

**IN THE HIGH COURT OF SABAH AND SARAWAK
AT THE FEDERAL TERRITORY OF LABUAN
ORIGINATING SUMMONS NO. LBN-24L-6/10-2024**

Digitally Signed by KASYFURRAHMAN BIN ABANG AHMAD,
REGISTRAR, HIGH COURT OF SABAH & SARAWAK,
LABUAN. Date: 25.06.2024 21:42:27 +0800

IN THE MATTER OF SECTIONS 256 AND 257 OF THE
NATIONAL LAND CODE 1965 [Federal Territory of
Labuan (Extension and Modification of National Land Code)
Order 2009]

AND

IN THE MATTER OF MEMORIAL NO. 00154368 (21)
dated 23.01.2006 ON THE LAND HELD UNDER TITLE
NO. PN 6509 (FORMERLY UNDER COUNTRY LEASE
NO. 205331871) AT THE FEDERAL TERRITORY OF
LABUAN

AND

IN THE MATTER OF ORDER 83 RULES 1 AND 3 OF
THE RULES OF THE COURT 2012

BETWEEN

MALAYAN BANKING BERHAD (Co. No. 3813-K)

... PLAINTIFF

AND

AFIE ENTERPRISE SDN BHD (Co. No. 367960-U) [*In Liquidation*]

... DEFENDANT

PROCLAMATION OF SALE

PURSUANT to an Order of the High Court, Federal Territory of Labuan made on the 25.01.2019 and the Order for Direction dated 24.06.2024 **NOTICE IS HEREBY GIVEN** that the abovenamed Defendant's property described in the Schedule hereto shall be sold (subject to all existing encumbrances) by public auction at the **High Court of Sabah and Sarawak at Federal Territory of Labuan, on Friday, the 26th day of July 2024 at 10:00 a.m.** to be conducted by the under mentioned Auctioneers ("the said Auctioneer") under the supervision of the Officer of the Court.



SCHEDULE
Description of Land (“the said Land”)

Title No.	:	PN 6509 (formerly under Country Lease No. 205331871) together with building erected thereon.
Address	:	Kg. Sg. Keling locality, off Jalan Ranca-Ranca, 87007 Federal Territory of Labuan
The Property	:	Vacant land for Aquaculture use
Land Area	:	13.9 hectares (34.35 acres) more or less
Tenure	:	99 years leasehold (expiring on 31 December 2082)

NOTE

The said Land will be sold “**AS IS WHERE IS**” BASIS, subject to the reserve price of **RINGGIT MALAYSIA FIVE MILLION EIGHT HUNDRED ELEVEN THOUSAND THREE HUNDRED AND SEVEN (RM5,811,307.00) ONLY** and subject to the conditions of sale herein.

Any arrears of **QUIT RENT AND ASSESSMENT ONLY** (if any) which may be lawfully due (the Plaintiff reserves the right to refuse to pay any sum not lawfully due and/or those sums that are time-barred) to any relevant authority **UP TO THE DATE OF SUCCESSFUL SALE** shall be paid out of the proceeds of sale, provided that the Plaintiff is in receipt of the extracted bills from the Successful Purchaser within **ONE HUNDRED AND TWENTY (120) DAYS** from the date of the sale. In the event such extracted bills are not submitted within the stipulated **ONE HUNDRED AND TWENTY (120) DAYS** from the auction date, the Plaintiff shall be entitled at its absolute discretion not to entertain any subsequent claims made thereunder and the same shall be borne by the Successful Purchaser.

Prior to the commencement of the auction sale, all bidders are required to register with the Auctioneer appointed by the Court and shall submit the following to the Auctioneer;

- (i) An amount equivalent to 10% of the Reserve Price in Cashier’s Order or Bank Draft in favour of **MALAYAN BANKING BERHAD (Co. No. 3813-K)** and anyone who fails to do so shall not be entitled to bid for the said Land. The said amount shall be returned to the unsuccessful bidders immediately after the auction.
- (ii) Board of Directors Resolution and Written Authorization where the bidder is a company bidding through an authorized person.
- (iii) Written Authorization where the bidder is acting as a proxy.

BALANCE PURCHASE PRICE

THE BALANCE OF THE PURCHASE PRICE SHALL BE PAID WITHIN ONE HUNDRED AND TWENTY (120) DAYS FROM THE DATE OF THE AUCTION.

