free Zones in Iraq.

d. Other relevant Sector-level authorities including: the Ministry of Transport; the Ministry of Industry and Minerals; the Ministry of Oil; the Central Bank of Iraq; and the Communications and Media Commission

These other Ministries develop and propose investment projects, which then fall under their portfolio. The Office of Company Registration within the Ministry of Trade manages the company registration process.
Domestic companies in Iraq first require entity name registration and the registration of trade names, which is managed by the Chamber of Commerce.

3. Does Iraq have any Special Economic Zones? Which sectors and regions are being developed for future special economic zones?

Yes, Iraq is currently in the process of completing the requirements for establishing several Special Economic Zones. Iraq currently has four Free Zones with tax exemptions and other incentives for the transportation, industrial and logistics sectors. Future zones will target the manufacturing sector (among others), and aim to serve broader development goals.

See Section III, “Free Investment Zones,” of Section III of this Legal Guide.


4. Where can investors find economic, demographic, and market data and statistics? (NIC Website)

The “Provinces and Sectors” section of the NIC website contains a significant amount of data and information on Iraq. To request additional information, please visit the “Contact Us” page or visit the website for the Central Organization for Statistics and Information Technology (COST) available at http://cosit.gov.iq/english/
PROJECT LOGISTICS

5. How can the “One-Stop Shop” of the NIC/PIC help an investor? (NIC Website)

The One-Stop Shop at the NIC and the PICs serve as a single point of contact for foreign and domestic investors. It offers investor facilitation services and assists investors to understand the legal and regulatory requirements relating to the investment process, including those related to work permits, customs and business registration.

See Section III of this Legal Guide; see also the NIC Website, One Stop Shop Department (OSS) at the National Investment Commission (NIC), available at http://investpromo.gov.iq/one-stop-shop/.

6. How can an investor travel to Iraq? Where are the international airports located? (NIC Website)

Several airlines serve Iraq's international airports in Baghdad, Mosul, Basra, Najaf and Erbil. For more information on traveling to Iraq, please visit the “Visiting Iraq” page on the NIC’s website.

Suggested: For a full list of commercial airlines with service to Iraq, visit the “Visiting Iraq” page on the NIC Website, available at http://investpromo.gov.iq/visiting-iraq/.


المصدر: للحصول على لمحة حديثة عن الاقتصاد العراقي أنظر دليل الاستثمار، صفحة (5-9).

الجوانب اللوجستية للمشروع

5. كيف يمكن للناافذة الواحدة بالهيئة الوطنية للإستثمار أو هيئة الاستثمار في المحافظة أن تساعد المستثمر؟ (موقع الهيئة الوطنية للإستثمار)

"الناافذة الواحدة" للهيئة الوطنية للإستثمار أو هيئة الاستثمار المحافظة هي نقطة الإتصال لل المستثمرين الأجانب والمحليين. وتوفر النافذة للمستثمرين خدمات تبشير الأعمال وتساعدهم من حيث المتطلبات القانونية والتنظيمية، بما في ذلك كل ما يتعلق بصاريح العمل والجمارك وتسجيل الشركة أو العمل التجاري.

أظهر الجزء الثاني من الملحق رقم 3، أو دليل المستثمر 2015، أو: http://investpromo.gov.iq/one-stop-shop/

6. كيف يمكن للمستثمر أن يسافر إلى العراق؟ أين توجد المطارات الدولية؟ (موقع الهيئة الوطنية للإستثمار)

موقع الهيئة الوطنية للإستثمار: تخدم شركات طيران عدة مطارات العراق الدولية في بغداد والموصل والبصرة والنجرف وإربيل. للحصول على المزيد من المعلومات عن السفر إلى العراق نرجو زيارة صفحة "زيارة العراق".

For more information regarding applying for an Iraqi Visa through NIC/PIC or Iraqi embassies, see Ministry of Foreign Affairs Website, Visas webpage, available at http://www.mofa.gov.iq/en/consular-services/visa.

7. Where should investors stay when visiting specific cities? Are there recommended locations or hotels for foreign investors?

The NIC and the PICs can provide up-to-date information on recommended locations and hotels in specific cities. See the NIC’s “Visiting Iraq” webpage or the 2015 Investor Guide “Hotels,” pp. 47-44, (and subsequently updated versions of Investor Guide) for an up-to-date list of hotels.

8. Can the NIC help an investor find service providers (such as legal, logistical or other services)? (NIC Website)

The NIC and other agencies (such as the Federation of Iraqi Chambers of Commerce, the Baghdad Chamber of Commerce, the Iraq Chamber of Commerce, the Provincial Chambers of Commerce and other investment and business-related associations) can help to connect investors with local service providers. To make a request, please visit the NIC’s “Contact Us” webpage, available at http://investpromo.gov.iq/contact-us/

INVESTOR RIGHTS, INCENTIVES, AND OBLIGATIONS

9. What are the relevant registration

حقوق المستثمر وامتيازاته والتزاماته

ما هي إجراءات التسجيل المطلوبة لمزاولة العمل
procedures applicable to doing business in Iraq? (NIC Website)

Individuals and companies interested in establishing operations in Iraq are required to choose from one of three entity forms:

1. Trade Representation Offices, which may not engage in formal business activities;
2. Foreign Company Branch Offices, which may be established for foreign companies that hold an investment licensee in Iraq; and,
3. Established Domestic Companies, which refers to companies registered under the Iraqi company law, including Limited Liability Companies and Joint Stock Companies, Joint Liability Companies.

