AL-MUQARADAH BONDS AS THE BASIS OF PROFIT SHARING

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1. INTRODUCTION

Economists have undertaken exhaustive studies on lawful means of finding necessary financing for investment which can serve development and achieve better results in raising the productivity of any country. Such studies have adopted different techniques in attracting national savings and directing them to investment projects so that such savings may constitute capital used in projects for which the economic feasibility would have been studied. They would thus be transformed into equipment, industries, roads, general services, etc.

The issue of financial bonds is considered as one of the successful means of attracting savings and collecting funds to finance various useful activities serving the national economy in general. This type of financing has been called public borrowing.

Public borrowing takes different forms: it may be through the issuance of financial bonds, treasury notes, loans and other media which have been known under different terms in financial and monetary sciences and which are known to everybody.

But the relationship between these forms of financial bonds and profit based on a system of previously determined rate of interests and lack of fair correlation between capital and labor has not led to a general acceptance and use of such bonds among different categories of people, who have even refrained from participating in them and making use of their returns. Peoples' views towards them have differed and their trends and criteria have accordingly been different. Some of them have preferred to keep aloof, thus avoiding doubtful issues while others have chosen to enjoy the benefits regardless of contentions held.

All this has had its impact on development in many Islamic countries. There are many economic projects particularly in the exploitation of *waqf* property which are capable of getting back the principal needed to launch them from the income to be derived from them within

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appropriate periods. It has become evident that those participating and dealing in financial bonds required a new kind of bond based on participation in the income expected from a project financed from the proceeds of the issuance of such bonds and based on their gradual settlement and subsequently transferring the ownership of the project with its income to the concerned party.

In view of this, the Ministry of *Awqaf*, Islamic Affairs and Holy Places of Jordan considered it necessary to legislate for the issuance of this kind of bonds. It started with necessary studies through several specialized committees in different economic, financial and legal fields to come to the needed legislation. It was by the grace of Allah that the Act of *Muqaradah* Bonds was promulgated in 1981, drawing its inspiration from the Islamic *shari'ah* and its rulings.

2. *MUQARADAH* IN ISLAM

The term "*muqaradah*" has been taken from the *fiqh* concept from its synonym "*mudarabah*" which is commonly used by the Hanafi and Hanbali schools of thought. But the Maliki and Shafei call this transaction `*qirad*' which is derived from `*qard*' referring to `apportionment' because the owner cuts a portion of his capital and a portion of the profit in favor of the worker who can dispose of it as he likes. It is also said that `*qirad*' is derived from `*muqaradah*' which is `equality' because they are both equal in the profit or because the capital is from the owner and the labor is from the worker. *Mudarabah* or *muqaradah* means an agreement between two parties by which one of the two parties provides capital for the other to work with on the condition that the profit is to be shared between them according to an agreed ratio.

In the light of the above definition, *muqaradah* is regarded as an Islamic way of financing completely different from "*riba*" way of financing which is based on a predetermined rate of interest.

The issuance of Islamic *muqaradah* bonds is considered as a documentation method for the implementation of the *muqaradah* process. These bonds give its owner the right to receive his capital at the time the bonds are surrendered, and an annual proportion of the realized profits as mentioned in the issuance publication.

The Islamic *muqaradah* bonds can play a vital role in the process of development financing, because it is related to profitability of the projects. Financing through *muqaradah* is more efficient in terms of allocation of resources compared with financing based on the interest rate which does not usually reflect the profitability of projects.

I will not go into details of the origin of transactions by this type of contract to show its validity and its terms. I leave this for the reader as this topic has been authoritatively dealt with in several books of *fiqh* and needs no further elaboration.

3. ACT OF *MUQARADAH* BONDS IN JORDAN

Jordanian stock market witnessed an increasing activity in bond issuance and exchange during late Seventies and early Eighties. Yet, the linkage between these bonds and their proceeds which were based on the fixed interest system was responsible for the limited dealing in these bonds among certain citizens particularly those who wanted to refrain from investing their funds on the basis of interest.

The Ministry of Awqaf, Islamic Affairs and Holy Places in Jordan was facing negligence of the *waqf* properties due to non-availability of funds necessary for renovating them. It was obvious that renovating these properties required the creation of a new non-interest type of bonds to be based on the principle of participation in the prospective proceeds of the project financed from these bonds.

The Ministry of Awqaf, Islamic Affairs and Holy Places, therefore, felt the necessity of a legislation for issuing this type of bonds. The process of issuing these bonds began in 1977 with preparation of necessary studies and formation of a number of committees of economists as well as *shari'ah* (Islamic Law) authorities in order to promulgate such a legislation.

It was with the help of Almighty Allah that a *Muqaradah* Bonds Law under the name of "Law nisi No.10 for the year 1981" came to light. It was derived from Islamic *shari'ah* and was passed by Muslim jurists (*muftis*).

The Jordanian Law of *Muqaradah* Bonds provides that *muqaradah* bonds are:

(1)Documents of definite value issued in the names of their owners against funds they pay to the owner of the project in question with the object of executing the project, utilizing it and making profits.

