

ISLAMIC BANKING & FINANCE

PRINCIPLES, INSTRUMENTS & OPERATIONS

*Adnan Trakic &
Hanifah Haydar Ali Tajuddin*



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25.1 Introduction

This chapter analyses the Islamic banking product of *Bay' Bithaman Ajil (BBA)* provided by banks in Malaysia, and whether it truly is consistent with the *Shari'ah*. *BBA* being a sale, it must, therefore, comply with the conditions of a sale, and the rights and obligations attached to the sale as far as the law of contract is concerned. In other words, there must be rights and obligations, the need to fulfill one's obligation and to pay damages to the aggrieved party for default. It is also trite that in any contract entered into by parties, the law must permit it, the object has to be lawful, and the capacity of the parties too is relevant. It will also require that the rights and obligations between parties are clearly laid out. The sale and purchase agreement entered into between vendor and purchaser (for residential houses under Schs. G, H, I and J of the Housing Development (Control and Licensing) Regulations 1989 under the Housing Development (Control and Licensing) Act 1966 (Act 118), the property purchase agreement between the bank and the customer (where the bank purchases the property from the customer) and the property sale agreement where the bank sells back to the customer at cost plus mark up profit are

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