However, an individual may elect to apply and obtain an investment license in their personal capacity without applying for registration of one of the entity forms mentioned above.

See Section III of this Legal Guide.

Source: Companies Law No. 21 for 1997, as amended, and Regulation No. 5 for 1989.

10. What is the difference between an investment license and business registration? (NIC Website)

Business registration and investment licensing are quite different. Business registration is required for a company (domestic or foreign) to do business in Iraq. The Ministry of Trade has jurisdiction over the establishment and registration of companies and businesses, the requirements

التвести في العراق (مواقع الهيئة الوطنية للإستخدام)

الأفراد أو الشركات المهتمة بتأسيس عملانية تجارية في العراق يكون مطلوباً منهم أن يختاروا واحداً من ثلاثة اختيارات:

1. مكاتب تمثيل تجارية، لا يجوز لها أن تزاول أي أنشطة تجارية رسمية، و
2. فرع شركة أجنبية يمكن إنشاؤها للشركات الأجنبية التي لها اجازة استثمار في العراق، و
3. تأسيس شركات وطنية، وهي الشركات المسجلة بموجب القانون العراقي، بما في ذلك شركات محدودة المسؤولية، والشركات التضامنية، ومع ذلك يحق للأفراد أن يقدموا طلباً للحصول على رخصة استثمار بصفتهم الشخصية بدون تقديم طلب للتسجيل كلكيانات التجارية المبينة أعلاه.

أنظر من الملحق رقم 3 من هذا الدليل.


ما هو الفارق بين رخصة الاستثمار والتسجيل التجاري (موقع الهيئة الوطنية للإستخدام)

تسجيل الشركات أو العمل التجاري رخصة الاستثمار أمران مختلفان تماماً. تسجيل العمل التجاري مطلوب للشركة، سواء كانت وطنية أم أجنبية، لكي تزاول عملًا تجارياً في العراق، وتتولى وزارة التجارة عملية تأسيس وتسجيل الشركة أو العمل التجاري، وهو يتنوع حسب طبيعة العمل الذي ستزاوله الشركة. أما رخصة الاستثمار فهي مطلوبة
for which vary based on the nature of work the company will perform. An investment license is required for an investor to qualify for the incentives provided by the National Investment Law for an individual investment project. The “One-Stop Shop” at the NIC manages investment licensing.

See Iraq’s Investor Guide or the “FAQ” or “Contact Us” pages on the NIC Website.

11. What are the minimum requirements to qualify for an investment license?

For an investment project to receive a license, the value of the business must be at least USD $250,000.

For requirements for a National Strategic Project, please see Part I, “Investors & Investments” of Section III.


12. What are the steps involved in obtaining an investment license?

Applications submitted by investors to obtain an investment license must, according to Article 19/Second of the National Investment Law, contain the following:

- An investment license application form prepared by the NIC or the relevant PIC.
- A funding plan for the project, accompanied by a guarantee of

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What are the steps involved in obtaining an investment license?

Applications submitted by investors to obtain an investment license must, according to Article 19/Second of the National Investment Law, contain the following:

1. An investment license application form prepared by the NIC or the relevant PIC.
2. A funding plan for the project, accompanied by a guarantee of
funding from an accredited financial institution.

- Proof of similar current or previous projects completed, in or outside Iraq.
- Details on the investment project and an economic feasibility study by the investor, as well as any partners or those supporting the project.
- A timetable for completion of the investment project.

For more information, see Section I, “Stages of Investment and Licensing Procedures” of this Legal Guide.

The NIC or the relevant PIC would then study the investor’s application through a review process that includes examining the application, the feasibility study, any relevant legal issues in addition to obtaining the investment license and the land allocated for the project, in coordination with the entity that owns the land.

Approval by the relevant government entities should be secured within a maximum of 15 days. At the end of this process, the relevant authorities should issue an opinion on whether or not an investment project should receive a license. Obtaining the approval of the relevant authorities is essential. If a request is denied, the reason for denial must be provided.

See “The Investment License Procedures” in Section II of this Legal Guide, p. 5.


13. What incentives are available to an investor to encourage investment in Iraq?

- Proof of similar current or previous projects completed, in or outside Iraq.
- Details on the investment project and an economic feasibility study by the investor, as well as any partners or those supporting the project.
- A timetable for completion of the investment project.

For more information, see Section I, “Stages of Investment and Licensing Procedures” of this Legal Guide.

The NIC or the relevant PIC would then study the investor’s application through a review process that includes examining the application, the feasibility study, any relevant legal issues in addition to obtaining the investment license and the land allocated for the project, in coordination with the entity that owns the land.

Approval by the relevant government entities should be secured within a maximum of 15 days. At the end of this process, the relevant authorities should issue an opinion on whether or not an investment project should receive a license. Obtaining the approval of the relevant authorities is essential. If a request is denied, the reason for denial must be provided.

