

Heter Iska-Bris Pinchas

All my financial agreements, whether private or commercial, are bound by the terms of the heter iska contract, as follows:

We, the undersigned, [1st party]:_____ and [2nd party]_____, each and every one involved. agree and declare the following:

1. All financial and business matters in which I will be involved, or in which an agent will be involved on my behalf, either as a private individual or on behalf of a business, store, non-profit organization or company, in all of its branches in this country and across the world, in all my dealings with private individuals, businesses, or public offices and/or their agents, regarding anything that I give them and they obligate themselves to me in return, or anything that they may give me and I obligate myself to them in return, regarding any kind of transaction of money or other valuables, including all types of credit, loans, deposit, debts, surety, liens, mortgages, savings, dividends, bonds, and shares, including proprietorship, brokerage, trusts, commissions that I carry out, payments, taxes, fees, property tax, sales, and purchases, whether by credit, payment in advance, receipt of any type of goods or service, or any other form of payment, whether received as a loan, sale, or any other form of transaction, regarding all the above mentioned, anything that could possibly be prohibited in any way according to the Jewish laws of ribbis, even if the words "loan," "interest," "payment for," "remaining debt," or any similar terminology are written in any document, receipt, or the like, all forms of transactions specified above will be legally bound to the terms of this heter iska agreement as specified below. Any terms written in any other document has no power to nullify the conditions specified in this heter iska document which testifies that this heter iska applies to all transactions.
2. All of the above agreements will be restructured by the terms of this heter iska, such that any money, merchandise or other valuables received by the recipient (whether ostensibly referred to as a loan or by any other name) will be held as an "iska" (business venture), under the terms of the heter iska as instituted according to Jewish law. The iska shall be owned jointly by the giver (hereafter "the investor") and recipient. Regarding profits realized, the recipient and the investor will each receive 50% of net profits. Regarding losses resulting from business, the recipient will be obligated to repay the investor for 45% of the loss, and the investor will suffer the loss for the other 55%. However, the recipient is fully responsible for losses due to theft or negligence as a hired guard (shomer sachar), as specified by Jewish law, if the funds are otherwise lost or stolen. In any case, the recipient shall receive no less than \$1 (one USD) in return for his work in handling the investment.
3. It is further agreed that if at the beginning of the iska there seems to be any doubt that the above conditions may be insufficient to avoid the prohibition of ribbis according to Jewish law, then such transactions will legally be considered entirely as a "pikadon" (investment) owned entirely by the investor and for which the recipient acts only as an agent, such that all loss in value will be suffered entirely by the investor, and for which the recipient takes no responsibility. However, the recipient will be responsible for physical loss or theft as dictated by Jewish law for a hired guard ("shomer sachar"). The investor will receive 75% of net profits, and the recipient will receive 25%. In any case, the recipient shall receive no less than \$1 (one USD) in return for his work in handling the investment.
4. In exchange for the investment, the investor will acquire partial ownership of all the recipient's business advantageous dealings and property holdings that are permitted by Jewish law as determined by the appraisal of experts chosen by the investor, both in real estate and in portable property, whether owned by the recipient at the time of the investment, or acquired by him afterwards. This clause applies even if it was specifically stipulated that the investment (iska) was given for a specific purpose.
5. It is furthermore agreed, that wherever the issue of ribbis is of Rabbinic origin through sales, rentals, or any other form of business transaction, the iska will be considered a payment plan for the sale, rental or business transaction.
6. It is upon the recipient to prove that he dealt with the money invested with him faithfully. Any claim regarding the total or partial loss of the principal investment will not be believed except by testimony of suitable and trustworthy witnesses in accordance with Jewish law. Any claim regarding the profits of the investment (or lack of profits) will not be believed except by (a) testimony of said witnesses OR (b) solemn oath made in accordance with Jewish law in a rabbinical court of law, which is to be agreed upon between the recipient and the investor, together with the presentation of a detailed explanation, documentation and account books. Any denial of the recipient that he owns or profits from other properties, will not be believed except by solemn oath made in accordance with Jewish law in a rabbinical court of law, which is to be agreed upon with the investor. Even official documentation will not suffice to exempt the recipient from the above mentioned oath or testimony required to support the truth of his claim. Regarding business dealings in which the recipient was

not personally involved, an oath by an employee made with the above mentioned conditions will be equally acceptable.

