

A modern building with a prominent arched window featuring intricate Islamic geometric patterns. The building has a dark facade with large glass windows and a stone-clad entrance. The sky is a deep purple, suggesting dusk or dawn. The foreground shows a paved walkway and some landscaping.

# Product Disclosure Statement

Issued by Baytulmaal Finances Limited (ABN 16 122 787 311; AFSL 355094)  
as Responsible Entity for the Baytulmaal Property Trust (ARSN 674 597 445) (Fund)  
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Date of PDS: 8th July 2025





**Invest in  
your home.**





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**New generation -  
Shariah compliant  
investment and house  
acquisition.**

*Finally!*

# 1. Why the Baytulmaal Property Trust?

- 1** Dual compliant – This investment seeks to meet both Shariah principles and the Corporations Act.
  - a. Investor monies invested in financing the buying and selling of houses in Shariah compliant manner.
  - b. The financing arrangements do not apply interest, or late payment/default fees and no banks are involved in the transactions.
  - c. No loan variations due to movement in interest rates – loan arrangement fixed as per Shariah.
  - d. Transparency in investment and purchasing transactions and money movement as the financing arrangements are not subject to change.
  - e. Investor monies are secured through the application of mortgages and guarantees while loan instalments remain outstanding.
  - f. Property purchase priority is given to investors when selling homes to clients.
- 2** Baytulmaal holds an Australian Financial Services Licence to operate this investment.
- 3** Dedicated for Muslim investors and those seeking an ethical investment.
- 4** Australian Muslim owned and operated, well respected in the Adelaide Muslim community.
- 5** Extensive Shariah knowledge within Baytulmaal management and directors.
- 6** Respected Shariah Advisors confirming compliance of investment with Shariah Principles.
- 7** Return on investment varies according to the Fund's profit and loss during the financial year (not fixed, which defines Halal investment), but is targeted to be competitive with the Reserve Bank of Australia cash rate.
- 8** Offering cost effective housing acquisition solution in Shariah compliant manner.
- 9** New Generation – Shariah Compliant – Effective – Professional Management.

# How our investment differs from other Shariah investments being offered?

- 1** Sale not finance arrangement – Shariah compliant in totality not parts.
- 2** One sale contract – actual sale not 'spiritual' or other non-compliant Shariah arrangements.
- 3** Sale/purchase contract entered into by fund with client – Typically 10% to 20% down payment and balance paid with fixed instalments over 5-25 years.
- 4** Loans are funded by investors in the fund not conventional banks or finance companies.
- 5** Fixed not variable payment arrangements – Shariah compliant.
- 6** Competitive cost of finance compared to conventional banks/finance houses.
- 7** Uses Bai' Mu'ajjal (deferred sale) and Istisna (construction with instalment payments) as its real property sale method.
- 8** Muslim owned and investor funds in Shariah compliant real property sale arrangement.

# Who can invest?

- 1** Individuals (single or joint investors)
- 2** Companies
- 3** Self managed superannuation funds.
- 4** Family trusts
- 5** Overseas investors and expatriates
- 6** All other investors seeking a Shariah-compliant investment and ethical investment



## 2. Shariah Advisors' Fatwa

This Fatwa is made by the undersigned Shariah Advisors who are experienced and qualified in Islamic finance and investment to make this Fatwa.

We, the Shariah Advisors to the Baytulmaal Property Trust ARSN 674 597 445 (the Fund) in the name of Allah the most merciful confirm that we have reviewed the documentation pertaining to the Fund and confirm that the Fund meets the principles of Islamic finance and investment. We consent to this Fatwa to be included in the Product Disclosure Statement for the Fund dated on 8th July 2025.

Signed by:



**Dr Radwan Elatrash**  
Professor / International Islamic  
University Malaysia  
PhD in Shariah / International  
Islamic University Malaysia  
Shariah Advisor



**Dr Yasin Abdelrahman Abboud**  
PhD in Shariah/Islamic finance/  
University of Jordan  
Shariah Advisor

## 3. Important Information

This Product Disclosure Statement (PDS) is dated 8th July 2025 and relates to the offer of units (Units) in the Baytulmaal Property Trust ARSN 674 597 445 (Fund).

This PDS details the features, benefits, risks and general information about the Fund. The Fund operates as a pooled managed investment scheme. The responsible entity for the Fund and issuer of this PDS is Baytulmaal Finances Limited ABN 16 122 787 311 AFSL 355094 (Responsible Entity). The Responsible Entity has appointed Perpetual Corporate Trust Limited ABN 99 000 341 533 AFSL 392673 (Perpetual Corporate Trust or Custodian) as the Fund's custodian and BKM Audit Services Pty Ltd ABN 77 116 958 948 as the Fund's auditor.

By investing under this PDS, the recipient agrees to be bound by the terms and conditions set out in this PDS.

### Fund operates as a pooled investment fund

The Fund operates on the basis of pooling. This means that investors invest their monies into the investment pool within the Fund. The investment pool will largely consist of two types of Shariah compliant investments. These Shariah compliant investments comprise Bai' Mu'ajjal (deferred instalments payments) and Istisna (construction with deferred instalment payments) styled contracts as assets of the Fund. The Fund will typically operate on the basis of one class of Units despite having more than one type of Shariah compliant asset within the Fund investment pool. However, the Responsible Entity will be able to issue other classes of Units with different rights and privileges as allowed under the Constitution. The issue of different classes of Units within the Fund will only be considered if the issue of any class of Units does not adversely affect other investors in the Fund.

## **Glossary of terms used in this PDS**

Certain capitalised words and expressions used in this PDS are defined in the “Glossary of Terms” in Section 13.

### **Fees**

All fees set out in this PDS are inclusive of GST less any input tax credits and all references to dollar amounts in this PDS are to Australian dollars (AUD), unless otherwise stated.

### **Images**

Any images in this PDS do not depict assets of the Fund unless otherwise indicated.

### **Updated information**

Information in this PDS may change. Updated information that is not considered materially adverse to Investors is subject to change from time to time and will be made available on the Responsible Entity's website at [www.baytulmaal.com.au](http://www.baytulmaal.com.au). The Responsible Entity will provide at no charge a paper or electronic copy of the updated information on request. If there is a change that is materially adverse, the Responsible Entity will replace this PDS or issue a supplementary PDS. You should read any replacement or supplementary disclosures made in conjunction with this PDS prior to making any investment decision.

### **ASIC**

ASIC takes no responsibility for the contents of this PDS.

## **Restrictions on distribution**

The Offer is only available to persons receiving this PDS within Australia and does not constitute an offer of interests in any jurisdiction where, or to any persons to whom, it would be unlawful to make the Offer.

It is the responsibility of any overseas Applicant to ensure compliance with all laws of any country relevant to the Offer. The return of a duly completed Application Form will be taken to constitute a representation and warranty that there has been no breach of such laws and that all approvals and consents have been obtained.

### **Not regulated by APRA**

The Responsible Entity is not authorised under the Banking Act and is not supervised by the Australian Prudential Regulation Authority (APRA), and investments in the Fund are not covered by the deposit or protection provisions available to depositors that make a deposit with an Australian Authorised Deposit-taking Institution (ADI).

### **Investor to undertake own due diligence**

Information contained in this PDS has been provided to prospective investors to assist them to make an assessment of whether or not to invest in the Fund. Prospective investors should read this PDS in its entirety and seek independent professional advice as to the financial, taxation and other implications of investing in the Fund and the information contained in this PDS before making a decision to invest.

# Important Warning Statements

## No performance guarantees

None of the Responsible Entity, Custodian, nor their associates or directors or any other person guarantees the performance or success of the Fund or a different class of Units where issued, the instalment of capital invested in the Fund or a class or any particular rate of return on investments in the Fund or a class.

There can be no assurance that the Fund or a class will achieve results that are comparable to the track record of the Responsible Entity or its advisors or that the Fund or a class investment objectives will be achieved.

An investment in the Fund or a class does not represent a deposit with, or a liability of the Responsible Entity, the Custodian, or any of their associates.

An investment in the Fund or a class is subject to investment risks which are described in Section 9 of the PDS including possible delays in instalment and loss of some or all of your income or capital invested. The risks associated with an investment in the Fund or a class are different to a cash deposit or investment in an ADI.

Prospective Investors should read the whole of this PDS before making a decision about whether to invest in the Fund or a class. The information contained in this PDS is general information only and not personal financial product advice and therefore does not take into account the individual objectives, financial situation, needs or circumstances of Investors.

Past performance should not be perceived as an indication of future performance as returns are variable and may be lower than expected. Prospective Investors should not construe the contents of this PDS as tax or investment advice. Given the nature of the investments held in the Fund or a class, an investment in the Fund or a class should be considered an illiquid investment.

## No representation other than this PDS

Except where expressly disclosed, the information contained in the PDS has not been independently verified or audited.

No person is authorised to give any information or to make any representation in connection with the Offer described in this PDS, which is not in this PDS. This PDS supersedes any prior PDS or marketing materials given prior to the issue of the PDS to the extent of

any inconsistency. Any information or representation in relation to the Offer not described in this PDS may not be relied upon as having been authorised by the Responsible Entity or its advisors.

## Responsible Entity limitation of liability

Except in certain circumstances (including fraud, negligence or willful default by the Responsible Entity), the Responsible Entity enters into transactions for the Fund in its capacity as responsible entity of the Fund only, not in its own capacity, and its liability in relation to those transactions is limited to the assets of the Fund.

## Forward looking statements

Certain information contained in this PDS constitutes "forward-looking statements" that can be identified by the use of forward-looking terminology such as "may," "will," "should," "expect," "anticipate," "estimate," "target", "intend," "continue," or "believe" or the negatives thereof or other variations thereon or comparable terminology.

## Use of the terms 'Islamic' or 'Islamic compliant' or 'Shariah' or 'Shariah compliant'

For purposes of this PDS, the terms "Islamic" or "Islamic compliant" or "Shariah" or "Shariah compliant" are used interchangeably and these terms when used in this PDS refer to compliance with the investment and/or finance principles established within the religion of Islam.

## Australian Credit Licence

Baytulmaal Finances Limited has an Australian Credit Licence No. 355094. The Credit Licence allows the Responsible Entity to offer financial accommodation covered by the National Credit Code. The Fund's acquisition of housing assets is required to meet the requirements of the National Consumer Credit Protection Act 2009 (NCCP). Any acquisition of housing, dealing with third party clients and otherwise the underlying contract to sell the homes must meet the NCCP in addition to any other relevant Australian law.



**Payments that  
never rise.**



**Ever.**

# Dear Investors,

On behalf of the Directors of Baytulmaal Finances Limited (Baytulmaal), I am pleased to offer an investment in the Baytulmaal Property Trust ARSN 674 597 445 (Fund). The Fund is registered as a managed investment scheme with the Australian Securities & Investments Commission (ASIC). ASIC has not issued the investment and is not responsible for the operation of the Fund. The Fund is issued by Baytulmaal Finances Limited as Responsible Entity of the Fund. The Fund is designed to meet the requirements of Australian law in addition to meeting the requirements of Islamic finance and investment principles. The Fund invests in residential and commercial real estate assets located in the major Australian capital cities.

The Fund operates as a pooled property unit trust where investors pool their investment monies in the Fund to earn Shariah compliant returns being returns that are structured and governed in accordance with Shariah principles from their investment in Australian real estate assets. Apart from individual investors, the Fund is a suitable investment for self-managed superannuation funds, companies, partnerships and trusts. While the Fund is directed to Australian Muslims, the Fund is also suitable to those other investors seeking an ethical investment. The Fund will not invest for purposes prohibited in Islam such as direct real property established for the selling of alcohol, pork products or gambling operations and will not involve in interest, conventional banking products or any Islamically prohibited transactions.

## Why did Baytulmaal issue this investment?

The driver of the Fund was to meet a need in the Australian Muslim community for a compliant Islamic investment fund which is structured and governed in accordance with Shariah principles that can provide sources of finance for acquisition of residential and commercial properties. While 'Shariah investment funds' have been offered in various forms over the last decade in the Australian marketplace, the reality is that these funds and associated finance products do not meet the principles of Islamic finance or investment. There are four major contraventions with current Shariah investment and finance offerings:

- 1) The first major contravention of Islamic finance principles is that the source of funding is from conventional banks and finance companies that charge an interest rate on loans. Regardless of the assertions that their funding product is 'Shariah compliant', this is not aligned with the basic principle of Islamic finance and investment that the source of monies used for finance and/or investment is free from interest or other non-permissible sources of finance.
- 2) The second major contravention is that the use of certain arrangements such as 'spiritual contracts' where the ownership of the asset being sold or financed is not owned legally before the finance transaction takes place.
- 3) The third major contravention is that many of the finance arrangements are varied in line with movements in interest rates or otherwise structured along the lines of conventional bank products. This does not meet the principles of Islamic finance and investment.
- 4) Lastly, most of these finance products follow the Islamic Ijarah principal (hire to purchase) but do not comply with the Islamic requirements of Ijarah such as the ownership should be transferred at the end of the payment, the maintenance of the property is the responsibility of the owner, and the instalments increase based on the interest rate in the country. These are all contrary to Islamic finance and investment principles.

With these limitations of current self-styled 'Islamic funds' in mind, Baytulmaal issued the Fund to offer a compliant Islamic finance and investment product.



## How does the Fund achieve compliance with Islamic finance and investment principles?

1) Firstly, the source of investment monies is from investors and not from conventional banks or other interest based financiers who charge interest.

2) Secondly, the Fund's objectives and operating procedures are consistent with the 'Bai' Mu'ajjal (deferred sale) and the 'Istisna' (for purchase and construction) approach to Islamic financing. Both Bai' Mu'ajjal and Istisna are recognised Shariah compliant forms of finance and investment.

3) Thirdly, the Fund is not financed by conventional banks but instead the investment funds are sourced predominantly from the Australian Muslim community. Allowing for any requirements of Australian law, contracts entered into by the Fund for both Bai' Mu'ajjal and Istisna forms of home finance follow strictly Islamic finance investment principles. The Fund seeks to meet the requirements of Australian law. Accordingly, Baytulmaal has an Australian Credit license which allows it to make finance arrangements to third-party clients seeking to acquire a home or other compliant property type.

The Fund aims to satisfy the requirements of Islamic finance and investment principles and Australian law. It is therefore operating as 'dual compliant'.

The Fund's Shariah advisors have issued a Fatwa in support for the Fund. This Fatwa is included in this PDS.

As with any investment product, there are investment risks with the Fund. This PDS details some of the investment risks for the Fund and how Baytulmaal will address the mitigation of these risks. Investors should obtain their own personal financial and taxation advice in respect to the Fund and whether the Fund meets their personal financial and investment objectives. In addition to this PDS, you will be given a copy of the Financial Services Guide (FSG) and the Target Market Determination (TMD) for the Fund. All of these documents can be accessed via our website [www.baytulmaal.com.au](http://www.baytulmaal.com.au) or emailed directly to you if requested at the time of your inquiry.