See “The Investment License Procedures” in Section II of this Legal Guide, p. 5.

investor after obtaining an investment license? (NIC Website)

The various benefits and incentives (exemptions), privileges and guarantees available to an investor with an investment license include the right or ability to:

- Receive a ten-year exemption from taxes as of the start of commercial operations;
- Repatriate profits from investments;
- Employ foreign workers when needed, if Iraqi workers are not available;
- Obtain exemption from import duties for the duration of project implementation and all phases of the project for required equipment and materials;
- Obtain guarantees from the government that it will not nationalize or confiscate investments;
- Open bank accounts in local and foreign currency, both in Iraq and overseas, in connection with the project;
- Acquire and dispose of equity and debt securities listed on the Iraq Stock Exchange;
- Form investment portfolios in stocks and bonds; and
- Ownership of land for residential and some industrial sectors.

See Section III of this Legal Guide.

14. Can a local Iraqi investor enjoy the benefits of the National Investment Law?

Yes. Local Iraqi investors are entitled to enjoy the same benefits as foreign investors.

15. What are the next steps an investor takes if an investment license is granted?

See Section III of this Legal Guide.
After obtaining the investment license, the investor must:

- Begin the implementation of the project based on the timetable prepared.
- Notify the NIC or the relevant PIC, in writing, of the date of commencement of the operation of the project.
- Maintain proper accounting records with the assistance of an accredited Iraqi accountant.
- Keep a record of any import-fee-exempted items imported for the project. The records must specify the depreciation period of these imported items.
- Refrain from harming the Iraqi environment and adhere to all applicable quality control systems in place in Iraq.
- Adhere to Iraqi labor laws as they pertain to salaries, time off, working hours, and other stipulated working conditions.
- Commit to implementation of the schedule/timetable for work progress.
- Recruit and train employees and workers (with recruitment priority to be given to the recruitment of Iraqi workers).


16. Is there an appeal process if an investment application is denied?


17. Can I own or lease property/real estate? If possible, what is the process
Yes, a foreign investor may own land in a residential housing and industrial project. As for other projects, an investor may lease land for the project for up to 50 years, which term may be renewed based on the nature of the project and its feasibility.

See “Owning and Leasing Land” in Section III of this Legal Guide.

Source: Investment Regulation No. 7 (2010) for “the Sale and Lease of Real Estate and Landed Property of the State and Public Sector Investment Purposes.”

18. Is it recommended that investors partner with local companies? If so, how does an investor find local partners? (NIC Website)

Local partnerships are a good way for international investors to quickly enter the Iraqi economy. The NIC recommends that interested investors explore the potential of teaming with a local partner. The “Local Partnership” page of the NIC website can be accessed at http://investpromo.gov.iq/local-partnership/.


19. What types of protections are offered to foreign investors (e.g., repatriation of funds, free convertibility, and protection from nationalization)?

See Sections I and III of this Legal Guide.

20. How is the NIC structured and
regulated as an Iraqi governmental agency? How does it coordinate investments between different regions?

The NIC is charged with drafting national investment policy and strategy at the Federal level, including developmental plans, regulations and guidelines for implementing this policy, as well as monitoring its implementation.

21. If there is a conflict between the National Investment Law and other Iraqi laws, which law prevails?

When a conflict arises in relation to investment matters in Iraq, an Iraqi judge will first apply the National Investment Law as a specific law that regulates investment activities. If the National Investment Law is silent on a particular legal issue, the judge will apply relevant laws of general application such as Civil Law No. 40 of 1951 and Trade Law No. 30 of 1984.

See Section I of this Legal Guide.

22. Does Iraq have specialized commercial courts that offer alternative dispute resolution proceedings (such as arbitration, mediation or conciliation)? Does the Iraqi legal system provide for the recognition and enforcement of foreign arbitral awards?

Throughout decades of war and sanctions, Iraqi courts became isolated from developments in international commercial transactions. More recently, Iraqi courts have begun to see a significant increase in commercial cases. However, contract enforcement in Iraq has been problematic. Moreover, the amount of international
contract enforcement cases is expected to rise with the promotion of the National Investment Law, which specifically outlines that dispute resolution will be carried out in Iraqi courts.

Specifically, the Higher Judicial Council created the First Commercial Court of Iraq, which has specialized jurisdiction over commercial disputes.

According to the U.S. State Department’s Iraq Investment Climate Statement of 2015, the “court has received over 500 cases since its establishment,” with over 300 of them being adjudicated, “many in as few as 30 days.


Iraq is a signatory to the League of Arab States Convention on Commercial Arbitration and the Riyadh Convention on Judicial Cooperation, and currently is a signatory of the ICSID Convention on investment disputes as of December 2015.

Iraq is not a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). The enforcement of arbitral awards must comply with the special requirements set forth in current Iraqi civil procedure law and other related laws.


23. What is the Government of Iraq doing to eliminate corruption in

23. ما الذي تفعله الحكومة العراقية للقضاء على الفساد في التجارة؟
According to the Department of State’s “Investment Climate Statement of 2015” for Iraq, “public corruption is a major obstacle to the development of Iraq’s economy and to political stability” and as a result, Iraq has created “three principal institutions specifically designated to address the problem of corruption,” which include:

- Inspector General, similar to those that exist in U.S. federal agencies, which “are responsible for inspections, audits, and investigations within their ministries;”

- “The Commission of Integrity (COI), initially established under the Coalition Provisional Authority (CPA), is an independent government commission responsible for pursuing anti-corruption investigations, upholding enforcement of laws, and preventing crime;”

- “The Federal Board of Supreme Audit (BSA), established in 1927, is an analog to the U.S. Government’s General Accountability Office. It is a financially and administratively independent body that derives its authority from Law 31 of 2011 – The Law of the Board of Supreme Audit.”


