

No.HSIIDC:CS:2015:

Dated:

Name & Address

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**Sub: Appointment of Independent Director on the Board of the Corporation.**

Dear Sir,

We are pleased to inform you that Haryana State Industrial and Infrastructure Development Corporation Limited (‘the Corporation’) has appointed you as an Independent Director on the Board of Directors of the Corporation, subject to approval of the Shareholders pursuant to the provisions of the Companies Act, 2013 (the Act). As required under Section 152 (5) of the Act, we have received your consent to act as an Independent Director of the Corporation in Form-DIR-2 and a declaration in terms of section 149 (6) of the Act to the effect that you meet the criteria of independence as required under section 149 (7) of the Act.

Your appointment and other terms and conditions are subject to the provisions of the Articles of Association of Corporation, the relevant and applicable provisions of the Act read with Schedule IV of the Act and Rules made thereunder and any other applicable law for the time being in force. This letter sets out the terms and conditions governing your appointment as Independent Director which are as under:-

**1. Term of appointment:**

- i) Your term of appointment as non-executive Independent Director on the Board of Director of the Corporation will be for a term of ONE year with effect from 21<sup>st</sup> September, 2015.
- ii) The continuation of your appointment is contingent on your satisfactory performance as an Independent Director and any relevant statutory provisions relating to the removal or disqualification of a director and subject to the performance evaluation by the Board of Directors.

**2. Expectation of the Board:**

- i) The Board expects a time commitment from your goodself and you shall allocate sufficient time to meet the expectations to the satisfaction of the Board.

- ii) The Board expects your active participation by providing vision and expert direction which will enable the Corporation to achieve excellent performance and growth.
- iii) You may be required to serve on one or more existing Committees of the Directors or any such Committee that may be constituted in future by the Corporation.
- iv) You shall strive to attend the meetings of the Board of Directors and the Committees of the Board of which you may be the member, meeting of Independent Directors as well as the General Meetings of the Corporation.

**3. Duties, Role and Responsibilities:**

- i) Your duties, role and responsibilities shall be those normally required of a non-executive Independent Director, specified in Schedule-IV under section 149 (8) (referred to **Annexure-I**) alongwith the provisions of section 166 of the Companies Act, 2013 and you will strive to avoid the occurrence of any events specified under sections 164 & 167 of the Act regarding disqualifications and vacation of office. A copy of these provisions are enclosed at **Annexure-II**.
- ii) You will be expected to perform your duties, whether statutory or fiduciary; faithfully, efficiently and diligently to a standard commensurate with both the functions of your role and your knowledge, skills and experience.
- iii) You will disclose any direct or indirect interest which you may have in any matter being considered at a meeting of Board or Committee and you will not vote on any resolution of the Board or Committee, on any matter where you have direct or indirect interest.
- iv) Unless specifically authorised to do so by the Board, you will not enter into any legal or other commitment or contract on behalf of the Corporation.
- v) As an Independent Director, you shall have the same responsibility like any other Director on the Board.

**4. Provisions for Directors and Officers (D&O) insurance**

Presently, the Corporation does not have any Directors and Officers Liability Insurance Policy. However, if the Corporation takes such a policy, you will also be covered under the same.

**5. Code of Business Ethics**

You will strictly abide by the Code for Independent Directors prescribed in Schedule-IV of Section 149 (8) of the Companies Act, 2013, a copy of which is enclosed at Annexure-I for your ready reference.

**6. Confidentiality/ Actions Prohibited:**

- i) You will apply the highest standards of confidentiality and not disclose to any person or company (whether during the course of the tenure as Independent Director or at any time after its cessation) any information concerning the Corporation which you came into contact by virtue of your position as Director, except as permitted by law or with prior permission from the Chairman of the Board.

- ii) You acknowledge the need to hold and retain Corporation's information (in whatever format you may receive it) under appropriately secure conditions.
- iii) You shall not participate in any business activity which might impede the application of your independent judgment in the best interest of the Corporation.

**7. Remuneration/ Sitting fees etc.**

- i) You will not be paid any remuneration except sitting fee for attending the meetings of the Board and the Committees of the Board of Directors, as per the policy of the Corporation.
- ii) Further, you will be reimbursed the TA/ DA expenses etc., for participation in the Boards and others meetings etc., as per the policy of the Corporation.
- iii) The above payments shall be subject to appropriate applicable taxes.

**8. Performance Appraisal/ Evaluation Process:**

- i) The performance of individual directors and the whole Board and its committees shall be evaluated annually.
- ii) Any proposal of re-appointment of independent director shall be on the basis of report of performance evaluation.