We believe that the Fund presents something new and significant in the promotion of Islamic finance and investment in Australia. We are pleased to welcome you as an investor in the Fund.

Yours sincerely,



Dr. Hani Abul Khair  
Executive Director and Chairman

## 5. Investment Overview

Item	Description	In this PDS
Name of Fund	Baytulmaal Property Trust ARSN 674 597 445	Sections 3 & 8
Responsible Entity	Baytulmaal Finances Limited ABN 16 122 787 311	Sections 3, 6 & 8
Custodian	Perpetual Corporate Trust Limited ABN 99 000 341 533	Sections 3, 6 & 8
Fund Auditor	BKM Audit Services Pty Ltd ABN 77 116 958 948	Sections 3, 6 & 8
Type of Investment	Pooled property fund - registered with ASIC	Section 6
Fund Structure	Unitised pooled investment trust	Section 6
Purpose of Fund	To derive ongoing income from a Shariah Compliant pooled property Investment fund	Section 6
Dual Compliance	Fund aims to meet the requirements of the Corporations Act and Islamic finance and investment principles or also described as being 'Shariah compliant'	Section 6
Target Investor	Individuals, self managed superannuation funds, companies, trusts seeking income distributions from a Shariah compliant investment product - also refer to the TMD	Section 6
Islamic Finance Type	Bai' Mu'ajjal (deferred payment sale contract) (cost plus margin) financing and investment and Istisna (construction sale with deferred instalments)	Section 6
Distributions	Profit net of costs earned from the Fund - quarterly distribution to investors subject to earnings of the Fund	Sections 6 & 7
Withdrawals	Subject to liquidity of Fund but investors expected to Invest a minimum of 6 months from date of any investment	Sections 6 & 7
Cooling Off Right	There is no cooling off right once monies are invested	Section 12
Investor Fees	Entry and Exit Fees - Nil	Section 11
Responsible Entity Fees	Management Fees: Nil Application Fees: Nil Upfront Fees: Nil Responsible Entity Fee: Share of instalment profits payable under the Bai' Mu'ajjal arrangement/ Istisna arrangement: 40% to the Responsible Entity and 60% to investors in the Fund	Section 11
Responsible Entity Fees paid by Client	Due Diligence Fee: Charged for the Responsible Entity's efforts in sourcing and securing investments for the Fund. It is deducted from initial client contributions or down payment and is assessed case-by-case. The fee can be up to 2.5% (incl. GST) of the property sale price (Bai' Mu'ajjal) and 2% (incl. GST) of the building contract price (Istisna).  Sinking Fund Fee: Covers potential losses from events like fire or other risks impacting mortgage recovery. It is 2.5% (incl. GST) for contracts up to \$1 million and 2% for contracts over \$1 million, ranging from \$10,000 to \$20,000 per contract. This non-refundable fee remains with the Fund and does not guarantee full loss coverage.	Section 9 Section 11
Continuous Disclosure	Disclosure not of a private or domestic nature to be on the Baytulmaal website - <a href="http://www.baytulmaal.com.au">www.baytulmaal.com.au</a>	Section 6
Report to investors	Annual investor tax statement sent directly to investors - email or post. Half-yearly RG 46 reporting - email or website General Fund reporting - email or website	Sections 6 & 7



Item	Description	In this PDS
Minimum Investment Additional investment	\$30,000 initial investment (lesser amount is subject to Responsible Entity's approval) \$10,000 any additional investment	Section 6
Target Return	Return is earned from the earnings of the investment pool . Investment pool profit rate return targeted but not guaranteed, estimated to be competitive with financial market investment returns, assuming investor monies are utilised for acquiring homes and instalments are fully met by the client. This is a guide only and not a target or projected return or guaranteed.	Section 6
Gearing	The Fund does not borrow from conventional interest based banks or financiers. All monies in the Fund are sourced from investors in the Fund	Sections 6 & 7
Benchmarks	Regulatory Guide 46 (RG 46) requires that Responsible Entities provide disclosures on 6 benchmarks and 8 disclosure principles. The Fund meets all 6 benchmarks.	Section 7

## 6. The Baytulmaal Property Trust

### 6.0. The Baytulmaal Property Trust

The Baytulmaal Property Trust (Fund) is a registered managed investment scheme. Principally, the Fund operates on a unitised trust arrangement governed by a Fund constitution. A 'unitised trust' arrangement means that investors hold as their investment units in the Fund and not ownership over any particular property asset or contract. The investment works through retail and wholesale investors pooling their monies into the Fund and these investment monies are invested in quality Australian residential and commercial real estate located in the major capital cities to generate a return. The other ancillary purpose of the Fund is to enable creditworthy third-party clients to acquire and/or develop real estate assets sold by the Fund adopting Islamic finance and investment principles.

The Fund will offer two forms of Islamic finance and investment to third-party property acquirers. These two forms of Islamic finance and investment are referred to as Bai' Mu'ajjal described in Section 6.1 and Istisna described in Section 6.2. The Islamic finance and investments' aim is to assist the Australian Muslim community obtain a home under compliant Shariah finance and investment principles. The Bai' Mu'ajjal contract will be suited to persons wishing to purchase land with an existing property ready for occupation. Istisna contracts are suitable for persons wishing to purchase land and construct a home or construct or renovate a home of an existing residential property that meets their specifications and are able to wait for delivery of their home at some specified time in the future.

While the major part of the Fund's investment focus will be for the provision of funding for the acquisition of residential homes by third-party clients seeking a Shariah compliant financing product, other property uses, or property types may be considered. Both Bai' Mu'ajjal and Istisna contract arrangements can be used by clients to acquire and/or construct/renovate as applicable commercial, community, educational, medical and other property types as long as these property types are not prohibited by the religion of Islam.

When the term "client" or "third-party client" is used in this PDS for purposes of a Bai' Mu'ajjal or an Istisna contract, a client or a third-party client is a person(s) or other party that will be the "property acquirer" under the respective contract. As the property acquirer (or existing owner in respect of parallel Istisna arrangements), the client acquires a home or other compliant property type from the Fund using a Bai' Mu'ajjal or Istisna contract arrangement.

While a client may also invest in the Fund, an investment in the Fund is a totally separate and unrelated arrangement to that of entering into a Bai' Mu'ajjal or an Istisna contract as a property acquirer/client.

### 6.1. Overview of the Baytulmaal Property Trust – "Bai' Mu'ajjal" Islamic styled financing / investment

The Fund utilises the Islamic financing principle of 'Bai' Mu'ajjal'. Bai' Mu'ajjal is a particular kind of sale allowed under Islam. In the case of the Fund, the purchase of a subject property is confirmed and arranged by the Fund and on settlement of the property a third-party client becomes the nominated purchaser of the property.

In Bai' Mu'ajjal sale transactions, the amount due under a Bai' Mu'ajjal sale contract can be structured on the basis of one or more of a 'spot payment', 'instalment payments' or a hybrid between the two. The third-party client is required to make fixed instalments for the term of the contract to the Fund. The instalments from the Bai' Mu'ajjal contracts received by the Fund are used to repay the investors' invested capital, pay profit distributions to the investors and Baytulmaal and as required meet the fees and expenses incurred by the Fund.

For the third-party client, the terms of sale are set upfront and the obligations under the Bai' Mu'ajjal contract do not change over the life of the Bai' Mu'ajjal sale contract. In keeping with Islamic finance and investment principles, the Fund can secure its rights under the Bai' Mu'ajjal contract. It does this by taking a mortgage over the property while the instalment sale contract is not fully repaid by the third-party client. The Fund may also take additional security in the form of guarantees from a third-party client and other parties as relevant. The Fund may in certain circumstances take a mortgage over another property in the event that a mortgage for various reasons cannot be taken over the subject property relevant to the Bai' Mu'ajjal instalment contract. If a substitute mortgage is taken over another property, the Fund will only do so acting prudently and the Directors of the Responsible Entity being satisfied that the substitute mortgage property is of similar commercial value and standing.

As the Fund operates under Shariah finance and investment principles, the Directors of the Responsible Entity will determine the basis of how security is taken under mortgage including the minimum market value of the subject secured property under mortgage, mortgage terms and other parameters commensurate with the operation of a Shariah finance and investment.



### **6.1.1 Islamic finance and investment principles – dealing with investors in the Fund (Musharakah)**

The Fund will apply Musharakah principles in its dealings with investors. Baytulmaal Finances Limited as Responsible Entity of the Fund will act as the Musharik in its dealings with investors. The Musharik's role is to provide expertise and management. Baytulmaal will source, assess and approve not only the homes to acquire but also source, assess and approve credit worthy clients to acquire the homes.

Baytulmaal will have a dedicated Investment and Credit Committee reporting to the Board. This committee comprises a minimum of two directors and one responsible manager.

### **6.1.2 Islamic finance and investment principles – dealing with clients acquiring houses from Fund (Bai' Mu'ajjal)**

The Fund will deal with third party clients acquiring a home from the Fund on the basis of Islamic finance and investment principles based on Bai' Mu'ajjal. The key requirements of Bai' Mu'ajjal are:

1. Bai' Mu'ajjal is a deferred payment sale contract in which the parties agree to payment of the price at a time in future. The contract must be clear and not ambiguous. Contract dates (both start and end) and contract terms must be set at the outset.
2. Price is set at the outset and can be more than the 'spot' price paid by the Fund
3. Contract deferred payment sale terms (either instalments or other payment basis) must be set at the outset. Once set, this payment arrangement and sale terms cannot be changed.
4. Price cannot be varied once the contract is entered into between the Fund and the third party client
5. There are no penalties or default payments as per a conventional interest based contract but if the client is in default with instalments then the whole outstanding contract amount can be demanded.
6. The Fund using a Bai' Mu'ajjal arrangement can secure the instalments due under the contract. The Fund will take a registered mortgage to secure instalment payments and other contractual amounts due under the contract. The Fund may take other security in the form of a guarantee from the third party client or other party as relevant. The Directors of the Responsible Entity will consider acting commercially an appropriate mortgage arrangement (terms, conditions and minimum market value criteria for the subject property(s) under mortgage) to secure the obligations of the client under a Bai' Mu'ajjal contract.

### **6.1.3 Dealing with Default of Client in Bai' Mu'ajjal deferred sale arrangements.**

In an interest-based system, a property financier would traditionally impose penalties (interest) on the buyer in case of a late payment. This is not permissible under Islam. However, it is permissible for the Fund to stipulate in the contract of deferred sale that if the buyer client does not make a payment, the total outstanding amount becomes due.

The Fund (as the provider of the purchase funds) is able to secure the payment obligations under contract for the subject property under contract or a substitute property(s) as applicable. The Directors of the Responsible Entity will consider acting commercially an appropriate mortgage arrangement (terms, conditions and minimum market value criteria for the subject property(s) under mortgage) to secure the obligations of the client under a Bai' Mu'ajjal contract.

The Fund takes a mortgage over the registered title pertaining to the property being offered as security for the Bai' Mu'ajjal contract. This provides the Fund the right to sell the subject house property to recover all amounts outstanding and unpaid under the contract of deferred sale.

Under Australian law the process of the sale and recovery of the property and the purchase funds is subject to a number of laws (usually state based) and the NCCP which is a federal law.

In summary terms, if the Fund will be a default situation:

1. Discuss with client and seek to understand the causes of default
2. Attempt to recover outstanding amounts and ensure client continues to be up to date with instalments under the contract
3. Where initial recovery efforts are unsuccessful, instruct the Fund solicitor to commence the legal recovery process if outstanding amounts are not paid
4. Serve notice of demand under contract and in accord with NCCP
5. Pursue to mortgagee sale and recovery
6. Proceed to sale and auction of property
7. Apply monies to purchase funds contract due and payable
8. Recover any remaining shortfall under the purchase funds contract from a third-party client under a guarantee or other contractual obligation to allow for recovery of investor funds.

The process above is a brief summary of the steps taken by the Fund to recover monies due under the contract. In addition to Shariah considerations, the Fund is obliged under Australian law to follow and be bound by the NCCP. This means that the client may request hardship consideration and other rights available to the client under Australian law.

## 6.2. Overview of the Baytulmaal Property Trust – “Istisna” Islamic styled financing/investment

The Istisna form of contract can be used for construction financing, where the home is proposed to be constructed or renovated on the client’s land or constructed on land Baytulmaal is providing purchase financing. It is the intention that Baytulmaal enters into a contract with a third-party builder for the purpose of constructing the home while also entering into a contract with a third-party client to procure and finance the building or renovation of the home on the client land.

### 6.2.1 How the Fund will issue Istisna contracts to third-party clients for acquiring Australian property

Types of Istisna Contracts

In Islamic finance and investment, the Istisna form of construction contract can be divided into two types being: “classical” Istisna and “parallel” Istisna.

**Classical Istisna contracts** are best suited for when the financier has land that it either owns (or controls) to allow for construction, and in this instance there are likely to be two parties in the Istisna contract being Baytulmaal as the financier and the other party being the client. There will also be a separate contract between Baytulmaal and the builder.

It is possible that Classical Istisna construction contracts may not be acceptable in some Australian states. Classical Istisna will therefore only be offered in those Australian state jurisdictions that allow for a form of construction contract based upon Istisna principles.

**Parallel Istisna contracts** are best suited where the client owns the land and wishes the financier to assist with financing the construction of a home on the client’s land. These contracts will involve a parallel set of contracts under Istisna. There will be a contract between the client and financier and a “parallel” or supporting contract between the financier and the builder of the home. This form of construction contract is more likely to be compliant within Australian state jurisdictions.

#### (a) Classical Istisna Contract – Home Acquisition

This type of Istisna typically involves two contracting parties namely the buyer of the asset (referred to as the mustasni) and the procurer of the construction/financier (referred to as the sani) and the builder. The classical Istisna contract operates in the following manner:

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1. The client (buyer) approaches the financier to finance the purchase of land and the construction of a residential property on that land as specified in the Istisna contract. The contract requires agreement on the home specification, price of the home and the date on which the residential home must be delivered to the buyer. The subject land where the construction is to take place is owned or controlled by the financier, but this ownership is passed to the person being financed before construction on the land begins.

2. The client pays the price to purchase the land and construct the home on that land instalments according to their Istisna agreement. Australian property and building/construction law have regulations in respect to the amount and timing of instalments payable under a property sale/home construction agreement.

3. After the completion of the construction process, the financier delivers the completed residential home to the client on a specified delivery date.

4. The instalments due to the financier will continue to be paid to the financier until all requirements of the Istisna contract has been met by the client (buyer).

#### (b) Parallel Istisna Contract – Home Build

Parallel Istisna contracts are the predominant form of Istisna contract. Such contracts involve three parties (client, financier and builder) and two contracts (one between financier and the client and the second between the financier and the builder).

The following steps are consistent with Parallel type Istisna contracts involving acquisition of a residential home:

1. The client has acquired land and wishes to build or renovate a home. The land is not encumbered or mortgaged and therefore the client can deal with the land without any encumbrance. The client approaches a financier and enters into an Istisna form of agreement.

