

Date: \_\_\_\_\_

**Name**  
**Address**  
**Email**

Dear Mr./Mrs./Dr. \_\_\_\_\_,

We are pleased to inform you that the Board of Directors of the Company have appointed you as a Independent Director of the Company for a period of \_\_\_\_ years with effect from \_\_\_\_\_, not liable to retire by rotation.

The detailed terms and conditions of your appointment are annexed hereto.

Thanking you,  
Yours faithfully,  
For **Albert David Limited**

\_\_\_\_\_  
\_\_\_\_\_

Encl.: As above

## Terms & Conditions of Appointment as Independent Director

### 1. Term of Appointment:

Your appointment as an Independent Director of the Company is for a period of \_\_\_\_ years from \_\_\_\_ up to \_\_\_\_.

### 2. Expectations of the Board from you:

You will devote such time to the affairs of the Company as is required by you to perform your duties as Independent Director.

You may also be appointed as a member of any Committee of the Board, based on your availability and eligibility to become such member.

As an Independent Director you will be guided by the applicable provisions of the Companies Act, 2013 ("the Act"), Schedule IV of the Act and the applicable provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, as amended.

### 3. Fiduciary duties & liabilities connected to the office:

Under the Companies Act 2013, there are several statutory duties, which are the personal responsibility of each director and not the Company. The Company expects that in discharge of your duties as a Director of the Company, you will take care of the following:

- (a) Subject to the provisions of the Companies Act, 2013, you will act in accordance with the articles of the company.
- (b) You will act in good faith to promote the objects of the company for the benefit of its members, and in the best interests of the company, its employees, the shareholders, community and for the protection of the environment.
- (c) You will exercise your duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

As an Independent Director, you are also expected to ensure the following:

- (a) To undertake appropriate induction and regularly update and refresh their skills, knowledge, and familiarity with the company.
- (b) To seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company.

- (c) To strive to attend all meetings of the Board of Directors and of the Board committees of which you are a member.
- (d) To participate constructively and actively in the committees of the Board in which you are a chairperson or member.
- (e) To strive to attend the general meetings of the company.
- (f) Where you have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that your concerns are recorded in the minutes of the Board meeting.
- (g) To keep yourself well informed about the company and the external environment in which it operates.
- (h) Not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board.
- (i) To pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure yourself that the same are in the interest of the company.
- (j) To ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use.
- (k) To report concerns about unethical behavior, actual or suspected fraud or violation of the company's code of conduct or ethics policy.
- (l) Acting within your authority, to assist in protecting the legitimate interests of the company, shareholders, and its employees.
- (m) Not to disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

#### 4. Provision for Directors and Officers (D&O) Insurance, if any.

The Company has for Directors and Officers (D&O) Insurance.

#### 5. Code of Business Ethics

The Company has adopted a Code of Conduct for Directors and a Code of Conduct for Prohibition of Insider Trading a copy whereof is available on our website [www.albertdavidindia.com](http://www.albertdavidindia.com). You are expected to abide by the same.

You are expected to abide by the principals of Business Ethics in discharge of your duties as Independent Director.

Further, you are also expected to abide by Code for Independent Directors as per Schedule IV of the Companies Act, 2013 (copy attached).

## 6. Actions you should not indulge into:

- a) You will not be involved in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.
- b) You will not achieve or attempt to achieve any undue gain or advantage either to yourself or to your relatives, partners, or associates.

If you become aware of any potential conflicts of interest these should be disclosed to the Company as soon as they become apparent.

## 7. Remuneration:

You will be remunerated by way of sitting fees for attending the meetings of the Board of Directors and that of the Committees as may be approved by the Board from time to time. All related expenses for attending Board meetings shall be borne by the Company.

## 8. Review process

Your performance as an Independent Director will be reviewed by the Board on an annual basis.

## 9. Publication of the letter of appointment

In line with the Code for Independent Director, the Company will make public the terms and conditions of appointment of Independent Directors by posting it on its website.

## 10. Confidentiality

You must apply the highest standards of confidentiality, and not disclose to any person or company (whether during the appointment or at any time thereafter), any confidential information concerning the Company and any Group Companies with which you come into contact by virtue of your position as Independent Director.

Your attention is drawn to the requirements of SEBI (Prohibition of Insider Trading) Regulations 2015, as amended, in respect of disclosure of price-sensitive information. Consequently, you should not make any statements that might risk a breach of these requirements.

# Schedule 4 of Companies Act, 2013 : Code for Independent Directors

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[corporatelawreporter.com/companies\\_act/schedule-4-of-companies-act-2013-code-for-independent-directors/](http://corporatelawreporter.com/companies_act/schedule-4-of-companies-act-2013-code-for-independent-directors/)

## SCHEDULE IV

[See section 149(8)]

[Effective from 1st April, 2014]

### CODE FOR INDEPENDENT DIRECTORS[1]

The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.

#### I.Guidelines of professional conduct:

An independent director shall:

- (1) uphold ethical standards of integrity and probity;
- (2) act objectively and constructively while exercising his duties;
- (3) exercise his responsibilities in a *bona fide* manner in the interest of the company;
- (4) devote sufficient time and attention to his professional obligations for informed and balanced decision making;
- (5) not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
- (6) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
- (7) refrain from any action that would lead to loss of his independence;
- (8) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;

(9) assist the company in implementing the best corporate governance practices.

## **II. Role and functions:**

The independent directors shall:

- (1) help in bringing an independent judgment to bear on the Board's deliberations especially on issues of strategy, performance, risk management, resources, key appointments and standards of conduct;
- (2) bring an objective view in the evaluation of the performance of board and management;
- (3) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance;
- (4) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible;
- (5) safeguard the interests of all stakeholders, particularly the minority shareholders;
- (6) balance the conflicting interest of the stakeholders;
- (7) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointing and where necessary recommend removal of executive directors, key managerial personnel and senior management;
- (8) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholder's interest.

