

## 10. SALE

Sales (Bai) are commonly defined in the Shariah as “the exchange of a thing of value by another thing of value with mutual consent.” More specifically it means “the sale of a commodity in exchange of cash.”

### 1. Valid Sale (Bai Sahih):

A sale becomes valid if the following elements are present as well as the conditions in the attached chart (see next page) are complied with:

- Contract (Aqd)
- Subject Matter (Mabe'e)
- Price (Thaman)
- Possession or delivery (Qabza)

### 2. Void/Non Existing Sale (Bai Baatil):

Sales will be void if any one of the conditions of offer and acceptance (1.1), conditions of buyer and seller (1.2) and sold goods conditions (2.1 – 2.5) are not complied with. In a void sale, the buyer does not have title to the subject matter and the seller does not have title to the price. Both subject matter and price cannot be used lawfully. The produce of both shall be unlawful.

### 3. Existing Sale but Void due to Defect (Bai Fasid)

Sales will exist but will be void due to defect if the conditions of contract (1.3), sold goods conditions (2.6 and 2.7) and conditions of price (3.1 and 3.2) are not complied with. However, if the defect is rectified the sale becomes valid. In a fasid sale, the buyer should not possess the subject matter. If possessed with the consent of the seller, title or ownership will pass to the buyer but usage of the subject matter will be impermissible. He must return it to the seller.

### 4. Valid but Disliked Sale (Bai Makrooh):

A sale will be Makrooh when the transaction is complete and one gets possession of the goods but the sale is disliked (e.g. sale after Friday call to prayer), such as a sale after hoarding or where a third party intervenes to buy something which was under negotiation of sale between other parties.

### Types of Sales

Following are the common types of sales:

1. Bai Musawamah: Refers to a normal sale in which the cost price is not known.
2. Bai Murabaha: Refers to a sale in which the cost and sale price are known to the buyer.

3. Bai Muqayada: Refers to a barter sale excluding currency sale.
4. Bai Surf: Refers to the sale of gold, silver and currency.
5. Bai Salam: Refers to a sale in which payment is on spot while the delivery of the good is deferred.
6. Bai Istisna: Refers to a sale in which the commodity is transacted before it comes into existence. It is basically an order to manufacture.
7. Bai Muajjal: Refers to a sale in which delivery is at spot while payment is deferred but the cost is not known.

