

GLOSSARY OF TERMS

ISTILAH TERMA



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| <i>`Aqd</i> | A contract |
| <i>`Aqd tauthiqiy</i> | A guarantee contract |
| <i>`Ariyah</i> | A beneficial contract in which the borrower enjoys the usufruct of an asset without fee |
| <i>`Illah</i> | Legal effective cause |
| <i>`Iwad</i> | A value which is determined equivalent to an exchanged asset or service |
| <i>`Umum al-nahyi</i> | General prohibitions |
| <i>`Uqubah maliyyah</i> | Financial penalty |
| <i>`Uqud tauthiqat</i> | Plural of <i>`aqd tauthiqiy</i> |
| <i>`Urbun</i> | Earnest money paid to secure purchase of an asset in an exchange contract which is considered part of the price if the purchaser decides to continue the contract and is not refundable |
| <i>`Urf</i> | Common or customary practice which is acceptable by the community and does not contradict the Shariah principles |
| <i>`Urf al-iqtisadiy</i> | Common practice in economic activities |
| <i>`Urf tijari</i> | Common business practice which is acceptable by the community and does not contradict the Shariah rulings |
| <i>Ahl li al-tabarru`</i> | Legal capacity to perform a benevolent act. |
| <i>Akhz al-ajr `ala al-jah</i> | Remuneration that is based on good name or good reputation |
| <i>Al-syart al-jaza`i</i> | Penalty clause |
| <i>Al-tandid al-haqiqi</i> | Actual valuation which is a valuation based on actual value of assets. |
| <i>Al-tandid al-hukmi</i> | Constructive valuation which is a valuation based on the |

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| | fair value of assets. |
| <i>Al-wa`d atau wa`d</i> | Promise |
| <i>Al-wa`d bi al-bai`</i> | Promise to sell |
| <i>Al-wa`d bi al-syira`</i> | Promise to buy |
| <i>Amanah</i> | Trusteeship / Fiduciary duties |
| <i>Amin</i> | Trustee |
| <i>Bai` `inah</i> | <ol style="list-style-type: none">1. A contract of sale and purchase of an asset whereby the seller sells to a buyer in cash and subsequently buys back the asset at a marked up price with deferred payment2. A contract of sale and purchase of an asset whereby a seller sells to a buyer at a deferred price and subsequently buys back the asset at a lower cash price |
| <i>Bai` al-kali` bi al-kali`</i> | Sale of debt for a debt |
| <i>Bai` al-murabahah li Al-amir Bi al-syira`</i> | Murabahah to the purchase orderer |
| <i>Bai` bithaman ajil</i> | A contract of sale and purchase of an asset in which the payment of sale price is deferred and paid in installment within an agreed period of time. The sale price includes profit. |
| <i>Bai` dayn</i> | Sale of debt that is created under Shariah compliant business activities |
| <i>Bai` mu`athah</i> | A contract of sale and purchase of an asset in which the contracting parties agreed on the exchange of the asset and the price without verbal or written ijab and qabul |
| <i>Bai` murawadhah</i> | Refer to definition of bai` mu`athah |
| <i>Bai` salam</i> | Sale contract based on order of certain asset with certain specifications. Full payment is made in cash at the time of conclusion of the contract whereas the delivery of the asset is deferred to a specified time |

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| <i>Bai` wafa`</i> | A conditional contract of sale and purchase on an asset in which the buyer would return the asset to the seller if the seller refund the price to the buyer |
| <i>Bai` al Sarf</i> | <i>Bai` al-sarf</i> is a contract where an exchange of money for money of the same or a different type takes place. |
| <i>Dayn lazim</i> | A legally binding debt |
| <i>Dhaman</i> | A contract of guarantee in which one party guarantees the fulfillment of a claim or performance of an obligation which is due to another party in a case of default. Synonym: kafalah |
| <i>Dho` wa ta`ajjal</i> | An arrangement in which the creditor reduces the amount of debt due to early settlement of debt by the debtor |
| <i>Fara`id</i> | The knowledge or rules on estate distribution according to Islamic principles |
| <i>Fuduli</i> | A person is acting on behalf of another person without <i>wakalah</i> appointment or an appointed agent act beyond the mandate |
| <i>Gharamah</i> | Penalty |
| <i>Gharar</i> | Element of uncertainty and/or deceit |
| <i>Ghasb</i> | Forfeiture |
| <i>Hamish jiddiyyah</i> | A security deposit placed to secure the undertaking to purchase an asset before entering into the sale and purchase agreement/contract. |
| <i>Haram lighoirih</i> | Forbidden due to a factor |
| <i>Haram lizatih</i> | Inherently forbidden |
| <i>Hibah</i> | A transfer of ownership of an asset from a donor (<i>wahib</i>) to a recipient (<i>mawhub lahu</i>) without any consideration |
| <i>Hibah al-`umra</i> | <i>Hibah</i> which is contingent to the lifetime of either the one who makes the gift or the recipient. |

