

eClerx

Policy Governing Transactions with Related Parties and Material Subsidiaries



Project	Policy Governing Transactions with Related Parties and Material Subsidiaries
Company	eClerx Services Ltd.
Prepared by	Legal & Secretarial

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1. **Process Overview**

This policy deals with the review and approval of Material Related Party Transactions keeping in mind the potential or actual conflicts of interest that may arise consequent upon the transaction entered into by the Company and whether the said transactions are consistent with the Company's and its shareholder's interest.

This policy also deals with transactions involving Material Subsidiary(ies) of the Company.

In accordance with , SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (erstwhile Listing Agreement) ('the Listing Regulations') as amended from time to time, this policy was adopted by the Company's Board of Directors vide its resolution dated July 31, 2014 in order to set forth the procedures under which certain transactions must be reviewed and approved or ratified, as permitted. The Audit Committee shall review significant related party transactions, submitted to it by the Management, approve and / or recommend for Board and / or shareholders' approval thereon.

The Board of Directors of the Company shall review this policy atleast once every three years and update the policy, if required, subject to the provisions of the Act and Listing Regulations.

2. Purpose

The Listing Regulations requires that the Company shall formulate a policy on materiality of related party transactions and also on dealing with transactions pertaining to related parties. This policy also intends to ensure the proper approval and reporting of related party transactions by the Company. The Listing Regulations also requires that the Company shall formulate a policy for determining material subsidiary.

3. Definitions

For the purposes of this policy, the following definitions apply:

“Act” means Companies Act, 2013, as amended from time to time.

“Arm’s length price”, pursuant to Income tax Act, 1961, OECD guidelines, Advance Rulings from tax authorities, judicial pronouncements), and other applicable provisions from time to time, means a price which is applied or proposed to be applied in a transaction between persons other than associated enterprises, in uncontrolled conditions;

“Transaction on Arm’s length basis’ ” means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

“Board” means Board of Directors of the Company

“Company” means eClerx Services Limited;

“Committee” means Audit Committee of the Company as constituted or reconstituted by the Board

“Directors” means directors appointed as per companies act, 2013

“Independent Director” means a director referred to in Section 149 (6) of the Act and the applicable Regulations of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015

“Key Managerial Personnel” (KMP) means:

1. Chief Executive Officer and / or Managing Director or the Manager
2. Whole-time Director
3. Chief Financial Officer
4. Company Secretary
5. 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
6. Such other officer as may be prescribed

“Material subsidiary” means a subsidiary whose income or net worth (i.e. paid up capital and free reserves) exceeds 10% of the consolidated income or net worth respectively, of the Company and its subsidiaries in the immediately preceding accounting year.

“Ordinary course of business” would have the meaning as per the relevant guidelines and judicial and other pronouncements, as applicable from time to time.

“Relative” means and includes:

1. Members of HUF where he is Karta or Co-parcener
2. Spouse
3. Father includes step-father
4. Mother includes the step-mother
5. Son includes the step-son

6. Son's wife
7. Daughter
8. Daughter's husband
9. Brother includes the step-brother
10. Sister includes the step-sister
11. Relatives as defined under IndAS 24.

“Related Party” includes:

- A director or his / her relative
- A Key Managerial Personnel or his / her relative
- A firm in which a Director or Manager or his / her relative is a partner
- A private company in which Director or Manager or his relative is a member or director
- A public company in which Director or manager is a director and holds alongwith his / her relatives, more than 2% of its paid up share capital
- Any body corporate whose board of directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager. Any advise, directions or instructions given in professional capacity shall be excluded.
- Any person on whose advise, directions or instructions a director or manager is accustomed to act. Any advise, directions or instructions given in professional capacity shall be excluded.
- A body corporate that is a holding, subsidiary or associate company of such a company or subsidiary of a holding company of which it is also a subsidiary or an investing company or the venturer of a company. Investing company or the venturer of a company means a body corporate whose investment in the company would result in the company becoming an associate company of the body corporate
- A director other than an independent director or key managerial employee of the holding company or his / her relative
- A person or a close member of that person's family is related to a company if that person:
 - Has control or joint control or significant influence over the company; or
 - Is a key management personnel of the company or of a parent of the company; or
- An entity is related to a company if any of the following conditions applies:
 1. The entity and the company are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others); or
 2. One entity is an associate or joint venture of the other entity (or an associate or joint venture of a member of a group of which the other entity is a member); or
 3. Both entities are joint ventures of the same third party; or
 4. One entity is a joint venture of a third entity and the other entity is an associate of the third entity; or

5. The entity is a post-employment benefit plan for the benefit of employees of either the company or an entity related to the company. If the company is itself such a plan, the sponsoring employers are also related to the company; or
6. The entity is controlled or jointly controlled by a person identified in (1)
7. A person identified who has control or joint control over the company, has significant influence over the entity (or of a parent of the entity); or
8. Any person or entity forming part of the promoter or promoter group of the listed entity or any person or any entity holding equity shares of 20% or more (10% 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 immediately preceding financial year.