## **III. Duties:**

The independent directors shall—

- (1) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company;
- (2) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company;
- (3) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member;
- (4) participate constructively and actively in the committees of the Board in which they are chairpersons or members;

- (5) strive to attend the general meetings of the company;
- (6) where they have concerns about the running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting;
- (7) keep themselves well informed about the company and the external environment in which it operates;
- (8) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board;
- (9) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company;
- (10) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interests of a person who uses such mechanism are not prejudicially affected on account of such use;
- (11) report concerns about unethical behaviour, actual or suspected fraud or violation of the company's code of conduct or ethics policy;
- (12) [2][act within their authority], assist in protecting the legitimate interests of the company, shareholders and its employees;
- (13) not disclose confidential information, including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

#### **IV. Manner of appointment:**

- (1) Appointment process of independent directors shall be independent of the company management; while selecting independent directors the Board shall ensure that there is appropriate balance of skills, experience and knowledge in the Board so as to enable the Board to discharge its functions and duties effectively.
- (2) The appointment of independent director(s) of the company shall be approved at the meeting of the shareholders.
- (3) The explanatory statement attached to the notice of the meeting for approving the appointment of independent director shall include a statement that in the opinion of the Board, the independent director proposed to be appointed fulfils the conditions specified

in the Act and the rules made thereunder and that the proposed director is independent of the management.

- (4) The appointment of independent directors shall be formalised through a letter of appointment, which shall set out:
- (a) the term of appointment;
  - (b) the expectation of the Board from the appointed director; the Board-level committee(s) in which the director is expected to serve and its tasks;
  - (c) the fiduciary duties that come with such an appointment along with accompanying liabilities;
  - (d) provision for Directors and Officers (D and O) insurance, if any;
  - (e) the Code of Business Ethics that the company expects its directors and employees to follow;
  - (f) the list of actions that a director should not do while functioning as such in the company; and
  - (g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Boards and other meetings and profit related commission, if any.
- (5) The terms and conditions of appointment of independent directors shall be open for inspection at the registered office of the company by any member during normal business hours.
- (6) The terms and conditions of appointment of independent directors shall also be posted on the company's website. **V.Re-appointment:**

The re-appointment of independent director shall be on the basis of report of performance evaluation.

#### **VI.Resignation or removal:**

- (1) The resignation or removal of an independent director shall be in the same manner as is provided in sections 168 and 169 of the Act.
- (2) An independent director who resigns or is removed from the Board of the company shall be replaced by a new independent director within [3][three months] from the date of such resignation or removal, as the case may be.
- (3) Where the company fulfils the requirement of independent directors in its Board even without filling the vacancy created by such resignation or removal, as the case may be, the requirement of replacement by a new independent director shall not apply.



## **VII. Separate meetings:**

- (1) The independent directors of the company shall hold at least one meeting [4][in a financial year], without the attendance of non-independent directors and members of management;
- (2) All the independent directors of the company shall strive to be present at such meeting;
- (3) The meeting shall:
  - (a) review the performance of non-independent directors and the Board as a whole;
  - (b) review the performance of the Chairperson of the company, taking into account the views of executive directors and non-executive directors;
  - (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.

## **VIII. Evaluation mechanism:**

- (1) The performance evaluation of independent directors shall be done by the entire Board of Directors, excluding the director being evaluated.
- (2) On the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the independent director.

[5][Note: The provisions of sub-paragraph (2) and (7) of paragraph II, paragraph IV, paragraph V, clauses (a) and (b) of sub-paragraph (3) of paragraph VII and paragraph VIII shall not apply in the case of a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013 (18 of 2013), if the requirements in respect of matters specified in these paragraphs are specified by the concerned Ministries or Departments of the Central Government or as the case may be the State Governments and such requirements are complied with by the Government companies.]

## **NOTES**

### **Dos and Don't's of Independent Directors :**

- Dos** – 1. Giving declaration at the first meeting of the Board in which he participates as a director and thereafter at the first meeting of the Board in every financial year or wherever there is any change that he meets the criteria of independence. [Section 149(7)].
2. Receiving remuneration by way of fee, reimbursement of expenses for participation in the Board and other meetings and profit related commission. [Section 149(9)].

3. Holding office for 5 consecutive years on the Board of a company and is eligible for reappointment. [*Section 149(10)*].
4. Not subject to the provisions of retirement of directors by rotation. [*Section 149(13)*].
5. Entitled to sitting fee as per Rule 4 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 which is not less than the sitting fee payable to other directors.

**Don't's-** 1. Not entitled to any stock option. [*Section 149(9)*].

2. Not to hold office for more than two consecutive terms. Not to be appointed or be associated with the company in any other capacity either directly or indirectly during the period of three years after the expiration of the second term of office. [*Section 149(11)*].

3. Not to be held liable for such acts of omission or commission by a company which had occurred without his knowledge and without his consent or connivance or where he has acted diligently. [*Section 149(12)*].

#### **Exemption to Section 8 company :**

Provisions relating to an independent director are not applicable to a body to which a license is granted under the provisions of section 8 *vide* Notification No. GSR 466(E) dated 5<sup>th</sup> June 2015.

#### **Relevant Rules:**

Rules 4, 5 and 6 of the Companies (Appointment and Qualification of Directors) Rule, 2014. Rule 4 provides for the number of independent directors for certain class or classes of companies as stated therein. Rule 5 provides for qualification of independent directors and Rule 6 provides for creation and maintenance of databank of persons offering to become independent directors.