(2)Entitle the bond owners to acquire a definite proportion of the project's profits, as set out in the bond issuance publication.

(3)*Muqaradah* bonds neither yield interest nor entitle their owners to make claims for any fixed annual return.

A look at this definition shows the following:

(i)The amounts for which bonds are issued should be definite and known before hand.

(ii)Such amounts should be linked with the issue of bonds allocated and related to a specific project.

(iii)The proceeds from the issuance of such bonds should be directed to the implementation of an income-yielding project.

(iv)The bond holders participate in the total net profits of the investment in a proportionate manner according to the terms detailed in the issuance publication.

(v)These bonds do not carry any kind of interest and their owners cannot, make claims for any specific annual return.

4. ISSUANCE OF BONDS

4.1The law specified the organizations which were allowed to issue this kind of bonds, limiting them to the following :

(a)The Ministry of Awqaf, Islamic Affairs and Holy Places.
(b)Public institutions financially independent.
(c)Municipalities.

By defining their scope in this way the law-makers did not mean to make a strict limitation of the issuance process to these organizations in future. They, however, felt that the first organizations enforcing it be official bodies, with which it would be easier to deal and organize relationships in view of the rules and regulations which they possess. The outcome of their experiments could become basic principles which might be applied and used subsequently by natural persons and legal entities from other sectors, later on.

4.2The law spells out the terms and conditions which should govern the project for the financing of which the bonds are to be issued. The conditions include that the project should be:

(a) Economically feasible.
(b)Thoroughly independent from other projects belonging to the issuing authority.
(c)Administered financially as an independent unit so that the profits meant for bond extinction and profit distribution according to the terms defined in the issuance publication could be determined by the end of the fiscal year.

With these conditions, the law eliminated the process of issuing bonds and accumulating funds for purposes which are not economic or which do not yield returns commensurate with their value, so that this experiment may be used as a strong incentive and it may induce investors to purchase them. Through the condition that it should be economically feasible, it also guarantees for the project a prior scientific thinking to proceed to the implementation stages and the adoption of sound decisions for the process of investment and avoidance of the risks of loss in projects as far as possible.

A basic principle underlying the issuance of this kind of bonds is participation in the returns of the project financed out of their proceeds. An inevitable outcome of this principle is the independence of the project, its return and its accounts from the body or organization issuing the bonds. In the light of this fact there should, therefore, be a trend to envisage several patterns of the independence referred to above. It was proposed, for example, that there should be a specific institution to run and develop the Islamic *waqf* property so that this institution shall own this and other similar projects financed in the same way. The institution could be affiliated to the concerned Ministry or could be made a part of it. Upon the extinction of the bonds for such a project, its ownership and management would revert to the issuing organization.

Irrespective of the options offered by the authority issuing these bonds, the reasons for the principle of independence are as follows:

(a)The borrower shall have a legal entity and financial liability independent from the entity of the issuing authority and its financial liability.
(b)The returns of each of the projects financed from the issuances shall be independent from the revenues and expenditures of the issuing authority to establish the returns account with accuracy and show the bond holders' share of the returns so that they can obtain their rights or their share from these profits in full.
(c)The holdings of the entity guaranteeing the payment of the *muqaradah* bonds should be fixed and specific so that they cannot be disposed of before the full payment of the value of the bonds according to the concept of joint ownership.

4.3The law stipulates that the issuing authority may hold agreements with the bank operating on the basis of the *shari'ah* and the specialized financial institutions to administer the issuance of *muqaradah* bonds, their coverage and marketing against fixed charges to be paid from the issuance proceeds.

With this stipulation, the law has given the issuing authority the right to delegate to a specialized institution to complete the process of issuing and administering the bonds. It is an established fact that in the stock markets the process of releasing bonds involves some features which require a special kind of legal and technical expertise which is not available anywhere except in these institutions specializing in this type of activities. Among such institutions are the banks, or the specialized financial institutions preferably those dealing in accordance with the principles of *shari'ah*. Conclusion of a contract with them assumes that it will not move along any doubtful lines so long as it will act according to instructions of the issuing authority and against fixed fees. Among other advantages derived from resorting to such specialized institutions is the possibility of having their assistance in marketing and perhaps covering the whole issuance upon their own responsibility without inviting the public to subscribe. They may announce the coverage of the issuance only for the sake of the publication.

5. THE ISSUANCE PUBLICATION AND ITS CONTENTS

The law stipulates that the issuance publication should comprise several issues which I will not enumerate in any specific detail because some of the issues are quite clear from the text itself. I will simply refer to the salient features which constitute the basic elements of the issuance process.

(i) Nominal value of issuance.
(ii) Description of the project which the issuance proceeds would be used to finance.
(iii) Project feasibility study.
(iv) Definition of the grace period required for project implementation.
(v) The rate of annual profit distribution between bond extinction and profits due to bond owners.
(vi) Dates of opening public subscription and its closure as well as payment of profits and extinction of bonds.
(vii) Any other rule that the issuing committee sets up should also be added by way of reassuring the investor and safeguarding his rights.