2. The financier offering Istisna agreements (as financier/constructor) enters into an Istisna agreement with the client. The price is determined as the financier’s cost plus profit margin. Neither the client nor the financier will actually construct the residential home on the client’s land with this being outsourced to a third-party provider. Construction of the residential home will be completed by a suitably licensed builder engaged under a separate Istisna contract entered into between the builder and the financier.

3. The financier enters into the Parallel Istisna (second istisna) contract with the contractor to construct the residential home as per the agreed specifications with the client.

4. The financier is obliged to pay the builder to meet the cost of construction via the second Istisna contract. This is not the obligation of the customer/client with the contract solely being entered into between the financier and the builder.

5 Upon completion of the residential home and the home being provided with a suitable occupation certificate, the financier delivers the home assets to the client (ultimate buyer) by the contract the delivery date. In some instances, the financier may appoint the builder or another person as its agent to deliver the home asset to the ultimate client on its behalf.

6. The client pays the contract price of the residential home to the financier in the form of instalments or a lump sum according to the Istisna agreement. The financier will take security in the form of a registered mortgage over the subject home and land to secure its amounts due to it under the subject Istisna contract. The Fund may take subject to meeting commercial and credit criteria a mortgage over another property in the event that a mortgage cannot be taken over the subject property relevant to an Istisna contract arrangement.

The Directors of the Responsible Entity will consider acting commercially an appropriate mortgage arrangement (terms, conditions and minimum market value criteria for the subject property(s) under mortgage) to secure the obligations of the client under an Istisna contract.

7. Istisna will operate on a similar basis irrespective whether the subject property type is residential or the subject property type under the Istisna contract is commercial, community, educational, medical or other property type permitted in Islam.

#### **6.2.2 Dealing with Default of Client in Istisna construction sale agreements**

Default management of an Istisna contract works no different to default management of a Bai' Mu'ajjal contract. Accordingly, the steps and process for default contract recovery detailed in section 6.1.3 apply equally for both forms of contracts.

### **Client Contract Obligations and Fees Paid**

#### **Client Contract Obligations**

The Client to a Bai' Mu'ajjal contract and Istisna contract will be required to meet contracted instalments over the contract term. The contract will comprise typically of a number of elements. The Gross Contract Value under either a Bai' Mu'ajjal or Istisna contract arrangement will consist of a number of items. These items are typically but not limited to:

- i..Core contract amount (payable to third parties such as a property vendor or a builder as relevant to the Bai' Mu'ajjal or Istisna contract)
- ii. Stamp duty
- iii.Taxes and Charges
- iv. Titles Office costs
- v. Legal and agent costs
- vi.Sinking fund fee (see discussion below)
- vii. Other fees to acquire the property (valuation, consultants etc)
- viii. Due diligence fee ( see discussion below)
- ix.Margin charged by the Fund

Any deposit or contribution made by the Client at the inception of the contract term will reduce the Gross Contract Value net of the Due Diligence Fee paid to the Responsible Entity from the deposit or contribution made by the Client.

### **6.3 How the Fund Generates Returns**

The Fund generates returns by distributing net earnings from its investment pool, which comprises Shariah-compliant contracts—specifically, Bai' Mu'ajjal and Istisna contract agreements. The Fund's overall return is determined by the instalments received from these contracts.

Net earnings are calculated based on the profit component of the Bai' Mu'ajjal and Istisna contracts. These net earnings are then allocated as follows: 60% to the Fund and 40% to the Responsible Entity. Importantly, no deductions are made from the Fund's net earnings to cover operating expenses, as these are fully borne by the Responsible Entity from its own resources. This arrangement is designed to maximise the net earnings available for distribution to investors.

It is important to note that neither the Responsible Entity nor its agents nor contractors guarantee the amount or performance of any distributions made by the Fund.



## 6.4 Dual Compliance – Australian Law and Islamic Finance and Investment Principles

The Fund is required to meet the requirements of the Corporations Act and the principles of Islamic finance and investment. Baytulmaal as the issuer of the Fund and Responsible Entity has authority to raise investment monies under its Australian Financial Services Licence No. 355094 (AFSL). Baytulmaal has also an Australian Credit Licence No. 355094 (ACL) that provides Baytulmaal the authority to deal with third-party clients on the basis presented in Section 6.1 and 6.2 of this PDS. Baytulmaal is required to meet the terms and conditions of its AFSL and ACL in addition to other legal requirements set out by other State and Federal government authorities. The expectation of Baytulmaal and the Fund to meet the requirements of the Corporations Act and Islamic finance and investment principles'. It is important to note that Australia does not currently have an 'Islamic based financial system'. Accordingly, the Fund's operations must work within the confines of Corporations Act and therefore the Fund's 'Bai' Mu'ajjal' and Istisna contracts arrangement and operation is structured with this in mind.

## 6.5 Role of the key parties in respect to the Fund

The Fund's key entities that are involved with the Fund's operations comprise:

### (a) Baytulmaal Finances Limited ABN 16 122 787 311 – Issuer and Responsible Entity

Baytulmaal is the issuer and Responsible Entity for the Fund. Apart from assisting with day-to-day operations of the Fund, Baytulmaal liaises with investors on their investment including reporting to investors on the Fund and related matters. The credit and investment decisions of the Fund rest with Baytulmaal as Responsible Entity. The obligations of Baytulmaal are to operate within the terms and conditions of both its AFSL and ACL.

### (b) Perpetual Corporate Trust Limited ABN 99 000 341 533 – Custodian

Baytulmaal has appointed Perpetual Corporate Trust Limited (Perpetual) as Custodian of the Fund assets and cash. As custodian, Perpetual holds Fund assets including cash and security over loans on behalf of the Responsible Entity. Other than acting as a custodian, Perpetual does not perform any other role. Perpetual does not guarantee the performance of the Fund nor does Perpetual guarantee the return of capital to investors. Further details on the role of the Custodian are provided in Section 8.

### (c) BKM Audit Services Pty Ltd ABN 77 116 958 948 – Fund Auditor and Compliance Plan Auditor.

The Fund financial account for the year to 30 June are audited annually by BKM Audit Services Pty Ltd ABN 77 116 958 948 as Fund auditor and compliance plan auditor. In addition to the Annual Financial Audit, BKM Audit Services Pty Ltd ABN 77 116 958 948 as an Auditors conducts an audit on the Responsible Entity's compliance with the Fund Compliance plan.

### (d) Shariah Advisors

Dr. Radwan Elatrash and Dr. Yasin Abdelrahman Abboud are the Fund's Shariah Advisors. A detailed summary of the background of the Shariah advisors is provided in Section 8 of this PDS. The role of a Shariah Advisor is to:

(i) Provide the Fatwa to confirm that the Fund meets Islamic finance and investment principles

(ii) Advise Baytulmaal on matters pertaining to Islamic finance and investment

(iii) Confirm that any variations to this PDS, the Fund scheme documents and otherwise substantive changes to the Fund are compliant with Islamic investment and finance principles.

Shariah Advisors are not involved in the day to day running of the Fund.

## 6.6 How the Fund works

The Fund operation works in the following manner and provides for these basic steps:

1. A prospective investor receives this PDS, the Target Market Determination (TMD) and the Financial Services Guide (FSG). The investor must receive the PDS and the FSG prior to the investor being able to invest in the Fund and the TMD should be made available.
2. Investor monies are paid into the Applications bank account held with Perpetual Corporate Trust Limited (Custodian). Upon issue of units in the Fund by Baytulmaal, the monies are moved to the Operations bank account held by the Custodian. As per Islamic finance and investment principles, there are no earnings or bank interest paid while the investor monies are in the Applications or Operations bank accounts held with the Custodian.
3. Baytulmaal's Investment and Credit Committee will identify a suitable property to acquire. This step includes the relevant property due diligence, valuation and other assessment to determine whether the property is of a quality suitable for the Fund.

### How the Fund works - Bai' Mu'ajjal contract finance

1. Baytulmaal enters into a contract to acquire the property from a third-party vendor. Typically, contract terms include a deposit and a settlement period of 45 or 90 days. The contract of sale will be compliant with the laws of the Australian state jurisdiction where the property is located. The deposit for the property and whole property price is paid from the Fund's funds held by the custodian. As Baytulmaal pays the whole price of the house, from a Shariah perspective it owns the house and can "sell" (by nominating the purchaser) the house to the client even if the title is not registered in its name.

The important point to note is that the contract of sale between Baytulmaal and the third-party vendor includes a nomination clause. This allows for another party nominated by Baytulmaal to have the title registered in their name at the time of settlement

2. Baytulmaal and/or the Custodian will enter into a contract of sale with a third-party client on terms and conditions consistent with a 'Bai' Mu'ajjal' styled contract. As the cost of the asset is known, Baytulmaal will derive at this time the total cost of the Bai' Mu'ajjal contract, being the cost to acquire the asset plus the profit desired by the Fund.

The third-party client's credit worthiness will be assessed by Baytulmaal. Principally, the main credit assessment is whether the third-party client has the income sources to meet the instalments due under the Bai' Mu'ajjal contract.

3. Prior to the contract settlement date, Baytulmaal will provide the required nomination notices to the third-party vendor nominating the third-party client in the Bai' Mu'ajjal contract as the buyer of the property. The Bai' Mu'ajjal client will need to perform the following tasks being:

- a) Meeting the deposit under the Bai' Mu'ajjal contract (typically 10% down payment of contract value or a lesser amount subject to credit standing and approval of Baytulmaal).
- b) Executing all Bai' Mu'ajjal documentation to confirm the contract of sale by the Fund to the third-party client along Islamic finance and investment principles.
- c) Executing mortgage documentation so that the Fund has a mortgage over the property title at the time that the property contract is settled and;
- d) Executing all other security documentation (guarantees, charges) as required by the Fund solicitors or to meet the requirements of any State property law or to satisfy the requirements of the National Consumer Credit Protection (NCCP) Act as relevant

4. Settlement of the property purchase takes place as contracted. The Fund provides the monies (including the Bai' Mu'ajjal deposit monies held with the Fund) required to settle the property acquisition by the third-party client under the Bai' Mu'ajjal contract of sale. The cash to settle the property acquisition is held with the Custodian and the Custodian upon receipt of instruction from the Responsible Entity makes the funds available to settle the contract of sale.

Upon completion of the settlement, the third-party client as the nominated purchaser appears on the title as owner. The Custodian holds security of a property as mortgagee in respect of any mortgage on behalf of the Fund. The mortgage is to secure the instalments due under the Bai' Mu'ajjal sale contract. The third-party client as property owner will be required to maintain the property and pay all property outgoings. The Fund may in certain circumstances take a mortgage over another property in the event that a mortgage for various reasons cannot be taken over the subject property relevant to the Bai' Mu'ajjal instalment contract. If a substitute mortgage is taken over another property, the Fund will only do so acting prudently and the Directors of the Responsible Entity being satisfied that the substitute mortgage property is of similar commercial value and standing.

The Directors of the Responsible Entity will consider acting commercially an appropriate mortgage arrangement (terms, conditions and minimum market value criteria for the subject property(s) under mortgage) to secure the obligations of the client under a Bai' Mu'ajjal contract.

5. Instalments due under the Bai' Mu'ajjal sale contract will be paid by the third-party client into the Fund operation bank account held by the Custodian. The instalments from that Bai' Mu'ajjal sale contract will be allocated in part for the profit distribution to investors and for payment of Fund fees and expenses as required. The third-party client is obliged to meet the instalments due and payable under the Bai' Mu'ajjal contract. This instalment amount is set at the outset of the contract and does not change. However, other Bai' Mu'ajjal sale contracts may not necessarily be on the same terms and conditions as other Bai' Mu'ajjal sale contracts entered into by the Fund given the differing cost and profit parameters for each property sale contract.

6. Baytulmaal as Fund manager/Responsible Entity will be responsible for the accounting of instalments received under the Bai' Mu'ajjal contract of sale. Neither Baytulmaal nor any related party to Baytulmaal has any obligations to maintain the property.

7. The Fund is a pooled managed investment and open-ended fund. The term "open-ended" fund means that capital raising is ongoing and property assets acquired and sold under Bai' Mu'ajjal by the Fund will be subject to the availability of Funds to meet property purchases and then subsequent sale to third-party clients under a Bai' Mu'ajjal contract of sale. As the Fund grows its investor base and properties are acquired by the Fund, the profit pool will increase and therefore greater returns for investors are made.

6. The Fund receives instalments under the Istisna contract until maturity of the contract. To secure the repayment of instalments due under the contract, the Fund will take a mortgage in the name of the Custodian as mortgagee only.

The Fund may in certain circumstances take a mortgage over another property in the event that a mortgage for various reasons cannot be taken over the subject property relevant to the Istisna contract. If a substitute mortgage is taken over another property, the Fund will only do so acting prudently and the Directors of the Responsible Entity being satisfied that the substitute mortgage property is of similar commercial value and standing.

The Directors of the Responsible Entity will consider acting commercially an appropriate mortgage arrangement (terms, conditions and minimum market value criteria for the subject property(s) under mortgage) to secure the obligations of the client under an Istisna contract.

7. The client will be responsible for the maintenance and management of the home while the Istisna contract is still current and there are instalments unpaid.

## **How the Fund works - Istisna contract finance**

The Istisna form of Shariah compliant investment and finance works in the following general manner:

1. Prospective clients are required to meet strict credit conditions and provide details of their assets, income and general credit standing. This is consistent with the Bai' Mu'ajjal form of contracts.

2. The client will specify his or her requirements and other information to determine whether the Istisna contract is to be provided in the form of a 'Classical' Istisna contract or a "Parallel" contract.

3. The Fund will enter into a suitable construction contract with a builder. The construction contract will meet the requirements of the client in respect to home design, specifications and desired delivery date.

4. The prospective client will enter into a financing agreement with Baytulmaal.

5. The prospective client will begin paying instalments to Baytulmaal



## 6.7 Compliance with Islamic Finance and Investment Principles – Bai' Mu'ajjal Contracts

The Fund has an objective of compliance with Islamic finance and investment principles. Bai' Mu'ajjal is one of the uncommon finance and investment contractual arrangements utilised by Islamic finance institutions worldwide in the provision of asset acquisition including homes and other property for its Muslim clientele. In operating the Fund on the basis of a Bai' Mu'ajjal, the Fund is Shariah compliant because it meets the following requirements:

1. The Fund does not at any time utilise conventional interest-based finance/investment monies nor obtain funds from interest based banks and/or non-bank conventional financiers, all investment funds are obtained from investors.
2. The Fund asset that is the subject of the sale has been acquired on an unconditional basis by the Fund prior to the Bai' Mu'ajjal contract of sale being entered into with a third party client. The Fund meets the requirements of Islamic finance and investment that the Fund has acquired an asset either physical or constructive and therefore able to sell on the basis of a Bai' Mu'ajjal contract of sale arrangement.
3. The basis of the arrangement is a sale under a Bai' Mu'ajjal contractual arrangement is that the sale is unconditional.
4. The property asset is known and identifiable prior to the Bai' Mu'ajjal a contract of sale being entered into.
5. The cost price is not disclosed to the buyer under the Bai' Mu'ajjal contract of sale. The Fund will be required to provide the third party client documentation consistent with the NCCP.
6. The profit margin is calculated by the Fund but not disclosed to the buyer under the Bai' Mu'ajjal contract, hence the total selling price only is established from the outset.
7. The Fund return is derived from the instalments received from the third-party client to the Bai' Mu'ajjal sale contract. The Fund does not earn interest from any Fund monies held on deposit with the Custodian. Similarly, the Fund does not pay interest for investor monies held on deposit with the Custodian.
8. The Fund does not acquire nor sell any property asset that is used for any purpose prohibited in Islam.

