



Swan Energy Limited
Related Party Transaction Policy

BACKGROUND

The Companies Act, 2013 and SEBI (LODR) Regulations, 2015 govern approval/ review /reporting associated with Related Party Transactions that are entered into by companies

Section 188 of the Companies Act, 2013 read with the Companies (Meetings of Board and its Powers) Rules, 2014 prescribe the approval mechanism for Related Party Transactions (RPTs), which, depending upon the value of transactions could vest with Board of Directors or Shareholders of the Company. Further, Section 177 of the Companies Act, 2013 read with the Companies (Meetings of Board and its Powers) Rules, 2014 prescribe the terms of reference of the Audit Committee which inter alia includes review and approval of RPTs.

Regulation 23(1) of SEBI (LODR) Regulations, 2015 requires listed entities to formulate a policy on 'Materiality of Related Party Transactions and on dealing with Related Party Transactions' (RPT policy). By virtue of an amendment that came into effect from 01.04.2019, the Board shall review and update the policy at least once every three years, including the fixation of various threshold limits. While prescribing the role of Audit Committee and the Board of the Company in formulating the RPT Policy, the Regulations cover the monitoring aspects of RPTs executed by the Company from time to time.

The recent amendments in SEBI (LODR) Regulations, 2015 have not only enlarged the applicability of RPTs/Material RPTs, but also made it necessary for Audit Committee to define "Material Modification" to the RPTs. Further, RPTs shall have to be approved by those of the Members in the Audit Committee who are Independent Directors.

The approval of Related Party Transactions (RPTs) including Material Related Party Transactions (Material RPTs) of the Company with its Related Parties is governed by a Board approved policy, i.e. "Policy on Materiality of Related Party Transactions and on dealing with Related Party Transactions". The existing RPT Policy is amended by the Board in its meeting held on August 14, 2019, preceded by review and recommendation of it in the Audit Committee meeting held on the same date.

In view of the statutory/regulatory requirements stated above, the Board of Directors of the Company ("SEL" or "the Company"), acting upon the recommendations of the Audit Committee, has approved and adopted the revised 'RPT policy'. This policy is formulated primarily from the prescriptions of Companies Act, 2013, Rules framed thereunder, SEBI (LODR) and also drawing relevant provisions from Indian Accounting Standards (Ind AS). Considering that many of the aspects of RPTs have been dealt with both under the Statute and Regulations, this policy document contains the relevant extracts (not necessarily a verbatim reproduction) that aid in understanding the policy. Wherever found necessary, this policy document briefly contains a descriptive note carrying the critical aspects of Statute/Regulations under the caption, 'Important Aspects' with an objective to aid the approval process.

The RPTs as defined in this Policy that are executed by the company from time to time are subject to review in accordance with the procedures set forth in this policy.

This Policy comes into effect from April 01, 2022.

PURPOSE

This policy is framed to ensure proper review, approval and reporting of Related Party Transactions of the company in compliance of the requirements of Companies Act, 2013 together with relevant rules/SEBI (LODR) Regulations, 2015.

DEFINITIONS

A. Arm's length transaction

A transaction between two Related Parties that is conducted as if they were unrelated, so that there is no conflict of interest.

[Section 188 of Companies Act, 2013]

B. Ordinary Course of business

Though, not specifically defined, it is important to know the meaning of it in the governance of RPTs. This phrase can be understood to have the following meaning:

Includes, but not limited to, activities that are necessary, normal, and incidental to the business.

In terms of the Guidance Note issued by the Institute of Company Secretaries of India, to decide whether an activity which is carried on by the business is in the 'ordinary course of business', the following factors may be considered:

- i. Whether the activity is covered in the objects clause of the Memorandum of Association?
- ii. Whether the activity is in furtherance of the business?
- iii. Whether the activity is normal or otherwise routine for the particular business (Le. activities like advertising, staff training, etc.)?
- iv. Whether the activity is repetitive/frequent?
- v. Whether the income, if any, earned from such activity/transaction is treated as business income in the company's books of account?
- vi. Whether the transactions are common in the particular industry?
- vii. Whether there is any historical practice to conduct such activities?
- viii. The financial scale of the activity with regard to the operations of the business.
- ix. Revenue generated by the activity
- x. Resources committed to the activity

C. Related Party

The term as defined under Companies Act, 2013, SEBI LODR and Ind Accounting Standards are relevant and the same is re-produced hereunder:

Related Party in relation to an entity means:

- a. Such entity is a related party **under Section 2(76) of the Companies Act, 2013**; or
- b. Such entity is a related party under the applicable Accounting Standards **[Ind Accounting Standard - 24]**;
- c. any person or entity forming a part of the promoter or promoter group of the listed entity; or
- d. any person or any entity, holding equity shares: (i) of twenty per cent or more; or (ii) of ten per cent or more, **with effect from April 1, 2023** in the listed entity either

directly or on a beneficial interest basis as provided under Section 89 of the Companies Act, 2013, at any time, during the immediate preceding financial year shall be deemed to be a related party.