While speaking about the issuance publication, it may be useful to mention that such publication is the contractual basis in every issuance for any kind of financial bond, including the *muqaradah* bonds. The terms contained in it are considered an obligation on the part of the issuing or borrowing authority and the subscribers whose taking note of terms and then participating in bonds is taken as an acceptance which has to be obtained for the required contracting to take place.

The law has been careful to include some basic provisions and to mention some items which the issuance publication must contain. However, it does not mention the details of the issuance publication itself in order to leave the door open for adding any point which may serve to reassure the investor as regards his funds and protect his rights throughout the period he would own the bonds to their complete extinction.

To achieve this objective, the law has made provisions for the constitution of a committee comprising representatives of some financial, economic and legal sectors in addition to the representatives of other independent sectors, so that it can be an organ representing various interests on the widest possible scale to enable it to think of taking into consideration all factors which affect the issuance process and encourage investors to respond to it favorably.

To support the argument that the issuance publication is the contractual basis by which the subscriber participates and owns the bonds, it has been shown that following approval of the publication by the committee and its ratification by the highest authority in the state, namely, the Prime Minister, and after it has been published, it becomes a final decisive rule and none of its approved terms may be changed.

The law-maker had to take this rigid stand towards the issuance publication in view of its final decisive nature in case of future need.

To encourage subscription to this type of bonds, the law has been careful to grant it the privilege of tax exemption so that the income derived from investment in it becomes profitable giving its owner a privileged position when he thinks of participating in the subscription.

6. GOVERNMENT GUARANTEE OF THE ORIGINAL CAPITAL IN BONDS

Government guarantee being an encouraging factor for a favorable response to the purchase of bonds, it was necessary that the law related to such bonds include a provision authorizing such guarantee. The law stipulates:

> "the Government guarantees the settlement of the nominal value of *muqaradah* bonds due to be completely extinguished as scheduled; the sums paid for this purpose become loans to the project given without interest and due immediately after their complete extinction".

The significance of the guarantee lies in assuring bond holders of the protection of their funds regardless of the returns and in the worst conditions, especially as the immovable *waqf* properties differ from other properties insofar as they are not subject to sale when payment is deferred or stopped. I think that this guarantee will not imply, in the last resort, any real commitment or financial return and the calculations of its cash flow and profits would have been made on realistic and conservative principles and it would have been ascertained that its returns are adequate to cover the extinction of the value of bonds in all cases in addition to the distribution of a portion of them as annual profits. Hence comes the significance of the study of the project and its economic feasibility in the determination of the nature of the bond, the share of profits, the capital and other details, considering it as one of the basic elements in the issuance process. There is no inconvenience in the Government's granting its guarantee with the amounts paid for this reason becoming interest-free loans provided to the project.

As for the legal aspects of this guarantee, I excuse myself from the onerous task of speaking about it and I will content myself with making reference to the detailed memorandum submitted by Dr. Sami Hamoud and the approval of the *Ifta* Authority of it.

7. SUBSCRIPTION CONTINGENCIES

This section deals with cases in which the value of subscriptions obtained are in excess or less than those fixed in the issuance publication. The law had to deal with these aspects after the issuance process had been linked with the publication in which no term may be changed after it is approved and published. In this respect, the law stipulates:

1. If the value of subscription exceeds the nominal value of the bonds fixed for public subscription, subscriptions of the Jordanian public and those of the Arab and Muslim nationals should be met first, then those of financial institutions run under the principles of *shari'ah*, and after that those of licensed banks and specialized financial institutions each according to the ratio of the balance of the nominal value to their subscription (pro-rata).

2. In case subscriptions are less than the nominal value of issuance and there is a coverer of the issuance, this coverer should purchase all the non-subscribed bonds according to the agreement concluded between the issuing authority and the coverer.

3. If subscriptions exceed two-thirds of the nominal value and there is no coverer, it is possible to go ahead with the implementation of the project provided that the project sponsor buys the non-subscribed bonds and deposit their value in the account of the project.

4. If the project sponsor cannot buy the non-subscribed bonds and if the subscription proceeds are less than two-thirds of the nominal value of the issuance, the issuing authority has to return the amounts subscribed to their owners within a period not exceeding two weeks from the closure of subscription.

From the texts quoted above, the legislator has foreseen several cases which might arise in the subscription process and for which solutions have to be found. These cases are as follows:

7.1 Value of subscriptions in excess of the nominal value of bonds issued

It is known in the stock exchange that when subscriptions are in excess of the nominal value of bonds issued at the end of the period fixed for public subscription, a "pro-rata" allocation takes place, so that all subscribers regardless of their nature (natural persons or legal entities) - are given equal opportunities of ownership, each having a proportion by which he may subscribe. The law has laid down this technique, but it has given priority to the members of public and to nationals of Arab and Islamic states to encourage them to save and invest, satisfying their needs to the full value of their subscriptions and distributing the remainder "pro-rata". The logical justification of this procedure is not to give chance to financial institutions and banks with huge financial potentials to monopolize the ownership of the bonds and subsequently arbitrarily control their circulation and sale on the stock market at monopoly prices.