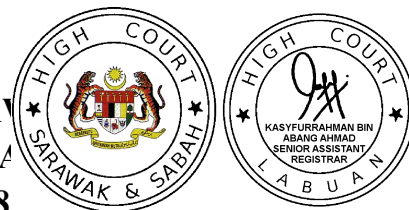
The auction and all bidders shall be subject to the Conditions of Sale, details of which may be obtained from the following

1. DEPUTY REGISTRAR
High Court of Sabah & Sarawak,
Federal Territory of Labuan

2. MESSRS FERNANDEZ & CO
Solicitors for the Plaintiff
No. 143, Jalan Tangki, Dezsos Building,
Karamuning, 88100 Kota Kinabalu
Tel No : 088-222410/ Fax No : 088-217111

3. MESSRS WILAYAH AUCTIONEER & REALTY
No. 8, 1st Floor, Lazenda
Commercial Centre Fasa 3
Jalan OKK Abdullah, 87000 Labuan
Tel No: 087-411139 / Fax: 087-417855
H/P No: 019-8820139

IN THE HIGH COURT OF SABAH AND SARAWAK
AT THE FEDERAL TERRITORY OF LABUAN
ORIGINATING SUMMONS NO. LBN-24L-6/10-2018



Digitally Signed by KASYFURRAHMAN BIN ABANG AHMAD,
E-KEHAKIMAN SABAH & SARAWAK.
Signing Date:25.06.2024 21:42:23 +0800

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(Extension and Modification of National Land Code) Order
2009]

AND

IN THE MATTER OF MEMORIAL NO. 00154368 (21) dated
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6509 (FORMERLY UNDER COUNTRY LEASE NO.
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AND

IN THE MATTER OF ORDER 83 RULES 1 AND 3 OF THE
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BETWEEN

MALAYAN BANKING BERHAD (Co. No. 3813-K)

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AFIE ENTERPRISE SDN BHD (Co. No. 367960-U) [*In Liquidation*]

... DEFENDANT

CONDITIONS OF SALE

1. **Reserve Price and Bidding at the Auction**

1.1 This Sale by public auction is made pursuant to the Court Order dated 25.01.2019 and the Order for Direction dated 24.06.2024 by MALAYAN BANKING BERHAD (Co. No. 3813-K) (“the Plaintiff”) in the exercise of the right and powers conferred upon the Plaintiff pursuant to the Memorandum of Charge under Memorial No. 00154368 (21) dated 23.01.2006 in respect of Property held under PN 6509 (formerly under Country Lease no. 205331871) situate at Kg. Sg. Keling locality, off Jalan Ranche-Ranche, 87007 Federal Territory of Labuan (“the said Land”) executed by the Defendant in favour of the Plaintiff subject to all condition and category of land use, expressed or implied or imposed upon or relating to or affecting the said Land and shall be further subject to the reserve price stated in the Proclamation of Sale (“the said Reserve Price”) and the Conditions of Sale herein.

- 1.2 All intending bidders shall deposit with the Auctioneer, prior to the auction sale, by way of Bank Draft or Cashier's Order drawn in favour of MALAYAN BANKING BERHAD (Co. No. 3813-K) , a sum equivalent to ten percent (10%) of the Reserve Price ("the Bidding Deposit").
- 1.3 Subject to the said Reserve Price and Clause 4 hereinbelow, the highest bidder being so allowed by the Auctioneer shall be the Purchaser but the Auctioneer reserves the right to regulate the bidding and the conduct of the auction sale and shall have the sole right to refuse any bid or bids without giving any reason for such refusal. If any dispute shall arise as to any bidding, the said Land shall be at the option of the Auctioneer be put up again for sale at the last undisputed bid or the Auctioneer may decide on the dispute and the decision of the Auctioneer on all matters not provided for in this Conditions of Sale shall be final and binding in all respects if such decision is made during the course of conducting the auction on the auction date.
- 1.4 No bid shall be less than the previous bid and each bid shall be increased by a minimum amount to be determined by the Auctioneer at the time the said Land is put up for sale and no bidding shall be withdrawn or retracted. Should there be any withdrawal or retraction from the registered bidder(s) of the highest bidder before or after the fall of the hammer, the Bidding Deposit shall be forfeited to the Plaintiff and the said Land shall be at the option of the Auctioneer be put up for sale again or the Auctioneer may decide to adjourn the auction sale to another date.

