

# KITOV PHARMACEUTICALS HOLDINGS LTD.

## AMENDED AND RESTATED AUDIT COMMITTEE CHARTER

### I. General Statement of Purpose

The purpose of the Audit Committee of the Board of Directors (the “Committee”) of Kitov Pharmaceuticals Holdings Ltd. (the “Company”) is to assist the Board of Directors (“Board”) in fulfilling its oversight responsibilities for the financial reporting process, the systems of internal control, the audit process, and the company's process for monitoring compliance with laws and regulations and the code of ethics, as well as fulfilling any statutory requirements with respect to the role of an audit committee at a publicly traded company, including, *inter alia*, any audit committee roles and responsibilities set forth in the Israeli Companies Law, 5759- 1999 (the “Companies Law”) and the NASDAQ Stock Market Rules.

### II. Duties and Responsibilities

The Committee has the following duties and responsibilities:

- assist the Board in fulfilling its responsibility for oversight of the quality and integrity of accounting, auditing and financial reporting practices of the Company;
- oversee the qualifications, independence, appointment, compensation and performance of the Company’s independent auditors;
- monitor any deficiencies in the management of the Company, including in consultation with the independent auditors or the internal auditor, and advise the Board regarding how to correct such deficiencies;
- determine, on the basis of detailed reasoning, whether to classify certain engagements or transactions as material or extraordinary as applicable, and therefore as requiring special approval under the Companies Law or whether such engagements or transactions (whether or not extraordinary) shall be subject to certain competitive bidding or similar procedures. The Committee may make such determination according to predetermined principles and guidelines established on an annual basis;
- decide whether to approve engagements or transactions that require Committee approval under the Companies Law;
- determine, as required under the Companies Law, how to approve certain engagements or transactions with interested parties that the Committee deems as non-negligible. The Committee may make such determination according to predetermined principles and guidelines established on an annual basis;
- review the annual and periodical working plan of the internal auditor and recommend any changes to such plan prior to approval by the Board;
- oversee the Company’s internal auditing and the performance of the internal auditor; ensure that the internal auditor has sufficient tools and resources at his disposal, taking into account, among others, the special requirements of the Company and its size;
- examine the scope of work of the independent auditor and its compensation, and bring such recommendations before the Board; and
- determine the policies and procedures of addressing (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters; (ii) the confidential, anonymous submission

by the Company's employees of concerns regarding questionable accounting or auditing matters; and (iii) treatment of complaints received by the Company in connection with any deficiencies in the management of the business of the Company, and with respect to the protections provided to the submitters of such complaints.

In the event that the Committee finds a material deficiency in the management of the Company, the Committee shall hold at least one meeting regarding such material deficiency, in the presence of the internal auditor or the independent auditors and without the presence of officers of the Company. However, an officer may participate in the meeting in order to present an issue which is under his responsibility.

The Committee's specific responsibilities in carrying out its oversight role are delineated in the Audit Committee Responsibilities Guidelines attached hereto.

### **III. Composition of the Committee**

The number of individuals serving on the Committee shall be fixed by the Board from time to time and shall be in accordance with the requirements of applicable law. The Company has presently adopted the corporate governance structure set forth in Regulation 5D of the Israeli Companies Regulations (Relief for Public Companies with Shares Listed for Trading on a Stock Market Outside of Israel), 5760-2000 (the "Relief Regulations"), pursuant to which, a public company with securities listed on certain foreign exchanges, including NASDAQ, that satisfies the applicable foreign country laws and regulations that apply to companies organized in that country relating to the appointment of independent directors and composition of audit and compensation committees and have no controlling shareholder, are exempt from the Companies Law requirements in connection with external directors, as well as the audit committee and compensation committee composition requirements set forth in the Companies Law. In accordance with such corporate governance structure set forth in Regulation 5D of the Relief Regulations, for so long as the Company does not have a controlling shareholder as defined in the Companies Law, the Company shall comply with the NASDAQ Listing Rules in connection with the number of independent directors on the Board, and the composition of each of the Audit Committee and the Compensation Committee, in lieu of such requirements set forth under the Companies Law.