7.2 Value of subscription less than the nominal value of the issuance

In this case, the law has dealt with several cases which may be put down as follows:

(a)Shortage with the existence of an agreement to cover the issuance value. In such cases, the coverer has to cover the shortage, whatever be the amount.

(b)Shortage up to one-third the value of subscription without a coverer. The law has given authorization to proceed with the implementation of the project financed from the proceeds of the issuance on condition that the issuing authority buys the balance of the non-subscribed bonds and deposit their value in the account of the project.

(c)Shortage up to two-thirds the nominal value of issuance and the inability of the issuing authority to subscribe the balance of the bonds. The law makes it binding to stop further action in the project and to return the subscribed amounts to their owners within a period not exceeding two weeks from the closure of subscription.

The shortage in *muqaradah* bonds subscription has been taken up in details due to the important character of such and other bonds, namely, prior agreement to participate in the project financed by the proceeds of this subscription and avoidance of apprehensions which arise during differences which reflect on the concept of the success of this kind of bonds and their dissemination in the future.

8. PROJECT IMPLEMENTATION AND THE SUPERVISING COMMITTEE

The law has given utmost significance to the issuance of this kind of bonds and the necessity to support it and pave the way for its success. That is why it has stipulated the necessity of setting up a special and independent committee to implement the project financed out of the proceeds of the subscription to the bonds. The law stipulates that:

1. The Cabinet will appoint, according to the recommendation of the issuing authority, an independent committee of not more than five members to supervise the execution of the project and its management. The representative of the trustee is to be a member of this committee.

2. The management committee of the project will keep independent systematic accounts for the project demonstrating accurately its costs, expenditure and net profits.

3. This committee will submit an annual report on the execution of the project, its independence and financial outcomes. A copy of this report is to be sent to each of the bonds owners.

4. The committee will assign an auditor or external examiner for the current and final accounts of the project. The report of the accounts is to be included in the annual report referred to in paragraph 3 above.

A close scrutiny of these conditions reveal that the law has made this committee the board of directors of the project, defining its powers and obligations similar to those usually granted to board of directors of joint stock companies operating on a commercial basis. Such powers may be put down as follows:

1. Taking necessary administrative decisions for the implementation of the project.

2. Establishment of an independent account structure according to established principles to get acquainted with the cost of the project, its administration, its expenditure and the outcome of its financial activities.

3. The board shall have to submit an annual report on project implementation in its various stages. Work on this report shall continue during the operation of the

project. As is the case with participants in companies, this report shall be sent to bond owners in their capacity as the general assembly of this project.

4.One of the other functions of this committee is to appoint auditors for the accounts of the project to ratify all items in conformity with sound accounting principles.

It is worthy of note that the law has determined the number of members of this committee but it has not specified the membership of any but the trustee whose participation it has made binding because he is as the bond holders' representative looking after their interests in this committee.

9. CONCLUSION

In conclusion, I may say that I have tried to show some of the points the legislator had in mind when laying down this law in view of the fact that I had a humble contribution in formulating its text. The basic concept underlying the promulgation of this law was to lay down a scientific and organizational visualization of this new concept in the light of which any authority, public or private, may proceed in the future.

This concept, for the sake of which this law has been formulated, is characterized by the fact that it may be put into practice despite the existence of other existing concepts and techniques in the world of financial documents. For its success, it does not require as a pre-condition to clear the way from any other technique at a time when the effectiveness of this new technique was not known.

With the belief and submission that the Right Path is nowhere but in response to Divine Guidance, I am convinced that this work of ours is keeping pace with promising rays of hope from the Divine Light and in line with the Commands of the Almighty.

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ANNEX NO. 1

SPECIMEN

DOCUMENT NO. ISSUANCE NO.
REG. NO. BONDS NOS.

MINISTRY OF AWQAF, ISLAMIC AFFAIRS AND HOLY PLACES
***MUQARADAH* BONDS ALLOCATED TO AWQAF PROJECT NO. ___**
MATURITY _______

for the value of _______________ Jordanian Dinars
Issued in virtue of *Muqaradah* Bonds Act No.10 for the year 1981

This is to certify that Mr./Mrs. _______________________ allocated ___________ is the registered owner of _______________ *muqaradah* bonds/extinction ________________

The total nominal value being ____
The Ministry of Awqaf, Islamic Affairs and Holy Places promises to pay to the owner of these Bonds the full nominal value with profits according to terms shown overleaf. The Government has undertaken to honor the full nominal value of the bonds in the fixed time.

Amman, Signature Signature

ANNEX NO. 2

An illustration showing the financing of a construction on a *waqf* by *muqaradah* bonds.

Basic Assumptions

1.Existence of *waqf* land suitable for constructing commercial shops and offices for various purposes.

2.The land on which the construction is to be made is *waqf* and cannot be owned nor can transfer of its ownership be effected.

3.It should be suited on the basis of the income it may yield if it were occupied by the building.

4.The area of the proposed project shall be 10,000 square meters on which there shall be 20 stores with an area of 40 square meters each, the remainder being left for various kinds of commercial offices.

