



27 November 2024

Australian Securities Exchange  
Level 40, Central Park  
152-158 St Georges Terrace Perth  
WA 6000

By email: [ListingsCompliancePerth@asx.com.au](mailto:ListingsCompliancePerth@asx.com.au)

Dear Vanessa

### ASX AWARE LETTER

We refer to the ASX Aware Letter dated 26 November 2024 and respond as follows to the specific questions asked:

- 1. Does KP2 consider the EPC Contract, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

Yes, KP2 does consider the EPC Contract to be information that a reasonable person would expect to have a material effect on the price or value of its securities. KP2 has spent a considerable amount of effort and time negotiating the EPC Contract over an extended period of time, as advised via various announcements over the years.

- 2. If the answer to question 1 is “no”, please advise the basis for that view.**

The answer to question 1 is yes – therefore not applicable.

- 3. When did the negotiations on the EPC Contract complete and KP2 commit itself to proceeding with it?**

As noted by ASX in the ASX Aware Letter, KP2’s quarterly activities and cash flow reports for the quarter ended 30 September 2024 titled “Quarterly Activities and Cashflow Report” released on 31 October 2024 included a statement that:

*“Final agreement on outstanding points in respect of the Engineering, Procurement and Construction contract was reached with PowerChina International Group Limited (“PowerChina”) on 28 October 2024. The EPC agreements have now been finalised and Kore Potash and PowerChina are working towards convening a date which is currently set for 19 November 2024 for the signing ceremony with the Minister of Mines (the “Minister”) and other high officials of the RoC in Brazzaville. Following the signing ceremony, relevant details of the agreement will be made public.”*

While KP2 considered the terms of the EPC Contract to have been substantively finalised at that date, KP2 does not consider the negotiations with PowerChina to have formally completed until 18 November 2024, noting that PowerChina conducted a final detailed review of the EPC Contract on 18 November 2024 and made last minute changes to the contract following that review (those changes being agreed by KP2).

The EPC Contract did not become binding on KP2 until 19 November 2024, being the date on which the EPC Contract was signed following the KP2 board approval on 18 November 2024.

The earliest point in time that KP2 considers itself to have committed to proceed with the EPC Contract was 18 November 2024, following the board approval.



4. **If KP2 committed itself to proceeding with the EPC Contract before the date of the Announcement, did KP2 make any announcement prior to that date which disclosed the information? If not, please explain why the information was not released to the market at an earlier time, commenting specifically on when you believe KP2 was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps KP2 took to ensure that the information was released promptly and without delay.**

As noted above, the earliest KP2 committed to proceed with the EPC Contract was 18 November 2024 and KP2 therefore did not make an announcement prior to this date. The contract was signed on 19 November 2024 in the Republic of Congo at approximately 18h00 (being approximately 01h00 on 20 November 2024 Perth time) and the Announcement was sent to the ASX at approximately 06h15 (Perth time) on that same day.

The EPC Contract information was released promptly and without delay given the Announcement was released immediately upon KP2 being released from suspension on the morning of 20 November 2024.

5. **Please confirm that KP2 is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

We confirm that KP2 is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

6. **Please confirm that KP2's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of KP2 with delegated authority from the board to respond to ASX on disclosure matters.**

This response have been authorised by the Board of Directors.

Yours sincerely  
**Henko Vos**  
Company Secretary  
+61 (8) 9463 2463

For personal use only



26 November 2024

Reference: ODIN103482

Mr Henko Vos  
Company Secretary  
Kore Potash Plc  
Level 3, 88 Willian Street  
Perth, Western Australia 6000

By email: Henko.vos@nexiaperth.com.au

Dear Mr Vos

**Kore Potash Plc ('KP2'): ASX Aware Letter**

ASX refers to the following:

- A. KP2's quarterly activities and cash flow reports for the quarter ended 30 September 2024 titled "Quarterly Activities and Cashflow Report" (the 'Quarterly Report') released on the ASX Market Announcements Platform ('MAP') at 6:00 PM AEDT on 31 October 2024 disclosing, amongst other things, that:

*"Final agreement on outstanding points in respect of the Engineering, Procurement and Construction contract was reached with PowerChina International Group Limited ("PowerChina") on 28 October 2024. The EPC agreements have now been finalised and Kore Potash and PowerChina are working towards convening a date which is currently set for 19 November 2024 for the signing ceremony with the Minister of Mines (the "Minister") and other high officials of the RoC in Brazzaville. Following the signing ceremony, relevant details of the agreement will be made public."*

ASX notes that KP2 submitted the Quarterly Report as 'market-sensitive' to ASX Online.

