

Related Party policy

Keybridge Capital Limited

ACN 088 267 190 (**Company**)

1. Introduction

- 1.1 The purpose of this policy is to establish a protocol for directors and management in negotiating and entering transactions between Keybridge Capital Limited (**Company**) and related parties.
- 1.2 Transactions between the Company and a related party raise a number of potential legal issues:
- (a) directors may breach fiduciary duties owed to the Company if they fail to separately consider and act in the best interests of the Company, as distinct from the interests of the related party;
 - (b) the transaction may offend Chapter 2E of the Corporations Act ("the Act") which, subject to certain exceptions, prohibits public companies from giving financial benefits to a related party of the public company without shareholder approval. Directors, other persons involved in the negotiations and the related party may be liable for civil penalties for a breach of Chapter 2E. Chapter 2E is modified by Part 5C.7 of the Act for transactions involving registered managed investment schemes;
 - (c) ASX Listing Rule 10.1 requires approval of the shareholders of the Company where the Company acquires or disposes of a substantial asset to certain related and other parties; and
 - (d) the transaction may favour the Company's interests as opposed to investors interests in a way that may be inconsistent with the fiduciary obligations under the life, superannuation or managed funds laws.

2. Who is a related party of the Company?

- 2.1 Related parties of the Company include:
- * a director of the Company or members of that director's immediate family such as a spouse, parent or child;
 - * any entity which has the ability to control the Company (**Controlling Entity**);
 - * directors of any Controlling Entity and their immediate families;
 - * other entities controlled by any of the above parties;
 - * an entity which was a related party to the Company within the previous 6 months;
 - * an entity that believes it will become a related party in the future; and
 - * an entity acting in concert with a related party.
- 2.2 "Control" exists where a person has the ability to determine decisions in relation to the financial and operating policies of another entity.
- 2.3 From these wide definitions it is apparent, for example, that a related party can include another company within the Keybridge Capital Limited group, or a company that is controlled by a director of the Company or of another public company in the Keybridge Capital Limited group.
- 2.4 If an entity is a related party of the Company, it will often (but not always) be the case that the Company is a related party of that entity.
- 2.5 An important limit to the scope of the related party provisions is that, from the perspective of a public company, a related party to that company does not include a trust or managed investment scheme, but rather it includes a trustee or responsible entity acting in its capacity as a trustee or responsible entity.

- 2.6 Where a financial benefit is being provided out of the property of a registered managed investment scheme of which the Company (or its related body corporate) is the responsible entity, then the related party provisions need to be considered from the perspective of the responsible entity of that registered scheme. In particular, Chapter 2E (as modified by Part 5C.7) applies to benefits given by the responsible entity of a registered scheme (or an entity that the responsible entity controls or certain agents or persons engaged by the responsible entity) to the responsible entity or such controlled entities, agents or other persons, or their respective related parties, where the benefit is given out of the scheme property or could endanger the scheme property.

3. What does "giving a financial benefit" involve?

- 3.1 Giving a financial benefit is interpreted broadly under the Corporations Act, having regard to the substance rather than the form of the transaction, and includes giving a financial benefit indirectly. Where there is a purchase or sale transaction, both parties to the transaction are 'giving a financial benefit' to the other. The fact that there is payment of consideration for the benefit, even if adequate, does not cause the transaction to escape Chapter 2E of the Act.
- 3.2 Examples of giving a financial benefit include:
- * giving or providing finance or property;
 - * buying or selling an asset;
 - * leasing an asset;
 - * supplying or receiving services;
 - * issuing securities or granting options; and
 - * taking up or releasing an obligation.

4. Procedure for negotiating related party transactions

- 4.1 When negotiating and entering into arrangements between the Company and related parties, the manager responsible for the transaction must do the following things:
- (a) bring the proposed arrangements to the attention of the relevant Managing Director;
 - (b) act in the best interests of the Company without regard to the related party's interests;
 - (c) ensure that any transaction which confers a financial benefit of any kind on the related party is conducted on an arm's length basis. Before entering the agreement or arrangement, a director of the relevant company or a direct report of the Managing Director or their direct report ('senior management') should consider whether the arrangement is on terms or conditions which are no more favourable to the related party than would be reasonable to expect if the parties were dealing on arm's length terms in the same circumstances;
 - (d) if considered necessary by the Managing Director, obtain independent advice whether the transaction is on normal commercial terms, and, in particular, to evaluate or recommend the price payable;
 - (e) ensure that appropriate and properly authorised persons are responsible on behalf of the Company for negotiating any arrangements between related parties. In other words, appropriate clarity of purpose and independence on the part of each person representing the Company is essential.

5. Shareholder approval under chapter 2E - exceptions

5.1 Shareholder approval will not be required, under the Act, for a related party transaction where one of the exceptions under sections 210 to 216 of the Act applies. These include:

- * benefits to closely held subsidiaries;
- * where the transaction is conducted on an arm's length basis (this exception is not as easy to attract as it may appear. Arms length terms means more than arms length price. Matters relevant to determining arms length include the terms of any agreement including indemnities and warranties; the amount and extent of any loan or borrowing; interest and charges payable; credit risk; nature of any security or securities provided, timetable for payments of any sums owing;
- * the financial benefit consists of remuneration or reimbursement to employees;
- * payment of indemnities, insurance premiums and legal costs;
- * small amounts paid to a director or his/her spouse (less than \$2,000);
- * benefits that do not discriminate unfairly between members; and
- * payments made under an order of court.

5.2 If a financial benefit is to be given by the Company, or an entity it controls, to a related party of the public company, Chapter 2E of the Act will apply. This means that, unless one of the exceptions apply, approval of the shareholders of the Company.

6. Shareholder approval under the Listing Rules

6.1 The Company may not, without the approval of the shareholders, acquire a substantial asset from, or dispose of a substantial asset to:

- (a) a related party;
- (b) a subsidiary;
- (c) a substantial shareholder who has or who had at any time within 6 months prior to the transaction an interest in at least 10% of the voting securities in the Company;
- (d) an associate of any of the persons referred to above; or
- (e) a person whose relationship to the Company or to a person referred to above is such that, in Australian Securities Exchange (**ASX**) ASX's opinion, the transaction should be approved by the shareholders in the Company.

6.2 An asset is a "substantial asset" if its value, or the value of the consideration is, or in ASX's opinion is, 5% or more of the equity interests (broadly, paid up share capital) in the Company.

6.3 Under the Listing Rules, the requirement for shareholder approval relates only to the shareholders of the Company.

6.4 The ASX may deem shareholder approval is necessary even where the transaction falls below the 5% threshold in certain circumstances. Hence in a major transaction such as one where for example debt may reduce its value to below the 5% threshold, legal advice should be sought prior to committing to the transaction.

7. Compliance with Policy

7.1 It is the accountability of management to apply this Policy at all times and to bring any exceptions to this Policy to the attention of the AFRC or the Board.

7.2 Reporting to the AFRC or the Board on this Policy will be as follows:

- (a) any breaches of Policy will be reported to the Board immediately following the breach
- (b) management will provide a Related Party update at each meeting of the AFRC
- (c) management will report to the AFRC meeting in May of each year on overall compliance with the Policy.

8. Approved and adopted

This related party policy was amended and adopted by the board on 7 December 2007 and reviewed on 13 May 2008, 18 December 2008, 4 November 2009, 8 November 2010 and 2 November 2011.

Date

2 November 2011

Signed


Chairperson of the board of directors
of Keybridge Capital Limited