## 6.8 Compliance with Islamic Finance and Investment Principles – Istisna Contracts

The Fund's Istisna contracts are compliant with Shariah investment and finance principles.

The Istisna contracts have been signed off by the Fund's Shariah advisors. The Istisna contracts are deemed Shariah compliant by meeting the following requirements:

1. The Fund does not at any time utilise conventional interest-based finance/investment monies nor obtain funds from interest based banks and/or non-bank conventional financiers, all investment funds are obtained from investors.
2. The Fund contracts with the builder in respect to construction of the home. Statutory and other warranties required to be offered by the builder either under the building contract or at law pass on for the benefit of the client.
3. For Parallel Istisna contracts, before the Fund can be involved, the client must have clear and unencumbered title to the subject land where the home is to be constructed.
4. The Fund sets the price of the home asset to be delivered at the outset.
5. The instalments due and payable by the customer are fixed and do not vary from the time that they are set.
6. The Fund does not provide finance under an Istisna contract arrangement for assets not permissible under Islam.
7. There is no prohibition of contract early repayment under a Bai' Mu'ajjal or Istisna sale agreement. However, there is no automatic rebate of remaining instalments under contract for early repayment. The Fund will negotiate with the client and determine if a rebate of unpaid contractual payments can be provided to the client by the Fund.
8. The Fund does not charge or receive interest from its participation in the Istisna contract

## 6.9 Bai' Mu'ajjal and Istisna Contract Key Principles

The Bai' Mu'ajjal contract and arrangements are governed by Islamic finance and investment principles that require:

1. No cost and profit disclosure – The profit margin of the contract is set by the Fund and must be competitive when a third-party client compares the instalments set by the Fund as against conventional finance costs offered by the mainstream conventional banks.
2. Rollover of the contract is not allowed in Bai' Mu'ajjal or Istisna. The contract terms are defined from the outset and extension of term is not allowed.

3. Renegotiation of instalment amounts are not allowed. Accordingly, changes in general interest rates or other market indicators do not affect the instalments set at the outset. Instalments under Bai' Mu'ajjal or Istisna are fixed and cannot be varied regardless of changes in market interest rates and other economic indicators.

4. Penalty interest for late payment of instalments due under the Bai' Mu'ajjal or Istisna contract is not allowed. However, the Fund is able to charge for fees and expenses in enforcing its mortgage/ guarantees and/or all other expenses incurred in realising on its security.

5. Early finalisation of contract. While there is no prohibition for early finalisation of the total instalments due, any intention to do early instalment must be discussed with Fund. No automatic right of rebate under the Bai' Mu'ajjal or Istisna agreement. The Fund may in certain circumstances take a mortgage over another property in the event that a mortgage for various reasons cannot be taken over the subject property relevant to a Bai' Mu'ajjal or an Istisna Shariah compliant contract. If a substitute mortgage is taken over another property, the Fund will only do so acting prudently and the Directors of the Responsible Entity being satisfied that the substitute mortgage property is of similar commercial value and standing.

The Directors of the Responsible Entity have the right to set mortgage conditions including the selection of the mortgaged property to be used as security. As a Shariah compliant finance and investment, the Fund does not adopt set gearing or other standard conditions of a mortgage taken in a conventional loan arrangement. The Directors of the Responsible Entity accordingly will have the right to set mortgage parameters on terms and conditions that are considered commercial and appropriate for that investment made by the Fund.

## 6.10 Fund Distribution Policy

The Fund is new and therefore does not have a performance history at this time. The distribution of Fund earnings to investors is derived from the earnings of the investment pool. Investors will receive a distribution from the Fund on a quarterly basis unless Baytulmaal determines another distribution basis. The amount of distribution to investors from the Fund is conditional on many factors including fund liquidity, profit earned from each sale and the costs and expenses of running the Fund. The Fund distributions of earnings are not affected by commissions as commissions are not paid to any party. The distribution policy of the Fund is to distribute the Fund profit to investors based on the liquidity position of the Fund. Accordingly, Baytulmaal may decide to defer profit distributions to another quarter if the Fund liquidity does not allow for a profit distribution to investors. Baytulmaal monitors Fund liquidity and earnings on a monthly basis. The Fund profitability will increase as the investor pool grow and the number of property sale transactions increase. While Baytulmaal does not provide a guarantee for the earnings of the Fund or the return of investor capital, Baytulmaal has set a net target Fund earnings objective competitive with the RBA cash rate. This is a target and not meant to

represent a guaranteed annual Fund net profit rate nor rate of return to Fund investors.

## 6.11 Fund Income Distribution Procedure

The Fund Constitution provides the basis on which Fund distributions of income are required to be calculated. Distribution entitlements as defined in the Constitution are calculated taking into account the income to be distributed for the relevant period and the total number of units in place over the period. Distributions of income to investors are made quarterly in arrears at the distribution calculation date. Distributions of Fund income will be made to investors in the form of additional units and not cash.

Distributions of additional units earned for the preceding quarter will be credited to the investor's unitholding within 28 days from the relevant distribution calculation date. The distribution calculation dates for calculating Fund income distribution entitlements are:

- i. 31 March (for the quarter ended 31 March)
- ii. 30 June (for the quarter ended 30 June)
- iii. 30 September (for the quarter ended 30 September)
- iv. 31 December (for the quarter ended 31 December)

An investor's entitlement to Fund income for the quarter is dependent on:

- i. the amount of units that they hold in the Fund for the quarter;
- ii. the amount of income (if any) to be distributed for the quarter;
- iii. the total number of units in the Fund held by all investors for the quarter; and
- iv. the time that an investor held unit in the Fund for the quarter

Baytulmaal has the right to change the timing of making distributions to investors. Investors will be informed in advance of any proposed change to the timing of making distributions. Baytulmaal does not warrant or guarantee Fund distributions. The amount of Fund distributions is dependent on the pool of investments being able to derive income for a distribution to be made. Baytulmaal has the right to suspend, limit, or otherwise vary the timing and/or amount of distribution entitlements if it believes that it is in the best interest of the Fund to do so.

Investors will receive a record of quarterly distributions made to them at the time that the distributions are credited to their investor account. Generally, within 8 weeks from the end of the financial year, investors will receive an annual tax statement detailing the total distributions made to them for the financial year. Section 10 outlines some of the taxation matters for investors to consider. It is recommended that investors obtain their own taxation advice from investing in the Fund.

## 6.12 Fund Withdrawal and Unit Transfer

The Fund does not have a withdrawal program as part of the Fund. Withdrawals are subject to the absolute discretion of the Responsible Entity to keep their initial and subsequent investments for a minimum period of 6 months before a withdrawal request can be made in writing. The Fund may consider withdrawal applications outside of the 6 month requirement based on investor hardship and financial need. This also is subject to the liquidity of the Fund at the time the withdrawal application is made. Once the 6 month condition to request a withdrawal has been achieved, the Fund has up to 30 days to effect the withdrawal. However, all withdrawals are subject to the liquidity of the Fund and the acceptance of Baytulmaal to any withdrawal request.

The Fund does not have a secondary market to trade or sell the units that investors hold in the Fund. Investors are able to transfer their investments to another person or entity. However, any transfer of units is subject to Baytulmaal accepting the transfer and that the incoming investor enters the Fund on the same conditions as the prior investor and of course is subject to the terms and conditions detailed in this PDS and agrees to be bound by the Fund Constitution.

## 6.13 Unit Pricing Policy

The Fund has a unit pricing policy. Baytulmaal will reprice its units on an annual basis. Under the principles of Bai' Mu'ajjal and Istisna the Fund does not share in any upside should the commercial and residential property be sold and the client makes a profit.

Similarly, any loss from the sale of the commercial and residential property and a shortfall is sustained in respect to monies due under the deferred contract, the Fund will as required under Shariah principles be required to meet the loss unless any other security available to the Fund can be utilised to recover the monies due under the deferred contract of sale.

Therefore, unless there is a loss and non recovery of a contract amount, the unit price of each unit will remain at \$1. The Directors under its unit pricing policy will at least annually but sooner if required consider any contract where there is a potential for loss in any default situation.



## 6.14 Property Investment Criteria

The Fund's investment and credit committee assesses the feasibility of the property proposed for acquisition. Similarly, the ability of the third party client that has registered their interest in the property under the Bai' Mu'ajjal sale agreement or Istisna has the financial ability to meet the instalments under the Bai' Mu'ajjal sale contract and Istisna contract arrangement. Other investment criteria important and relevant to the Fund consist of:

(a) Location of property to be acquired and sold - primarily located in metropolitan areas of the major Australian capital cities. It is expected that the majority of property acquisitions within the Fund will be located in Adelaide. This is due to the Baytulmaal head office being located in Adelaide and being able to more quickly source and evaluate suitable properties.

(b) Type of property to be acquired - Any property that is used for purposes prohibited by Islam will not be considered for acquisition. This means that hotels, retail establishments selling alcohol or tobacco, establishments used for immoral purposes or gambling and other property types producing or selling pork products are not suitable properties for the Fund.

(c) Credit worthiness of third-party client to the Bai' Mu'ajjal sale agreement or Istisna agreement. All credit assessments must be completed on a 'full doc' basis. This means that the ability of the third-party client to meet the instalments under the Bai' Mu'ajjal sale contract or Istisna contract will be assessed on documentary evidence of income and financial standing and guarantor arrangement. This document may include salary slips, tax statements, credit checks and other documentary credit evidence. third-party clients purchasing the property on the basis of a Bai' Mu'ajjal/Istisna contract of sale must have a down payment of between 10% to 20% of the contracted sale cost of the property (lower down payment amount might be considered subject to credit standing and approval of Baytulmaal). For "Parallel" Istisna contracts, the client must also have an interest in the land that is not mortgaged nor encumbered in any manner.

(d) Valuation and assessment of property value. All property acquisitions will require an independent valuation of property value as a condition of entering into the property transaction. This may entail the services of an independent valuer, an estate agent or other property professional qualified to express an opinion on the value of the property. For Istisna contracts, the Fund may obtain independent evidence from a quantity surveyor or other expert to determine if the building cost price quoted by the builder is fair and reasonable.

## 6.15 Investment and Credit Committee and Compliance Committee

### (a) Investment and Credit Committee

At the date of this PDS, the Investment and Credit Committee comprises:

Dr Hani Abul Khair (Director and Chairman of the Investment and Credit Committee)

Mrs Nidya Fauz Iwan (Director and Responsible Manager)

Dr Pasquale Franzese (Compliance Officer and ACL Responsible Manager)

The Investment and Credit Committee will assess all Fund property purchase proposals and make the recommendation to the full board of Baytulmaal to ratify and/or approve the recommendation. The Investment and Credit Committee is also responsible for the assessment of the credit worthiness of the purchaser of the property under the Bai' Mu'ajjal contract of sale or Istisna agreement.

### (b) Compliance Committee

The Fund does not, at the date of this PDS, require a Compliance Committee as the number of Independent Directors are 3 as against 2 Executive Directors. Accordingly, as the majority of Independent Directors outnumber the number of Executive Directors there is no requirement for a compliance committee. If there is a requirement for a compliance committee in the future, the Responsible Entity will establish a suitably qualified compliance committee as required under the Corporations Act

## 6.16 Reporting to Investors (Continuous Disclosure)

The Fund provides the following reporting to investors:

- (a) Annual tax statement on the distributions and investor earnings for the year
- (b) Annual Regulatory Guide 46 benchmark reports
- (c) Annual Fund Performance Report
- (d) Fund Notices as and when required

The Fund will generally email these reports to investors in the Fund. Information not of a private or confidential nature will be placed on the Baytulmaal website (members portal) as and when available.

## 6.17 Unlisted property fund disclosure principles and benchmarks

Regulatory Guide 46 reporting of Fund benchmarks and disclosures is detailed in section 7

## 7. RG 46 Benchmarks

### Regulatory Guide 46 (RG 46) – Baytulmaal Property Trust

ASIC RG46 sets out eight disclosure principles and six benchmarks in relation to those principles to help retail investors compare risks and returns across investments in the unlisted property sector. This document is provided annually. It is not mandatory to comply with each of the principles or benchmarks below provided that sufficient reasons are given.

The Regulatory Guide RG 46 has been prepared by ASIC for typically interest based retail property investment funds that borrow from conventional banks in raising the capital to acquire the subject fund property. The Baytulmaal Property Trust does NOT borrow or otherwise deal with any conventional bank or interest based finance institution. All discussions on interest and conventional finance in RG 46 are not applicable to the Fund.

Key risks covered by ASIC's disclosure principles and benchmarks	Baytulmaal's Policy
<b>Scheme Borrowings and Gearing (Disclosure Principles 1&amp;3 and Benchmark 1)</b>  The Principles and Benchmark relate to the extent to which the Fund's assets are funded by interest bearing liabilities and providing disclosure in respect of what this means to investors.	<b>Baytulmaal complies with ASIC's Benchmark 1</b>  Baytulmaal does not borrow for purposes of the Fund
<b>Interest Cover Ratio and Interest Cover Policy (Disclosure Principle 2 and Benchmark 2)</b> This Principle and Benchmark relates to how the Fund's cost of liabilities (interest cover) is maintained and providing disclosure in respect of what this means to investors.	<b>Baytulmaal complies with ASIC Benchmark 2</b>  Baytulmaal does not borrow for purposes of the Fund
<b>Interest Capitalisation (Benchmark 3)</b> Interest capitalisation means the fund is not required to make interest payments until an agreed point in time.  Interest is therefore capitalised on the value of the fund's financing facility. This will increase the gearing in the fund. ASIC's Benchmark 3 states that the interest of the Fund should not capitalized	<b>Baytulmaal complies with ASIC Benchmark 3</b>  Baytulmaal does not borrow for purposes of the Fund
<b>Portfolio Diversification (Disclosure Principle 4)</b> Generally, the more diversified a portfolio is, the lower the risk that an adverse event affecting one property or one lease will put the overall portfolio at risk.	The Fund will in time diversify its property acquisition portfolio to be located in the major Australian Capital cities.