7. Furthermore, it is agreed that the recipient may give the investor a fixed amount, as agreed between them, as full payment of the investor's share of the profits, including linkage of the investment to inflation indexes, foreign currency exchange rates, and the like, as well as all benefits, grants, deliveries of ordered merchandise (in case of payment in advance), or payments made for merchandise (in case of sales made on credit), then - after keeping for himself the amount due to him as his wages - the recipient will be exempt from producing any proof of his business dealings, and the remainder of the profits will belong exclusively to the recipient.
8. It is agreed that all payments, gifts or benefits (whether tangible or verbal) given by the recipient to the investor will be considered part of the profits due to him from his pikadon. It is furthermore agreed that all payments, gifts or benefits that are given by the recipient to the investor before the start of this iska will be considered as payment for the future profits of the investment, and in the event it becomes evident that the recipient is not obligated in this payment according to the terms of this contract, the amount given will be deducted from the principle investment.
9. It is further agreed upon that if the payment is withheld beyond the time agreed upon by both parties, then the heter iska will be extended according to the terms agreed upon above until full payment is received.
10. If a third party guarantees or cosigns any part of the business dealings in a way that violates the prohibitions of ribbis according to Jewish law, he too will be bound by the terms of agreement written within this heter iska contract.
11. In any situation where it is stipulated that payments are to be made periodically, then the iska is terminated at the end of each payment period. If the recipient remains in possession of the money, then a new iska agreement will commence in accordance with the conditions of this document. In the event that this clause creates complications of ribbis according to Jewish law, then this clause is null and void.
12. All masculine terms used in this document are understood to apply equally to men and women. All singular terms are understood to apply equally to the plural, such that if there are multiple recipients or investors, all of their interactions with one another, individually or collectively, are bound by the terms of this heter iska agreement in a manner that is binding by Jewish monetary law.
13. All the terms of agreement stated above are final and obligate myself and any businesses that I own. It is explicitly agreed that if for whatever reason those whom I do business with (either as recipients or investors) are unaware of this heter iska contract, or unfamiliar with the concept of heter iska, my dealings with them will still be in accordance with this this heter iska contract, and all the obligations and benefits which apply to the investor of an iska or to the recipient of an iska apply to them, as specified in this contract since, according to this contract, I and any company that I own will not deal in any financial matters which could possibly violate the prohibition of ribbis according to Jewish law. Therefore, whoever does business with me, or with any of the companies that I own, acts in accordance with the Bris Pinchas heter iska contract, in its most recent format.
14. It is furthermore agreed that if any part of this contract is deemed invalid, the rest of the contract will remain valid. In cases where the terms of the contract fall under debate among Jewish legalists regarding the laws of ribbis, the terms of contract will be binding on both sides, in reliance on the lenient rabbinic opinions that permit them. Any monetary commitment made by one party to the other, which remains forbidden according to Jewish law even after the terms of this heter iska agreement are applied will be deemed mistaken, void and not binding in any way.

This Bris Pinchas heter iska agreement is an inseparable part of all contractual agreements that obligate companies and businesses under my ownership and their customers and clients, and is legally binding in civil courts.

In order to give legal authority to the terms stated above, we hereby set them forth in written record, and openly publicize these terms of agreement. All the above has been made with a complete affirmation, from this time, in the presence of a prominent Jewish court of law, with a legal acquisition binding by Jewish law, whether by "kinyan sudar", in conjunction with an acquisition of real estate, or in whatever act of legal acquisition is binding in the best possible manner according to Jewish law, as instituted by Chazal (the Sages of the Talmud), and all conditions within this document shall be firm and abiding.

To bear witness, we have signed on day _____

Signature: _____ , _____

Heter Iska-Abridged Halachos

Learn these before making a *heter iska* (joint venture)

Since prohibitions of ribbis (interest payments that are forbidden by Jewish law) are extremely common, it is appropriate for everyone to sign a heter iska contract (after one knows the halachos, which are explained below). Also, in every contract or agreement, one should write that the agreement is bound by the terms of the Bris Pinchas heter iska contract. In this way, each contract will be considered as a separate heter iska agreement, which is valid according to all opinions.

I. The wording of the heter iska contract

1. The wording of this Bris Pinchas heter iska contract resolves all problems for any form of prohibited ribbis that may occur for men and women in everyday life. This includes interest or service charges on loans, buying merchandise and paying a lower price up-front, or paying a higher price in installments, buying and selling real estate, paying salaries and wages, cashing a check for profit, lending out foreign currency and collecting payment at a higher exchange rate, and many other possibilities.

II. Understanding the heter iska

1. If one person owes another person money or merchandise, whether through a loan or any form of business transaction, and repays more than the amount received—whether in the form of money, merchandise, or services, and whether before, during, or after the time of repayment—he is likely to transgress the serious prohibition of ribbis. However, if a person receives a deposit from another person (which means the investor remains responsible for the deposit), then it is permitted to return more than the amount received. The heter iska, in essence, changes the transaction between two parties from a loan to a deposit.

2. The heter iska sets up an agreement between two parties as follows: Part of the money is not given as a loan, but rather as an investment with which the recipient acts only as an agent. Therefore, any profits from this part of the money rightfully belong to the investor. Also, if this money is lost, the investor loses his investment. Also, if there are no profits, the investor has no claim against the recipient.

3. To secure the investment—the principal and the profits—the parties involved agree that the recipient of the money will not be believed if he claims the money was lost, unless he proves so by suitable and trustworthy witnesses. Also, the recipient will not be believed if he claims there were no profits unless he attests to this fact by solemn oath. The parties involved also agree that if the recipient pays a certain agreed amount to the investor, he will be exempt from making an oath and from proving that there were no other profits. Furthermore, any profits in excess of this amount will belong to the recipient.