[Regulation 2(1)(zb) of SEBI (LODR) Regulations, 2015]

D. Related Party Transactions:

Related party transactions mean contracts or arrangements between a company and its related parties with respect to transactions covered in Section 188 of the Act. The expression 'contract or arrangement' has different connotations under the Act. While 'contract' envisages a written / formal binding document, 'arrangement' may be with or without a written document.

Related Party Transaction includes the following contract or arrangements between the related parties:

- a. sale, purchase or supply of any goods or materials;
- b. selling or otherwise disposing of, or buying, property of any kind;
- c. leasing of property of any kind;
- d. availing or rendering of any services;
- e. appointment of any agent for purchase or sale of goods, materials, services or property;
- f. such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and
- g. Underwriting the subscription of any securities or derivatives thereof, of the company:

[Section 188 of the Companies Act, 2013]

"Related party transaction" means a transaction involving a transfer of resources, services or obligations between:

- a. a listed entity or any of its subsidiaries on one hand and a related party of the listed entity or any of its subsidiaries on the other hand; or
- b. A listed entity or any of its subsidiaries on one hand, and any other person or entity on the other hand, the purpose and effect of which is to benefit a related party of the listed entity or any of its subsidiaries, regardless of whether a price is charged. A "transaction" with a related party shall be construed to include a single transaction or a group of transactions in a contract. [with effect from April 1, 2023].

Provided that the following shall not be a Related Party Transactions:

- a. the issue of specified securities on a preferential basis, subject to compliance of the requirements under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018;
- b. The following corporate actions by the listed entity which are uniformly applicable/offered to all shareholders in proportion to their shareholding:
 - Payment of dividend;
 - Subdivision or consolidation of securities;
 - Issuance of securities by way of a rights issue or a bonus issue; and

- Buy-back of securities.
- c. Acceptance of fixed deposits by banks / NBFCs at the terms uniformly applicable / offered to all shareholders / public, subject to disclosure of the same along with the disclosure of related party transactions every six months to the stock exchange(s), in the format as specified by the Board:

[Regulation 2(1)(zc) of SEBI (LODR) Regulations, 2015]

E. Material Related Party Transactions

- a. The listed entity shall formulate a policy on materiality of related party transactions and on dealing with related party transactions including clear threshold limits duly approved by the board of directors and such policy shall be reviewed by the board of directors at least once every three years and updated accordingly.

Explanation: Provided that a transaction with a related party shall be considered material, if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceeds rupees one thousand Crore or ten percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity whichever is lower.

- b. Notwithstanding the above, a transaction involving payments made to a related party with respect to brand usage or royalty shall be considered material if the transaction(s) to be entered into individually or taken together with previous transactions during a financial year, exceed five percent of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

[Regulation 23(1) of SEBI (LODR) Regulations, 2015]

- c. The transactions which are not on Arm's Length Basis and/or are not in the Ordinary Course of Business and those specified transactions exceeding prescribed limits as prescribed in section 188 of the Companies Act, 2013 read with applicable rules, require the prior approval of the shareholders [see point no.3 under 'important aspects'].

[Section 188 of the Companies Act, 2013 read with applicable rules]

F. Material Modifications

- a. All related party transactions and subsequent material modifications shall require prior approval of the audit committee of the listed entity.
- b. The audit committee of a listed entity shall define "material modifications" and disclose it as part of the policy on materiality of related party transactions and on dealing with related party transactions;

[Regulation 23(2) of SEBI (LODR) Regulations, 2015]

Material Modification is not defined in the SEBI Regulations and Audit Committee has been entrusted to define the same, which is duly defined in the Policy.