“**Control**” shall have the same meaning as defined in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

“**Material Modification to related party transaction**” would mean and include any modification to an existing related party transaction having variance of at least 10% of the existing limit and/or modification that would alter the nature of such contract/transaction/arrangement or result in significant change in rights and obligations of the parties to the transaction, like ‘credit period’, as sanctioned by the Audit Committee/Board/Shareholders, as the case may be.

Subsequent Material Modifications shall be any change in the material terms of a related party transaction earlier approved by the audit committee of the company.

“**Related Party Transaction**” means transaction involving transfer of resources, services or obligations between:

- 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
- 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, with effect from April 1, 2023;

regardless of whether a price is charged and a “transaction” with a related party shall be construed to include a single transaction or a group of transactions in a contract:

Provided that the following shall not be a related party transaction:

- 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:
 - i. payment of dividend;
 - ii. subdivision or consolidation of securities;
 - iii. issuance of securities by way of a rights issue or a bonus issue; and
 - iv. buy-back of securities.
- c. acceptance of fixed deposits by banks/Non-Banking Finance Companies 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: Provided further that this definition shall not be applicable for the units issued by mutual funds which are listed on a recognised stock exchange(s)

“Significant transaction or arrangement” means any individual transaction or arrangement that exceeds or is likely to exceed 10% of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted subsidiary for the immediately preceding accounting year.

Unless the context otherwise requires, words and expressions used in this policy and not defined herein but defined in the Act and Listing Regulations as may be amended from time to time shall have the meaning respectively assigned to them therein.

4. Procedures

This Policy will operate within the framework of the Act, Rules framed thereunder and the Listing Regulations as amended from time to time.

4.1. Related Party Transactions

Why is this deleted? All Related Party Transactions and subsequent material modifications shall require prior approval of the Audit Committee. Only members of the Audit Committee who are Independent Directors shall approve related party transactions. Any member of Audit Committee who has potential interest in any Related Party Transaction will recuse himself and abstain from discussion and voting on the approval of the Related Party transaction. Provided that modifications of transactions covered under Section 177 of Companies Act, 2013 shall also require prior approval of audit committee.

Related party transaction to which the subsidiary of a listed entity is a party but the listed entity is not a party, shall require prior approval of the audit committee of the listed entity 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, as per the last audited financial statements of the listed entity

With effect from April 1, 2023, a related party transaction to which the subsidiary of a listed entity is a party but the listed entity is not a party, shall require prior approval of the audit committee of the listed entity 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.

Prior approval of the audit committee of the listed entity shall not be required for a related party transaction to which the listed subsidiary is a party but the listed entity is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of these regulations are applicable to such listed subsidiary.

Explanation: For related party transactions of unlisted subsidiaries of a listed subsidiary as referred to in (d) above, the prior approval of the audit committee of the listed subsidiary shall suffice.

Pursuant to the Listing Regulations, as amended from time to time, 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 10% of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity, whichever is lower. 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 5% of the annual consolidated turnover of the listed entity as per the last audited financial statements of the listed entity.

All material Related Party Transactions and subsequent material modifications shall require prior approval of the shareholders 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.

Provided that prior approval of the shareholders of a listed entity shall not be required for a related party transaction to which the listed subsidiary is a party but the listed entity is not a party, if regulation 23 and sub-regulation (2) of regulation 15 of Listing Regulations are applicable to such listed subsidiary.

Explanation: For related party transactions of unlisted subsidiaries of a listed subsidiary as referred above, the prior approval of the shareholders of the listed subsidiary shall suffice.

The requirement of shareholders' approval shall not be applicable for transactions entered into between:

- 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
- two wholly owned subsidiaries of the company whose accounts are consolidated with the company and placed before the shareholders at the general meeting for approval.