2. **Agent or Proxy**

- 2.1 Any agent or proxy acting on behalf of another person, body corporate or firm is required to furnish with the Auctioneer, prior to the action sale, a letter of authority from such person, body corporate or firm stating that he is acting on behalf of the person, body corporate or firm, as the case may be.
- 2.2 All intending bidders shall be required to verify their identities by showing the Auctioneer their identity cards prior to the commencement of the auction, failing which they shall not be entitled to bid.

3. **Prohibition to act/bid**

- 3.1 No bankrupt are allowed to bid or act as agents.
- 3.2 Foreign Citizen /Foreign Company is only allowed to bid for the said Land with the prior written consent from the Foreign Investment Committee and/or relevant Land Board as the case may be. It is the responsibility of the Foreign Citizen /Foreign Company to verify and/or check on this with the Foreign Investment Committee and/or relevant Land Board.

- 3.3 In the event a bankrupt bids or acts as agent in relation to the sale of the said Land, the Bidding Deposit or the Purchase Deposit (as the case may be) shall be forfeited to the Plaintiff and the said Land may be put up for sale again at a date and time to be fixed by the Court.
- 3.4 In the event a Foreign Citizen/Foreign Company bids in relation to the sale of the said Land without the written consent from the Foreign Investment Committee and/or relevant Land Board as the case may be, the Bidding Deposit or the Purchase Deposit (as the case may be) shall be forfeited to the Plaintiff and the said Land may be put up for sale again at a date and time to be fixed by the Court.

4. **Plaintiff rights**

The Plaintiff reserves the following rights:-

4.1 **Right to Bid**

To bid without having deposited with the Auctioneer the requisite ten per cent (10%) of the Reserve Price, either by itself or by its agent. In the event that the Plaintiff is the successful bidder and so declared by the Auctioneer, the Plaintiff shall have the liberty to set off the purchase price against the amount due and owing by the Defendant including all costs and expenses of, in connection with and resulting from the auction sale.

4.2 **Right to Withdraw Sale**

To withdraw, postpone and call off the sale of the said Land at any time prior to the auction sale and before the fall of the hammer

4.3 **Right to Re-sell after Withdrawal**

To sell the said Land which was withdrawn at any time subject to such conditions and provisions whether identical with or differing wholly or in part from the conditions and provisions applicable to the said Land to be auctioned at the present auction.

5. **Payment**

- 5.1 Immediately after the fall of the hammer, the Purchaser shall sign the Memorandum of Sale at the foot of this Conditions of Sale (“the said Memorandum”).
- 5.2 In the event that the total purchase price (“the TPP”) is higher than the Reserve Price, the Purchaser so declared by the Auctioneer shall immediately pay to the Auctioneer a sum (“the Differential Sum”) equivalent to the difference between the ten per cent (10%) of the TPP (“the Purchase Deposit”) and the Bidding Deposit either in Bank Draft or Cashier’s Order drawn in favour of MALAYAN BANKING BERHAD (Co.

No. 3813-K) as payment of deposit and towards part payment of the TPP.