5.Expected estimates show that the cost of construction per square meter is 100 dinars, that is, the total cost of the project shall be 1,000,000 dinars and shall be spent in the first year.

6.The area of the 20 stores is 800 square meters of which 120 square meters are allocated for corridors and services, the total area for offices is thus 9,080 square meters. Assuming that what is allocated for corridors and services constitutes 20% of this area, the net area after deducting the built-up area is equivalent to 7,264 square meters.

7.It is assumed that the return to the project from rentals is as follows:

(a) Goodwill for stores at an average rate of 5,000 dinars per store.
(b)Annual rentals per store on the basis of 50 dinars per square meter = 2,000 dinars.
(c) Annual rental per square meter from offices = 35.

8.There is an offer from financiers on the basis of *muqaradah* bonds for the project, so that 25% of profits be reserved for bond holders as return for financing; the balance of the profits (75%) shall be used for bond extinction in a periodic way (annually).

9.The construction work shall last one year and the building shall be fully occupied upon its completion.

10.Returns from rentals are calculated on a net basis and so there shall be no other expenses.

A. ACCOUNT OF PROJECT'S EXPECTED RETURNS AND REVENUES

Year	Goodwill Shops	Rentals Stores	Rental Offices	Total
1ST				
2ND	100,000	40,000	254,250	394,240
3RD	-	40,000	254,240	294,240
4TH	-	40,000	254,240	294,240
5TH	-	40,000	254,250	294,240
6TH	-	40,000	254,240	294,240
TOTAL	**100,000**	**200,000**	**1,271,200**	**1,571,200**

B. DISTRIBUTION OF EXPECTED RETURNS AND REVENUES ACCORDING TO FIXED PROPORTIONS

Year	Profits of Bond holders	Amounts allocated for extinction	Others	Total
1ST		-	-	-
2ND	98,560	295,680	-	394,240
3RD	73,560	220,680	-	294,240
4TH	73,560	220,680	-	294,240
5TH	73,560	220,680	-	294,260
6TH	73,560	42,280	178,400	294,240
TOTAL	**392,800**	**1,000,000**	**178,400**	**1,571,200**

C. TABLE SHOWING BALANCE OF *MUQARADAH* BONDS EVERY YEAR AND EXPECTED RETURNS IN FIGURES AND PROPORTIONS

Year	Balance of *Muqaradah* Bonds	Expected Results	Returns % Net Investment
1ST	1,000,000	-	-
2ND	1,000,000	98,560	9.856
3RD	704,320	73,560	10.444
4TH	483,640	73,560	15.210
5TH	262,960	73,560	27.974
6TH	42,280	73,560	173.983

Assuming that there is a ± 10% deviation in return estimates, the results will be as they are in the table below, affecting the extinction period and the annual returns of the bonds.

Year	Expected + 10%	Returns - 10%	Return + 10%	% Investment - 10%
1ST	-	-	-	-
2ND	108,416	88,704	10.842	8.870
3RD	80,916	66,204	11.992	9.021
4TH	80,916	66,204	18.730	12.368
5TH	80,916	66,204	34.755	19.665
6TH	-	66,204	-	47.956

REMARKS

1.The land is *waqf* property and may not be owned. It will consequently have no return during the years referred to above except for the 6th year when the full balance of the *muqaradah* bonds shall be extinguished.

2.The building shall become *Waqf* property during the 6th year.

ANNEX NO. 3

IN THE NAME OF ALLAH, THE BENEFICENT, THE MERCIFUL

IMPORTANT NOTICE

The main objective of this notice is to review all informations, rules and regulations which help the investor to subscribe to the *muqaradah* bonds open to general subscription. The Ministry of Awqaf, Islamic Affairs and Holy Places assumes the responsibility of the validity of the contents of this notice.

The approval of the Director of Issuance or the Amman Stock Exchange does not constitute any responsibility regarding the validity or accuracy of this notice. However, no authority or person is entitled to give any information or engagement regarding this issuance if not mentioned in this notice and issued by the Ministry of Awqaf, Islamic Affairs and Holy Places.

ANNEX NO. 4

MUQARADAH BONDS ISSUANCE PUBLICATION
HASHEMITE KINGDOM OF JORDAN
MINISTRY OF *AWQAF*, ISLAMIC AFFAIRS AND HOLY PLACES

The first issuance of *Muqaradah* Bonds allocated for the Ministry of *Awqaf* Project No. ________ building ________ issued by virtue of *Muqaradah* Bonds Act No.10 for the year 1981 with the guarantee of the Government of the Hashemite Kingdom of Jordan.

The Ministry of *Awqaf*, Islamic Affairs and Holy Places in the Hashemite Kingdom of Jordan announces an invitation to registered *Muqaradah* Bonds allocated to project ________ in the amount of ____

Legal Procedures

The following legal procedures have been completed to approve this issuance:

1.The *Awqaf*, Islamic Affairs and Holy Places Council has delegated by Resolution No. ________ dated _______________ Ministry of *Awqaf*, Islamic Affairs and Holy Places to issue these Bonds and invest their proceeds in the *waqf* land described as per technical drawings attached to this publication.

