

MATERIAL LITIGATION BETWEEN BEND WELD ENGINEERING SDN BHD AND FMC TECHNOLOGIES LIMITED

1.0 Introduction

Pursuant to Paragraph 9.03 of the Main Market Listing Requirement of Bursa Malaysia Securities Berhad, the Board of Directors of Kobay Technology Bhd (“the Company”) wishes to announce that Bend Weld Engineering Sdn Bhd (“BWE” or “the Claimant”), a wholly-owned subsidiary of Kobay Industries Sdn. Bhd., who in turn is a wholly-owned subsidiary of Kobay, via its solicitors, has served proceedings by way of Claim Form and Particulars of Claim and paid the security deposit to the High Court of Justice, Business and Property Courts of England and Wales, Technology and Construction Court (KBD) on 7 December 2023 against FMC Technologies Limited (Company Number 002599569) (“FMC” or “the Defendant”), a company incorporated in United Kingdom (hereinafter referred to as “the Claim”).

2.0 Information on BWE and FMC

2.1 BWE

BWE is a private limited company incorporated on 30 August 1990 with issued share capital of RM4,000,000.00. BWE is a wholly owned subsidiary of Kobay Industries Sdn Bhd (“KI”), which in turn, is a wholly owned subsidiary of Kobay.

The principal activities of BWE are manufacture of metal works and structures, modules and parts for oil and gas production and extraction equipment. BWE is operating at its plant located in Pekan Nenas, Johor.

BWE is not a major subsidiary of the Company.

2.2 FMC

FMC is a private limited company incorporated in United Kingdom. FMC is a company specialising in industrial manufacturing including constructing and/or managing the construction of the metal structures required for offshore petroleum and natural gas extraction.

3.0 Circumstances leading to the Claim

BWE is and was at all material times the approved supplier to FMC since year 2015. There was no major dispute nor circumstances where fabricated metal structure that supplied to FMC was rejected.

Between April 2019 and July 2020, the Claimant was contracted to fabricate and supply metal structures for use in the Defendant’s offshore oil and gas projects via a series of contracts granted by the Defendant. There were no issue of the supplies until the date 19 Mar 2020 where FMC raised concerns about the delivered parts on-hands was not complied with the approved Welding Procedure Specification, welding quality issues, and certification compliance for the Welding Engineer and Inspector.

BWE, was then, promptly carried out necessary remedies and corrective actions per FMC's requirement at that particular time and FMC has confirmed that BWE had passed inspection after the rectification.

On 23 July 2020, FMC issued BWE a formal notice of termination for all Dunfermline Subsea open Purchase Orders totalling USD1,496,459.33 (equivalent to RM6,734,066.99) and claimed that they no longer required the goods from BWE. In addition to that, FMC has also put the unpaid invoices worth USD85,958.00 (equivalent to RM386,811.00) on hold.

BWE aims to protect its legal rights and interests and to seek a fair and just resolution to the dispute with FMC by appointing Freeths LLP as Solicitor and Atkin Chambers as Barrister, 2 legal firms in UK to represent the company in legal claims against FMC.

4.0 Particulars of the Claim

The Claimant initiated the Claim to FMC in relates to non-payment of invoices by the Defendant, the Defendant's wrongful termination of the agreements between the parties and losses arising therefrom.

The Claimant is claiming a sum of USD1,726,417.33 (equivalent to RM 7,768,877.99) plus any interest as stated in the Claim Form.

5.0 Operational and financial impact

BWE has fully impaired the inventories and receivables relates to FMC. Therefore, the litigation is not expected to have a major impact on the operation of Kobay Group.

Save for the above mentioned and legal cost to be incurred by BWE, the litigation is not expected to have other financial and operational impact to Kobay Group.

6.0 Interests of Directors, Major Shareholders and/or Persons Connected

None of the directors and/or major shareholders of Kobay Group and/or persons connected with them has any interest, direct or indirect, in the Adjudication Application.

The Company will make further announcements as and when there are material developments on the above matter.

This announcement is dated 20 December 2023.