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| <i>Hibah al-ruqba</i> | A conditional <i>hibah</i> stipulated by the one who makes the gift, where the recipient will own the gift upon the death of the former |
| <i>Hibah manfaat</i> | Refer to definition of <i>`ariyah</i> |
| <i>Hiwalah al-dayn</i> | Assignment/transfer of debt from the liability of the original debtor to the liability of a third person so that the original debtor becomes free of liability |
| <i>Hukm al-`aqd</i> | Effect of transaction |
| <i>Huquq al-`aqd</i> | Rights and responsibilities of transaction |
| <i>Ibra'</i> | Rebate, waiving partially or totally a right to claim a debt |
| <i>Ijab</i> | Offer |
| <i>Ijarah</i> | An <i>ijarah</i> refers to a lease contract that transfers the ownership of a usufruct attached to an asset for a specified period in exchange for a specified consideration; or a contract for hiring of services of a person for a specified period in exchange for a specified consideration |
| <i>Ijarah al-khadamat</i> | Service contract |
| <i>Ijarah mawsufah fi al-zimmah</i> | A contract that transfers ownership of a usufruct for a specified duration in the future based on an agreed specification by the contracting parties at the inception of the <i>ijarah</i> contract |
| <i>Ijarah muntahia bi al-tamlik</i> | Lease contract which ends with acquisition of ownership of the asset by the lessee |
| <i>Ijarah thumma al-bai'</i> | A contract of lease which subsequently followed by a sale contract. |
| <i>Ijma'</i> | Consensus of the muslim jurists |
| <i>Ijtihad</i> | Reasoning by qualified Shariah scholars to obtain Shariah rulings from the sources of Shariah |
| <i>Infaq</i> | Donation or payment |

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| <i>Istihsan</i> | Juristic preferences, disregarding a ruling backed by a <i>dalil</i> (proof) and resort to another ruling that is sounder |
| <i>Istinbat al-ahkam</i> | Derivation of Shariah rulings from the main sources of Shariah |
| <i>Istiqra'</i> | Meticulous and comprehensive reading and understanding of an issue in order to derive Shariah rulings |
| <i>Istiqrar ta`amul</i> | stability of trade |
| <i>Istishab</i> | Maintaining the continuity of an established legal rule in the absence of any evidence showing otherwise. |
| <i>Istisna`</i> | A contract by which a seller sells to a purchaser a non-existent asset that is to be constructed, built or manufactured according to the agreed specifications and delivered on agreed specified future date at a pre-determined price. |
| <i>Jumhur fuqaha</i> | Majority of scholars |
| <i>Kafalah</i> | A contract where the guarantor conjoins the guaranteed party in assuming the latter's specified liability. |
| <i>Kafalah al-`ayn</i> | Guarantee of a physical asset |
| <i>Kafalah al-dayn</i> | Guarantee of a debt liability |
| <i>Kafalah bi al-`ayn</i> | A guarantee to provide or deliver a tangible property which is the subject matter of a contract. Synonym; <i>kafalah bi altaslim</i> |
| <i>Kafalah bi al-darak</i> | A guarantee for an object to be free from any claim. It is meant to ensure that the ownership of the object is free from any encumbrances in order to allow a transfer of the object. Should there is a claim, the guarantor will compensate for any loss incurred. |
| <i>Kafalah bi al-dayn</i> | A guarantee to settle a debt owed by a person. |
| <i>Kafalah bi al-mal</i> | Financial guarantee |

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| <i>Kafalah bi al-mal</i> | Commercial or financial guarantee |
| <i>Kafalah bi al-nafs</i> | Guarantee for the presence of a person |
| <i>Kafalah bi al-taslim</i> | Refer to definition of <i>kafalah bi al-`ayn</i> |
| <i>Kafil</i> | Guarantor |
| <i>Khiyar al-`ayb</i> | Option arising from a defect; the option of dissolving or continuing the contract upon discovery of a defect in the asset purchased. |
| <i>Khiyar al-shart</i> | Conditional option |
| <i>Khiyar fawat al-wasf</i> | Option to void a contract due to a missing characteristic in the subject matter which the contracting party had stipulated to be present in it. |
| <i>Ma ya`ul ila luzum</i> | A debt that will become legally binding in the future |
| <i>Madin mumatil</i> | A debtor who procrastinates the settlement of his debt. |
| <i>Majlis al-`aqd</i> | Place of the contract session |
| <i>Makful `anhu</i> | The guaranteed party who is a debtor or a party guaranteed by the guarantor. |
| <i>Makful lahu</i> | The beneficiary who is a creditor or a party who has the right to claim the liability (debt) from the guaranteed party (<i>makful `anhu</i>) or the guarantor (<i>kafil</i>) |
| <i>Mal mithli</i> | Fungible asset refers to comparable or interchangeable assets that are valued or treated as the same class of assets |
| <i>Maqasid syar`iyyah</i> | Objectives of Shariah of a legal rule which is meant to enjoin benefits for the mankind |
| <i>Marhun</i> | Collateral |
| <i>Maslahah</i> | Consideration of public interest |
| <i>Mawhub lahu</i> | Recipient |