Continued on next page

**Valuations (Benchmark 4)**

Investing in a property scheme exposes investors to movements in the value of the scheme's assets.

Investors therefore need information to assess the reliability of valuations.

ASIC's Benchmark 4 addresses the way in which valuations are carried out on the Fund's assets. The benchmark requires Baytulmaal to maintain and comply with a written valuation policy that requires:

(a) a valuer to:

- (i) be registered or licensed in the relevant state, territory or overseas jurisdiction in which the property is located (where a registration or licensing regime exists), or otherwise be a member of an appropriate professional body in that jurisdiction; and
- (ii) be independent;

(b) procedures to be followed for dealing with any conflicts of interest;

(c) rotation and diversity of valuers;

(d) valuations to be obtained in accordance with a set timetable; and

(e) for each property, an independent valuation to be obtained:

- (i) before the property is purchased:
  - (A) for a development property, on an 'as is' and 'as if complete' basis; and
  - (B) for all other property, on an 'as is' basis; and
- (ii) within two months after the directors form a view that there is a likelihood that there has been a material change in the value of the property.

**Baytulmaal complies with ASIC Benchmark 4**

Baytulmaal has a valuation policy and requires all property valuations and/or property assessments to be conducted by suitably qualified valuation personnel, estate agents or consultants.

**Related Party Transactions (Disclosure Principle 5 and Benchmark 5)**

ASIC's Benchmark 5 requires Baytulmaal to maintain and comply with a written policy on related party transactions, including the assessment and approval processes for such transaction and arrangement to manage conflicts of interest.

A conflict of interest may arise where there is the potential for the interests of the Responsible Entity (and its related entities) and the interests of unitholders to conflict.

Baytulmaal has a conflict of interest policy.

Baytulmaal Property Trust does not allow related party transactions where the property is owned directly by a director, associate, employee or agent of the Responsible Entity and/or indirectly if the property is owned by a family member of any director, associate, employee or agent of the Responsible Entity. Commercial transactions with related parties on an arms length basis are allowed subject to proper valuation and assessment. A related party of the Responsible Entity is allowed to invest in the Fund. Investment in the Fund by a related party is on the same terms and conditions as non related party investors.



**Distribution Practices (Disclosure Principle 6 and Benchmark 6)**

ASIC's Benchmark 6 requires the Fund to only pay distributions from its cash from operations (excluding borrowings) available for distribution.

**Baytulmaal does comply with ASIC Benchmark 6**

The Fund pays distribution out of cash and not from any borrowings or other non cash sources.

**Withdrawal arrangements (Disclosure Principle 7)**

This Disclosure Principle addresses disclosure of withdrawal arrangements within the Fund. Often property schemes will have limited or no withdrawal rights. This means that they are usually difficult to exit.

While the Fund is illiquid and investors have invested for a minimum of 6 months, investors can request a withdrawal of all or part of their investment through a formal application to the Responsible Entity. Withdrawals where allowed are processed within 21 days or as soon as practical beyond 21 days. To the extent the scheme is not liquid, withdrawals may only be made in accordance with the Corporations Act. The Responsible Entity may not allow, suspend or reduce the amount of withdrawals if it believes the liquidity of the Fund will not allow the withdrawals to be made without adversely impacting the Fund capital, Fund return and investors overall.

**Net Tangible Assets (Disclosure Principle 8)**

This Disclosure Principle addresses disclosure of the net tangible asset (NTA) backing per unit of the Fund. The net tangible asset (NTA) backing of a scheme gives investors information about the value of the tangible or physical assets of the scheme. The initial and ongoing NTA backing may be affected by various factors, including fees and charges paid up-front for the purchase of properties, costs associated with capital raising, or fees paid to the responsible entity or other parties.

Baytulmaal has implemented written procedures that governs the timing and calculation of Net Tangible Asset Backing per unit.

Net Tangible Asset Backing per unit calculations are updated annually after the completion of full year financial statements.

**Continuous Disclosure (ASIC Regulatory Guide 198)**

The Fund is subject to the requirements of continuous disclosure whereby Baytulmaal is required continually keep investors apprised of material information likely to affect the value of the Fund.

Baytulmaal achieves compliance with the continuous disclosure requirements by the publishing and updating the following information on the Fund's webpage and/or email directly to investors:

- Continuous disclosure notes
- Unit price history
- Portfolio information

**No interest.  
No late fees.  
No banks.**

**Simple.**







## 8. Key people

### 8.1. Responsible Entity

Baytulmaal Finances Limited is the Responsible Entity of the Fund. The Responsible Entity is the holder of an Australian Financial Services Licence (No. 355094). and Australian Credit Licence (No. 355094). The main responsibilities of the Responsible Entity are to ensure the Fund is operated in accordance with the Constitution, this PDS, and to ensure compliance with Australian law. Importantly, the Responsible Entity is required to have regard to the best interests of Investors in all decisions that it makes with respect to the Fund.

#### **At the date of this PDS, the Directors of the Responsible Entity are:**

##### **Dr Hani Abul Khair (Executive Director and Chairman)**

Dr Hani Abul Khair has over 30 years' experience as an executive and director in a number of Islamic educational, commercial and community organisations based in Adelaide Australia. He is the principal of Iqra College, an Islamic centred primary/secondary school located in Adelaide, Australia. Professionally educated and trained as an engineer with Doctorate degree, Dr Abul Khair has a background in Islamic finance and investment. Dr. Abul Khair also sits on the Fund Credit and Investment Committee.

##### **Mrs Nidya Iwan (Executive Director and AFSL & ACL Responsible Manager)**

Mrs Nidya Iwan is a trained banker and has worked in finance both in her native Indonesia and in Australia. From 2000 to 2010, Ms Iwan held senior positions with PT Kliring Berjangka Indonesia (Persero) - State Owned Enterprise of Government Republic of Indonesia. She had senior business planning and financial management roles in this major Indonesian government enterprise. Mrs Iwan holds graduate and postgraduate banking and finance qualifications from various Australian universities. She is qualified under RG 146 to provide general advice and has completed studies in Shariah finance and investment. Mrs Iwan will assist with general management and day to day operations of the Fund. In addition to her day to day general management duties, Mrs Iwan will also sit on the Fund Credit and Investment Committee.

##### **Mr Hasan Yunich (Independent Director)**

Mr Hasan Yunich is an independent director. Mr Yunich has experience in accounting, business management and administration. Over the last five years, Mr Yunich has had business manager roles for Islamic based organisations.

##### **Mrs Sophia Robertson (Independent Director)**

Mrs Sophia Robertson is an independent director. Sophia Robertson graduated from the University of Adelaide with an Honours degree in Civil and Environmental Engineering in 2013. Since then, Mrs Robertson has worked in the construction management field on various major infrastructure projects in South Australia. Currently, Mrs Robertson is a project manager at a private Islamic school. Her roles consist of leading the design, planning and construction management of several large scale school building development projects.

##### **Mr Alaa Al-Sebahi (Independent Director)**

Mr Alaa Al-Sebahi is an independent director. Alaa Al-Sebahi is a civil and structural engineer with an honors degree in engineering. Over the last decade, Mr Al-Sebahi, has had roles as a project manager and developer in large scale building projects.

#### **At the date of this PDS, the responsible managers for purposes of the AFSL and ACL are:**

##### **Mr Phil Baker (AFSL Responsible Manager and Key Person)**

Mr Phil Baker is a responsible manager for purposes of the AFS licence issued to Baytulmaal Finances Ltd. Mr Phil Baker has over 30 years' experience in the fields of property investment, property management and funds management. He has qualifications in urban & economic geography and politics, urban planning, urban estate management and applied finance and investment. Over the last 15 years, Mr Baker has been a director and/or responsible manager for several retail and wholesale property trusts. Prior to his fund management roles, Mr Baker was a manager with Macquarie Bank. In addition to property funds, Mr Baker has also been involved with the creation of a fintech investment fund. He has completed RG 146 courses to enable him to offer general financial advice.

##### **Mr Barry J Daniels (AFSL Responsible Manager and Key Person)**

Mr Barry J Daniels is a responsible manager for purposes of the AFS licence issued to Baytulmaal Finances Ltd. Mr Daniels has over 40 years' experience in banking, funds management and financial planning. He has been a key person/responsible manager for various retail and wholesale property and mortgage funds. Mr Daniels has also

held roles as a key person/responsible manager for Australian Credit Licence holders. He has satisfied requirements for purposes of RG 146 and therefore is able to offer general financial advice for purposes of the AFS licence. Mr Daniels holds membership with the Australian Institute of Company Directors and Finsia.

#### **Dr Pasquale Franzese (ACL Responsible Manager and Compliance Officer)**

Dr Pasquale Franzese has over 42 years' experience in banking, tax effective financing, property finance, investments and management. He was previously a senior manager at National Australia Bank (NAB) where he was involved in a variety of large-scale property acquisition and financing projects. Prior to joining NAB, he worked as a merchant banker for the Australian subsidiaries of Toronto Dominion Bank and Kuwait Asia Bank E.C. Dr Franzese has met the requirements of ASIC Regulatory Guide RG146 knowledge requirements. He is or has been a key person for the purposes of the Excelsius Asset Management's AFSL, Australian Credit Licence, and for the AFS Licence of MCCA Asset Management Limited, United PF Limited, Payton Funds Management Pty Ltd and Secura Funds Ltd. Dr Franzese was also a responsible manager for Galaxy Crowdfunding Pty Ltd. He is a recognized Supreme Court banking expert witness and holds graduate and postgraduate academic qualifications in accounting, commerce, finance, tax and business administration.

Dr Franzese is a responsible manager for the ACL issued to Baytulmaal Finances Ltd and will act as the compliance officer for purposes of the Fund. He also sits on the Fund Credit and Investment Committee.

#### **Shariah Advisors – Baytulmaal Property Trust**

**At the date of this PDS, the Shariah Advisors are:**

##### **Dr. Radwan Elatrash**

Professor / International Islamic University Malaysia  
PhD in Shariah / International Islamic University  
Malaysia

Dr. Radwan Elatrash is a Professor Shariah in International Islamic at the University of Malaysia. He has been lecturing for almost 30 years mainly in Fiqh, Qur'an and Hadith. He has published 16 Shariah books and 90 published Shariah articles worldwide which also include Islamic Finance.

Furthermore, Dr. Radwan Elatrash is also a reference for several Shariah journals worldwide and member of a large number of Shariah committees and associations.

##### **Dr Yasin Abdelrahman Abboud**

Dr Yasin Abderahman Abboud has a PhD in the Philosophy of Islamic jurisprudence. His dissertation focused on Islamic banking and insurance which included the application of usurious of bank, Islamic transactions and its rulings.

He was a Shariah advisor for the Bank of Jordan in Amman for two years and is currently an advisor to several private companies and institutions which are concerned with the jurisprudential and legal aspects of their transactions. He has consulted to the Jordan Islamic Bank, Arab Islamic Bank, Al-Safwa Islamic Bank and other Islamic finance companies. In these roles, he made significant contributions including to assist them to formulate financing calculations based on Shariah Law and its principles. Dr Yasin Abdelrahman Abboud has been an active Imam and preacher for more than 30 years in Jordan.

## 8.2. Custodian

The Responsible Entity has appointed Perpetual Corporate Trust Limited (Perpetual) as an independent Custodian to hold the assets of the Fund under a custodian agreement. The Custodian's role is to hold the Fund assets in its name and act on the direction of the Responsible Entity to effect cash and investment transactions.

Perpetual is a respected and leading provider of custody services. Perpetual is a member of the Perpetual Limited group which has provided trustee and custodial services since 1886. Perpetual Limited is an ASX listed company. Perpetual Corporate Trust Limited or Perpetual holds an Australian Financial Licence (No. 392673).

Perpetual's role is limited to holding assets of the Baytulmaal Property Trust (Fund) as agent of Baytulmaal Finances Limited. Perpetual has no supervisory role in relation to the operation of the Fund and is not responsible for protecting your interests. Perpetual has no liability or responsibility to you for any act done or omission made in accordance with the terms of the Custody Agreement. Perpetual has given its written consent to being named as Custodian in this PDS, however it has not authorised or caused the issue of this PDS and takes no responsibility for any part of this PDS, other than references to its name and functions described above. The Custodian has not withdrawn its consent to be named in this PDS as custodian of the Fund in the form and context in which it is named.

## 8.3. Financial Auditor and Compliance Plan Auditor

BKM Audit Services Pty Ltd ABN 77 116 958 948 (Auditor) has been appointed by the Responsible Entity to audit the Fund's financial statements and audit the Compliance Plan for the Fund on an annual basis. The Auditor has not withdrawn its consent to be named in this PDS as auditor of the Fund in the form and context in which it is named.

# 9. Risks

All investments involve varying degrees of risk.

While there are many factors that may impact on the performance of any investment, the section below summarises the significant risks that prospective Investors should be aware of when investing in the Fund.

Before investing, prospective Investors should consider whether the Fund (and the particular Fund or class of Units invested in) is a suitable investment, having regard to their personal investment objectives, financial position, particular needs and circumstances.

Prospective Investors should also consider and take into account the level of risk with which they are comfortable, the level of returns they require, as well as their frequency and nature and their investment time horizon. Prospective Investors should seek professional advice in setting their investment objectives and strategies.

The risks described below are not exhaustive and any risk described in this PDS may have a material effect on the performance and value of the Fund.

Importantly, prospective Investors should note that the value of an investment in the Fund, and any income received by Investors, may rise or fall and, consequently, Investors may suffer losses (including the loss of all of their capital investment in the Fund).

## 9.1. Investment risk

The value of an investment may rise or fall, distributions may or may not be paid and an Investor's capital may or may not be returned.



## 9.2 Fund risk

The Fund could terminate, or the fees and expenses paid from the assets of the Fund could change. There is also the risk that investing in the Fund may give different results than investing in the underlying assets of the Fund directly because of possible impairment charges in the Fund.

No guarantee of performance or representations made by Responsible Entity

None of the Responsible Entity nor any other person or entity guarantees any income or capital return from the Fund. The performance on the Fund will depend largely on the ability of the third party client to perform its instalment obligations. Further, the state of the property markets and other factors may adversely impact on the recovery of the loan balance outstanding in a default or mortgagee sale scenario.

## 9.3. Limited operating history risk

The Fund is a newly formed managed investment scheme with no operating history upon which Investors can evaluate its likely return. There can be no assurance the Fund will achieve any of its investment objectives, or an Investor's investment objectives.

## 9.4 Legal and regulatory risk

There is a risk that domestic or international laws or regulations may change, adversely impacting the regulation of the Fund and resulting in additional costs and/or less rigorous regulatory supervision of transactions and the reporting that is performed. Legal risk also includes the risk of losses occurring as a result of legal issues, principally losses arising out of the non-enforceability or non-enforcement of contracts. Non-enforcement may arise from insufficient documentation, insufficient capacity or authority of a counterparty, uncertain legality or unenforceability resulting from bankruptcy or insolvency. There is also a risk that Islamic or Shariah compliant finance and investment is banned by the law. Should this happen the Responsible Entity will consider other investment strategies.