- 5.3 In the event the Purchaser fails to pay the Differential Sum or fails to sign the said Memorandum, the Bidding Deposit shall be forfeited by the Plaintiff and the said Land may be put up for sale again at a date and time to be fixed by the Court. The costs and expenses of, in connection with and resulting from such resale together with any deficiency in the price obtained at the resale comparing to the price obtained in the aforesaid sale shall be recoverable from the defaulting Purchaser. A certificate by an officer of the Plaintiff as to the costs and expenses of, in connection with and resulting from such resale shall be accepted by the Purchaser as correct and conclusive.
- 5.4 In the event that the Purchaser shall at any time stops payment or countermands on the Bank Draft or Cashier's Order for the Bidding Deposit and/or the Purchase Deposit, the said Land may be put up for sale at a date and time to be fixed by the Court. The costs and expenses of, in connection with and resulting from such resell together with any deficiency in the price obtained at the resell comparing the price obtained in the aforesaid sale shall be recoverable from the defaulting Purchaser. A certificate by an officer of the Plaintiff as to the costs and expenses of, in connection with and resulting from such resell shall be accepted by the Purchaser as correct and conclusive.
- 5.5 The balance of the TPP ("the Balance Purchase Price") shall be paid by the Purchaser within one hundred and twenty (120) days before the date of the sale to the Plaintiff by way of Bank Draft or Cashier's Order drawn in favour of MALAYAN BANKING BERHAD (Co. No. 3813-K) and there shall be no extension of the period so specified.
- 5.6 In the event the Purchaser fails to pay the Balance Purchase Price within the time in the manner as stipulated in Clause 5.5 above, the Purchase Deposit or the Bidding Deposit (as the case may be) shall be forfeited by the Plaintiff and the said Land may again be put up for sale at a date and time to be fixed by the Court. The costs and expenses, in connection with and resulting from such resell together with any deficiency in the price obtained at the resell comparing to the price obtained in the aforesaid sale shall be recoverable from the defaulting Purchaser. A certificate by an officer of the Plaintiff as to the costs and expenses of, in connection with and resulting from such resell shall be accepted by the Purchaser as correct and conclusive.

6. **Transfer**

Upon full payment of the TPP and subject to the consent being obtained by the Purchaser from the relevant authorities, if any, the Plaintiff and the Purchaser shall observe the following:

- 6.1 The Purchaser shall bear and pay all fees and expenses including but not limited to all legal fees, stamp duty and registration fees in connection with, incidental to or pursuant to the transfer and all other documents necessary for effecting the transfer of the beneficial ownership in the said Land to the Purchaser.

6.2. Thereafter, upon payment by the Purchaser of all such costs and expenses, the Plaintiff shall execute or cause to be executed as soon as possible at the Purchaser's costs and expenses in favour of the Purchaser a transfer in the requisite form under the National Land Code 1965 and shall deliver to the Purchaser the same and the Title Deed for the said Land.

7. **Condition of the said Land**

The said Land is sold on "as is where is" basis. All bidders shall be deemed to have carried out all investigations and examinations of the said Land and the title particulars at their own costs and expenses and upon being successful, accept the said Land in the state and condition in which the said Land is at the date of the auction sale.

8. **Tenancies and restrictive covenants**

The said Land is believed to be and shall be taken to be correctly described and is sold subject to all express conditions, restrictions-in-interest, caveats, leases, tenancies, easements, liabilities, encumbrances and rights, if any, subsisting thereon or thereover without the obligation to define the same respectively and the Purchaser is deemed to have full acknowledge thereof.

9. **Identity of the said Land**

9.1 The Purchaser shall admit the identity of the said Land with that described in the Proclamation of Sale and such other documents offered by the Plaintiff as the title of the said Land by a comparison of the description in the Proclamation of Sale and the aforesaid documents.

9.2 Any error, mis-statement, omission or mis-description of the said Land in the Proclamation of Sale and the documents referred to in paragraph 9.1 above shall not annul the sale, nor shall any compensation be allowed therefore.

10. **Risk of the said Land**

As from time of the sale, the said Land shall be at the sole risk of the Purchaser as regards to loss or damage or whatsoever nature or howsoever occurring by the fire or other accidents, state of cultivation, non-occupation or otherwise.

11. **Quit rent & other outgoings**

11.1 Only arrears of quit rent and assessment which may be lawfully due to any relevant authority up to the fall of the hammer (the Plaintiff reserves the right to refuse to pay any sums not lawfully due and/or those sums that are time-barred) shall be paid out of the TPP provided that the Purchaser shall extract copies of such bills and forward the

same to the Plaintiff and to request for payment from the Plaintiff within one hundred and twenty (120) days from the date of the sale.

11.2 The Purchase money arising from such sale shall be applied firstly in the payment of rent to the State Authority or the lessor (according as the charge was a charge of land or of a lease) and, so far no person other than the chargor was responsible therefor, any other outgoings payable to the State Authority or any local authority; secondly in payment of the expenses and costs of, including solicitors' fees, and incidental to the notices, summonses and sale; thirdly in the payment of the money which then be due to or owing to the Plaintiff (subject to Section 21(b) of the Real Property Gain Tax Act 1976); fourthly in payment of subsequent charges, if any, in the order of their priority, and the surplus, if any, shall be paid to the Defendant or other person entitled thereto.

