KSK
Power from knowledge

KSK Energy Limited

St. James Court, Suite 308
St. Denis Street, Port-Louis
Republic of Mauritius,
Tel: (230) 211 6242
Fax: (230) 211 7489

11th January 2009

The General Manager,
Corporate Finance Department
Division of Corporate restructuring,
M/s. Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C4-A,
"G" Block, Bandra Kurla Complex,
Bandra (E), Mumbai- 400 051.

Dear Sirs,

Sub: Our Application dated 2nd December 2009 seeking "Interpretive Letter" under the SEBI (Informal Guidance) Scheme, 2003

This is further our representatives' discussions at your office on 7th January and we submit the clarifications / additional details sought for in the meeting below:

1. The various Lehman Brothers Group entities currently holding shares in the Target Company include: LB Mauritius I Limited, LB India Holdings Mauritius I Limited, LB Mauritius II Limited and Lehman Brothers Asia Limited A/c GRA Finance Corporation Limited. We have detailed further herein the various entities of Lehman Brothers that hold shares of the Target Company.

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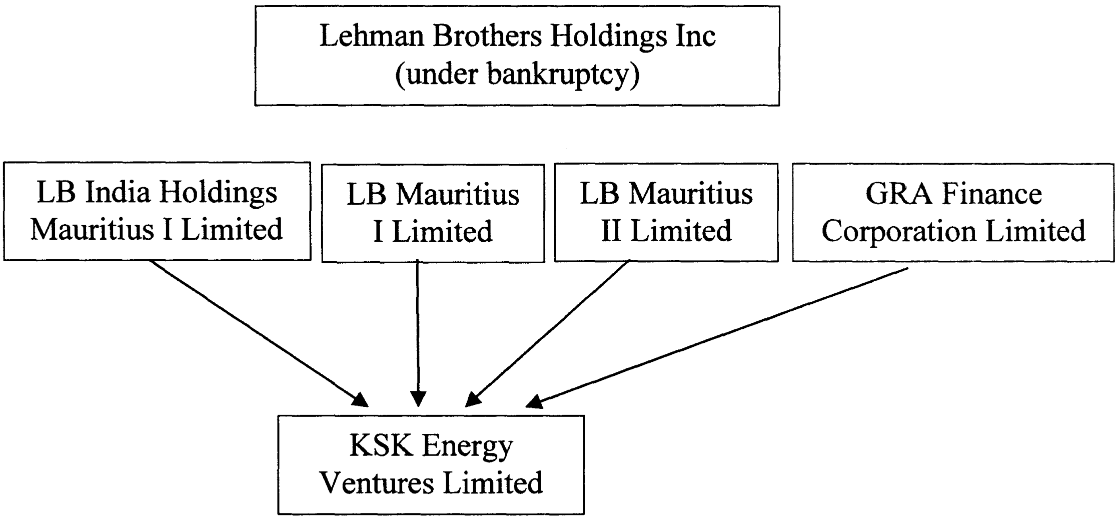
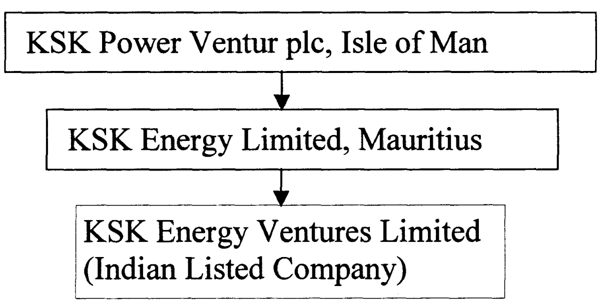


* Additionally, in the past the shares were held by two more entities LB Mauritius III Limited, LB Mauritius IV Limited who currently cease to hold any shares subsequent to inter se transfers notified in November 2009

2. The holding company of the Applicant is KSK Power Ventur plc, a company listed in the Alternative investment market (AIM) of the London Stock Exchange. The pattern of the holding is given below:



The parties that are to be signatories to the proposed Supplementary Development Agreement are (1) LB India Holdings Mauritius I limited (2) LB Mauritius I Limited (3) LB Mauritius III Limited (4) KSK Energy Limited and (5) KSK Power Ventur plc.

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3. The Right of First Offer ("ROFO") was originally provided for in January 2008 under the Voting Right Agreement prior to the Target Company's IPO in June 2008. The same was detailed in the section History and certain corporate matters in the Prospectus dated 30 June 2008. A copy of the relevant portion is enclosed as **Annex-1**. The Right essentially provided for LB to notify of its intention to sell Target Company Shares and the applicant to provide an offer within 30 days. Failing such offer or if LB does not accept the offer, LB can seek to effect a sale on price and terms not inferior to those in the Offer.