Iraq is a party to the United Nations Convention Against Corruption, but is not yet a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business.
24. Does Iraq have a legal insolvency, bankruptcy and/or restructuring system?

Under Iraqi law, an Iraqi debtor may file for bankruptcy, and an Iraqi creditor may file for liquidation of that debt. In addition, the Iraqi Companies Law regulates the process for liquidation of legal entities.


25. Can foreign investors enjoy benefits under international bilateral and/or multilateral agreements? If so, which international agreements are the most important for foreign investment?

Foreign investors will benefit from Iraq’s international agreements and current accession attempts related to the promotion and protection of investments. Iraq is currently negotiating many bilateral and multilateral agreements with the Arab League and other international organizations related to the promotion and protection of investment.

See Section III of this Legal Guide.

OPERATIONAL CONDITIONS, INFRASTRUCTURE, AND BUSINESS SUPPORT

26. Are there any conditions, restrictions or requirements concerning import and/or export? What are the rates for customs duties?

The Tariff Law No. 22 of 2010, as amended, regulates the percentage of customs fees imposed on imported goods (including agricultural products) based on the tariff tables and schedules. Customs duty rates range from 5% to 40%.


Note: The Second Amendment of the National Investment Law expanded privileges for Investors on Customs Duties for a wider range of imported materials and prolonged enjoyment of free Customs Duties.

27. What is the current income tax rate? (NIC Website)

On NIC Website: Investors awarded with an investment license receive a ten-year exemption from taxes commencing as of the project’s commercial operations. Even after the expiration of the tax-free period, investors will continue to benefit from Iraq’s low corporate tax rate of 15%, one of the most competitive in the region and globally.

The flat tax of 15% is levied on income earned by Iraqi and foreign companies. No
taxes are imposed on verified income derived from foreign government sources, international organizations or non-governmental organizations.

Personal income tax rates in Iraq are:
- 3% below Iraqi Dinar (IQD) 250,000
- 5% above IQD 250,000
- 10% above IQD 500,000-IQD 1,000,000
- 15% above IQD 1,000,000

28. Does Iraq monitor product quality and food hygiene standards?

Yes. The Central Organization for Standardization and Quality Control (COSQC), a government agency under the Ministry of Planning and in coordination with the Ministry of Health, carries out inspections for product quality and food hygiene. In addition, the Ministry of the Environment conducts radioactive testing. These procedures are undertaken at food processing and storage facilities and at ports of entry. The COSQC inspects local and imported goods to ensure they meet health, safety and quality standards.

Furthermore, the Iraqi Council of Representatives passed the Consumer Protection Act in 2010. Iraq is a member of the ISO.


29. Can foreign workers be hired for investment projects? If so, is there a preference given to Iraqi workers or a minimum required number of Iraqi workers?

No. However, the Central Organization for the Coordination of Foreign Workers is responsible for ensuring that foreign workers are employed only when there is a lack of local workforce. The organization has a list of approved employers and requires these employers to meet certain standards before hiring foreign workers. This includes ensuring that the foreign workers are paid a fair wage and are treated with dignity and respect.

Yes, foreign workers may be hired for investment projects, when needed after priority is given to Iraqi workers.

However, if an investment license is granted for a project, at least 50% of the project’s workers must be Iraqi nationals, according to the National Investment Regulation No. 2 of 2009.

See “Employment and Labor Requirements” in Section III of the Legal Guide for relevant investor guarantees and obligations related to managing their workforce.

30. What is the average annual wage rate and minimum wage for the local labor force?

Average daily wage rate, for example in the construction sector (in 2013):
- Skilled: IQD 63,733
- Semi-Skilled: IQD 32,533
- Unskilled: IQD 24,800


Minimum wage for an unskilled worker in the private sector: IQD 250,000/ month (as of July 2015).

31. Are there specific labor regulations/laws for domestic and foreign workers, such as pensions, health/life insurance and training requirements?

Yes. These include Labor Law no 73 of the 2015, the Iraqi social security law and related laws and regulations with respect to foreign employment in Iraq. Iraq has also signed other international agreements on foreign employment in Iraq. See "Employment and Labor Requirements" in Section III of the Legal Guide for relevant investor guarantees and obligations related to managing their workforce.

32. Are there specific labor regulations/laws for domestic and foreign workers, such as pensions, health/life insurance and training requirements?

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30. ما هو متوسط معدل الأجر السنوي والحد الأدنى للأجور للقوة العاملة المحلية؟

متوسط الأجر اليومي في قطاع البناء والتشييد على سبيل المثال (2013):
- ماهر : IQD 63,733
- شبه ماهر : IQD 32,533
- غير ماهر : IQD 24,800

See الجهاز المركزي للإحصاء وتكنولوجيا المعلومات بوزارة التخطيط. www.cosit.gov.iq/en

الحد الأدنى للأجور غير الماهر في القطاع الخاص 250 ألف دينار عراقي شهرياً. (منذ تموز/يوليو 2015).

