

Conflicts of Interest and Related Party Transactions policy

Keybridge Capital Limited

ACN 088 267 190

1. Introduction

- 1.1 The purpose of this policy is to establish a protocol for the identification, review, approval and disclosure of conflicts of interest, and related party transactions, being transactions between Keybridge Capital Limited (**Keybridge** or **Company**) and its related Parties (defined in Section 2 below).
- 1.2 Transactions between Keybridge and a related party raise a number of potential legal issues:
- (a) a director of Keybridge (**Director**) who is, or is connected with, a Related Party may have an interest or duty that conflicts (whether now or in the future) with his or her duties to Keybridge in relation to the proposed transaction with that Related Party (a conflicted Director). A conflicted Director may breach his or her fiduciary duties owed to Keybridge if they fail to separately consider and act in the best interests of Keybridge, as distinct from the interests of the Related Party;
 - (b) a conflicted Director may have a material personal interest in the proposed Related Party transaction for the purpose of section 195 of the Corporations Act 2001 (Cth) (**Corporations Act**), and may thereby be prohibited from being present at board meetings while matters concerning the Related Party transaction are being considered and from voting on such matters;
 - (c) the Related Party transaction may offend Chapter 2E of the Corporations 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.
 - (d) ASX Listing Rule 10.1 requires approval of the shareholders of Keybridge where Keybridge acquires a substantial asset from, or disposes of a substantial asset to, Related Parties, and other parties deemed to be related parties by the ASX Listing Rules; and
 - (e) where a Related Party transaction may affect the control of Keybridge, the Takeovers Panel may declare that there are unacceptable circumstances where a conflicted Director (ie a Director associated with the Related Party proposing the control transaction) is in a position to influence, or appears to be in a position to influence, the consideration of the Related Party transaction by Keybridge (see Takeovers Panel's Guidance Note 19: Insider Participation in Control Transactions).

2. Who is a related party of Keybridge?

- 2.1 Under the Corporations Act, Related Parties of Keybridge include:
- (a) a director of Keybridge or members of that director's immediate family such as a spouse, parent or child;
 - (b) any entity which has the ability to control Keybridge (Controlling Entity);
 - (c) directors of any Controlling Entity and their immediate families;
 - (d) other entities controlled by any of the above parties;
 - (e) an entity which was a related party to Keybridge within the previous 6 months;
 - (f) an entity that believes it will become a related party in the future; and
 - (g) an entity acting in concert with a related party.

- 2.2 Further, for the purposes of Chapter 10 of the ASX Listing Rules, Related Parties of Keybridge include:
- (a) a substantial shareholder of Keybridge who has or who had at any time within 6 months prior to the Related Party transaction an interest in at least 10% of the voting securities in Keybridge;
 - (b) an associate of a Related Party of Keybridge (as defined in the Corporations Act), an associate of a subsidiary of Keybridge, or an associate of substantial shareholder as defined in 2.2(a) above; or
 - (c) a person whose relationship to Keybridge or to a person referred to above is deemed to be a related party by the ASX Listing Rules, the Related Party transaction should be approved by the shareholders in Keybridge.
- 2.3 "Control" exists where a person has the ability to determine decisions in relation to the financial and operating policies of another entity.
- 2.4 From these wide definitions it is apparent, for example, that a related party can include another company within the Keybridge group, or a company that is controlled by a Director or of another public company in the Keybridge group.
- 2.5 If an entity is a Related Party of Keybridge, it will often (but not always) be the case that Keybridge is a related party of that entity.
- 2.6 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.

3. What is a Related Party transaction?

- 3.1 A Related Party transaction is any proposal or transaction where:
- (a) a Related Party is or may be interested, or may receive a benefit, other than as shareholder in common with other shareholders, or
 - (b) the interests of that Related Party and Keybridge conflict or may appear to conflict.
- 3.2 For example, a Related Party transaction includes (without limitation) any transaction which:
- (a) includes a Related Party as a party;
 - (b) provides for Keybridge giving a benefit (whether financial or otherwise, and whether directly or indirectly) to a Related Party; or
 - (c) is a takeover bid or other control transaction in respect of Keybridge involving a Related Party.
- 3.3 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.
- 3.4 Examples of giving a financial benefit include:
- (a) giving or providing finance or property;
 - (b) buying or selling an asset;

- (c) leasing an asset;
- (d) supplying or receiving services;
- (e) issuing securities or granting options; and
- (f) taking up or releasing an obligation.

