

# *Prophetic Trade*

## An Introduction to Islamic Commerce

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# *Ijārah* - الاجارة

## **Definition:**

Ijārah means “to hire.” Ujrah means “the fee.”

## **Types of hiring:**

1. Usufruct
2. Services

# Hiring Usufruct

Some examples of **hiring usufruct** are:

- hiring a house,
- a property or
- a machine.

# Hiring Services

Some examples of **hiring services** are:

- hiring employees,
- obtaining the services of a mechanic or
- visiting the doctor.

# Fundamental Condition for Ijarah

The basic condition of Ijārah is that:

**Everything must be specified.**

If there is any ambiguity in the hiring, the contract will become void.

Example:

- if a person **hires a house**, the **period** of hiring as well as the **rental** must be specified.
- if one **hires an employee**, his **wages** as well as his **term** of employment must be specified.

# *Shirkah* - الشركة

## **Definition:**

**Literally:** Shirkah means **partnership**.

**Practically:** it means two or more persons **jointly owning an item, or contracting jointly for profit.**

# Shirkah al Milk al Ikhtiyari

*Shirkah* means partnership;  
*al Milk* means ownership and  
*al Ikhtiyari* means volition/voluntarily

Both parties have a direct option  
in taking the joint ownership of the item.

# Shirkah al Milk al Gher Ikhtiyari

*Shirkah* means partnership;  
*al Milk* means ownership and  
*al Gher Ikhtiyari* means non-volition/non-voluntarily

Both parties do not have a direct option  
in taking the joint ownership of the item.

# Shirkah al Amwal

*Shirkah* mean partnership and  
*Amwal* means capital.

The partners jointly invest  
capital into a commercial enterprise

# Shirkat al-Sana'i

*Shirkah* means partnership and  
*Sana'i* means service.

This type of partnership is where **two or more persons** of the **same skill** form a partnership and **provide services** on condition that they **share the income**.

Other names for this type of partnership are :

*Shirkah al Abdaan,*  
*Shirkah al A'maal*  
*and Shirka al Taqabal.*

# Shirkat al-Wujūh

*Shirkah* means partnership and *Wujūh* literally means face.

In this context, it refers to credit worthiness. Practically it means **two people who do not have anything and they are people of respect and integrity**. They approach people for loans or **purchase goods on credit and then do business**. People consider their respect and offer them loans or goods on credit.

The profit is distributed between them at an agreed ratio.

# Shirkah :

## Overall Characteristics

- Partners can decide and agree on their capital of contribution as well as the profit sharing ratio.
- The capital contribution can be equal and it could also be unequal.
- The profit ratio could also be equal or unequal.

# Shirkah: Distribution of Loss

“**Loss** is distributed exactly according to the **ratio of investment** and the **profit** is divided according to the **agreement** of the partners.”

*Sayiduna Ali radiallahu anhu*

# *Mudārabah* – المضاربة

## **Definition:**

Literally : to travel.

Shar'i terminology: A type of partnership where one partner outlays his wealth and the other offers his skills on condition they share the profit according to mutual agreement.

**Terms:** Mudārabah, Mudārib, Rabb al-Māl

**Rabb al-Māl:** Partner who provides the capital

**Mudarib:** Partner who manages the business venture

# Contemporary Implementation of Mudarabah & Shirkah

Islāmic Banks invest funds on the basis of

**Shirkah** and **Mudārabah**.

The depositors and the Bank both could invest their money in a **Shirkah** venture as partners.

OR the depositors offer their money for investment and the Bank invests the money by way of **Mudārabah**.

The depositor is the **Rabb al-Māl**  
and the Bank is the **Mudarib**.

## *Wakālah* - الوكالة

**Definition:** *Wakālah* means agency.

Contextually it means to depute someone to carry out a certain act on one's behalf.

**Terms:** *Wakālah*, *Wakīl*, *Mu'akkil*

***Wakīl*** : One who is appointed to carry out the act.

***Muwakkil*** : One who appoints the *wakīl*.

# *Kafālah* - الكفالة

**Definition:** *Kafālah* means surety.

In terminology, it refers to **extending a personal guarantee for debts or loans.**

**Terms:** *Kafālah*, *Asīl*, *Kafīl*, *Makfūl Lahu*

***Asīl*:** Original debtor whose debts is being guaranteed

***Kafīl*:** One who guarantees for the debts or loans

***Makfūl Lahu*:** Creditor whose money(credit) is being guaranteed

# *Hawālah* - الحوالة

**Definition:** Transference of debt

**Term:** Hawālah, Muhīl, Muhtāl Lahu, Muhtāl Alayhi,

**Muhīl:** the transferor of debt

**Muhtāl Lahu:** creditor who is owed

**Muhtāl Alayhi:** person who assumes the debt

Contemporary Implementation:

When one makes out a cheque, it will be considered as Hawalah. The Bank agrees to pay the debtors out on behalf of its client.

# *Hibah* - الهبة

**Definition:** Gifting

**Terms:** Hibah, Wāhib, Mawhūb Lahu, Mawhūb Bihi

**Wāhib:** One gifting the item

**Mawhūb Lahu:** One who is receiving a gift

**Mawhūb Bihi:** Gifted Item

# Conditions for Hiba

- There must be **Qabda (taking possession)** of the Mawhūb Bihi. If the Mawhūb Lahu did not take physical possession of the Mawhūb Bihi, the gifting will not be valid.
- The gifted item must be **completely separate** if it is of a divisible nature.

**Example:** Yūsuf gave Ahmad his share of a jointly owned property without dividing it. Such a gift will not be correct.

## التأمين - Insurance

It has been reported from Sayyiduna Abu Hurayrah رضي الله عنه that *Allāh's Messenger* صلى الله عليه وسلم prohibited sales consisting of *gharar* (uncertainty).  
(Al-Tirmidhī)

In Shar'i terminology, *gharar* refers to suspending ownership on a future uncertain event.

In insurance, a client pays the company premiums to secure payment upon various uncertain future events such as accidents, sickness, etc.

Such a transaction falls in the category of Gharar and is not permissible.

# Further Course(s):

## **FQ250:** Concepts in Islamic Finance (Musharakah and Mudarabah)

- Concept of Musharakah in Shariah
- Basic rules of Musharakah, its components and management
- Termination of a Musharakah
- Contemporary use of Musharakah
- Concept of Mudharabah in Shariah
- Basic rules of Mudharabah and Termination guidelines
- Combining Musharakah with Mudharabah

Duration : **2 months**

Expected Date : **September 2013**

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