G. Relatives

Anyone who is related to another, if

- a. they are members of a Hindu Undivided Family;
- b. they are husband and wife; or
- c. a person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:- [Rule 4 of Companies (Specification of Definition Details) Rules, 2014]
 - i. Father: Provided that the term "Father" includes step-father.
 - ii. Mother: Provided that the term "Mother" includes the step-mother.
 - iii. Son: Provided that the term "Son" includes the step-son.
 - iv. Son's wife.
 - v. Daughter.
 - vi. Daughter's husband
 - vii. Brother: Provided that the term "Brother" includes the step-brother;
 - viii. Sister: Provided that the term "Sister" includes the step-sister;

[Section 2 (77) of the Companies Act, 2013]

H. Key Managerial Personnel's (KMPs)

In relation to a company, means:

- a. the Chief Executive Officer or the managing director or the manager;
- b. the company secretary;
- c. the whole-time director;
- d. the Chief Financial Officer;
- e. such other officer, not more than one level below the directors who is in whole-time employment, designated as key managerial personnel by the Board; and
- f. such other officer as may be prescribed under Companies Act, 2013. [Officer includes any director, or manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or anyone or more of the Directors is or are accustomed to act]

[Section 2(51) of Companies Act, 2013. Regulation 2(1)(0) has extended the same meaning for LODR purposes]

I. Subsidiary Company

"Subsidiary Company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company-

- a. controls the composition of the Board of Directors; or
- b. exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

Explanation.-For the purposes of this clause,

- a. a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;
 - b. the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;
 - c. the expression "company" includes any body corporate;
 - d. "layer" in relation to a holding company means its subsidiary or subsidiaries;
- [Section 2(87) of Companies Act,2013]**

[Under Regulation 2(1)(zm) of SEBI (IODR) Regulations,2015, the term Subsidiary Company shall have the same meaning as specified under Companies Act, 2013]

Any other term not defined herein shall have the same meaning as defined in the Companies Act, 2013 the Listing Regulations, Securities Contracts (Regulation) Act, 1956, the Depositories Act, 1996 or any other applicable law or regulation.

REVIEW AND APPROVAL OF RELATED-PARTY TRANSACTION

1. All Related Party Transactions and subsequent Material Modification(s) shall be subject to the prior approval of the Audit Committee of the Company whether at a meeting or by resolution by circulation or any other manner as provided by the Act or Rules made thereunder.
2. Only those Members of the Audit Committee, who are Independent Directors, shall approve Related Party Transactions.
3. A Related Party Transaction to which the subsidiary of the Company is a party but the Company is not a party, shall require prior approval of the Audit Committee of the Company if the value of such transaction whether entered into individually or taken together with previous transactions during a financial year exceeds ten per cent of the annual consolidated turnover of the Company, as per the last audited financial statements of the Company.
4. With effect from 1st April, 2023, a Related Party Transaction to which the subsidiary of the Company is a party but the Company is not a party, shall require prior approval of the Audit Committee of the Company if the value of such transaction whether entered into individually or taken together with previous transactions during a financial year, exceeds ten per cent of the annual standalone turnover, as per the last audited financial statements of the subsidiary.
5. Prior approval of the Audit Committee of the Company shall not be required for a Related Party Transaction to which the Listed Subsidiary is a party but the Company is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of SEBI (LODR) Regulation, 2015 are applicable to such Listed Subsidiary.
6. For Related Party Transactions of unlisted subsidiaries of a Listed Subsidiary of the Company as referred above, the prior approval of the Audit Committee of the Listed Subsidiary shall suffice

7. In case of transaction, other than transactions referred to in Section 188 of the Act, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board.

Omnibus approval of such transactions shall be given only if it is determined by the Committee that such transactions are:

- i. repetitive in nature and that such approval is in (or not inconsistent with) the best interests of the Company and its shareholders;
- ii. to be entered into by the Company on terms that are comparable to those that would be obtained in arm's length transactions with unrelated third parties; and
- iii. In the ordinary course of the business of the Company. (Ordinary course of business for this purpose will cover the businesses of the Company, its subsidiaries and usual transactions, customs and practices of a business and would include activities to be carried out incidental to or to facilitate the business of Company, its subsidiaries and is usual or customary to the Company and/ or its line of business).

Such omnibus approval shall specify:

- a. the name/s of the related party;
- b. nature of transaction, period of transaction, maximum amount of transaction that can be entered into, and
- c. the indicative base price / current contracted price and the formula for variation in the price if any

In cases where the need for Related Party Transaction cannot be foreseen and details as required above are not available, the Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding rupees one crore per transaction.

Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year. However, the Committee shall review, on a quarterly basis, the details of Related Party Transactions entered into by the Company pursuant to each of the omnibus approval given.

These provisions shall not apply to a transaction, other than a transaction referred to in section 188, between a holding Company and its wholly owned subsidiary Company.

A member of the Committee who has an interest in any Related Party Transaction will not remain present at the meeting when such Related Party Transaction is considered.

The Board would approve such Related Party Transactions as are required to be approved under the Act and/or Listing Regulations and/or transactions referred to it by the Audit Committee.