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| <i>Muamalat maliyyah</i> | Financial transactions |
| <i>Mudarabah</i> | A contract between a capital provider (<i>rabbul mal</i>) and an entrepreneur (<i>mudarib</i>) under which the <i>rabbul mal</i> provides capital to be managed by the <i>mudarib</i> and any profit generated from the capital is shared between the <i>rabbul mal</i> and the <i>mudarib</i> according to mutually agreed profit sharing ratio (PSR) whilst financial losses are borne by the <i>rabbul mal</i> provided that such losses are not due to the <i>mudarib</i> 's misconduct, negligence or breach of specified terms. |
| <i>Mudarabah asset</i> | Asset created under a <i>mudarabah</i> venture |
| <i>Mudarabah venture</i> | Business or profit generating activities undertaken by <i>mudarib</i> in managing capital provided by the <i>rabbul mal</i> . |
| <i>Mudarib</i> | Entrepreneur of a <i>mudarabah</i> venture |
| <i>Mudarib yudarib</i> <i>Mudarabah</i> | contract where the <i>rabbul mal</i> invests his capital with a <i>mudarib</i> who subsequently invests the fund with another <i>mudarib</i> . |
| <i>Mudi`</i> | Safekeeping depositor |
| <i>Mukhalafah al-shurut</i> | Breach of specified terms |
| <i>Mulzim</i> | Binding |
| <i>Muqaradhah</i> | Refer to definition of mudharabah |
| <i>Muqassah</i> | Offsetting or off set |
| <i>Muqrid</i> | Creditor |
| <i>Muqtadha al `aqd</i> | Purpose of a contract |
| <i>Murabahah</i> | A sale and purchase of an asset where the acquisition cost and the mark-up are disclosed to the purchaser |
| <i>Musawamah</i> | Sale contract without the disclosure of the asset cost price and profit margin to the purchaser |

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| <i>Musyarakah</i> | A partnership between two or more parties, whereby all parties will share the profit and bear the loss from the partnership. |
| <i>Musyarakah Mutanaqisah</i> | Diminishing partnership. Also known as <i>Musyarakah Muntahiyah Bittamlik</i> . |
| <i>Muwa`adah</i> | Mutual promise between two parties |
| <i>Muwa`adah Mulzimah</i> | Bilateral binding promises |
| <i>Muwakkil</i> | Principal |
| <i>Nas</i> | A clear injunction on explicit textual ruling from Quran or the Sunnah |
| <i>Nasi`ah</i> | Deferment |
| <i>Parallel istisna`/ Istisna` Muwazi</i> | Two separate and independent <i>istisna`</i> contracts, which have similar specification of the <i>istisna`</i> asset. |
| <i>Profit sharing ratio</i> | The ratio in which the profits are shared between the capital provider (<i>rabbul Mal</i>) and the entrepreneur (<i>mudarib</i>). |
| <i>Purchase orderer</i> | A person who enters into an arrangement with a seller to place an order for a particular asset and undertakes to subsequently purchase the said asset upon its acquisition by the seller |
| <i>Qabd</i> | Taking possession and having control of a purchased asset |
| <i>Qabd haqiqi</i> | Physical possession. It refers to a state where a person has actual possession and the rights to control an asset |
| <i>Qabd hukmi</i> | Constructive possession. It refers to a state where a person does not have actual possession but has the legal right to control on assets |
| <i>Qabul</i> | Acceptance |
| <i>Qard</i> | A contract of lending money by a lender to a borrower where the latter is bound to return an equivalent replacement amount to the lender |
| <i>Qiyas</i> | Analogy |