32. هل توجد أنظمة قوانين عمالية معينة للمعلمة المحليين والأجانب، مثل المعاشات والتأمين على الحياة ومتطلبات التدريب؟

توجد قوانين تنظم هذه الحالات كما قانون العمل رقم 37 لسنة 2015، والقانون الاجتماعي العراقي رقم 39 لسنة 1971، والقواعد والأنظمة المتعلقة بتوزيع العمال الأجنبية في العراق، بالإضافة إلى الاتفاقيات الدولية التي صادق العراق
labor. Before launching any activities, companies must deposit the equivalent of three months’ worth of social security payments for each of its employees with the Retirement and Social Security Department under the Ministry of Labor and Social Affairs.


33. Does Iraq have specific environmental requirements (e.g., disposal, pollution controls)?

Yes. The Environmental Protection and Improvement Law No. 27 of 2009 sets forth specific environmental requirements, including the preparation and submission of an environmental impact assessment for every project. The purpose of such a study is to eliminate and treat current and any possible future damage, as well as to safeguard public health, natural resources, biodiversity, cultural, and natural heritage and prohibit all activities that contribute to environmental pollution.

See “Environmental, Safety and Cultural Requirements” in Section III of this Legal Guide.

34. Does Iraq have a stock exchange or equity market available to investors?

Yes. The Iraqi Stock Exchange (ISX) has been operating since 2004 through the Iraqi Stock Exchange in Baghdad. National Investment Law allows foreign investors to buy and sell shares and other securities listed on the ISX.

35. Can foreign investors access local credit and financing?

Yes. Iraq’s banking system is growing and consists of forty-nine banks, many of which can, for instance, transfer money electronically.


36. Does Iraq have any seaports? If so, what kind of cargo can they handle?

Yes. Iraq currently has two international seaports:

1. Khor Al Zubair,
2. Umm Qasr.

The port of Umm Qasr is Iraq’s largest and only deep-water port. It handles liquid and dry bulk, general cargo and containers.

37. What is the quality of the telecommunications services, such as Internet and telephone?

Iraq has an extensive telecommunications network with as many as six service providers offering Internet and telephone services. Mobile-cellular subscriptions in Iraq reached 96.1 per 100 inhabitants in 2013, according to the International Telecommunication Union.


38. Which governmental agencies
facilitate access to public utilities, such as power, water supply, and transportation needed for projects?

The Ministry of Electricity, the Ministry of Industry and Minerals, the Ministry of Municipalities and Public Works, the Ministry of Transport and the NIC, facilitate access to these services.
APPENDIX I

Privileges Granted to Iraqi and Foreign Investors under the Second Amendment (2015) of the National Investment Law No. 13 of 2006

On October 27th, 2015, the Iraqi Parliament passed the second amendment of the National Investment Law, and later published in the official gazette in January 2016. This amendment deals with most of the provisions under the current National Investment Law: primarily the administrative and regulatory aspects of both the National Investment Commission (NIC) and the Provincial Investment Commissions (PICs). In addition, the amendment deals with the rights and privileges of investors, which will be covered here. As such, we will focus on the provisions that encourage and attract investors to enter the Iraqi market.

After careful study and review of the amendments on rights of investors or those issues regarding their activities, it is clear that these amendments go in two directions: first, the addition of new concepts in the amendments to the National Investment Law, and second, the amendments of many existing provisions, along with removal of existing ambiguities. We will attempt to clarify the above in the following points (Note: English translation of the Second Amended National Investment Law references below is not an official legal translation):

First: Addition as to the concepts of “developer” and “secondary developer” to the National Investment Law, since these concepts were not previously articulated.
Article 1/Twelve of the amendment defines the developer as:

“every natural or legal person that obtains a permit to enter into strategic investment projects in the sectors of urban housing, investment zones, or any other development-related sector that is outside the basic schematic design recommended by the NIC, and is approved by the Council of Ministers.”

Article 1/Thirteen then states that the secondary developer is “every natural or legal person to whom is transferred ownership of part of an investment project, for the purpose of developing it within major housing investments, investment zones, or any other sector recommended by the NIC, that is approved by the Council of Ministers in accordance with the basic schematic design of the project.”

The addition of these concepts is significant because they have been established by virtue of practical need for large-scale projects. This includes housing, where it is not possible for one developer or investor alone to carry out operations but requires assigning parts of the project to other developers, in order to finish them within the timetable established for the completion of the project.

Second: Establishing a new set of criteria regarding an allowance for the purpose of obtaining the land and property necessary on which to build investment projects—according to the type and location of the project—through Article 5 of the amendment. This provides for deleting the text of Article 9/Six of the above the National Investment Law, to be replaced with the following article:

“Facilitate obtaining the necessary property to build projects in the manner specified by
1. With allowances for housing projects that fall within the basic schematic design.

2. With no allowances for housing projects that fall outside the basic schematic design, provided that the value of the land is not factored into the value of the housing units for sale to citizens.

3. With allowances for other non-housing projects.”

Third: Including foreign as well as Iraqi investors in receiving concessional loans through Article 5 of the amendment, which provides for deleting the text of Article 9/Eight, and replacing it with a new provision; the previous provision included only Iraqi investors while excluding foreigners. In addition, the new amended provision establishes a specific mechanism for how to go about obtaining loans. The new article provides for:

“Encouraging Iraqi and foreign investors to partner with Iraqis by offering them loans and financial concessions in coordination with the Ministry of Finance and other financial institutions, provided the investor has already completed 25% of the project, using project installations as collateral, and establishing an interest rate that is concessional in terms of housing projects and the end user, provided that the use of Iraqi labor is consistent with the size of the loan.”