As such, the Committee shall consist of at least three (3) members of the Board, each of whom must (i) be an "independent director" as defined in Rule 5605(a)(2) under the NASDAQ Listing Rules; (ii) meet the criteria for independence set forth in Rule 10A-3(b)(1) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), subject to the exemptions provided in Rule 10A-3(c) under the Exchange Act; and (iii) not have participated in the preparation of the financial statements of the Company or a current subsidiary of the Company at any time during the past three years. Notwithstanding the above, one director who (i) is not an Independent Director as defined in Rule 5605(a)(2); (ii) meets the criteria set forth in Section 10A(m)(3) under the Act and the rules thereunder; and (iii) is not currently an Executive Officer or employee or a Family Member of an Executive Officer, may be appointed to the Committee if the Board, under exceptional and limited circumstances, determines that such individual's membership on the Committee is required by the best interests of the Company and its shareholders. Should the Company rely on this exception it shall disclose in its next annual report on Form 20-F, the nature of the relationship that makes the individual not independent and the reasons for the Board's determination. A member appointed to the Committee under this exception may not serve longer than two years and may not chair the Committee.

Should the Company no longer operate pursuant to the corporate governance structure

set forth in Regulation 5D of the Relief Regulations, whether by reason of ineligibility or due to Board resolution, and the Company appoints external directors to the Board, in accordance with the provisions of the Companies Law, then all of the Company's external directors appointed under the Companies Law shall be appointed to the Committee, and a majority of its members shall be independent, as such term is defined under the Companies Law. Without derogating from the generality of the preceding sentence, under such corporate governance structure, the following persons shall not be appointed to the Committee: (i) the Chairman of the Board, (ii) any director employed by the Company or by the controlling shareholder of the Company or by a company under the control of the controlling shareholder, (iii) a director who provides services (other than as a director and member of any committee of the Board of the Company), on an ongoing basis, to the Company, the controlling shareholder of the Company or to a company under the control of the controlling shareholder, (iv) a director whose main source of income comes from the controlling shareholder; and (v) the controlling shareholder or his relative.

Any person who owns or controls (or whose relative owns or controls) more than 10% of the Company's shares shall not be appointed to the Committee, irrespective of whether or not such person is deemed an "affiliate" of the Company under SEC rules and regulations.

Each member of the Committee must be able to read and understand fundamental financial statements, including the Company's balance sheet, income statement, and cash flow statement. One or more members of the Committee shall qualify as an "audit committee financial expert" under the rules promulgated by the Securities and Exchange Commission ("SEC") and at least one member shall meet the applicable accounting and related financial experience requirement by NASDAQ and the Companies Law.

The members of the Committee shall be appointed by the Board and may be replaced or removed, other than the external directors (if any), by the Board at any time with or without cause. Resignation or removal of a director from the Board, for whatever reason, shall automatically and without any further action constitute resignation or removal, as applicable, from the Committee. Any vacancy on the Committee, occurring for whatever reason, may be filled only by the Board. The Committee shall designate one member of the Committee to be Chairman of the Committee. Should the Company no longer operate pursuant to the corporate governance structure set forth in Regulation 5D of the Relief Regulations, whether by reason of ineligibility or due to Board resolution, and the Company appoints external directors to the Board, in accordance with the provisions of the Companies Law, then such chairman must be an external director.

All indemnification, exculpation, expense reimbursement and advancement provisions and rights available to members of the Committee in their capacities as directors of the Company shall be fully applicable with respect to their service on the Committee or any subcommittee thereof.

#### **IV. Compensation**

A member of the Committee may not, other than in his or her capacity as a member of the Committee, the Board or any other committee established by the Board, and in accordance with applicable law and regulation, receive directly or indirectly from the Company any consulting, advisory or other compensatory fee from the Company.

#### **V. Meetings of the Committee**

The Committee shall meet, either in person or by telephone conference call, as often as it determines is appropriate to carry out its responsibilities under this Charter, but not less frequently than quarterly. In addition, had the Committee found a material deficiency, it will

hold at least one meeting regarding such material deficiency, with the presence of the internal auditor or the independent auditors without the presence of officers of the Company; however, an officer can participate in the meeting in order to present an issue which is under his responsibility.