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| <i>Rabbul mal</i> | Capital provider |
| <i>Rahn</i> | a contract where a party, as pledgor (<i>rahin</i>) pledges an asset as collateral (<i>marhun</i>) to another party, a pledgee (<i>murtahin</i>) to fulfil an obligor's liability or obligation (<i>marhun bih</i>) owed to the pledgee in the event of default of such obligor |
| <i>Ribawi asset</i> | <p>Assets which are subject to specific rules in sales to avoid the implication of <i>riba</i>. These assets consist of six (6) types and are classified into two (2) categories:</p> <p>(a) Medium of exchange (currency) represented by gold and silver and any items used as currency; and</p> <p>(b) Staple food represented by wheat, barley, dates, and salts</p> <p>If an exchange involves the same type of asset such as gold for gold or wheat for wheat, then it must be of equal counter-value and on-spot basis. If the exchange involves assets of different type but within the same category such as the exchange of gold for paper currency, then it has to be done on spot basis</p> |
| <i>Sadd zari`ah</i> | Blocking the means to something forbidden in Shariah |
| <i>Sahibul mal</i> | Capital provider |
| <i>Salaf</i> | Refer to definition of qardh |
| <i>Shart jaza`i</i> | Punitive condition |
| <i>Shirkah al-`Aqd</i> | A contract executed between two or more partners to venture into business activities to generate profit. Under <i>shirkah al-`aqd</i> , a partner is an agent for the other partners. In this regard, the conduct of one partner in the ordinary course of business represents the partnership |
| <i>Shirkah al-Milk</i> | Possession of an asset by two or more persons with or without prior arrangement to enter into a sharing in joint ownership. Under <i>shirkah al-milk</i> , each partner's ownership is mutually exclusive. In this regard, one partner cannot deal with the other partner's asset without the latter's |

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| | consent |
| <i>Sukuk</i> | Financial documents whose value is backed by certain assets |
| <i>Ta`addi</i> | Misconduct |
| <i>Ta`widh</i> | Compensation |
| <i>Tabadul al-huquq</i> | Exchange of rights |
| <i>Tabarru`at</i> | Donation / Benevolent |
| <i>Tabarru`at</i> | Donation / Benevolent |
| <i>Tabiat al-`aqd</i> | Nature of contract |
| <i>Takaful</i> | An arrangement based on mutual assistance under which takaful participants agree to contribute to a common fund providing for mutual financial benefits payable to the takaful participants or their beneficiaries on the occurrence of pre-agreed events |
| <i>Takhliyah</i> | Relinquishing the possession of an assets and enabling others to take possession |
| <i>Taklik</i> | Being contingent to a matter |
| <i>Takwil</i> | Interpretation |
| <i>Tamkin</i> | Enabling the person who has the ownership of an asset transferred to him to make full use and assume liability of the asset |
| <i>Taqsir</i> | Negligence |
| <i>Tawarruq</i> | Two sale and purchase contracts, where the first involves the sale of an asset to a purchaser on a deferred basis. and the subsequent sale involves sale of the asset to a third party on a cash basis and spot basis |
| <i>Tawatu`</i> | Pre-planned |

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| <i>Tawliyah</i> | Sale of an asset at its cost price |
| <i>Thabit</i> | Firm or decisive |
| <i>Treaty</i> | Retakaful agreement between a takaful company and another takaful company (including conventional insurance company) which requires the takaful company to distribute or cede its underwritten risks and the takaful company or conventional insurance company which had concluded the agreement shall undertake the risks |
| <i>Ujr `ala wakalah</i> | Agency fee |
| <i>Ujrah</i> | Fee |
| <i>Ujrah al-mithl</i> | Fee based on market rate for a similar task done |
| <i>Wa`d</i> | A promise or undertaking which refers to an expression of commitment given by one party to another to perform certain action(s) in the future |
| <i>Wa`d ghayr mulzim</i> | Non-binding promise |
| <i>Wa`d mulzim</i> | Binding promise |
| <i>Wadi`</i> | Custodian |
| <i>Wadi`ah</i> | A contract by which an asset is placed with another party for safekeeping |
| <i>Wadi`ah yad amanah</i> | Safekeeping based on trusteeship |
| <i>Wadiyah yad dhamanah</i> | A guaranteed safe keeping contract |
| <i>Wahib</i> | Donor |
| <i>Wakaf</i> | A form of endowment by an owner of a property for public benefit and wellbeing which is allowed by Shariah |
| <i>Wakalah</i> | A contract in which a party, as principal (<i>muwakkil</i>) authorises another party as his agent (<i>wakil</i>) to perform a particular task in matters that may be delegated, with or |

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| | without imposition of a fee |
| <i>Wakalah</i> | Agency contract |
| <i>Wakalah bi al-istithmar</i> | An agency contract for investment |
| <i>Wakalah bi al-ujrah</i> | Fee based agency |
| <i>Wakalah muqayyadah</i> | Restricted agency |
| <i>Wakalah mutlaqah</i> | Unrestricted agency |
| <i>Wakil</i> | Agent |
| <i>Wasi</i> | A person appointed to execute a will |
| <i>Zan al-ghalib</i> | Presumption that is closer to certainty |
| <i>Zari`ah ila riba</i> | Means leading to <i>riba</i> |
| <i>Zimmah</i> | Liability |