However, transactions which have been entered into by the Company in its "ordinary course of business" and which are on an "arm's length" basis are exempted.

Audit Committee and Board of Directors shall review Related Party Transactions which are recurring in nature and are being continued over a period of time.

The Company shall enter into any transaction or contract or arrangement with a Related Party subject to the following conditions, namely:

1. The agenda of the Audit Committee & Board meeting at which the resolution is proposed to be moved shall disclose:
 - a. The name of the related party and nature of relationship
 - b. The nature, duration of the contract and particulars of the contract or arrangement alongwith justification
 - c. The material terms of the contract or arrangement including the value, if any
 - d. Any advance paid or received for the contract or arrangement, if any
 - e. The manner of determining the pricing and other commercial terms, both included as part of contract and not considered as part of the contract
 - f. Whether all factors relevant to the contract have been considered, if not, the details of factors not considered with the rationale for not considering those factors; and
 - g. Any other information relevant or important to take a decision on the proposed transaction
 - i. Type, material terms and particulars of the proposed transaction;
 - ii. 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);
 - iii. Tenure of the proposed transaction (particular tenure shall be specified);
 - iv. Value of the proposed transaction;
 - v. 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 RPT involving a subsidiary, such percentage calculated on the basis of the subsidiary's annual turnover on a standalone basis shall be additionally provided);
 - vi. If the transaction relates to any loans, inter- corporate deposits, advances or investments made or given by the listed entity or its subsidiary:
 - A. details of the source of funds in connection with the proposed transaction;
 - B. ii) 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;

- C. iii) applicable terms, including covenants, tenure, interest rate and repayment schedule, whether secured or unsecured; if secured, the nature of security; and
 - D. iv) the purpose for which the funds will be utilized by the ultimate beneficiary of such funds pursuant to the RPT.
- h. Justification as to why and how the RPT is in the interest of the listed entity;
 - i. A copy of the valuation or other external party report, if any such report has been
 - j. relied upon;
 - k. Percentage of the counter - party's annual consolidated turnover that is represented by the value of the proposed RPT on a voluntary basis;
 - l. Any other information that may be relevant
2. Where any director is interested in any contract or arrangement with a related party, such director shall not be present at the meeting during discussions on the subject matter of the resolution relating to such contract or arrangement. The company shall not enter into a transaction or transactions beyond the limits specified in first proviso to sub-section 188(1) of the Act and relevant rules thereunder except with the prior approval of the shareholders
3. In case of wholly owned subsidiary, the resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between wholly owned subsidiary and holding company
4. The explanatory statement to be annexed to the notice of a general meeting convened pursuant to section 101 shall contain the following particulars namely:
- a. Name of the related party
 - b. Name of the director or key managerial personnel who is related, if any;
 - c. Nature of relationship
 - d. Nature, material terms, monetary value and particulars of the contract or arrangement
 - e. Any other information relevant or important for the members to take a decision on the proposed resolution
 - f. A summary of the information provided by the management of the listed entity to the audit committee / board as specified above;
 - g. Justification as to why and how the proposed transaction is in the interest of the listed entity;
 - h. Where the transaction relates to any loans, inter coproate, depositis, advances or investments made or given by the listed entity or its subsidiary, the details specified under point (f) of Board/ Committee items to be placed. (The requirement of disclosing source of funds and cost of funds shall not be applicable to listed banks/NBFCs.)
 - i. A statement that the valuation or other external report, if any, relied upon by the listed entity in relation to the proposed transaction will be made available through the registered email address of the shareholders;
 - j. Percentage of the counter party's annual consolidated turnover that is represented by the value of the proposed RPT, on a voluntary basis

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

The Audit Committee shall provide omnibus approvals for related party transactions as may be required on a case to case basis and in accordance with the provisions of Act and Listing Regulations and considering the following factors.:

The Audit Committee shall consider the following factors while specifying the criteria for making omnibus approval, namely:-

- Repetitiveness of the transactions (in past or in future);
- Justification for the need of omnibus approval
- Whether the transaction(s) are proposed at arm's length basis.

The Audit Committee shall satisfy itself the need for such omnibus approval and that such approval is in the interest of the Company; While giving omnibus approval all the minimum items as are required to be placed as per SEBI Circular dt: November 22, 2021 shall be placed before audit committee for approval.

Provided that where the need for Related Party Transaction cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding INR 1 Crore per transaction.