Fourth: One of the major amendments to the National Investment Law relates to Article 6 of the amendment, which cancels the provision in Article 10 of the original National Investment Law on foreign and
Iraqi ownership of land allotted for building investment projects, and replacing it with a new provision with the same article number, whereby it grants Iraqi and foreign investors equal rights to own land for the purpose of building housing projects, as well as the right of both Iraqi and foreign investors to own land allotted for industrial projects that belongs to the State or public sector. This means that the new amendment has broadened the scope of sectors in which Iraqi and foreign investors are allowed ownership. While previously restricted to housing projects, the National Investment Law now allows industrial projects. This is a major development and significant change brought about in the new amendment, as provided for in Article 10/Second/A of the new article, which states:

"Iraqi or foreign investors have the right to lease real estate, or lease-to-develop real estate from the State or both the private and mixed sectors, for the purpose of establishing investment projects for periods not to exceed (50) fifty years subject to renewal with the approval of the commission that issued the investment license and the related agency, after taking into account the nature of the project and its economic feasibility, with the exception of built industrial projects in industrial cities owned by installments in accordance with the instructions.

Fifth: The updated Article 10 also grants further concessions to investors/developers in these types of projects. In addition to the right to acquire land for investors or developers, the latter can now transfer ownership of part of the investment project to a secondary investor/developer in order to complete the project, on condition that the investor or the developer involved in the project possesses at least 60% of its total capital.

Fifth: كما أن المادة 10 الجديدة قد منحت للمستثمر العراقي أو الأجنبي حق استثمار وتأجير العقارات أو المنطقة من الدولة أو من القطاعين الخاص والمختلط لم�行 إمضاء إمضاء مصارع استثمارية عليها لمدة لا تزيد عن (50) خمسين سنة قابلة للتوجيه بمواقف الهيئة المختصة وحدودية ذات العلاقة بعد مراجعة طبعة المشروع والصندوق الاقتصادية منه (باستثناء المشاريع الصناعية المشيدة في المدن الصناعية مملك بموجب بدل وحسب التعليمات)."
investor or developer has already completed 40% of the project. The above appears in Item Two/E, F of this article, which states:

“E. Developers are allowed to transfer ownership of part of an investment project—after having completed 40% of the project—to a secondary developer, with approval from the Commission granting the permit. However, secondary developers may not transfer ownership of an investment project until after the project is fully completed.

F. Secondary developers may partake in the advantages of this Law, and are subject to the responsibilities thereof, from the date of acquiring an investment permit for the part of the project that is transferred to them.”

Sixth: The new Article 10 also places specific responsibilities on government agencies to provide land for investment projects according to a map that is updated annually. In the event their decisions/actions do not conform to this map, the Council of Ministers may transfer ownership of that land without allowance to the NIC, which will then take over its allocation for investment projects. This is set forth in Paragraph Four of Article 10, amended, which states:

“A. The ministries and agencies not connected with the Ministry of and townships in a province are responsible for providing the appropriate real estate on which investment projects may be built, and for advising the NIC of their identifying numbers, surface area, ownership, category and use, through creation of a map that is updated annually.
B. In the event an agency owning such real estate fails to carry out the responsibilities appearing in Paragraph “A,” of this Item within 60 days of the date requested to do so by the NIC, the Council of Ministers may transfer ownership of the land to the NIC, without allowance, and the NIC will then take over allocating it for investment projects.”

Moreover, local authorities are responsible for delivering infrastructure services to the boundary of the project’s land, as provided for in Paragraph “F” of the new Article 10, which states: “Local authorities are responsible for delivering external infrastructure services to the boundaries of investment projects.”

Seventh: Further to the above, in the text of the new Article 10, the contradiction that arose therein between application of the regulations on foreign and Iraqi investors becoming owners of land under the National Investment Law, and between other laws that might contain regulations that openly or implicitly contradict the procedures followed to allocate land under the National Investment Law. As a result, this has removed a significant burden that made the smooth allocation of land to investors difficult or impossible. The new Article 10/Fifth states that:

“Real estate that is allocated for building investment projects thereon is excluded from regulations under the following laws and resolutions:

A. Sale and Lease of State Funds Law 21 (2013), which outlines the values at which a sale and lease are to be adjudged, according to the system put in place ad hoc.
B. Sale of Agricultural Reform Lands to Agricultural Firms and Individuals
   Law 35 (1983), the Reorganization of Agricultural Proprietorship Law 42

C. Industrial Investment Law 20 (1998), regarding the investor’s retention of a portion of the land allotted him accordingly.


E. Revolutionary Command Council Resolutions 581 (May 5, 1981), 1187 (September 19, 1982), 222 (February 26, 1977), and 165 (January 1, 1994).

Eighth: The new amendment introduces new provisions that incorporate many privileges into the current ones regarding tax, Customs and other exemptions that grant Iraqi and foreign investors:

1. Greater exemptions from taxes and fees:
   Article 9 of the amendment cancels the First Item of Article 15 of the Law and replaces it with the following:

   A. “Projects that have obtained an investment license from the Commission are exempt from taxes and fees for a period of 10 years from the date on which commercial operations commence, and for each stage of construction in the project. Exemption from Customs fees is not included, pursuant to the First and Second
Items of Article 17 of the Law.

B. Exemption of housing investment projects from screening and real estate registration fees, including fees for the conveyance of housing units to citizens (legal fees).”