12. **Vacant possession**

The Purchaser after the payment of the TPP shall at his own costs and expenses take possession of the said Land without any obligation on the part of the Plaintiff or its Advocates or the Auctioneer to give vacant possession.

13. **Sale being set aside or consent not being obtained.**

13.1 In the event of the sale being set aside for any reason or whatsoever by the Plaintiff or by an Order of Court, this sale shall be of no further effect from the date thereof and the Plaintiff shall refund the Purchase Deposit or the TPP (as the case may be) to the Purchaser free of interest and the Purchaser shall not be entitled to any claim and/or demand or its Solicitors or to any other party on account of the auction sale thereof.

13.2 In the event the sale is terminated for any reason or whatsoever, the Purchaser, if vacant possession of the said Land is delivered, shall redeliver vacant possession of the said Land to the Plaintiff at the costs of the Purchaser immediately upon such termination.

14. **Time is of the essence**

Time wherever mentioned herein shall be of the essence of these conditions.

15. **Translation**

In the event of any discrepancy, mis-statement, omission or error appearing in the various translations of the particulars and conditions herein, the English version shall prevail.

16. **Encroachment/ acquisition**

The Plaintiff has no notice or knowledge of any encroachment or that the Government or any other authority has any immediate intention of acquiring the whole or any part of the said Land for roads or any other improvement schemes and if such encroachment shall be found to exist

of if the Government or any local authority has any such intention, the same shall not annul the sale or shall any abatement or compensation be allowed in respect thereof.

17. **Exclusion of liability**

17.1 All statements made in the Proclamation of Sale and Condition of Sale or otherwise relating to the said Land are made without responsibility on the part of the Plaintiff, the Solicitors for the Plaintiff and the Auctioneer or any of them. No such statement may be relied upon as a statement or representation of fact. All bidders must satisfy themselves by inspection or otherwise as to the correctness of any such statements and neither the Plaintiff, the Solicitors for the Plaintiff and the Auctioneer nor any person in their employment has any authority to make or give any representation or warranty or whatsoever in relation to the said Land.

17.2 The Purchaser is advised to seek independent legal advice and/or appoint a Solicitor to act for the Purchaser and in the event no Solicitor is appointed, the Purchaser shall be deemed to have elected to be unrepresented in this auction sale.

17.3 If any term contained herein shall be in whole or in part held to be void, illegal or unenforceable under any rule of law, that them shall be to that extent be deemed not to form part of this Conditions of Sale and the sale shall not be in any way be affected thereby.

18. **Proclamation of Sale, Conditions of Sale and Memorandum of Sale**

All contents in the Proclamation of Sale and this Conditions of Sale are to be read together and shall form part of the Memorandum of Sale.

MEMORANDUM OF CONTRACT

At the sale by Public Auction on **26th day of July 2024 @ 10:00am** of the said Land comprised in the foregoing particulars that is to say the rights, title, interest and benefits in relation to the said Land held under Title No. PN 6509 (formerly under Country Lease no. 205331871) situate at Kg. Sg. Keling locality, off Jalan Ranche-Ranche, 87007 Federal Territory of Labuan as stated in the Proclamation of Sale, the highest bidder stated below has been declared as the Purchaser of the said Land for the sum of **RM** _____ and a sum of **RM** _____ has been paid to the Plaintiff by way of deposit and the Purchaser agrees to pay the balance of the purchase money and complete the purchase according to the conditions aforesaid. The Auctioneer and Court hereby confirm the said purchase and the Solicitors acknowledge receipt of the said deposit on behalf of the Plaintiff.

PURCHASE MONEY : RM _____

DEPOSIT MONEY : RM _____

BALANCE DUE : RM _____

PURCHASER'S PARTICULARS:-

ADDRESS: _____

TELEPHONE NO: _____

SIGNED BY THE ABOVE NAMED PURCHASER(S))
)
) _____

SIGNED BY M/S FERNANDEZ & CO)
M/S FERNANDEZ & CO.)
SOLICITORS FOR THE PLAINTIFF) _____

SIGNED BY)
M/S WILAYAH AUCTIONEER & REALTY)
LICENSED AUCTIONEER) _____

SIGNED BY COURT'S BAILIFF)
HIGH COURT, LABUAN) _____