6. Transaction for which omnibus approval has been taken shall be reviewed atleast on quarterly basis by Audit Committee. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year.
7. The Company shall maintain register in Form MBP 4 or such other Form as may be prescribed, wherein the particulars of:
 - a. Company(ies) or bodies corporate, firms or other association of individuals, in which any director has any concern or interest, as mentioned under section 184(1) of the Act. However, the particulars of the company(ies) or bodies corporate in which a director himself together with any other director holds 2% or less of the paid-up share capital would not be required to be entered in the register
 - b. Contracts or arrangements with a body corporate or firm or other entity as mentioned under section 184(2) of the Act, in which any director is, directly or indirectly, concerned or interested; and
 - c. Contracts or arrangements with a related party with respect to transactions to which section 188 of the Act, applies
8. The entries in the register shall be made at once, whenever there is a cause to make entry, in chronological order and authenticated by the company secretary of the company or by any other person authorised by the Board for the purpose
9. The register shall be kept at the registered office of the company and the register shall be preserved permanently and shall be kept in the custody of the company secretary of the company or any other person authorised by the Board for the purpose
10. The company shall provide extracts from such register to a member of the company on his request, within 7 days from the date on which such request is made upon the payment of such fee as may be specified in the articles of the company but not exceeding ten rupees per page

11. A subsidiary shall be considered as material if the subsidiary's income or networth exceeds 10% of the consolidated income or networth respectively of the company and its subsidiaries in the immediately preceding accounting year
12. The company shall not dispose shares in its material subsidiary which would reduce its shareholding (Either on its own or together with other subsidiaries) to less than or equal to 50% or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved
13. In order to sell, dispose and lease of assets amounting to more than 20% of the assets of the material subsidiary, the Company shall obtain prior approval of shareholders by way of special resolution unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal, or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved

4.2. Subsidiary Company(ies):

1. At least one independent director on the Board of Directors of the Company shall be a director on the Board of Directors of unlisted material subsidiary company, whether incorporated in India or not.
2. For the purposes of this provision, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.
3. The Audit Committee of the Company shall also review the financial statements, in particular, the investments made by the unlisted subsidiary company
4. The minutes of the Board meetings of the unlisted subsidiary company shall be placed at the Board meeting of the Company. The management of the unlisted subsidiary shall periodically (Atleast annually) bring to the attention of the Board of Directors of the Company, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary company
5. Furthermore the Audit Committee as and when it deems fit may provide that a particular transaction be undertaken post prior approval of the Board of Directors of the Company and / or that of the shareholders of the Company procured via Postal Ballot or at a general meeting

The Audit Committee shall put in place mechanism to implement this policy and is also authorized to delegate any / all of its powers and duties herein to any Director(s) and / or officers of the Company.

5. Disclosure(s)

Details of all material transactions with related parties shall be disclosed quarterly along with the compliance report on corporate governance.

The Company shall disclose the policy on dealing with Related Party Transactions and material subsidiary on its website and also in the Annual Report. Furthermore all the related party transactions shall be disclosed in the Annual Report of the Company as per relevant IndAS as amended from time to time.

The Company shall submit to the stock exchanges disclosures of related party transactions in the format as specified by the Board from time to time, and publish the same on its website. The Company shall make such disclosures every six months within such time as may be prescribed from the date of publication of its standalone and consolidated financial results.

5.1. Amendments to the Policy

The Board of Directors on its own and / or as per the recommendations of Audit Committee can amend this Policy, as and when deemed fit. Any or all provisions of this Policy would be subject to revision / amendment in accordance with the Rules, Regulations, Notifications etc. on the subject as may be issued by relevant statutory authorities, from time to time.

In case of any amendment(s), clarification(s), circular(s) etc. issued by the relevant authorities, not being consistent with the provisions laid down under this Policy, then such amendment(s), clarification(s), circular(s) etc. shall prevail over the provisions hereunder and this Policy shall stand amended accordingly from the effective date as laid down under such amendment(s), clarification(s), circular(s) etc.

5.2. Limitations of Policy

In the event of any conflict between the provisions of this Policy and Listing Regulations/Companies Act, 2013 or any other statutory enactments, rules, the provisions of such Listing Regulations/ Companies Act, 2013 or statutory enactments, rules shall prevail over this Policy.

Date: March 15, 2022
Place: Mumbai

P.D. Mundhra
(Executive Director)