2.The *Muqaradah* Bonds Issuance Committee set up in accordance with the provisions of *Muqaradah* Bonds Act No.10 for the year 1981 has approved the publication related to this issuance in its final form.

3.The Prime Minister's office ratified, at its meeting held on _____________________ final form of this publication.

4.The Amman Stock Exchange has approved this Issuance and the release of its bonds on the stock market by virtue of its letter No. ________ dated ________________.

Particulars of the Bonds

1.The *muqaradah* bonds released by virtue of this issuance are documents of limited value issued in the name of their owners against funds they provide for the implementation of a project with a view to exploiting it and making profit from it. The bond owner's responsibility is limited to only the amount shown in the bond.

2.Owners of these bonds receive the proportion of project profits in this issuance and these bonds do not yield any interest nor are their owners entitled to make claims for any interest.

3.Each of these *muqaradah* bonds represents a part of this issuance, the nominal value of which amounts to ________________________________ Jordanian dinars.

4.The nominal value of one bond of this issuance is _______________ Jordanian dinars and their multiples and bonds of higher nominal value may be divided into bonds of lower nominal value.

5.In addition to basic details about the nominal value, the annual rate of profit distribution of the project between bond extinction and profits due to the bond owner, the bond shall include the following text: (The Ministry of *Awqaf*, Islamic Affairs and Holy Places promises to pay to the owner of the bond the nominal value at the date fixed for that and the Government of the Hashemite Kingdom of Jordan has undertaken to honor the full nominal value of the bond in the fixed time).

6.The *muqaradah* bonds shall be signed on behalf of the Ministry of *Awqaf* by its Minister and ____.

7.The ownership of the bond shall be recorded on the front side of the bond and in the register related to this issuance at both the Ministry of *Awqaf* and the Trustee's Office.

Issuance Conditions:

1. The Ministry of *Awqaf* shall recognize but one owner for each of the bonds related to this issuance.

2. The Ministry of *Awqaf*, Islamic Affairs and Holy Places shall distribute the net profits resulting from the implementation of the project from the end of the financial year to the beginning of realization of such profits as follows:

   (a) (%) of profit to bond owners as profits for them.
   (b) (%) of net profits as allocated for bond extinction.

3. Profits accruing from the investment of *muqaradah* bonds related to this issuance shall not be subject to income tax.

4. Formation of allocation for the extinction of the bonds shall start from the end of the financial year to the beginning of the realization of profits.

5. The period between the date of issuance of bonds and the start of profit distribution shall be considered a grace period necessary for project implementation.

6. Profits scheduled for the bond owners shall be paid upon presentation of the bond at the office of the Paying Agent and the Trustee according to the issuance to that effect.

7. The nominal value shall be paid to the bond owner at the time of its extinction upon its presentation at the office of the paying agent and the trustee.

8. Commitment to pay the nominal value of the bond and the profits accruing from it shall become null and void following a lapse of fifteen years from the fixed extinction time.

9. The payment of the nominal value of these bonds shall not be subject to any discount or deduction or any kind of taxes or customs duties.

10. The Ministry of *Awqaf* may purchase the bonds of this issuance in the Amman Stock Exchange without any restriction or conditions.

11. If the time announced for payment of profits or bond extinction happens to fall on an official holiday in the Kingdom, the payment of the profits and the nominal value of the bonds shall be due on the first working day following that date.

12. A natural person or legal entity shall be allowed to subscribe to these bonds and own them by transferring abroad the accrued profits and the nominal value of the bonds in foreign currency in accordance with the provisions of the law.

13. The *muqaradah* bonds related to this issue shall be offered in the Amman Stock Exchange with the provisions of the law governing the exchange and its rules and regulations.

14. The new ownership of the bond when it is transferred from one owner to another shall be recorded on the reverse side of the bond itself and in the Bonds Register in each of the Ministry of *Awqaf* and the Office of the Trustee.

15. If the bond happens to be tampered with in any way it should be substituted by another bond in the office of the trustee against surrender of the original bond and payment of the expenses resulting from such substitution.

16. If the bond happens to be lost, destroyed, stolen or burnt, it shall be substituted by another bond equal to it in value and it should be distinguished by the word "Substitute for lost Original". The bond owner shall have to provide all particulars required by the substitution procedure and he shall remain responsible for any claim resulting from the substitution.

17.The Government of the Hashemite Kingdom of Jordan shall provide all unconditional guarantee to pay the nominal value of the bond that should be extinguished at the date fixed for the maturity of the bond.

18.The execution of the guarantee of the Government of the Hashemite Kingdom of Jordan shall become binding if the Ministry of *Awqaf* fails to pay the nominal value at the appointed time and is not able to effect payment within 30 days of a notification addressed to it by the Trustee.

19.The Trustee shall assume all the powers and responsibilities stipulated by all the laws, rules and regulations issued to that effect.