Noteworthy in Paragraph A of this article is that it establishes the period of exemption from taxes and fees at 10 years from the date on which commercial operations commence, and for each stage of construction in the project, i.e., some large-scale projects cannot be finished in one stage but require multiples stages for completion. Thus, the new text deals with this problem by allocating a specific period of exemption for each stage of completing the project. Likewise, Paragraph B of the same article expands the concept of exemptions granted to investors to include screening and real estate registration fees, which had previously created disagreements between investors and the other agencies due to the absence of a clear provision on those fees.

2. The new amendment to the National Investment Law has broadened the scope of Customs exemptions granted to fixed assets imported for investment projects. After the period during which fixed assets could be exempt from Customs fees had been three years from the date of acquiring the investment license, it is now unlimited and extends throughout the period of implementing the project and all its stages. This is pursuant to Article 10 of the amendment, under which the First Item of Article 17 of the Law is cancelled and replaced with the following:

“Fixed assets imported for the purpose
of investment projects are exempt from taxes and Customs fees, provided they are brought into Iraq during the phases of project construction and but before the commencement of commercial operations at each and every stage, in accordance with the basic design of the project and its time period for implementation.

3. The amendment introduces new concepts on exemptions, and purposes not previously included, as set forth in Paragraph “Fifth,” which has been added to Article 17 of the Law as follows:

A. Primary materials imported for the commercial operations of projects are exempt from taxes and Customs fees, and also those material used to manufacture items listed on food ration cards, pharmaceuticals, and construction materials (with the exception of primary materials that are available and produced in Iraq), on condition that they are environment-friendly.

B. With the exception of that listed in Paragraph “A” of this item, primary materials imported for the commercial operations of projects are exempt from taxes and Customs fees according to the percentage of local products used to manufacture products, in accordance with guidelines established by the NIC, in coordination with agencies for the concerned sectors.

In other words, the new amendment broadens the scope of exemptions from taxes and Customs fees. While they previously covered only fixed assets used to construct project facilities, these exemptions now exclude the primary materials used in the execution of the project, including those materials used to manufacture items on food ration cards, pharmaceuticals, and construction materials (with the exception of those that are available and produced in Iraq), provided they are environment-friendly.

The amendment introduces new concepts on exemptions and purposes not previously included, as set forth in Paragraph “Fifth,” which has been added to Article 17 of the Law as follows:

A. Primary materials imported for the commercial operations of projects are exempt from taxes and Customs fees, and also those materials used to manufacture items listed on food ration cards, pharmaceuticals, and construction materials (with the exception of primary materials that are available and produced in Iraq), on condition that they are environment-friendly.

B. With the exception of that listed in Paragraph “A” of this item, primary materials imported for the commercial operations of projects are exempt from taxes and Customs fees according to the percentage of local products used to manufacture products, in accordance with guidelines established by the NIC, in coordination with agencies for the concerned sectors.
include the primary materials used in projects after commercial operations commence, for the purposes set forth in the amendment and following the guidelines that the NIC will establish in the future, in coordination with the authorities involved.

**Ninth:** In addition to the privileges introduced by the new amendment, other amendments have added new privileges for the investors and augmented the existing ones through more precise language, including:

1. Article 11/Second of the amendment has added Item “Third” to the provisions of Article 19 of the Law, which states: “after obtaining an investment license, investors are issued an investor identification card whereby investors are entitled to the privileges listed under the guidelines and provisions issued by the NIC and approved by the Council of Ministers.”

2. The new amendment reinforces concepts that support the legal status of investors and their investment projects, including Article 8 of the amendment, which provides for cancelling Item “Third” of Article 12 of the Law and replacing it with the following:

   A. Investment projects shall not be seized or nationalized, except through a fully legal ruling.

   B. Ownership of investment projects shall only be revoked for the public good, fully or in part, and under just representation.”

3. The Law strengthened the investor’s position vis-à-vis the various sectors against unexplained or arbitrary refusal to grant investment license to an investor.
investment project by giving the “One Stop Shop” of the NIC the power to submit a request to the NIC Chairman or its Board of Directors to grant an investment license in accordance with the law as outlined in Article 12/First of the amendment, which amended Item “Second” of Article 20 as follows: “B, after the period specified in paragraph “a” of Item “Second” above or in case of unexplained or arbitrary refusal by any sector, the One Stop Shop may submit a recommendation to the NIC Chairman or its Board of Directors as appropriate to grant an investment license in accordance to the Law.”

4. The National Investment Law has stressed the investor’s right to resort to national and international commercial arbitration to safeguard its rights if a dispute arises. This is evident in the provisions of Article 12 of the amendment that eliminated Article 27 of the Law, including all its paragraphs, and replaced it with a new article with more precise provisions on disputes arising from the National Investment Law and the jurisdiction of the Iraqi law over disputes. Article 27/First, as amended, states, “disputes arising from the implementation of this Law shall be subject to Iraqi law and the jurisdiction of Iraqi law. An agreement may be reached with the investor to resort to (national or international) commercial arbitration based on an agreement signed by the two parties according to which arbitration procedures, venue and the applicable law shall be specified.”