## 9.5 Fees and expenses

The Fund will incur fees and expenses regardless of whether it is successful. The Fund may pay Responsible Entity fees, administration fees and other fees and expenses whether or not it receives returns. In addition, the Fund will also be required to pay those fees and other expenses whether the funds raised are fully utilised or not. The Fund must therefore ensure that sufficient liquidity is maintained in order to meet these and other expenses.

The Responsible Entity expects to incur significant costs and expenses in seeking to source, evaluate, structure, negotiate, close, monitor and exit an investment including, but not limited to, financial, legal, technical, regulatory and commercial advisers, engaged to assist the Responsible Entity. There can be no assurance that the Fund will be successful in being able to recover these fees and expenses from a successfully closed investment. These amounts may be significant and could have an adverse impact on the return that Investors might otherwise realise. The Responsible Entity proposes to meet the Fund expenses out of its own resources and/or the Responsible Entity fees. Refer to Section 11 Fees in this PDS for further details.

## 9.6 Builder and Development risk

Istisna contracts provide risks to the Fund in that the building cost specified in the Istisna contract may be insufficient to complete the home to the required standard. Delays and cost overruns are common construction risks of. While the Fund will conduct due diligence on the competency of the builder, it is not always possible to avoid the adverse effects of under quoting by a builder or significant delays to completion of the building under contract.

Any cost overrun relating to the construction or renovation of the new property will be borne by the Fund.

Although, the Fund may be required to subdivide a lot or a small number of lots for purposes of the Istisna contract, the Fund at this time does not subdivide large parcels of land, develop units or homes for sale or build high rise apartment buildings and/or office buildings for development and sale. In most instances the builder or developer will have completed the subdivision and other services work without any involvement by the Fund in development and subdivision activities. Therefore, the Fund has currently other than its Istisna contracts no development or building risk and is not likely to participate in any significant property development activities within the first 18 months to 24 months from Fund inception in February 2024. It is possible that in the future the Fund may offer property development investment opportunities. Property development by its nature needs to carefully consider risk.

Development risk includes but is not limited to, failure by the contracted builder to complete the development within the time contracted, failure by the contracted builder to complete the development within the approved budget, the financial failure of the contracted builder which may result in increased costs, and disputes between the contracted builder and their subcontractors resulting in delays and increased costs. Delays due to weather or the shortage in supply of certain building materials may also result in increased costs and lower returns.

## 9.7 Related party transactions risk

It is not proposed at this time that the Responsible Entity will engage in related party transactions. The Fund will not buy real property from any director, employee, agent or contractor related to the Responsible Entity. This includes related corporate entities to the Responsible Entity. However in the future (expected from third year from the Fund's establishment), the Responsible Entity may from time-to-time enter into transactions with related entities to the Responsible Entity. At that time, the Responsible Entity will conduct such transactions in line with its Conflicts of Interest and Related Party policies.

The Fund can enter into commercial transactions and dealings on an arms length and commercial basis with a related party or entity. This includes but is not limited to businesses, schools, mosques and other establishments or business undertakings related to or otherwise associated with a director, associate, employee, contractor or agent related to the Responsible Entity.

The Responsible Entity may appoint its related parties or related parties of the Responsible Entity from time to time to undertake other functions for the Fund, including, for example, the role of development manager. Such transactions will only be entered into if it is determined by the Responsible Entity that doing so is in the best interests of Investors and on "arms-length" terms or otherwise where the Responsible Entity seeks Investor approval prior to entering into such transactions.

## **9.8 Tax risks, including income tax, duty and land tax risks**

The effect of tax on Investors is complex and the summary in Section 10 of this PDS is general in nature. Investors should seek professional tax advice specific to their own circumstances before investing in the Fund.

There is a risk that the Australian federal and state / territory tax laws at the date of publication of this document, including applicable case law and published guidance by the ATO and state / territory revenue authorities, could change and changes can be adverse.

Tax and duty considerations taken into account by the Responsible Entity in preparing this PDS are based on current law and the practices of relevant tax and revenue authorities, all of which are subject to change or to differing interpretations. Prospective Investors should note that any such change could have retrospective application, resulting in tax and duty consequences different from those taken into account by the Responsible Entity. There can be no assurance that these considerations will ultimately be sustained in the event of challenge by the relevant tax or revenue authorities.

Additionally, as the Fund is likely to acquire or hold interests in land (including indirect holdings), duty (including landholder duty, Fund acquisition duty and foreign purchaser surcharge duty) may apply on the acquisition of interests in the Fund (including by way of issue, transfer or redemption of Units). The acquirer or holder of the Units is generally primarily liable to pay the duty. This is in addition to any duty that the Fund may incur in acquiring interests in a property or other land interests.

## **9.9 Disputes and defaults**

In the ordinary course of its operations, the Fund may be involved in disputes and possible litigation with tenants, builders, broader building contractors or other service providers. There exists a risk that a material or costly dispute or litigation could affect the amount of expected income.

## **9.10 Profit risk**

The Fund return may prove to be less than investors can obtain by investing in other alternative investment. Margins are likely to be small. The investor is recommended to seek personal financial advice to ascertain if this investment meets the investor's personal financial objectives.

## **9.11 Changes to economic conditions**

Changing economic conditions could adversely affect the return of investor monies both capital and/or income distributions.

## **9.12 Investor liability**

The Fund may find it difficult to repay any debt obligations or other liabilities that it faces from time to time. Investors are not responsible for the repayment of any debt or lending liability entered into by the Responsible Entity on behalf of the Fund. Investors' liability is capped to the value of their units in the Fund.

## **9.13 Insurance risk**

It is a breach of Shariah finance and investment principles to insure property. By not insuring a Fund property, the lack of insurance cover may impact adversely on the return of investors capital and income distributions as assets can be lost that are unrecoverable. .

## **9.14 Liquidity risk**

The Fund is deemed illiquid. It is possible that for reasons outside of the control of the Responsible Entity, that the liquidity of the Fund is insufficient to payback an investor, either capital or income distribution. This may delay the return of capital and/or distributions.

## **9.15 Cyber security risk**

Investors should be aware that while the Responsible Entity has implemented technologies, processes, and practices designed to protect its networks, devices, programs, and data (or IT systems), such IT systems may still be subjected to malicious attack, damage, or unauthorised access.

Such IT systems may include the storage of information concerning an Investor's identity, financial interests or other personal details provided to the Responsible Entity in connection with their investment in the Fund.

In the event serious harm is a likely outcome of a breach of the Responsible Entity's IT systems, the Responsible Entity will notify the affected individuals and recommend steps that ought to be taken in response to the breach. The Responsible Entity may also be required to notify any regulatory authority as required by law.



## 9.16 Pandemic or force majeure risks

Any number of unknown risks may arise as a result of force majeure events (being events outside the control of the Fund) or a pandemic which may adversely impact the Fund and returns to Investors. For example, the prior COVID-19 pandemic could adversely impact the tenancy rates of the properties held by underlying sub-funds, or the revenue of the tenants in the properties. As a result, the income of the Fund may be materially impacted, and this may have a negative impact on the value of your Units and any distributions to Investors.

There are also a number of other risks that are disclosed in this section that may be heightened as a result of a pandemic, including liquidity and valuation risk. The market conditions and restricted access to properties may result in property valuers being unable to value properties with a high degree of certainty, or at all. There may also be changes to domestic or international laws and government policies as a result of a pandemic, which may adversely impact the operation of the Fund and result in additional costs to Investors.

## 9.17 Sharia and Islamic Finance and Investment Risk

The Fund may face difficulties if Australian law makers passed legislation which adversely affecting the operation of the Fund by one or more of the following;

- (a) Islamic finance and investment is prohibited by legislation
- (b) the cost of Islamic finance and investment is too costly to implement due to new legislation altering the way that the Fund needs to operate
- (c) take up of Shariah compliant investment products is less than expected within the Australian Muslim Community

## 9.18 Loss from fire or other causes

The underlying real property assets subject to mortgage face a risk from adverse and material damage or loss due to fire or other causes. The Fund does not as a fully compliant Shariah investment fund utilise traditional or conventional insurance products to protect the underlying real property subject to mortgage. There is no exclusion to the client taking out insurance. The Fund has levied a "Sinking Fund Fee" payable by the client at the time a contract is entered into between a client and the Fund.

The Sinking Fund Fee remains at all times an asset of the Fund and its purpose is to be utilised as required to repair the underlying mortgaged real property asset in instances of damage caused by fire or other causes. It is possible that the Sinking Fund Fee as collected from all Fund contracts is not sufficient to meet the loss to the Fund from the damage to any underlying real property asset subject to mortgage. The Sinking Fund Fee is discussed in Section 11 of this PDS.

## 9.19 Valuation risks

The Directors have the right to take security over a property based on parameters including valuation that the Directors deem to be prudent and commercial. It is possible that the valuation of any property taken as security may be wrongly estimated or that a secured property when sold under a mortgage is insufficient to recover the outstanding contract entitlements under an Istisna or a Bai' Mu'ajjal contract held by the Fund.

## 9.20 Other risks

It is important to note that not all risks can be foreseen. It is therefore not possible for the Responsible Entity to protect the value of the Fund's investments from all risks. Investors should ensure they obtain appropriate professional advice regarding the suitability of an investment in the Fund having regard to their individual circumstances, including investment objectives, their level of instalments, their financial situation and individual needs.

Whilst the Responsible Entity has taken steps to ensure that the information presented in this PDS is correct, it is possible that due to factors such as the passage of time or the uncertainty in forecast details that the information contained in this PDS may be inaccurate at a later time.

The performance of an investment in a Fund or a class of Units, the repayment of capital or of any particular rate of return, is not guaranteed by the Responsible Entity, or its directors or associates.

We strongly recommend that Investors obtain independent financial advice before investing in the Fund.



## 10. Taxation

### 10.1 General

There are Australian tax implications when investing in, receiving income from the Fund and exiting from the Fund. The Australian tax treatment of individual Investors may differ, and it is recommended that all Investors considering an investment in the Fund seek their own professional advice on their personal taxation implications prior to investing in the Fund.

The Responsible Entity cannot give tax advice. Accordingly, what follows is not tax advice but is a general outline of some key Australian tax considerations for Australian resident and non-resident Investors who hold their investment on capital account and who are not subject to the taxation of financial arrangements regime. This information is based on current interpretations of the relevant Australian taxation laws and does not consider an Investor's specific circumstances. As such, Investors should not place reliance on this as a basis for making their decisions as to whether to invest. No inference should be drawn from this document regarding any taxation matter and its applicability to any prospective Investor – the material in this document should not be regarded in any way as taxation advice.

The Responsible Entity makes no representations that the Australian tax implications outlined in this PDS will arise for any Investor and disclaims all liability whatsoever to the maximum extent possible in relation to the tax implications arising for individual Investors.

### 10.2 Income tax treatment of separate classes are created

#### (1) Tax

The Fund is not responsible to pay tax on any profits and distributions. Distributions are generally taxed in the hands of investors and not by the Responsible Entity. The Responsible Entity will generally not be liable to pay income tax provided that:

- Where the Fund is an Attribution Managed Investment Fund (AMIT), all net (taxable) income is attributed to unitholders for each income year (see below); or
- Where the Fund is not an AMIT, unitholders are made presently entitled to all of the distributable income, and the Fund is not classified as a public trading Fund (see below).

#### (2) AMIT and MIT elections

The AMIT provisions in the income tax legislation can apply to a qualifying Managed Investment Fund (MIT) that makes an irrevocable election to become an AMIT. The consequences for Australian resident unitholders should be similar whether the Fund is an AMIT or not (refer to the comments for Tax position of Australian resident unitholders below). The Responsible Entity will consider making an irrevocable election to apply the AMIT provisions. However, there is no guarantee that the Fund will be eligible for the AMIT provisions to apply to it.

An AMIT must attribute its taxable income to unitholders on a fair and reasonable basis, and unitholders are advised of their share of the taxable income and any cost base adjustment, via an AMIT Member Annual Statement (AMMA Statement).

Eligible MITs may make an irrevocable election to apply a deemed capital account treatment for gains and losses on disposal of certain eligible investments (including land interests). Where the Fund or a class qualifies, the Responsible Entity will seek to make this election to treat the disposal of eligible assets on capital account. Where the Fund does not qualify to make a capital account election in respect of a Fund or a class of units, or where the assets are not eligible assets, the Australian Taxation Office (ATO) could hold the view that assets held by the Fund or a class are to be treated on revenue account, such that the class may not be entitled to apply the capital gains tax (CGT) discount to gains made on the disposal of its assets.

### (3) Public trading Fund rules

Broadly, where a unit Fund:

- is a public unit Fund (for example, there are at least 50 unitholders in the Fund, or any of the units in the Fund are offered to the public); and
- carries on (or controls another entity that carries on) a business that is not an 'eligible investment business' (such as the development and sale of real property), the unit Fund can be taxed as a company.

The Responsible Entity will make an assessment of whether or not the public trading Fund rules should apply to any Fund or a class. To the extent that these provisions apply, the Fund or a class will be required to pay tax at the corporate taxation rate (currently, 25% for certain base rate entities or 30% for other entities) on taxable income and would seek to pay a franked dividend to the unitholders.

### (4) Tax position of Australian resident unitholders

Net (taxable) income earned by the Fund or a class, whether attributed (for an AMIT), distributed, retained or reinvested, can form part of the assessable income for unitholders in the year of entitlement or allocation. Tax losses incurred by the Fund or a class will remain in the Fund or a class and can be applied to reduce the Fund or a class's income in future years (subject to the Fund or a class satisfying the specific provisions of the Fund loss carry forward legislation).

Further, the timing of when the Fund or a class's income is brought to account for tax purposes may be different to when amounts are distributed to unitholders, so that unitholders may be required to pay tax on income that has not yet been or may not be distributed to them.

For each year ending 30 June, the Responsible Entity will send to unitholders in each Fund or a class the details as relevant of assessable income, capital gains, tax offsets and any other relevant tax information to include in their tax return and to determine any required tax adjustments (through the AMMA Statement where the Fund or a class is an AMIT or, otherwise, through a distribution statement). Certain income may impact the cost base of a unitholder's units in the Fund or a class and if the Fund or a class is an AMIT, the cost base per unit may increase, as well as decrease.

### (5) Disposal of units

A unitholder's assessable income for each year may include net realised capital gains (that is, after offsetting capital losses). This will include capital gains made upon transferring or withdrawing units from the Fund or a class.

Individuals, Funds and complying superannuation entities may be eligible for CGT concessions in relation to capital gains made with respect to units which are held for at least 12 months. If a unitholder holds their units on revenue account, gains and losses will be taxable as ordinary income or allowed as a deduction, as the case may be, and will not qualify for the CGT discount.

