

Contents

Preface	xi
List of Abbreviations	xiii
Acknowledgments	xv
Introduction: An Overview of Prohibited Elements	1
Usury (<i>Riba</i>) Ambiguities in a Contract (<i>Gharar</i>) Gambling (<i>Maysir</i>) Prohibited (<i>Haram</i>) Properties	2 3 4 5
1 The Contract of Sale (Bay')	7
Introduction The Pillars of a Sale Contract Prohibited Sales and Practices Contentious Sales Chapter Questions Notes	8 9 14 19 29 30

viii / CONTENTS

2	Types and Classifications of Sales	33
	Introduction	34
	Trust Sales (Buyu' al-amanah)	35
	Deferred Payment Sale (Bay' Bi-thaman Aajil)	36
	Islamic Banks and a Sale Contract	37
	Future Commodity Sale (Bay' al-Salam)	39
	Manufacturing Sale (Bay'al-Istisna')	43
	Currency Exchange (Bay' al-Sarf)	47
	Chapter Questions	49
	Notes	50
3	The Contracts of Employment and Lease (<i>ljarah</i>),	
	Borrowing (<i>l'arah</i>), and Reward (<i>Ja'alah</i>)	51
	Introduction	52
	The Pillars of the Ijarah Contract	53
	The Contract of Borrowing Things (al-l'arah)	60
		61
	The Contract of Reward for Service (al-Ja'alah) Chapter Questions	64
	Notes	• •
	Notes	65
4	The Contract of Agency (Wakalah)	67
	Introduction	68
	The Pillars of an Agency (Wakalah) Contract	69
	The Types of Agency	70
	Agency in Sale	71
	Agency in Purchase	73
	The Effects and the Rights and Liabilities of the Contracting Parties	74
	An Agent Appointing Another Agent	75
	Unauthorised Agency (al-Fadhalah)	76
	Termination of an Agency	76
	Chapter Questions	77
	Notes	78
5	The Contract of Loan (al-Qard)	79
	The contract of Loan (ar-gara)	
	Introduction	80
	Loan (Qard), Debt (Dayn), and Borrowing Things (I'arah)	81
	A Loan That Provides Conditional Benefit to the Lender	82
	Waiting or Giving Time to a Borrower Is a Commendable Act	84
	Chapter Questions	84
	Notes	86
6	The Contract of Safekeeping (al-Wadi'ah)	87
	Introduction	88
	The Pillars of Wadi'ah Contracts	89
	Relationship Between the Parties	89
	When Is the Depository Held Liable?	90
		90

		Contents / ix
	Using Deposited Money for Investment Wadi'ah and Islamic Banks Termination of Wadi'ah The Differences Between the Contracts of Wadi'ah and Qard Chapter Questions Notes	91 92 93 93 94
7	Partnership (al-Sharikat)	95
	Introduction Division of <i>al-Sharikat</i> Capital Partnerships (<i>Sharikat al-Amwal</i>) Management of Partnership (<i>Sharikat al-'Inan</i>) Partnership of Services (<i>Sharikat al-a'mal</i>) Partnership of Reputation or Creditworthiness (<i>Sharikat al-Wujuh</i>) Partnership (<i>Sharikat al-'Inan/Musharakah</i>) and Islamic Banks Dissolution of Partnership Chapter Questions Notes	96 98 101 101 102 104 106 107 109
8	Silent Partnership (Mudarabah/Qirad)	111
	Introduction Pillars of <i>Mudarabah</i> Contract The Status of <i>Sahib al-mal</i> and <i>Mudarib</i> Distribution of Profit and Treatment of Losses Types of <i>Mudarabah</i> Personal Expenses of the <i>Mudarib</i> What the <i>Mudarib</i> Cannot Do Void <i>Mudarabah</i> Termination of <i>Mudarabah</i> The Differences Between <i>Musharakah</i> and <i>Mudarabah</i> Chapter Questions Notes	112 113 114 114 115 116 117 117 117 118 119 119 121
9	Pledge, Mortgage, or Pawn (al-Rahn)	123
	Introduction The Pillars of Pledge (<i>Rahn</i>) The Use of the Pledge by the Pledgee Forfeiture of the Pledged Property Chapter Questions Notes	124 125 126 127 128 128
10	Guarantee (al-Kafalah)	129
	Introduction Pillars of <i>Kafalah</i> The Effects of <i>Kafalah</i> Immediate, Conditional, and Suspended <i>Kafalah</i>	130 131 132 132

x / CONTENTS

	Types of <i>Kafalah</i> Charging a Fee for the Service of Guarantee Letter of Guarantee Termination of <i>Kafalah</i> Chapter Questions Notes	132 133 134 134 135 136
11	Transfer of Debt (al-Hawalah)	137
	Introduction Pillars of <i>Hawalah</i> Types of <i>Hawalah</i> Transfer of Right (<i>Hawalat al-Haqq</i>) Bill of Exchange (<i>Suftaja</i>) Termination of <i>Hawalah</i> The Differences Between <i>Hawalah</i> and <i>Kafalah</i> The Difference Between <i>Hawalah</i> and the Sale of Debt (<i>Bay' al-Dayn</i>) Chapter Questions Notes	138 140 140 141 141 142 142 143 143 143
12	The Contracts of Absolution (al-Ibra) and Set-Off (al-Muqassah)	145
	Introduction The Subject-Matter of <i>Ibra</i> The Pillars of <i>Ibra</i> Types of <i>Ibra</i> The Effect of an <i>Ibra</i> The Differences Between Absolution (<i>Ibra</i>) and Gift (<i>Hibah</i>) The Contract of Set-Off (<i>al-Muqassah</i>) Classification of <i>Muqassah</i> Chapter Questions Notes	146 146 147 149 150 150 150 152 153
Ans	wers to True/False Questions	155
Bibl	iography	161
Abo	ut the Author	165
Inde	ex a second s	167