4. What are the Directors' duties to disclose conflicts of interest

4.1 Director are expected to comply with their statutory and fiduciary duties to Keybridge at all times. These duties include the duties to:

- (a) act honestly and in good faith in the best interests of the Company;
- (b) keep information obtained as a director of Keybridge confidential, and not to disclose such information to anyone else except in the proper performance of their duties as a Director, or otherwise with the consent of the Board;
- (c) not improperly use their position as a director of Keybridge, or information obtained because they are a director of Keybridge, to:
 - (i) gain an advantage for themselves, or someone else; or
 - (ii) cause detriment to Keybridge; and
- (d) exercise the degree of care and diligence that a reasonable person would exercise if they were in the Director's position.

4.2 Any Director who has an interest or duty that conflicts with, or may be perceived to conflict with, their duties to Keybridge (as set out above) in relation to any matter concerning the affairs of Keybridge, must disclose that conflicting interest or duty to the other Directors as soon as practicable after becoming aware of it. Any such disclosure of a conflicting interest or duty:

- (a) must include the nature and extent of the interest of the Director and its relation to the affairs of the Company, as well as anything else required by the Company's Constitution or the law;
- (b) may be given as a 'standing notice' – that is, a standing notice of a current, or potential, conflict of interest or duty, which may be given at any time. Where a standing notice is given, a Director must promptly disclose any material change to the nature and extent of an interest previously disclosed in a standing notice; and
- (c) may be given to:
 - (i) the other Directors at a Board meeting;
 - (ii) the other Directors individually (with a copy to the Company Secretary); or
 - (iii) the Company Secretary for circulation to the other Directors.

4.3 In the context of a Related Party transaction (whether actual or proposed), the disclosure of a conflict of interest or duty by a Director should include:

- (a) any material interest in the Related Party transaction, or any other personal or other extraneous interest in the Related Party as a result of which there is a real or sensible possibility of conflict between that interest and the Director's duty to act in the best interests of the Company assessed on an objective (not subjective) basis; and

- (b) any duty owed to a third party where the discharge of the duty to the third party would or may appear to be in conflict with the proper exercise of the Director's duty owed to the Company in relation to the Related Party transaction (or vice versa).

4.4 Any disclosure of an actual or perceived conflict of duty or interest by a Director is to be recorded in the minutes of the Board meeting at which such conflict is disclosed, or the Board meeting following such disclosure.

5. Who should consider Related Party transactions

5.1 Under section 195 of the Corporations Act, a Director who has a material personal interest in a matter must not be present at a Board meeting while the matter is being considered or vote on the matter, unless:

- (a) Directors who do not have a material personal interest in the matter have passed a resolution that:
 - (i) identifies the Director, the nature and extent of the Director's interest in the matter, and its relation to the affairs of the Company; and
 - (ii) states that those Directors are satisfied that the interest should not disqualify the Director from voting or being present; or
- (b) ASIC has made a declaration or order under section 196 of the Corporations Act to entitle that Director to be present at the Board meeting and / or vote on the matter.

5.2 A Director who has identified a matter on a Board meeting agenda in which they have a material personal interest is responsible for ensuring that:

- (a) proper notice of that interest is given (as set out above); and
- (b) they are not present while the matter is considered and voted on.

5.3 A register of declared conflicts of interest should be maintained by the Company, and kept up to date, at all times.

5.4 The non-conflicted Directors may determine that a conflicted Director should not receive Board papers relevant to the matter in which that Director has a conflict (eg. where such disclosure may be detrimental to the interests of the Company, or the conflicted Director requests that they not receive the papers relevant to the matter). If the non-conflicted Directors make such a determination, the conflicted Director:

- (a) will be informed by the Chairman (or, if the Chairman is the conflicted Director, a non-conflicted Director) that papers relevant to the matter will not be provided; and
- (b) accordingly will not be provided such Board papers.