## 10.3 Tax file number (TFN) and Australian Business Number (ABN)

The Responsible Entity will be required to obtain a TFN or ABN in certain cases from its unit holders. It is not compulsory for a unitholder to quote a TFN, claim a valid exemption for providing a TFN, or (in certain circumstances) provide an ABN. However, failure to obtain an appropriate TFN or ABN from a unitholder will result in the Responsible Entity being required to withhold tax from any distribution payable to that unitholder at the highest marginal tax rate plus the Medicare levy (and any other levies the Responsible Entity is required to deduct, from time to time). The tax withheld may be credited in the relevant unit holder's tax return. The collection of TFNs is authorised, and their use is strictly regulated by tax and privacy laws.

Non-residents are generally exempt from providing a TFN.

## 10.4 Goods and services tax (GST)

The application for and withdrawal of units and receipt of distributions will not be subject to GST. However, GST will generally be incurred on various acquisitions made by the Fund (for example, fees charged to the Fund or a class by the Responsible Entity or the Investment Manager (typically the Responsible Entity) or the Administration Manager). The Fund may be able to claim input tax credits and/or reduced input tax credits (RITCs) of at least 55% of the GST incurred.



## 10.5 Non-resident unitholders

The taxation implications of non-resident unitholders are not considered in detail in this PDS.

It is recommended that non-resident Investors obtain advice based on their particular circumstances. Non-resident Investors of the Fund or a class should seek their own independent taxation advice regarding their local, as well as Australian, taxation obligations. As a non-resident, distributions from the Fund or a class may be subject to income tax (which may be withheld by the Responsible Entity) or withholding tax (which may also be withheld by the Responsible Entity) the amount of which depends on a non-resident unitholder's country of residence and the nature and amount of the distribution. Different tax consequences may apply in relation to gains or losses of non-resident unitholders from the disposal of units in a Fund or a class, including whether any gains are subject to tax in Australia (for example, where the units are treated as taxable Australian property).

Non-resident unit holders may also be subject to tax in the country of their residence (but may also be eligible for a credit for Australian tax paid).

## 10.6 Stamp duty

The issue, redemption, transfer or any other arrangement involving a change in the unit holding of the Fund or a class may result in stamp duty consequences for a unit holder (for example, if the change in unit holding occurs at a time when the Fund or a class holds dutiable property, such as real property). Unit holders should consider the duty consequences of their dealings in units with their taxation advisers. Stamp duty is not expected to be applicable for realisation of the property security in a mortgagee sale. However, the owner of the property subject to the Fund mortgage may have adverse stamp duty issues or assessments that may adversely impact on the net return from sale of the subject mortgaged property.

# 11. Fees and other costs

The Corporations Act 2001 requires Baytulmaal Finances Limited as the Responsible Entity of the Fund to include the following standard consumer advisory warning.

The information in the consumer advisory warning is standard across all product disclosure statements and is not specific to information on fees and costs in the Fund.

### Consumer Advisory Warning

#### DID YOU KNOW?

Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns. For example, total annual fees and costs of 2% of your investment balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example, reduce it from \$100,000 to \$80,000).

You should consider whether features such as superior investment performance or the provision of better member services justify higher fees and costs.

You may be able to negotiate to pay lower fees. Ask the Fund or your financial advisor.

#### TO FIND OUT MORE

If you would like to find out more, or see the impact of the fees based on your own circumstances, the Australian Securities & Investments Commission (ASIC) website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) has a managed investment fee calculator to help you check out different fee options.



## 11.1 Fees and Other Costs

This section shows fees and other costs that you may be charged. Fees and costs are managed by the Responsible Entity and reported to investors annually in the audited financial accounts prepared for the Fund. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the managed investment scheme as a whole.

Taxes are set out in another part of this document. You should read all the information about fees and costs because it is important to understand their impact on your investment.

### Fees and costs summary

Fee Charged	Amount and how charged	When paid	Comments
Responsible Entity Fee	40% of instalment profits received from third party clients in respect to the deferred sale contract	When instalment profits are received from the third party client	Instalment profits received in the investment pool are shared by the Responsible Entity (40%) and the Fund (60%)
Expenses recovery	Nil	Not applicable	Expense recovery is taken from Responsible Entity Fees. Fund expenses are met out of the Responsible Entity's fees.
Establishment fee The fee to open your investment	Nil	Not applicable	
Contribution fee The fee on each amount contributed to your investment	Nil	Not applicable	
Buy-sell spread An amount deducted from your investment representing costs incurred in transactions by the scheme	Nil	Not applicable	
Withdrawal fee The fee on each amount you take out of your investment	Nil	Not applicable	
Exit fee The fee to close your investment	Nil	Not applicable	
Switching fee The fee for changing investment options	Nil	Not applicable	
Performance Fee	Nil	Not applicable	

## Example of annual fees and costs for a balanced investment option or other investment option

This table gives an example of how the ongoing annual fees and costs in an investment option for this product can affect your investment over a 1-year period. You should use this table to compare this product with other products offered by managed investment schemes.

Fees Charged	Amount Charged	Comments
Contribution Fees	Nil	For every \$10,000 you put in, you will be charged \$0.
PLUS Management fees and costs	Nil	Nil
PLUS Recovery Expenses	Nil	Nil
PLUS Performance fees	Nil	Nil
PLUS Transaction costs	Nil	Nil
EQUALS Cost of Fund investment	Nil	Nil

## 11.2 Additional Explanation of Fees and Costs

### Management Fees and Costs

The management fees and costs disclosed in the Fees and Costs Summary, contain the components set out below.

#### 1. Responsible Entity management fees

The Responsible Entity will receive 40% of the total pooled instalment profits under the deferred sale contracts/construction agreements (Bai' Mu'ajjal/Istisna) comprising the investment pool assets. This amount will be due and payable at the time that the third-party client makes the instalment under the applicable Bai' Mu'ajjal contract of sale. The Responsible Entity will receive 40% of the instalment profits received from each third-party client. The Responsible Entity will account and reconcile Responsible Entity fees on a monthly basis. Distributions to investors where there is income to distribute will be made quarterly in arrears (refer to Section 6.9).

#### 2. Expenses

The expenses are costs incurred by the Responsible Entity in the establishment and operation of the Fund and Fund or a class and includes fees payable to the Custodian and Auditor, incidental expenses of the Responsible Entity and also other administrative expenses such as accounting and legal advice, audit fees, insurances, consulting fees, costs relating to Investor meetings and registry fees. The fees payable to the Responsible Entity are discussed further below.

The following discussion is for information purposes only. The Responsible Entity will pay Fund expenses out of the Responsible Entity Fees detailed in this PDS.

While the Fund is growing, the Responsible Entity will meet the Fund's expenses out of its own resources, if its fees are not sufficient to meet its expenses.

The Responsible Entity reasonably estimates the expenses of the Fund or a class to be 0.45% per annum of the Funds under management by the end of year 2 from inception of the Fund. This estimate does not include abnormal operating expenses which are due to abnormal events that the Responsible Entity does not foresee at the date of this PDS, such as the cost of running Investor meetings. The actual expenses may be higher or lower depending on the actual amount of money raised by the Fund in its first year of operations. Actual expenses may also differ from year to year.

The Constitution does not limit the amount that the Responsible Entity can recover from the Fund as expenses, provided they are properly incurred in relation to the proper performance of the Responsible Entity's duties in operating the Fund. For example, the Responsible Entity is entitled to be reimbursed for abnormal expenses, such as the cost of unitholder meetings, legal costs of any proceedings involving the Fund and termination. Where an expense relates to a specific Fund or a class of Units it will be recovered from the assets of the Fund, otherwise it will be referable to all Units in the Fund on an equal basis. Regardless of the rights available to the Responsible Entity under the Constitution, the Fund will not be liable for recovery of Fund expenses. The Responsible Entity will be required to meet these expenses out of its own fees or resources, if the fees received are not sufficient to meet the expenses.

#### Performance Fees

Baytulmaal is not entitled to any performance fees.

## Buy/Sell Spread

Investments and withdrawals in managed investment schemes may sometimes incur buy and sell spreads, which are designed to ensure, as far as practicable, that any transaction costs incurred as a result of an Investor entering or leaving the Fund are borne by that Investor. Buy and sell spreads are calculated based on the actual or estimated costs the Fund may incur when buying or selling assets. The Fund does not have a buy or sell spread for Units issued under this PDS.

## Taxation

Unless otherwise stated, all fees set out in this section are inclusive of the net effect of GST. This includes GST, net of input tax credits or reduced input tax credits as applicable.

For further information on tax, please refer to Section 10.

## Fees for Other Services

The Responsible Entity or its related parties may also provide other services to the Fund or Investors in the future. Should that occur, the Responsible Entity or its related parties will charge fees for those services at commercial market rates for the provision of those services.

## Due Diligence Fee

The Responsible Entity or its related parties is entitled to charge a due diligence fee to third party clients for the work to source an investment property, research market value and otherwise conduct due diligence on the proposed Fund asset acquisition or building contract to be entered into. This due diligence fee represents up to 2.5% of the property contract sale value in the case of a Bai'mu'ajjal contract (inclusive of GST), and up to 2% of the building contract value (inclusive of GST) for an Istisna contracts. The amount of due diligence fee charged by the Responsible Entity will be subject to the amount of work conducted by the Responsible Entity in respect to sourcing and evaluating the proposed investment. In any case, the due diligence fee cannot exceed the upper limits detailed above.

The due diligence fee will form part of the cost base of the Fund asset. It will be payable as applicable out of any downpayment paid by the client or any Fund drawdown or at settlement time when the Fund asset is acquired. The Responsible Entity will be paid from any downpayment paid by the client or other contribution made by the client at the time that the downpayment is made or contribution paid by the client.

The due diligence fee payable to the Responsible Entity on an investment by investment basis is a fee for service related to sourcing, review and selecting investments. The fee is generally met by the client out of any downpayment and/or other contribution made by the client.

## Differential Fees

The Responsible Entity (contactable at [www.baytulmaal.com.au](http://www.baytulmaal.com.au)) may separately negotiate a fee rebate with Investors on an individual basis, provided the provision of such rebate is not excluded by the Corporations Act or any applicable laws. For example, the Responsible Entity's fees may be rebated to wholesale clients as defined in the Corporations Act. In the event rebates are offered, they will be paid out of the fees paid to the Responsible Entity and will not affect the fees paid by, or any distributions to, other Investors. The rebate will ordinarily be paid within 10 Business Days after the Responsible Entity receives its fee (if any).

## Changes to Fees and Expenses

The Responsible Entity may change the fees and expenses referred to in this PDS. The Responsible Entity will provide at least 30 days' notice to Investors of any proposed increase in fees or introduction of new fees.

Waiver and deferral of fees by the Responsible Entity  
The Responsible Entity may, in its discretion, accept lower fees and expenses than it is entitled to receive, or may agree to defer payment of those fees and expenses for any time. If payment is deferred, then the fee or expense will accrue until paid.

## Advice Fees

The Responsible Entity does not pay advice fees. You may agree with your financial adviser that an initial advice fee will be paid for ongoing financial planning services your financial advisor provides for you in relation to your investment. This advice fee is additional to the fees shown in Section 11, and is paid to the Australian financial services licensee responsible for your financial advisor (or your financial advisor directly if they are the licensee). It is not paid to the Responsible Entity.

## Other Payments and Benefits

Your financial adviser may receive payments and/or other benefits from the organisation under which they operate. These payments and benefits are not paid by the Fund.

## Sinking Fund Fee

As the Fund seeks to be comply with Shariah principles the use of traditional or conventional insurance products to protect the Fund investment assets is contrary to the principles of Islam and Shariah. As part of the total Bai'Majjal or Istisna contract, the client will pay a 'Sinking Fund Fee'. This fee will be held by the Fund and remains at all times an asset of the Fund. The use and purpose of the sinking fund fee is to meet in whole or in part, any loss to the Fund due to fire or other cause that damages and adversely affects the value of the underlying real property subject to mortgage. The Responsible Entity does not warrant that the sinking fund fee will meet all losses to the Fund incurred from the sale of a mortgaged property(s) affected by fire and/or other events that does not realise in full the unpaid contract amounts outstanding for a client(s).

The client will be required to pay this fee as part of the Bai'Majjal or Istisna contract that the client enters into. Subject to the minimum and maximum limits, the sinking fund fee will range from 2.5 % up to a core contract value of \$1 million (inclusive of GST) and 2% of the core contract value over \$1million (inclusive of GST). The minimum Sinking Fund Fee will be \$10k per contract and the maximum sinking fund fee will be \$20k per contract.

The sinking fund fee is non-refundable to the client and remains an asset of the Fund at all times. In the case that the Fund is terminated or ended for whatever reason, the total sinking fund fee held by the Fund will be distributed to investors as a distributable Fund asset.



## 12. Additional information

### 12.1 Summary of material documents

The following is a summary of material documents relevant to the Fund. The material documents are:

- (1) Constitution dated 30th January 2024
  - (2) Compliance Plan dated 7th February 2024
  - (3) Custodian Agreement dated 30th October 2023
- You should consider obtaining independent advice on any of the documents.

#### (1) Constitution

The Constitution is the primary document that governs the way the Fund operates and sets out the rights, liabilities and responsibilities of both the Responsible Entity and Investors.

Each Unit gives an Investor an equal and undivided interest in the Fund in which they invest. However, a Unit does not give an Investor an interest in any particular part or asset of the Fund or Fund or a class.

Subject to the Constitution, as an Investor you have the following rights:

- The right to share in any distributions
- The right to attend and vote at meetings of Investors
- The right to participate in the proceeds of winding up of the Fund



The Constitution also contains provisions about convening and conducting meetings of Investors. The Responsible Entity is also entitled to the benefit of various indemnities under the Fund's Constitution, which means that it has limited its liability for acting as the responsible entity.

The Responsible Entity can amend the Constitution without Investors' approval provided it reasonably considers the change will not adversely affect Investors' rights.

The Constitution can also be amended by a special resolution passed by Investors.

A copy of the Constitution can be obtained from the ASIC website or is available to Investors from the Responsible Entity free of charge.

## (2) ASIC Relief

ASIC may grant relief in certain situations from the provisions of the Corporations Act. There is no relief given by ASIC or applied for by the Responsible Entity as at the date of this PDS.

## (3) Compliance Plan

The Responsible Entity, as required by the Corporations Act, has lodged a Compliance Plan for the Fund with ASIC. The Compliance Plan sets out how the Responsible Entity ensures that the Fund complies with the Corporations Act and how it intends to operate the Fund under the Constitution.

A copy of the Compliance Plan is available free of charge from the office of the Responsible Entity. If the Compliance Plan is breached in a significant way such that the breach has an adverse effect on Investors, the Responsible Entity is obliged to report such a breach to ASIC.

## (4) Custodian Agreement

The Responsible Entity has entered into a Custodian Agreement with Perpetual Corporate Trust, whereby the Responsible Entity has appointed Perpetual as a service provider to provide custodial services in relation to the Fund's Scheme.

## 12.2 Cooling Off Rights

Cooling Off Rights do not apply for the Fund.