A majority of the members of the Committee shall constitute a quorum for purposes of holding a meeting and the Committee may act by a vote of a majority of the members present at such meeting; provided, however, that should the Company no longer operate pursuant to the corporate governance structure set forth in Regulation 5D of the Relief Regulations, whether by reason of ineligibility or due to Board resolution, only as long as the majority of the members present are independent, as such term is defined under the Companies Law, and at least one of them is an external director.

In lieu of a meeting, the Committee may act by unanimous written consent. The Chairman of the Committee, in consultation with the other committee members, may determine the frequency and length of the Committee meetings and may set meeting agendas consistent with this Charter.

The Committee shall have the authority to request that any officer or employee of the Company, the Company's outside legal counsel, the Company's independent auditor or any other professional retained by the Company to render advice to the Company, attend a meeting of the Committee or meet with any members of, or advisers to, the Committee; provided, however, that should the Company no longer operate pursuant to the corporate governance structure set forth in Regulation 5D of the Relief Regulations, whether by reason of ineligibility or due to Board resolution, a person who is not eligible to be appointed as a member of the Committee shall not attend meetings, unless the Chairman of the Committee deems such person is required in order to present a certain issue or if such person qualifies under one of the exemptions of the Companies Law..

An individual with a personal interest in a transaction being brought for approval by the Committee, other than with respect to a non-extraordinary transaction with an officer of the Company or in which an office holder of the Company has a personal interest, may not be present at a meeting of the Committee, unless the Chairman of the Committee deems such person is required in order to present the transaction. Notwithstanding the above, should a majority of the directors on the Committee have a personal interest in the transaction, all directors on the Committee may participate in the deliberations and voting concerning such transaction.

The independent auditor of the Company shall be invited to every meeting of the Committee that relates to the financial statements of the Company. The internal auditor of the Company shall be invited to all Committee meetings. In addition, the internal auditor may request the Chairman of the Committee to convene a meeting to discuss a particular issue, and the Chairman of the Committee shall convene such meeting within a reasonable period of time, if the Chairman of the Committee finds it appropriate to do so. The Committee shall maintain written minutes of its meetings, which minutes shall be maintained with the books and records of the Company.

The Committee's actions, conclusions or recommendations shall be reported to the Board on an ongoing basis. The matters concerning such actions, conclusions or recommendations which require the approval of the Board will be brought to the attention of the directors a reasonable period of time prior to the discussion of such matters at the Board.

## **VI. Independent Counsel and Advisors**

The Committee may engage independent counsel and such other advisors as it deems

necessary or advisable to carry out its responsibilities and powers, and if such counsel or other advisors are engaged, shall determine the reasonable compensation and/or fees payable to such counsel or other advisors. The above authorities so granted to the Committee shall, upon approval of this Charter by the Board, be deemed to have been approved by the Board pursuant to the provisions of Section 266(a) of the Companies Law, with respect to Board approval of professional advisory expenses for a director on account of the Company.

#### **VII. Limitations on Role**

The Committee relies on the expertise and knowledge of management, the independent auditor and the Company's internal auditor in carrying out its oversight responsibilities. While the Audit Committee has the authority, powers, and responsibilities set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements and disclosures are in accordance with generally accepted accounting principles. Management of the Company is responsible for determining that the company's financial statements are in accordance with generally accepted accounting principles, and the Board is responsible for approving the financial statements of the Company. The independent auditor is responsible for auditing the Company's financial statements.

Nothing in this Charter shall be construed to require the Committee to implement or act consistently with the advice or recommendations of such advisors, or to affect the ability or obligation of the Committee, and each member thereof, to exercise its, his or her own judgment in fulfillment of its, his or her duties.