**9. Discontinuation / termination:**

- i) Your Directorship on the Board of the Corporation shall terminate or cease in accordance with law/Articles of Association of the Corporation (as may be amended from time to time).
- ii) Upon completion of the present term of ONE year, your appointment shall automatically terminate or cease with immediate effect.
- iii) Your Directorship on the Board of the Corporation shall be terminated/ ceased under the following circumstances:-
  - (a) for violation of any provision of the Code of Conduct of the Corporation;
  - (b) You may resign from the Directorship of the Corporation by giving a notice in writing stating the reasons for resignation. The resignation shall take effect from the date on which the notice is received by the Corporation or the date, if any, specified by you in the notice, whichever is later;
  - (c) If, at any stage during the term of your Directorship, there is a change that may affect your status as an Independent Director as envisaged in Section 149(6) of the Act, you agree to promptly submit your resignation to the Corporation with effect from the date of such change. You shall also promptly submit your resignation to the Corporation as and when the Board of Directors by majority decision pass a resolution to that effect.

**10. Miscellaneous:**

- i) You shall give the following declarations/ disclosure/ intimation as required under the provisions of the Companies Act, 2013 and the rules made thereunder:-
  - (a) Annual declaration under section 149(7) of the Companies Act, 2013 that he meets the criteria of independence as provided in

section 149(6) in every first meeting of the Board of each Financial Year or whenever there is any change in the circumstances which may affect his status as an Independent Director;

- (b) Intimation in Form DIR-8 to the effect that you are not disqualified under Section 164(2) of the Companies Act, 2013;
  - (c) Disclosure of your interest or concern, directly or indirectly, in any company or companies of bodies corporate, firms, or other association of individuals which shall include the shareholding, in Form MBP-1 pursuant to Section 184(1) of the Companies Act, 2013 and the rules thereunder at the first Board Meeting in which you participate as a Director and thereafter at the first Board Meeting in every financial year or whenever there is any change in the disclosures already made, then at the first board meeting held after such change.
- ii) You shall disclose material interest that in any transaction or arrangement that the Corporation has entered into. Such interest should be disclosed not later than when the transaction or arrangement comes up at a Board meeting so that the minutes may record your interest appropriately and our records are updated. A general notice that you are interested in any contracts with a particular person, firm or company is acceptable.
  - iii) You shall communicate any change in address or other personal details immediately to the Corporation.
  - iv) Your relationship with the Corporation will be that of an Independent Director on the Board of the Corporation and neither constitute a contract for employment/service nor a service contract.
  - v) The appointment letter is issued based on the Companies Act, 2013, rules framed thereunder and other regulations prevalent at the time of appointment. Any change in the above shall automatically entail changes in the terms and conditions.

11. We are confident that the Board and the Corporation will be benefitted immensely from your rich experience. If these terms of appointment are acceptable to you, please confirm your acceptance.

We look forward for your valuable contribution and guidance to the growth of the Corporation.

Thanking you,

Yours sincerely,  
for and on behalf of the Board

Managing Director

Encl: Annexure-I & II.

## SCHEDULE IV

[See section 149(8)]

## CODE FOR INDEPENDENT DIRECTORS

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) acting within his 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 a period of not more than one hundred and eighty days 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 in a 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;

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- (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.



Provided also that if the term of office of the original director is determined before he so returns to India, any provision for the automatic re-appointment of retiring directors in default of another appointment shall apply to the original, and not to the alternate director.

(3) Subject to the articles of a company, the Board may appoint any person as a director nominated by any institution in pursuance of the provisions of any law for the time being in force or of any agreement or by the Central Government or the State Government by virtue of its shareholding in a Government company.

(4) In the case of a public company, if the office of any director appointed by the company in general meeting is vacated before his term of office expires in the normal course, the resulting casual vacancy may, in default of and subject to any regulations in the articles of the company, be filled by the Board of Directors at a meeting of the Board:

Provided that any person so appointed shall hold office only up to the date up to which the director in whose place he is appointed would have held office if it had not been vacated.

Appointment of directors to be voted individually.

162. (1) At a general meeting of a company, a motion for the appointment of two or more persons as directors of the company by a single resolution shall not be moved unless a proposal to move such a motion has first been agreed to at the meeting without any vote being cast against it.

(2) A resolution moved in contravention of sub-section (1) shall be void, whether or not any objection was taken when it was moved.

(3) A motion for approving a person for appointment, or for nominating a person for appointment as a director, shall be treated as a motion for his appointment.

Option to adopt principle of proportional representation for appointment of directors.