20.As to what is not stipulated in this publication, *muqaradah* bonds related to this issuance shall be subject to the provisions of *muqaradah* bonds Act No.10 for the year 1981 and other relevant Jordanian laws. The terms and conditions referred to therein shall be interpreted according to the provisions of these laws and to regulations issued accordingly.

21.Subscription to bonds of this issuance and payments of their value shall be considered as a declaration by the subscriber that he has taken note of this publication and accepted all the rules and conditions in it.

Use of Proceeds of the Issuance of *Muqaradah* Bonds

1.The proceeds of this issuance of *muqaradah* bonds shall be used to finance project -
________________________________ in ________________________________ in accordance with the technical drawings and explanatory as well as economic feasibility studies prepared. Such documents shall be considered part of the publication related to this issuance.

2.If the cost of the project exceeds the actual value of the bonds issued, the Ministry of *Awqaf* shall bear this increase and such amounts shall be dealt with as bonds owned by the Ministry for realizing profits.

3.If for any ordinary or emergency reason work in the project is not completed, the Government of the Hashemite Kingdom of Jordan shall guarantee bond owners to repay the nominal value of their bonds related to this issuance at the time fixed for the maturity of the bonds.

General Subscription

1.General subscription to these bonds shall start as of ____________________ corresponding to ____. Closing time for subscription is the end of official working hours on _____________ corresponding to _____________________________.

2.Applications for subscription shall be made on the prescribed form laid at the disposal of selling agents from licensed banks and financial companies. Subscription forms shall be filled in duplicate.

3.The value of the bonds subscribed shall be paid in full upon subscription.

4.Jordanian natural person and legal entities shall be allowed to subscribe to these bonds.

5.Non-resident natural persons and legal entities including Islamic, Arab and international institutions shall be allowed to subscribe to these bonds and they shall be entitled to ask for payment of the value of the bonds and profits in Jordanian dinars or in any other convertible foreign currency.

6.Selling agents shall record the value of the subscription in a special account with them opened under the name of "The Ministry of *Awqaf/Muqaradah* Bonds/Project _____.

7.Selling agents shall themselves be allowed to subscribe to these bonds for keeping them in their own portfolios. In such a case, the Selling Agent willing to make the subscription shall make his application on the prescribed form with another agent.

8.Selling agents shall send the first copy of the subscription forms they would have accumulated to ____________________ in __________________________________.

9.The Bank ____________________ shall have the right to reject any application for subscription delivered or received after ____________ corresponding to ________.

10.________________ shall allocate the bonds to the subscribers in accordance with the *Muqaradah* Bonds Act No.10 for the year 1981. After the bonds shall be delivered to their owners upon presentation of the payment receipt or the allocation letter or any other documentary evidence.

11.All details and notices to subscribers and bond owners shall be published in at least two daily newspapers.

Selling Agent

Names of selling agents shall be derived from banks and financial companies which agree to market these bonds against a commission of __________________________________.

Issuance Management

__________________________________ shall assure the management of these bonds against a fee amounting to _________________ dinars of the nominal value.

Coverage Engagement

_________________________ has undertaken to cover (%) of the value of these bonds).

Paying Agent and Trustee

____

Amman/Jordan

Project Management and Implementation Supervising Committee, by the virtue of Prime Minister's Office Resolution No. _________________ date _________________.

1.
2.
3.
4.
5.

PROJECT AUDITORS

ANNEX NO. 5

ACT OF *MUQARADAH* BONDS
ACT NISI NO. 10 FOR THE YEAR[1]

Article 1 This act is named "Act of *Muqaradah* Bonds for the year 1981" and comes into force one month after being published in the Gazette.

Article 2 (a) "*Muqaradah* Bonds"[2] mean the documents of definite value issued in the name of their owners against funds they pay to the owner of the project in question with the object of executing the project, utilizing it and making profits.

(b) Bond owners acquire a definite proportion of the project's profits, this proportion being set out in the bond issuance publication.

(c) *Muqaradah* bonds neither yield interest nor entitle owners to make claim for any interest rate.

Article 3 *Muqaradah* bonds can be issued to the following organizations:

(a) The Ministry of *Awqaf*, Islamic Affairs and Holy Places

(b) Public institutions financially independent

(c) Municipalities.

Article 4 The Project the *muqaradah* bonds are issued for financing should be :

(a) Economically feasible.

(b) Thoroughly independent from other projects belonging to the issuing authority.

(c) Administered financially as an independent unit so as to be manifest, by the end of the fiscal year, the profits meant to extinguish bonds and to distribute dividends according to the rate defined in the issuance publication.

Article 5 The Issuing body may hold agreements with the bank operating on the basis of Islamic *shari'ah* (law) and the specialized financial institutions to administer the issuance

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[1]. The Arabic version, rather than this English translation, is the official one.

[2]. A sort of non-interest bonds.

of *muqaradah* bonds, their coverage, and marketing in return for defined charges paid from the issuance proceeds.

Article 6A publication is arranged for each issuance including, inter alia, these points:

(a)Nominal value of issuance

(b)Description of the project the issuance proceeds would be used to finance.

(c)Project feasibility study.

(d)Defining the grace period required for the project execution.