4. However, the current Right of First Refusal provides for right to acquire interest, wholly or in multiple parts, 100% of one of the Mauritius Holding Company (Company akin to LB Mauritius III Limited or LB Mauritius I limited) that is a member of the LB Group that would have interest in 24,227,330 equity shares of the Target Company at a fixed price. While the flexibility of direct / indirect acquisition under the ROFR has been provided to Applicant's Holding Company (i.e. KSK power Ventur plc), however it is the understanding between the parties that such right shall be exercised no later than 31 January, 2011. After exercising the right, the Applicant's Holding Company, KSK power Ventur plc can make the acquisition directly or through its nominees.

5. In the event of the Applicant's Holding Company not exercising the Right on or before 31st January 2011, LB Group shall have the right to cause the Mauritian Holding Company to sell the underlying 24,227,330 shares of the Target Company. In such an event, the Applicant's Holding Company shall be liable to pay damages, if any suffered by the LB Group which would be a liquidated sum equivalent to the difference between the amount realized on sale of the underlying

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equity shares of the Target Company and the total purchase consideration as per the proposed Supplementary Development Arrangement in the event the Right is exercised.

6. In the application dated 2nd December 2009, the Applicant had listed three issues on which the Applicant sought the Interpretive Letter. The Applicant wants to add one more issue, namely of timing of the disclosure under the SEBI Takeover Code. The Applicant has consolidated the issues on which the Interpretive Letter is sought for convenience below:

    a. Whether execution of the proposed Supplementary Development Agreement or the payment of an initial Deposit in pursuance of the Supplementary Development Agreement by the Applicant's Holding Company to secure a ROFR right could be construed as acquisition of shares/voting rights (or) the acquisition is completed only upon payment of the consideration on Completion and the consequent indirect acquisition of shares/voting rights of the company

    b. Whether the Applicant would be obliged to comply with the provisions relating to disclosure under Reg. 7(1) and Reg. 7(1A) read with Reg. 7(2) of the SEBI Takeover Code at the time of execution of the Supplementary Development Agreement when there is uncertainty on the final acquisition of shares/voting rights **(or)** the compliance of the said provisions are triggered only when the Right is exercised by the Applicant resulting in actual acquisition of shares/voting rights;

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c. Whether the Applicant would be obliged to comply with the provisions relating to disclosure and Public Announcement under the Takeover Code in the light of Reg. 11(1) read with Reg. 14(2) at the time of execution of the Supplementary Development Agreement when there is uncertainty on the final acquisition of shares/voting rights (**or**) the compliance of the said provisions are triggered only when the Right is exercised by the Applicant resulting in actual acquisition of shares/voting rights;

d. Similarly, whether the Applicant is bound to make disclosure in terms of Reg. 13(3) of the SEBI Insider Trading Regulations at the time of execution of the Supplementary Development Agreement when there is uncertainty on the final acquisition of shares/voting rights (**or**) the provisions are triggered only when the Right is exercised by the Applicant resulting in actual acquisition of shares/voting rights;

Explanation of Reg. 7(1) and Reg. 7(1A) of SEBI Takeover Code:

7. In our application dated 2nd December 2009, we had explained the provisions relating to the other issues raised excepting issue in (b) above. Issue (b) is concerned with disclosure under Reg. 7(1) and Reg. 7(1A) of SEBI Takeover Code. Under Reg. 7, any Acquirer, who acquires shares entitling him to exercise voting rights equivalent to 54% is obliged to make a disclosure at every stage of the acquisition. Similarly, under Reg. 7(1A), any person acquiring shares under Reg. 11(2) is obliged to make a disclosure in respect of purchase or sale of shares aggregating to 2% or more of the voting rights. Reg. 7(2) provides that the disclosure should be made within 2 days of the transaction.

8. In the present case, Reg. 7(1) and Reg. 7(1A) would get triggered. However, the question remains whether the acquisition requiring disclosure gets completed at the time of execution of the Supplementary Development Agreement, when there is uncertainty on the acquisition of shares/voting rights as there is no legal obligation on the Applicant's Holding Company to complete the acquisition of shares/voting rights of the Target Company or at the time of exercise of the rights under the Supplementary Development Agreement resulting in actual acquisition.

9. The legal principles set out in the application dated 2nd December 2009 are applicable to the issue (b) set out above. They are not being repeated. For the present, it would suffice to state that at the time of entering into the Supplementary Development Agreement, there is uncertainty on the acquisition of shares/voting rights as there is no legal obligation on the Applicant's Holding Company to complete the acquisition of shares/voting rights of the Target Company. Therefore, the disclosures under Reg. 7(1) and Reg. 7(1A) would arise only at the time of exercise of the rights under the Supplementary Development Agreement, which results in actual acquisition of the shares of the Target Company.

10. This letter may be read as part and parcel of the application dated 2nd December 2009.

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Prayer:

We request you to kindly provide us the guidance on the aforesaid at the earliest. We would be pleased to submit any further information or clarification that may be required in this regard

Thanking you,
Yours sincerely,
For KSK Energy Limited,

Director
Fung Kong Yune Kim
Tel: +230-2116242
Fax: +230-2117489
Email: fitco@intnet.mu