5. The provisions of the amendments cover existing and operating projects in both mixed and private sectors, through a request made by the management and with the approval of the NIC, without
retroactive effect. The amendments also cover partnerships between public and private sectors, including public sector projects that were contracted for rehabilitation, operation or construction with the private and mixed sectors before and after the implementation of this National Investment Law, provided that no taxes or fees due before its implementation shall be exempt.”
APPENDIX II

A. IRAQI LEGISLATION RELEVANT TO THE INVESTMENT PROCESS

List of Iraqi Regulations issued in accordance to the National Investment Law No.13 2006 as amended

- Investment Regulation No. 2 for (2009)
- Regulation No. 3 for “Internal Regulation Investment Commissions in a Province not Integrated in a Region” (2009).
- Regulation No. 7 for the “Sale and Lease of Real Estate and Landed Property of the State and Public Sector Investment Purposes” (2010).
- Regulation No.4 of 2013 for “Internal Regulations for the National Investment Commission”

List of Iraqi Legislation Relevant to Investment

Commercial Laws
- Bookkeeping Regulation No. 2 of 1985, as amended, required for income tax preparation.
- Depreciation Regulation No. 9 of 1994, which adopted historical value for fixed assets as a base for computing depreciation.
- Central Bank Law No. 56 of 2004
- Free Zones Commission Law No. 3 of 1998
- Income Tax Law No. 113 of 1982
- Customs Law No. 23 of 1984
- Companies Law No. 21 of 1997, as amended
- Public Companies Law No. 22 of 1997
- Reg. No. 5 (1989) Branches and Offices of Foreign Companies & Econ. Establishments

List of Iraqi Regulations issued in accordance to the National Investment Law No.13 2006 as amended

- Investment Regulation No. 2 for (2009)
- Regulation No. 3 for “Internal Regulation Investment Commissions in a Province not Integrated in a Region” (2009).
- Regulation No. 7 for the “Sale and Lease of Real Estate and Landed Property of the State and Public Sector Investment Purposes” (2010).
- Regulation No.4 of 2013 for “Internal Regulations for the National Investment Commission”
- Industrial Investment Law No. 20 of 1998
- Mineral Investment Law No. 91 of 1988
- Law of Private Investment in Crude Oil Refining No. 64 of 2007
- Commerce Act No. 30 of 1984
- Central Bank Law No. 64 of 1976, as amended, requiring written verification of financial viability to be issued through a bank that is accredited by the Central Bank.
- Banking Law No. 94 of 2004 regulates funding plans submitted by investors and loans investors intend to obtain from banks using the project’s income, without land, as collateral

Labor Laws
- Labor Law No. 37 of 2015
- The Pension and Social Security Law No. 39 of 1971

Environmental and Antiquities Laws
- Ministry of Environment Law No. 37 of 2008
- Antiquities and Heritage Law No. 55 of 2002
- Ministry of Industry & Minerals Law No. 38 of 2011

Civil Laws
- Iraqi Civil Law No. 40 of 1951
- Iraqi Law of Civil Procedure No. 83 of 1969, referring to arbitration in Articles 251-276

Government and Protection Laws
- Government Debt Collection Law No. 56 of 1977
- Baghdad Municipality Law No. 16 of 1995
- Iraqi Products Protection Law No. 11 of 2010
- Antitrust & Competition Law No. 14 of 2010
- Trademark & Data Law No. 21 of 1957,
Note: This Legal Guide will be subject to continuous updates by the NIC in light of future legislative changes affecting investment and any applicable changes in the procedures used by administrative agencies to facilitate investment. The NIC would appreciate your comments, feedback, or questions in relation to further information on current and upcoming Iraqi laws and investment procedures.

Please Email for Updated Information:
Legal.dept@investpromo.gov.iq

B. List of Relevant Investment Resources


ملاحظة: ستتولى الهيئة الوطنية للإستثمار تنقيح هذا الدليل وتحديثه باستمرار في ضوء تعديل التشريعات ذات العلاقة بالنشاط الإستثماري أو التغيير في الإجراءات المتبعة في الجهات الإدارية لتسهيل ذلك النشاط كما أن الهيئة ترحب بالأفكار بملاحظاتكم أو استفساراتكم بشأن الدليل، أو للحصول على المزيد من المعلومات عن القوانين العراقية الحالية والجديدة، عن طريق البريد الإلكتروني التالي:

Legal.dept@investpromo.gov.iq

قائمة بالمراجع ذات العلاقة بالاستثمار في العراق

دليل الإستثمار في العراق 2015”， الهيئة الوطنية للإستثمار، متوفر على الموقع التالي:

خارطة الإستثمار في العراق 2015”， الهيئة الوطنية للإستثمار، متوفر على الموقع التالي:

بيان مناخ الاستثمار في العراق لسنة 2015”， وزارة الخارجية الأمريكية، متوفّر على الموقع التالي:
http://www.state.gov/e/eb/rls/othr/ics/2015/241599.htm#1.
See for notes on Dispute Settlement, Protection of Property Rights, Corporate Responsibility, Security and Political Violence, Overseas Private Investment Corporation (OPIC) and Insurance Programs, Statistics, and other information.


See for notes on Dispute Settlement, حماية حقوق الملكية، مسؤولية الشركة، الأمن والعنف السياسي، مؤسسة الاستثمار الخاص، وراء البحار وبرامج التأمين، الإحصائيات، ومعلومات أخرى.

"العمل التجاري في العراق” وزارة التجارة الأمريكية، متتوفر على الموقع التالي: http://www.export.gov/iraq/doingbusinessiniraq/index.asp