Information to be reviewed by the Board/Audit Committee for approval of Related Party Transaction(s)

To review a Related Party Transaction, the Board/ Audit Committee will be provided with all the relevant information pertaining to the Related Party Transaction, including:

- a. Type, material terms and particulars of the proposed transaction;
- b. Name of the Related Party and its relationship with the listed entity or its subsidiary, including nature of its concern or interest (financial or otherwise);
- c. Tenure of the proposed transaction (particular tenure shall be specified);
- d. Value of the proposed transaction;
- e. The percentage of the listed entity's annual consolidated turnover, for the immediately preceding financial year, that is represented by the value of the proposed transaction (and for a Related Party Transaction involving a subsidiary, such percentage calculated on the basis of the subsidiary's annual turnover on a standalone basis shall be additionally provided);
- f. If the transaction relates to any loans, inter-corporate deposits, advances or investments made or given by the listed entity or its subsidiary:
 - details of the source of funds in connection with the proposed transaction;
 - where any financial indebtedness is incurred to make or give loans, inter-corporate deposits, advances or investments,
 - nature of indebtedness;
 - cost of funds; and
 - tenure;
 - applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security; and
 - the purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the Related Party Transaction.
- g. Justification as to why the Related Party Transaction is in the interest of the listed entity;
- h. A copy of the valuation or other external party report, if any such report has been relied upon;
- i. Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed Related Party Transaction on a voluntary basis;
- j. Any other information that may be relevant.

The audit committee shall also review the status of long-term (more than one year) or recurring Related Party Transaction(s) on an annual basis.

Further, all Material Related Party Transaction(s) and its subsequent Material Modification(s) shall require prior approval of shareholders of the Company through resolution and no Related

party shall vote to approve such resolutions whether the entity is a Related Party to the particular transaction or not (unless it is exempted pursuant to the provisions of Listing Regulations).

For the purpose of above, a modification is treated as 'Material Modification', if and only if:

- a. Those modifications in the Related Party Contracts/Arrangements which will have the impact of increasing the value of initially approved transaction limits (in aggregate for each Related Party) by 25% or more; **or**
- b. Those modifications in the Related Party Contracts/Arrangements which could violate the principle of arm's length **and** when executed, would exceed the initial approved limits (in aggregate for each related party)

Transactions exempted from prior approval of the Audit Committee and Shareholders:

As provided in the Listing Regulations, the transactions entered into between:

- i. the holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval;
- ii. two wholly-owned subsidiaries of the listed holding company, whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval,

shall not be required to follow the provisions related to prior approval of Audit Committee of the Company or prior approval of shareholders of the Company, as the case may be.

Information to be provided to shareholders for consideration of Related Party Transaction(s)

The notice being sent to the shareholders seeking approval for any proposed Related Party Transaction shall, in addition to the requirements under the Companies Act, 2013, include the following information as a part of the explanatory statement:

- a. A summary of the information provided by the management of the Company to the Audit Committee as specified above;
- b. Justification for why the proposed transaction is in the interest of the Company;
- c. Where the transaction relates to any loans, inter-corporate deposits, advances or investments made or given by the Company or its subsidiary, the details specified above;
- d. A statement that the valuation or other external report, if any, relied upon by the Company in relation to the proposed transaction will be made available through the registered email address of the shareholders;
- e. Percentage of the counter-party's annual consolidated turnover that is represented by the value of the proposed Related Party Transaction, on a voluntary basis;
- f. Any other information that may be relevant.

All Related Party Transactions pursuant to Section 188 of the Act which are not in the ordinary course of business and / or not on an Arms' length basis and which crosses the threshold limits prescribed under the Act shall also require prior approval of shareholders of the Company through resolution.

The voting rights of the interested and non-interested Related Parties shall be governed by the applicable provisions of the Act, Listing Regulations and any other applicable law, from time to time.

AMENDMENTS

The Audit Committee may, for the purpose of aligning this Policy with the regulatory changes, amend any provision(s) or substitute any of the provision(s) with the new provision(s) or replace the Policy entirely with a new Policy.

The Board may also make any amendments to the Policy from time to time, based on the recommendations of the Audit Committee.

Further, the Board will review this Policy from time to time as prescribed under the Act or Listing Regulations.

The Board may also establish further rules and procedures, from time to time, to give effect to this Policy

SCOPE LIMITATION

In the event of any conflict between the provisions of this Policy and of the Listing Regulations / the Act or any other statutory enactments, rules, the provisions of such Listing Regulations / the Act or statutory enactments, rules shall prevail over this Policy.

Date: February 14, 2022