- B. KP2's announcement titled "Fundraise of US\$900,000" (the 'Fundraise Announcement') lodged on 5 November 2024 and released on MAP at 8:18 AM AEDT on 6 November 2024 disclosing, amongst other things, that, KP2's Chairman Mr David Hathorn, had been unable to take part in the Company's fundraise of US\$900,00 as he had been considered by KP2 to be "in possession of unpublished inside information".

ASX notes that KP2 submitted this Announcement as 'market-sensitive' to ASX Online.

- C. KP2's request for a trading halt pending release of an announcement regarding the Engineering, Procurement and Construction contract (the 'EPC Contract') provided to ASX and released on MAP at 7:48 PM AEDT on 6 November 2024.
- D. KP2's request that its securities be suspended from official quotation pending the release of an announcement regarding the EPC Contract provided to ASX and released on MAP at 9:35 AM AEDT on 11 November 2024.
- E. KP2's announcement titled "Finalisation of EPC Contract" (the 'Announcement') released on MAP at 9:42 AM AEDT on 20 November 2024 (the 'Relevant Date'), disclosing, amongst other things, that the EPC Contract had been signed in Brazzaville in the presence of the Minister of Mines of the Republic of Congo on 19 November 2024. Following the release of the Announcement, KP2's securities were reinstated to official quotation and recommenced trading.
- F. The change in the price of KP2's securities from a closing price A\$0.061 on 6 November 2024 prior to KP2 requesting a trading halt to an intraday high of A\$0.074 on 20 November 2024 following the release of the Announcement.

- G. The significant increase in volume of securities traded on 20 November 2024 following the release of the Announcement.
- H. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- I. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:
- "an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity."*
- J. Section 4.4 in *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B* titled "When does an entity become aware of information?"
- K. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure as follows.
- "3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*
- 3.1A.1 One or more of the following 5 situations applies:*
- It would be a breach of a law to disclose the information;*
  - The information concerns an incomplete proposal or negotiation;*
  - The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
  - The information is generated for the internal management purposes of the entity; or*
  - The information is a trade secret; and*
- 3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*
- 3.1A.3 A reasonable person would not expect the information to be disclosed."*
- L. Section 5.4 in *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B* titled "Incomplete proposals or negotiations" which states (relevantly) that:
- "[...]*
- It is not acceptable, however, for an entity to commit itself to an agreement (eg, by "hand shake" or side letter) but to delay signing in an attempt to delay its disclosure. As soon as an agreement is legally binding on an entity or it is otherwise committed to proceeding with the transaction in question, the proposal inherent in that agreement and the negotiations about it are completed and this exception no longer applies.*
- It should be noted that the fact that an agreement to implement or give effect to a market sensitive transaction may be subject to conditions precedent to it becoming legally binding,<sup>1</sup> or conditions subsequent that must be satisfied before the transaction proceeds to completion, does not alter the fact that it will usually need to be disclosed at the point of signing. At that point, it is no longer an incomplete proposal or negotiation and so this exception will no longer apply."*

<sup>1</sup> For the avoidance of doubt, this includes, but is not limited to, a condition precedent requiring approval by the board of directors of one or more of the parties to the agreement before it is legally binding.

M. The concept of “confidentiality” detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. In particular, the Guidance Note states that:

*“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it is no longer a secret and it ceases to be confidential information for the purposes of this rule.”*

### **Request for information**

Having regard to the above, ASX asks KP2 to respond separately to each of the following questions:

1. Does KP2 consider the EPC Contract, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is “no”, please advise the basis for that view.
3. When did the negotiations on the EPC Contract complete and KP2 commit itself to proceeding with it?
4. If KP2 committed itself to proceeding with the EPC Contract before the date of the Announcement, did KP2 make any announcement prior to that date which disclosed the information? If not, please explain why the information was not released to the market at an earlier time, commenting specifically on when you believe KP2 was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps KP2 took to ensure that the information was released promptly and without delay.
5. Please confirm that KP2 is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that KP2’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of KP2 with delegated authority from the board to respond to ASX on disclosure matters.

### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 AM AWST Monday, 2 December 2024**.

You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, KP2’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out above and may require KP2 to request a trading halt immediately if trading in KP2’s securities is not already halted or suspended.

Your response should be sent by e-mail to **ListingsCompliancePerth@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow us to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

### **Suspension**

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in KP2’s securities under Listing Rule 17.3.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to KP2’s obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that KP2’s obligation to

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disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

**Release of correspondence between ASX and entity**

We reserve the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A. The usual course is for the correspondence to be released to the market.

Yours sincerely

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ASX Compliance

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