#### **VIII. Review of Charter**

Any member of the Committee may submit proposed Charter amendments to the Board. The Board shall circulate any proposed Charter amendment to members of the Committee immediately upon receipt. By a majority vote, the Board may approve amendments to this Charter. The Committee will review and reassess the adequacy of this Charter as necessary, and at least on an annual basis, and recommend to the Board any amendments or modifications to the Charter that the Committee deems appropriate.

*As adopted by the Board of Directors on January 22, 2017*

## **AUDIT COMMITTEE RESPONSIBILITIES GUIDELINES**

### **I. General**

- Be empowered to conduct or authorize investigations into any matters within the Committee's scope of responsibilities. The Committee shall be empowered to retain, at the Company's reasonable expense and without approval from the Board, independent counsel, accountants, or others to assist it in the conduct of any investigation.
- The Chairman of the Committee or any person appointed by him will communicate with the internal auditor, independent auditor, management and the Board. Committee actions, conclusions or recommendations shall be reported to the Board on an ongoing basis. The matters concerning such actions, decisions or recommendations of the Committee which require the approval of the Board will be brought to the attention of the directors a reasonable period of time prior to the discussion of such matters at the Board.
- Monitor any deficiencies in the management of the Company, including in consultation with the independent auditors or the internal auditor, and to advise the Board on how to correct such deficiencies; Should the Committee find a material deficiency, the Committee will hold at least one meeting regarding such material deficiency, with the presence of the internal auditor or the independent auditors without the presence of officers of the Company; however, an officer can participate in the meeting in order to present an issue which is under his responsibility.
- Review the independence of each Committee member based on all applicable laws.
- Review legal and regulatory matters that may have a material impact on the financial statements, related Company compliance policies, and programs and reports received from regulators.
- Meet with the Company's financial management to discuss any matters that the Committee or the financial management believes should be discussed privately with the Committee.
- Establish procedures for (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters; (ii) the confidential, anonymous submissions by employees of concerns regarding questionable accounting or auditing matters, and the protection of such employees; and (iii) treatment of complaints received by the Company in connection with any deficiencies in the management of the business of the Company, and with respect to the protections provided to the submitters of such complaints.
- The Committee may perform such other oversight functions outside of its stated purpose as may be requested by the Board from time to time.
- Subject to applicable law, and without derogating therefrom, the Committee is authorized to request that any officer or employee of the Company, the Company's legal counsel, the Company's independent auditor or any other professional retained by the Company to render advice to the Company attend a meeting of the Committee or meet with any members of or advisors to the Committee.

### **II. Oversight of Relationship with Independent Auditor**

- Confirm the independence of the public accounting firm, including through receipt

from the independent auditors of a formal written statement delineating all relationships between the auditor and the company.

- Recommend to the Board and shareholders the appointment and termination of, and oversee, the Company's independent auditor. Approve the compensation of the Company's independent auditor.
- Approve all audit and non-audit services to be provided by the independent auditor and review the audit firm's non-audit services and related fees.
- Oversee the hiring by the Company of any employees or former employees of the Company's auditors.
- Meet with the independent auditor in executive sessions to discuss any matters that the Committee or the independent auditor believes should be discussed privately with the Committee.
- Resolve disagreements between management and the independent auditor regarding financial reporting.

### **III. Internal Control Oversight and Risk Management**

- Propose to the Board the appointment of an internal auditor, and express its opinion with regard to the termination of the internal auditor's engagement by the Company.
- Meet with the internal auditor in executive sessions to discuss any matters that the Committee or the internal auditor believes should be discussed privately with the Committee.
- Discuss with management and the Company's independent auditor about significant risks or exposures and assess the steps management has taken to minimize such risk to the Company.
- Consider and review with the independent auditor:
  - the adequacy of the Company's internal financial controls, including computerized information system controls and security, and
  - any related significant findings and recommendations of the independent auditor and internal audit together with management's responses thereto.
- Consider and review with the Board, management and the internal auditor:
  - significant findings during the year and management's responses thereto,
  - any difficulties or disputes with management encountered in the course of his or her audits, including any restrictions on the scope of their work or access to required information, and
  - any changes required in planned scope of the internal auditor's audit plan.
- Oversee the functioning of the internal auditor and review his or her work plans, review internal audit reports prepared by the internal auditor and confirm that it has sufficient tools and resources at its disposal, taking into account, among other things, the special requirements of the Company and its size. The Chairman of the Committee may instruct the internal auditor to perform special audits and shall review the internal auditor's reports of such audits.