4. To summarize: The investor (lender) receives no profits whatsoever on the portion of the money that is considered a loan; he receives profits only from the portion of the money which is considered as his own investment and therefore remains rightfully his. As long as the recipient (borrower) refuses to make an oath that there were no profits, the investor will receive profits—even if there were none. As long as the recipient fails to bring witnesses that the principal investment was lost, he will repay the amount in full—even if it truly was lost.

5. It is imperative that the investor (lender) and recipient (borrower or business partner) thoroughly understand the principles mentioned above.

III. Instructions for using the attached heter iska contract

1. Print your name (and, if applicable, the name of your business) at the top of the document. At the bottom, write your signature and the date of signature. Witnesses are not necessary. It is advisable to hang this document on the wall of your home, office, or store in a place where everyone can easily see it.

2. It is advisable for one's wife to sign the heter iska contract. Regarding a business, it is advisable that all business partners should sign.

3. In addition, regarding every transaction a person makes (whether a loan, sale, purchase, rental, sales agency, wages, salaries, or any other debts or fees between oneself and anyone else) one should write on the contract (or receipt, bill of sale, etc.), "Bound by the terms of the Bris Pinchas heter iska."

4. Regarding an oral business agreement, it is sufficient to say, "This transaction is bound by the terms of the Bris Pinchas heter iska."

5. One may also include the entire wording of the Bris Pinchas heter iska document as part of any other contract, and both parties can sign upon it.

IV. If the recipient does not use the money for business purposes

1. The investor is permitted to receive profits because he invests his money, as a deposit, with the recipient. Therefore, the recipient

must have some slight business involvement that could generate profits. However, if the recipient does not use the actual deposit money for business, but instead uses it for his own needs (or to pay his debts), the investor may still receive profits. This is permitted because, in such a case, the heter iska stipulates that the recipient gives a share of his other property to the investor. Then, the investor receives profits from this other property.

2. In such a case when the recipient uses the money for his own needs, the recipient must own some property that could possibly generate profits. For example, real estate such as land or a home (which, at least part, is not mortgaged), investments in stocks, a savings account, or movables such as jewelry which could be sold, or a car which could be rented out.
3. Two points must be verified: (1) This property owned by the recipient is equal in value to the entire amount received from the investor. (2) It is reasonable to expect that profits generated by this property—either from renting it out, using it, or from an increase in its value—could amount to the profits which the recipient must pay to the investor.
4. If the recipient does not intend to use the money for business purposes, and if he also does not own property that fulfills the conditions mentioned above regarding its value or its likelihood to generate profits (or the property is fully mortgaged), one should be stringent and not rely on the heter iska.
5. Regarding public institutions that rely on the heter iska to take loans for the sake of the institution. The managers of such institutions must verify that the institution owns property that fulfills the conditions mentioned above.

V. Various details regarding how to make a heter iska

1. If someone already received ribbis payments, a heter iska cannot take effect retroactively. Under most circumstances, the lender must return all the money which was prohibited for him to receive. However, the borrower may agree to say, "I consider it as if you returned the money to me," and then the lender may keep it. (However, it is forbidden at the outset to rely on this declaration because of the serious prohibitions involved, and sometimes there is a Torah prohibition involved for which this declaration does not help.)
2. Money that was already given as a loan may be transformed into an iska, provided that

the borrower owns property which fulfills the conditions mentioned above. This can be accomplished through a kinyan suder (i.e., the borrower lifts up a handkerchief or any other item belonging to the lender or his representative and, through this, the lender acquires a share in the borrower's property).

3. A kinyan suder also helps for an agreement that was already made and did not involve an exchange of money (or item of monetary value). For example: You agreed to build a small succah for your friend on condition that, afterwards, he will build a large succah for you. If you now want to use the heter iska to avoid any possibility of ribbis, then your friend must transfer ownership of some of his property to you through a kinyan suder.
4. Regarding a company or an organization, the official company charter should state that all transactions are bound by the heter iska contract (attached).
5. One should be careful not to make other agreements that undermine the heter iska.

VI. With whom one should not make a heter iska

1. One should be careful not to make a heter iska with someone whose entire business is forbidden by the Torah, such as lending money on interest without a heter iska, or running a business on Shabbos, etc. Since part of the money is not a loan but rather a deposit, the investor is a full partner in whatever the recipient does with that money.
2. The details for making a heter iska with a minor, or with an adult who is financially dependent on his father, are complicated. Therefore, in such a case, one should consult a local Orthodox Rabbi.

VII. The mitzvah to lend money

1. The Torah commands us to lend money, free of interest and any other fees, to whoever needs. Therefore, even though it is perfectly acceptable to use the heter iska, and even if one does so to help a friend start a business (which is a greater mitzvah than giving charity or loans), one has not yet fulfilled the mitzvah of lending money; one is still obligated to lend money, free of charge, to whoever needs. Furthermore, if a person only lends money through the heter iska, if he never gives a loan free of charge, then he neglects to fulfill a positive mitzvah and also transgresses a negative mitzvah.

(This heter iska contract, and summary of halachos, are taken from the sefer "Ribbis, Halacha L'maisah, Bris Pinchas)