5.5 Where a Director has a significant or irreconcilable conflict that significantly impedes the Director's ability to discharge their duties, the Director should consider whether they should resign from the Board. Directors are strongly encouraged to seek appropriate legal advice in circumstances of significant or irreconcilable conflict.

6. What is the procedure for considering and negotiating Related Party transactions

6.1 When negotiating and entering into arrangements between Keybridge and Related Parties, the manager responsible for the transaction must promptly bring the proposed arrangements to the attention of the Board.

- 6.2 As soon as the Board becomes aware of a Related Party Transaction, it should convene a meeting and establish appropriate protocols and procedures in relation to the Related Party transaction. In putting in place protocols and procedures, the Board should consider:
- (a) who should consider and approve the proposed Related Party transaction and empower them to do so. That is, should a sub-committee of non-Conflicted Directors be established and empowered to consider and approve the Related Party transaction;
 - (b) a framework for information confidentiality, including considering whether information regarding the Related Party transaction should be kept confidential from the conflicted Director;
 - (c) managing any influence that the Related Party (including any Director) may have in relation to the Board's consideration of the Related Party transaction so as to enable the Directors to act in the best interests of Keybridge without regard to the Related Party's interests;
 - (d) ensuring that any transaction which confers a financial benefit of any kind on the Related Party is conducted on an arm's length basis. For this purpose, the Board may seek the advice of Keybridge senior management, or the advice of external advisors, as to whether the proposed Related Party transaction 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 (see discussion below); and
 - (e) ensuring that the Board receives independent advice with respect to the Related Party transaction. Such advice may consider whether the proposed Related Party transaction is on normal commercial terms, and, in particular, evaluate or recommend the price payable.

7. Shareholder approval under chapter 2E - exceptions

- 7.1 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:
- (a) benefits to closely held subsidiaries;
 - (b) 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 – see below);
 - (c) the financial benefit consists of remuneration or reimbursement to employees;
 - (d) payment of indemnities, insurance premiums and legal costs;
 - (e) small amounts paid to a director or his/her spouse (less than \$2,000);
 - (f) benefits that do not discriminate unfairly between members; and
 - (g) payments made under an order of court.
- 7.2 In considering whether a Related Party transaction is on an arm's length basis, the Board (or the relevant sub-committee) should take into consideration the following:
- (a) how the terms of the proposed Related Party transaction compare with those of any comparable transactions on an arm's length basis;
 - (b) are the terms of the proposed Related Party transaction on terms that are less favourable to the Related Party than arm's length;

- (c) are there any other options available to Keybridge (eg. has Keybridge undertaken a tender process);
- (d) what are the implications for Keybridge's financial position and performance;
- (e) what expert advice has been sought by Keybridge (eg from appropriately qualified advisers);
- (f) are there valid business reasons for Keybridge to enter into the proposed Related Party transaction; and
- (g) will the proposed Related Party transaction impair the independence of the relevant Director.

7.3 For completeness, if a financial benefit is to be given by Keybridge, or an entity it controls, to a Related Party, Chapter 2E of the Act will apply. This means that, unless one of the exceptions apply, approval of the shareholders of Keybridge will be required.

8. Shareholder approval under the Listing Rules

8.1 Keybridge 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 Keybridge;
- (d) an associate of any of the persons referred to above; or
- (e) a person whose relationship to Keybridge or to a person referred to above is deemed to be a related party by the ASX Listing Rules, the transaction should be approved by the shareholders in Keybridge.

8.2 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 Keybridge.

8.3 Under the Listing Rules, the requirement for shareholder approval relates only to the shareholders of Keybridge.

8.4 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.

9. Compliance with Policy

9.1 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 Board.

9.2 Reporting to 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 Board; and
- (c) management will report to the Board each year on overall compliance with the Policy.

10. Approved and adopted

This related party policy was amended and adopted by the Board 21 August 2024.



Signed

Chairperson of the board of directors
of Keybridge Capital Limited