### **IV. Audit Oversight**

Prior to the annual audit, the Committee shall review the scope of the independent

auditor's audit plan, including the scope, timing and procedures for the audit and bring its recommendations to the Board.

At the completion of the annual audit, the Committee shall review with management and the independent auditor the following:

- the Company's annual financial statements and related footnotes;
- the independent auditor's audit of the financial statements and its report thereon;
- any significant changes required in the independent auditor's audit plan;
- the effect or potential effect of any regulatory regime, accounting initiatives or off-balance sheet structures on the Company's financial statements;
- any correspondence with regulators or governmental agencies and any employee complaints or published reports that raise material issues regarding the Company's financial statements or accounting policies;
- any serious difficulties or disputes with management encountered during the course of the audit; and
- other matters related to the conduct of the audit that are to be communicated to the Committee under generally accepted auditing standards.

The Committee shall also review:

- the Company's financial management and the independent auditor at least annually the Company's critical accounting policies, alternative treatments discussed with management, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm, and any material written communications between the independent auditor and management (such as any management letters or schedules of unadjusted differences);
- any significant changes to IFRS policies or standards that may impact the Company's financial statements;
- at least on annual basis, (i) the material reserves established for the contingent liabilities of the Company and its subsidiaries, (ii) the Company's major financial risk exposures and the Company's policies for managing such risks and (iii) any "off-balance sheet" transaction or off-balance sheet assets or liabilities;

Additionally, the Committee shall discuss with the independent auditor the matters required to be discussed by Auditing Standard No. 16 as modified or supplemented. The Committee will also obtain from the independent auditor assurance that it has complied with Section 10A of the Securities Exchange Act of 1934.

## **V. Related Party Transactions**

The Committee shall review policies and procedures with respect to transactions between the Company and officers and directors, or affiliates of officers or directors, or transactions that are not in the ordinary course of the Company's business. Any engagements or transactions that require the Committee's approval under the Companies Law shall be subject to the Company's approval procedure as described in the Company's Procedure for Identifying Interested Party Transactions. In accordance with Company's Procedure for Identifying Interested Party Transactions, the Committee shall appoint the appointee under the Company's enforcement plan to be responsible of all of the data regarding transactions with interested parties and of the compliance with such procedure.

## **VI. Public Financial Disclosures**

The Committee shall participate in a meeting or conference call with the Chief Financial Officer and the independent auditor prior to earnings releases, if any, and review earnings releases prior to their distribution. Prior to the approval of the financial statements by the Board, the Committee shall examine the financial statements, discuss them in its meetings and formulate a recommendation to the Board in respect to the following: (a) the estimates made in connection with the financial statements; (b) internal controls related to financial reporting; (c) the integrity and appropriate disclosure in the financial statements; (d) the accounting policies adopted in the accounting treatment applied the substantive matters of the Company; and (e) valuations, including their underlying assumptions and estimates, on which the financial statement data is based.

The Committee shall review and discuss with management, before release, the audited financial statements, and the Operating and Financial Review and Prospects proposed to be included in the Corporation's Annual Report on Form 20-F. In connection with each Annual Report on Form 20-F of the Company, the Committee must review and approve:

- management's disclosure to the Committee about all significant deficiencies in the design or operation of internal controls which could adversely affect the Company's ability to record, process, summarize and report financial data; and, any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls as required under Section 302 of the Sarbanes-Oxley Act, and
- the contents of the Chief Executive Officer and the Chief Financial Officer certificates to be filed under Sections 302 and 906 of the Sarbanes-Oxley Act.

The Committee will review filings with the SEC and other published documents containing the Company's financial statements and consider whether the information contained in these documents is consistent with the information contained in the financial statements before it is filed with the SEC or other regulators.