163. Notwithstanding anything contained in this Act, the articles of a company may provide for the appointment of not less than two-thirds of the total number of the directors of a company in accordance with the principle of proportional representation, whether by the single transferable vote or by a system of cumulative voting or otherwise and such appointments may be made once in every three years and casual vacancies of such directors shall be filled as provided in sub-section (4) of section 161.

Disqualifications for appointment of director.

164. (1) A person shall not be eligible for appointment as a director of a company, if—

(a) he is of unsound mind and stands so declared by a competent court;

(b) he is an undischarged insolvent;

(c) he has applied to be adjudicated as an insolvent and his application is pending;

(d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:

Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;

(e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;

(f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;

(g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or

(h) he has not complied with sub-section (3) of section 152.

(2) No person who is or has been a director of a company which—

(a) has not filed financial statements or annual returns for any continuous period of three financial years; or

(b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,

shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.

(3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):

Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall not take effect—

(i) for thirty days from the date of conviction or order of disqualification;

(ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or

(iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off.

165. (1) No person, after the commencement of this Act, shall hold office as a director, including any alternate directorship, in more than twenty companies at the same time:

Number of directorships.

Provided that the maximum number of public companies in which a person can be appointed as a director shall not exceed ten.

*Explanation.*— For reckoning the limit of public companies in which a person can be appointed as director, directorship in private companies that are either holding or subsidiary company of a public company shall be included.

(2) Subject to the provisions of sub-section (1), the members of a company may, by special resolution, specify any lesser number of companies in which a director of the company may act as directors.

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(3) Any person holding office as director in companies more than the limits as specified in sub-section (1), immediately before the commencement of this Act shall, within a period of one year from such commencement,—

(a) choose not more than the specified limit of those companies, as companies in which he wishes to continue to hold the office of director;

(b) resign his office as director in the other remaining companies; and

(c) intimate the choice made by him under clause (a), to each of the companies in which he was holding the office of director before such commencement and to the Registrar having jurisdiction in respect of each such company.

(4) Any resignation made in pursuance of clause (b) of sub-section (3) shall become effective immediately on the despatch thereof to the company concerned.

(5) No such person shall act as director in more than the specified number of companies,—

(a) after despatching the resignation of his office as director or non-executive director thereof, in pursuance of clause (b) of sub-section (3); or

(b) after the expiry of one year from the commencement of this Act,

whichever is earlier.

(6) If a person accepts an appointment as a director in contravention of sub-section (1), he shall be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees for every day after the first during which the contravention continues.

Duties of directors.

166. (1) Subject to the provisions of this Act, a director of a company shall act in accordance with the articles of the company.

(2) A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment.

(3) A director of a company shall exercise his duties with due and reasonable care, skill and diligence and shall exercise independent judgment.

(4) A director of a company shall not involve 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.

(5) A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company.

(6) A director of a company shall not assign his office and any assignment so made shall be void.

(7) If a director of the company contravenes the provisions of this section such director shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

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167. (1) The office of a director shall become vacant in case—

Vacation of  
office of  
director.

(a) he incurs any of the disqualifications specified in section 164;

(b) he absents himself from all the meetings of the Board of Directors held during a period of twelve months with or without seeking leave of absence of the Board;

(c) he acts in contravention of the provisions of section 184 relating to entering into contracts or arrangements in which he is directly or indirectly interested;

(d) he fails to disclose his interest in any contract or arrangement in which he is directly or indirectly interested, in contravention of the provisions of section 184;

(e) he becomes disqualified by an order of a court or the Tribunal;

(f) he is convicted by a court of any offence, whether involving moral turpitude or otherwise and sentenced in respect thereof to imprisonment for not less than six months:

Provided that the office shall be vacated by the director even if he has filed an appeal against the order of such court;

(g) he is removed in pursuance of the provisions of this Act;

(h) he, having been appointed a director by virtue of his holding any office or other employment in the holding, subsidiary or associate company, ceases to hold such office or other employment in that company.

(2) If a person, functions as a director even when he knows that the office of director held by him has become vacant on account of any of the disqualifications specified in sub-section (1), he shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

(3) Where all the directors of a company vacate their offices under any of the disqualifications specified in sub-section (1), the promoter or, in his absence, the Central Government shall appoint the required number of directors who shall hold office till the directors are appointed by the company in the general meeting.

(4) A private company may, by its articles, provide any other ground for the vacation of the office of a director in addition to those specified in sub-section (1).

168. (1) A director may resign from his office by giving a notice in writing to the company and the Board shall on receipt of such notice take note of the same and the company shall intimate the Registrar in such manner, within such time and in such form as may be prescribed and shall also place the fact of such resignation in the report of directors laid in the immediately following general meeting by the company:

Resignation  
of  
director.

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