(e)The rate of annual profits distribution between bond extinguishing and dividends due to bonds' owners.

(f)Dates of opening public subscription and its closure as well as payment of dividends and extinguishing of bonds.

(g)The nature of the bonds: whether belonging to holder, or registered in the name of their owner.

(h)Category (or categories) of bonds and their divisibility.

(i)Names of directors, coverers, and sales agents, if any.

(k)The trustee and payment agent.

(l)Any other rules, the issuing committee, composed under this act, finds necessary to add by way of reassuring the investor and safeguarding his rights.

Article 7(a)In the issuance publication a normal person is to be appointed as a trustee to protect the rights of the bonds' owners and cooperate with their representatives in safeguarding these rights.

(b)A licensed bank or financial institution is to be appointed in the issuance publication as an agent of payment to assume payment affairs of nominal value of bonds and their profits in the due value and on the given dates.

(c)The trustee and the payment agent can be one legal body.

Article 8(a)The Committee issuing *muqaradah* bonds is to be composed of :

- Vice-Governor of the Central Bank of Jordan
- Undersecretary of the Ministry of Finance.
- Undersecretary of the Ministry of Industry and Commerce.

-Undersecretary of the Ministry of *Awqaf*, Islamic Affairs and Holy Places.

-Director General of Amman Stock Exchange

-Two members of the private sector to be appointed by the Cabinet for non-renewable two years.

(b)The issuing committee examines the issuance release and passes them in their final form.

(c)The final form of the issuance publication is to be put before the Cabinet for approval and endorsement.

Article 9Terms of any issue of *muqaradah* bonds are not to be changed after being endorsed and declared.

Article 10Profits realized from investment in *muqaradah* bonds are not subject to income tax, and no portion of the expenses yielding these profits should be returned to the taxable income of the taxpayer.

Article 11If the bond extinguishing allocations in the determined rate of net profits distribution exceeded the nominal value of the bonds due to be extinguished, this extra amount is to be retained as a deposit for the project and turned over for the next fiscal year.

Article 12The Government guarantees the settlement of nominal value of *muqaradah* bonds due to be completely extinguished as scheduled; the sums paid for this purpose turn out to be loans to the project given at zero rate of interest and due immediately after bonds being completely extinguished.

Article 13 (a)Subscription in *muqaradah* bonds is to be carried out through private release or public subscription, or both.

(b)The period of public subscription is not to be less than twenty days or more than thirty days, commencing from the subscription announcement. This period, however, can be extended to no more than three months.

(c)Release of bonds is to be advertised in two local newspapers at least and for three months.

(d) Issuance publication is taken as the reliable source for the issuance terms and conditions. Subscription in *muqaradah* bonds means perusals of publication and acceptance of these terms and conditions.

Article 14 The ordinary or legal person of the Arab and Muslim countries is entitled to subscribe in *muqaradah* bonds. Also, profits accrued and nominal value of subscription at sale or extinction can be transferred abroad in foreign currency under law regulations.

Article 15 (A) The nominal value of the *muqaradah* bonds is to be paid in full at subscription, never by installment.

(b) If the values of subscription exceeded the nominal value of the bonds released for public subscription, the Jordan public subscription and that of the Arab and Muslim nationals should be met first, then those of financial institutions run under Islamic *shari'ah*, then comes subscriptions of licensed banks and specialized financial institutions each according to the ratio of deposit of nominal value to their subscriptions.

(c) In case subscriptions are less than the nominal value of issuance and there was a coverer, the coverer should purchase all the non-subscribed bonds according to the agreement concluded between the issuing authority and the coverer.

(d) If subscriptions exceeded two-thirds of the nominal value and there was no coverer, it is possible to go ahead with the implementation of the project, provided that the project proprietor buys the non-subscribed bonds whose value should be deposited in the project account.

(e) If the project proprietor could not buy the non-subscribed bonds and the subscription proceeds were less than two-thirds of the nominal value of the issuance, the issuing authority is supposed to reimburse the sums subscribed to their owners within a period not exceeding two-weeks after the subscription closure.

Article 16 (a) The value of the subscribed bonds is to be deposited in the name of the coverer, if any.

(b) After the closure of public subscription, the proceeds are to be deposited in the Central Bank of Jordan or any banking or financial institution as prescribed. This deposit can be drawn for the purpose of project implementation.

Article 17 (a)If *muqaradah* bonds were registered, the names of their owners are to be entered on bonds' back page.

(b)If *muqaradah* bonds were issued in several categories and different nominal values, the bonds of high nominal values should be divisible into the bonds of lower nominal value, and the latter should be indivisible.

Article 18Dealing with bonds and the transfer of bond ownership should take place in Amman Stock Market under its rules and regulations.

Article 19The issuing authority is not to recognize more than one owner for one bond.

Article 20(a)The issuing authority replaces the owners of the extinguished bonds in claiming dividends due to them.

(b)The issuing authority can buy *muqaradah* bonds in Amman Stock Market unconditionally.

Article 21 (a)The Cabinet appoints, at the recommendation of the issuing authority, an independent committee for not more than five years.