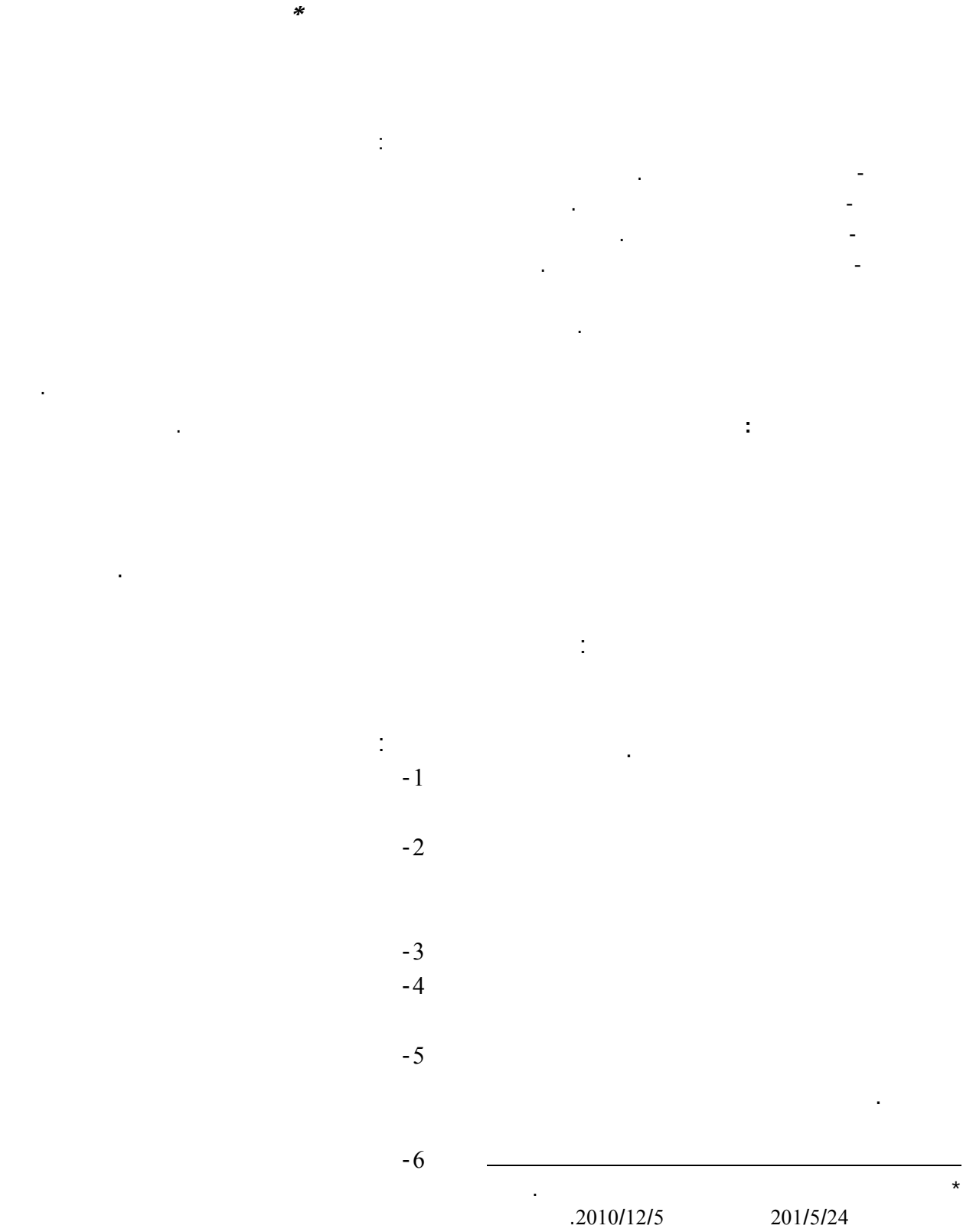




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Stipulation of Guarantee on *al-Mudarib* in Islamic Jurisprudence and Jordanian Civil Law

*Mohammad Al-Sukar and Qathaafi Al-Ghananeem**

ABSTRACT

This paper tackles the subject matter of stipulation of guaranteeing the worker the capital of *al-Mudarabah*, which stands for that company contract which combines between capital and labour. The scope of this study is within the following cases.

- Having a loss in the capital.
- The capital is damaged without a negligence or trespass from the worker.
- The capital is damaged due to his negligence or trespass from this party.
- Breaching the permission of capital owner concerning performance.

The researcher selects that the condition is invalid, but the contract is valid in the first and second cases. This is for the reason that; the former is against the legal requirements of contract. Hence, it is necessary to relinquish it, and consider the contract as valid. However, both of the condition and contract are valid in the third and forth cases. Consequently, it is a must to fulfil the terms and conditions of the contract. Otherwise, the labourer is liable. This is because he becomes responsible by trespassing and not volunteer. Thus by working against the will of the owner, he trespasses, which makes him liable.

Keywords: Islamic Commercial Law, Financial Transaction, Contracts, Companies, Al-Mudarabah, Litigations.

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