## 12.3 Privacy

The Application process requires you to provide personal information to the Responsible Entity or any person engaged by the Responsible Entity to process your application.

The Responsible Entity collects personal information so that it can process and administer any Application you make. Additionally, the Responsible Entity collects this information in order to administer, manage and generally service your investment in the Fund. The Responsible Entity also may collect personal information about you from third parties, such as a related party Administrator Manager or other third-party service providers of the Responsible Entity.

If you do not provide the personal information requested by the Responsible Entity or provide incomplete or inaccurate information, the Responsible Entity may not be able to accept or process your Application for an investment in the Fund or may be limited in the services or assistance the Responsible Entity can provide with respect to the administration of any investment you subsequently make in the Fund.

The Responsible Entity may disclose your personal information to organisations such as any third party service provider. It may engage to provide custody, administration, technology, auditing, mailing, printing or other services and our professional advisers (including legal and accounting firms, auditors, consultants and other advisers).

Such third parties may use and disclose your personal information for a purpose described in this Privacy Statement which may involve the transfer of your personal information outside of Australia (including to countries where there may be less stringent data protection laws) to process personal information on our behalf. Where this is the case, it may not be possible to ensure that the overseas recipient does not breach the Australian Privacy Principles ('APP') in relation to your personal information.

In providing us with your personal information, you consent to the possibility that your personal information may be transferred outside of Australia for processing and agree that APP 8.1 shall not apply to the disclosure, nor will the Responsible Entity be liable under the Privacy Act 1988 (Cth) ('Privacy Act') in the event that the recipient does not act consistently with the APPs.

The Responsible Entity may also collect certain personal information from you and/or disclose your personal information to government or regulatory bodies where permitted or required to do so by law. For example, the Responsible Entity may be required to collect and disclose certain information in order to comply with the identification and verification requirements imposed under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. For certain Investors, the Responsible Entity may also be required to collect and disclose certain personal information to the ATO in order to comply with the Foreign Account Tax Compliance Act.

If you notify the Responsible Entity that you have a financial adviser, either on your Application Form or in writing (at a later date), you consent to the Responsible Entity disclosing to that financial adviser details of your investment in the Fund and/or other related personal information.

The Responsible Entity will take reasonable steps to ensure that the personal information about an Investor or other relevant person that it collects, uses or discloses is accurate, complete and up to date. You or another relevant person can request access to your personal information or a copy of the Responsible Entity's Privacy Policy by writing to the Privacy Officer at [info@baytulmaal.com.au](mailto:info@baytulmaal.com.au)

The Responsible Entity's Privacy Policy is also available on its website at [www.baytulmaal.com.au](http://www.baytulmaal.com.au)

## 12.4 Complaints Handling

Applicants and Investors who wish to make a complaint about the Fund should contact the Responsible Entity by:

Email: [complaints@baytulmaal.com.au](mailto:complaints@baytulmaal.com.au)  
Postal: Unit 1, 53 Henley Beach Road, Mile End, SA, 5031.

The Responsible Entity will acknowledge a complaint as soon as practicable after receiving it and will notify the complainant of its decision, remedies and other information within 30 days of the complaint being made.

A 'Dispute Resolution Guide' is available on the Responsible Entity's website at which further sets out its dispute management process.

Complaints that cannot be resolved internally by the Responsible Entity to the Investor's satisfaction can be taken to the Australian Financial Complaints Authority (AFCA). AFCA provides fair and independent financial services complaint resolution that is free to consumers. You can contact AFCA as follows:

Website: [www.afca.org.au](http://www.afca.org.au)

Telephone: 1800 931 678 (free call within Australia)

Facsimile: (03) 9613 6399

Email: [info@afca.org.au](mailto:info@afca.org.au)

Post: GPO Box 3, Melbourne, Victoria, 3001

## 12.5 Statement regarding Labour Standards and Environmental, Social and Ethical Considerations

The Responsible Entity does not, in the context of making decisions relating to selecting, retaining or realising the Fund investments, take into account labour standards or environmental, social or ethical considerations, except to the extent that the Responsible Entity considers these issues have the potential to materially impact on the merits of its decisions in relation to the Fund. This means that if the sustainability or value of the Fund is adversely affected due to unacceptable labour standards or environmental, social or ethical factors, the Responsible Entity may choose not to invest further or to dispose of the investment.

## 12.6 Anti-Money Laundering and Counter Terrorism Financing

In 2006, the Federal Government enacted the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act). The Responsible Entity is a 'reporting entity' pursuant to the AML/CTF Act and, as such, must be 'reasonably satisfied' that an Investor exists and is who they claim to be prior to issuing Units to them. This means that all new Investors in the Fund must provide the identification information as set out in the Application Form. The Responsible Entity will not issue Units to a new Investor unless satisfactory identification documents are attached to the Application Form or provided to your financial advisor.

The Responsible Entity may also need to obtain further information from you while you remain an Investor in the Fund.

The Responsible Entity will maintain all information collected from Investors in a secure manner in accordance with the AML/CTF Act and relevant privacy principles. Information about a prospective Investor or Investor will only be disclosed where required by the laws of Australia.

This means that identification information may be disclosed to the Australian Transaction Reports and Analysis Centre or other government or law enforcement agencies. The Responsible Entity may also disclose this information to other entities involved with the Fund to the extent that this information is required to fulfil that entity's AML/CTF obligations. The Responsible Entity is not liable for any loss you may suffer as a result of its compliance with the AML/CTF Act.

## 12.7 FATCA and CRS

The FATCA is United States (U.S.) tax legislation that is intended to enable the U.S. Internal Revenue Service (IRS) to identify and collect tax from U.S. residents that invest via non-U.S. entities, such as the Fund.

FATCA requires certain foreign financial institutions (FFIs) to register with the IRS and collect and provide certain information about U.S. investors (relating to their identity, account balance and payments) to the IRS. Such U.S. investor account information is either reported to the IRS directly, or via the appropriate local tax authority such as the ATO.

The CRS is a standardised set of information sharing rules which have been developed by the OECD with the aim of preventing tax evasion.

Australia has enacted legislation to implement obligations under the FATCA and the CRS. As a result, the Responsible Entity and the Fund, will be required to implement due diligence procedures to document and identify unitholders that are non-residents or entities that are controlled by non-residents and report certain information about those unitholders to the ATO. The ATO may exchange this information with the relevant foreign tax authorities.

The Responsible Entity and the Fund, as registered FFI's under FATCA and reporting entities under CRS, intend to comply with their FATCA and CRS obligations (and any other obligations which may arise under similar regimes to be implemented in the future).

The Responsible Entity will request that you provide certain information about yourself, and your tax status.

## 12.8 'Disclosing entity' obligations

If the Fund has 100 Investors or more, it will be considered a 'disclosing entity' under the Corporations Act. As a disclosing entity, the Fund will be subject to regular reporting and disclosure obligations.

If and when the Fund is a disclosing entity, copies of any documents lodged with ASIC in relation to the Fund may be obtained from, or inspected at, an ASIC office. Investors will also have the right to obtain a copy of the following documents from us free of charge:

- the most recent annual financial report for the Fund lodged with ASIC;
- any half year financial report for the Fund lodged with ASIC after the lodgement of the annual financial report; and
- any continuous disclosure notices for the Fund lodged with ASIC.

Copies of these documents will also be available on our website for download.

## 12.9 Consent of experts and other parties

Each of the following parties has given their written consent to act in the position and role set out in this PDS:

- Baytulmaal Finances Limited
- Perpetual Corporate Trust Limited
- BKM Audit Services Pty Ltd
- Shariah Advisors: Dr. Radwan Elatrash and Dr Yasin Abboud.

Where applicable, they have consented to the information attributed to them in this PDS in the form and context in which they have been included. Further, none of these parties have withdrawn their consent prior to the date of this PDS.

## 12.10 Transfer of Units

Investors can transfer the ownership of their Units at any time provided that the transferee meets the requirements of an Investor in the Fund and the transfer has been approved by the Responsible Entity.

Under the Constitution, the Responsible Entity has the discretion to refuse the transfer of Units in its sole discretion.

Investors should obtain professional taxation advice in relation to the taxation implications of any transfer of Units as the individual tax position of Investors can vary depending on their circumstances.

There will not be any established secondary market for the sale of Units.

## 12.11 Reports

The Responsible Entity will provide Investors with the following reports:

- Distribution statements on the provision of any distributions
- Annual Fund financial accounts, to be provided as soon as practical after submission of the Fund's audited accounts to ASIC (which are due by 31 October of each year)
- Annual tax statements, to be provided as soon as practical after submission of the Fund's audited accounts to ASIC (which are due by 31 October of each year)

The Responsible Entity will provide Investors with a report in respect of the Fund's investments on at least an annual basis.

## 13. Glossary

**ABN** means Australian Business Number .

**ACL** means Australian Credit Licence No. 355094 issued by ASIC to Baytulmaal.

**AFCA** means the Australian Financial Complaints Authority.

**AFSL** means Australian Financial Services Licence No. 355094 issued by ASIC to Baytulmaal.

**AMIT** means Attribution Managed Investment Trust regime.

**AML-CTF** means the Anti-Money Laundering and Counter-Terrorism Financing Act 2006.

**Application Form** means the form or forms attached to this PDS that are required to be completed as part of becoming an investor.

**Application** means the process of applying for Units in the Fund.

**ARSN** means Australian Registered Scheme Number 674 597 445 for the Fund.

**ASIC** means the Australian Securities & Investments Commission.

**ATO** means the Australian Taxation Office.

**Bai' Mu'ajjal** means the specific Shariah compliant sale of property arrangement in the form of a deferred sale/ deferred payment sale/ deferred instalment payment sale contract adopted by the Fund.

**Baytulmaal** means Baytulmaal Finances Limited in its own capacity and as the Responsible Entity.

**Benchmarks** means the reportable benchmarks required to be reported under RG 46.

**Board** means the directors of Baytulmaal.

**Client** means a third party client who enters into a contract of sale for real property under a contract of sale agreement with Baytulmaal.

**Constitution** means the Constitution of the Fund at the date of this PDS including any subsequent revisions.

**Compliance Plan** means the Compliance Plan of the Fund at the date of this PDS including any subsequent revisions.

**Compliance Plan Auditor** means a registered auditor who has the role of auditor of the Compliance Plan. At the date of this PDS, the compliance plan auditor is BKM Audit Services Pty Ltd ABN 77 116 958 948.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Custodian** means Perpetual Corporate Trust Limited ABN 99 000 341 533 as custodian for the Fund at the date of this PDS or any other entity who at any other time has the role of custodian of the Fund.

**Director** means a person who is a director of Baytulmaal.

**Distributions** means amounts paid to Investor(s) in respect to income and earnings of the Fund.

**Dual Compliance** means meeting both the requirements of corporations Act and Shariah.

**FATCA** means the Foreign Account Tax Compliance Act a law of the United States.

**Fund** means the registered managed investment scheme Baytulmaal Property Trust ARSN 674 597 445

**Fund Auditor** means a registered auditor who audits the financial accounts of the Fund. At the date of this PDS, the Fund Auditor is BKM Audit Services Pty Ltd ABN 77 116 958 948.

**GST** means the Goods and Services Tax as applicable for taxable transactions.

**Instalment Profit** means in the context of Shariah the portion of a Shariah compliant contract that remains after the capital outlay has been deducted from total contract payments due and payable by a client to the Fund. The Instalment Profit is then split 60/40 between the Fund (60%) Responsible Entity (40%), typically a monthly basis over the term of the contract.

**Investor** means a person or entity who holds a unit(s) in the Fund.

**Istisna** means a form of Shariah compliant construction finance and investment.

**Musharakah** means the specific Shariah compliant arrangement and relationship between an Investor and the Responsible Entity for purposes of the Fund.

**NCCP** means the National Consumer Credit Protection Act 2009.

**PDS** or Product Disclosure Statement means this Product Disclosure Statement.

**Responsible Entity** means Baytulmaal or any other entity that subsequently acts as the responsible entity for the Fund.

**Retail Investor** means an investor who is not a wholesale or sophisticated investor as defined in the Corporations Act 2001.

**RG 46** means Regulatory Guide 46 "Unlisted property schemes – improving disclosure for retail investors" as issued at the date of this PDS or as amended from time to time.

**Shariah Compliant** means compliance with religious principles of the Islamic faith and for the Fund those religious principles pertaining the finance and investment allowed by the Islamic faith.

**Shariah Advisor** means any person(s) who has the role of advising on Shariah principles for purposes of the Fund.

**Sophisticated Investor** means an investor who is deemed a sophisticated investor as defined in Chapter 6D of the Corporations Act 2001.

**Spot Payment** means in the context of Shariah a payment made within a commercial transaction or a contract where a payment is made immediately, or within a very short timeframe

**TFN** means Tax File Number as relevant for Australian taxation jurisdiction.

**TMD** means the Target Market Determination prepared for Investors at the date of this PDS including any later revisions.

**Unit** means a unit in the Fund.

**Unitholder** means a person or entity who holds a unit(s) in the Fund.

**Wholesale investor** means an Investor who is considered a wholesale investor as defined in chapters 6D and 7 of the Corporations Act 2001.



# 14. Corporate Directory

## **RESPONSIBLE ENTITY AND MANAGER OF THE FUND** Baytulmaal

Finances Limited ABN 16 122 787 311

AFSL/ACL 355094

Unit 1, 53 Henley Beach Road, Mile End, SA 5031 Australia E:

info@baytulmaal.com.au

W: www.baytulmaal.com.au

## **DIRECTORS**

Dr Hani Abul Khair

Mrs Nidya Fauz Iwan

Mr Hasan Yunich

Mrs Sophia Robertson

Mr Alaa Al-Sebahi

## **SHARIAH ADVISORS**

Prof Dr Radwan Elatrash

Dr Yasin Abdelrahman Abboud

## **RESPONSIBLE MANAGERS**

Mr Phil Baker (AFSL Responsible Manager and Key Person)

Mr Barry J Daniels (AFSL Responsible Manager and Key Person)

Mrs Nidya Fauz Iwan (AFSL and ACL Responsible Manager)

Dr Pasquale Franzese (ACL Responsible Manager and Key Person)

## **COMPLIANCE OFFICER**

Dr Pasquale Franzese

## **EXTERNAL ACCOUNTANT**

Muhasaba Advisory Pty Ltd ABN 80 665 180 236

61 Ramsay Ave, Seacombe Gardens, SA, 5047 Australia

## **FUND AND COMPLIANCE PLAN AUDITOR**

BKM Audit Services Pty Ltd ABN 77 116 958 948

Level 4, 689 Burke Road, Camberwell, VIC 3124 Australia

## **CUSTODIAN**

Perpetual Corporate Trust Limited ABN 99 000 341 533 Level 14, 123

Pitt Street, Sydney NSW 2000, Australia



*Home* for Islamic finance

[baytulmaal.com.au](http://baytulmaal.com.au)