



**SPECIAL SECTION "A"**

**CRIMES TOWARDS THE PUBLIC ADMINISTRATION  
CRIME OF INCITEMENT NOT TO MAKE STATEMENTS  
OR TO MAKE FALSE STATEMENTS TO THE JUDICIAL  
AUTHORITY**

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December 04, 2017

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## **DEFINITIONS**

With the exception of the new definitions included in this Special Section "A", the definitions of the General Section remain valid.

**A.1 TYPES OF CRIMES: CRIMES AGAINST THE PUBLIC ADMINISTRATION (Articles 24 and 25 of the Decree) AND CRIMES INVOLVING INCITEMENT NOT TO MAKE STATEMENTS OR TO MAKE FALSE STATEMENTS TO THE JUDICIAL AUTHORITY (Article 25-*decies* of the Decree)**

Here follows a brief description of the crimes included in this Special Section "A", as provided by Articles 24, 25 and 25-*decies* of the Decree.

- ***Embezzlement against the State or the European Union (Article 316-bis of the Italian Criminal Code)***

This crime is committed when the funds or grants obtained from the Italian Government or from another public authority or from the European Union are not used for the purposes they were intended for (the conduct consists in stealing, even partially, the funds received, even without implementing the planned activities).

As the commission of crime coincides with its execution phase, the crime may also relate to funds obtained in the past and not used at present for the purposes they had been granted for.

- ***Misappropriation of funds to the detriment of the State or of the European Union (Article 316-ter of the Italian Criminal Code)***

This crime is committed when grants, financing, facilitated loans or other funds of similar nature - awarded or granted by the Government, by other public authorities or by the European Community - are obtained by means of the use or submission of false statements or documents, or by means of the omission of due information, without having right thereto. Unlike the case above described (Article 316-*bis*), this crime is committed as the grant is obtained, and it does not matter the use made of these grants.

Finally, it should be noted that the crime in question is residual with respect to the case referred to in Article 640-*bis* of the Italian Criminal Code (aggravated fraud to obtain public funds); this means that misappropriation is committed only

when the illegal behavior is not included in the above-mentioned crime.

- ***Graft (Article 317 of the Italian Criminal Code)***

This crime is committed when a public official or person in charge of public services, abuses his/her position or power to force someone to provide, for him/herself or other persons, money or other undue benefits.

Considering the Group's private-based nature, and considering the opinion expressed above, the adoption of the Model, even though optional and not mandatory according to the provisions of the Decree, may represent a valid awareness-enhancing instrument for all those who operate in the name and on behalf of the Group, to follow a conduct that is in compliance with the existing rules; furthermore, in order to pursue the "best practice" policy in performing the company activity, the Group voluntarily intends to focus on relations to be established, with Electricity Sector Operators. and in carrying out the compulsory expropriation activity as better described in paragraph A.3, No. 6.

Within this context, the crime of graft may be committed when: (i): a Company Representative, taking advantage of its power or its position, obliges or forces someone to provide, for itself or other persons, money or other undue benefits; and (ii): a Company Representative or an External Contractor (acting, in this situation, in the name or on behalf of a Group Company) is involved in the crime of the public official, who, abusing his/her office, asks undue services from third parties (provided that this behavior generates some sort of benefit for the Group Companies).

- ***Corruption for official acts or in acts against official duties (Articles 318 and 319 of the Italian Criminal Code)***

This crime is committed when a public official receives (or accepts the promise to receive) money or other benefits, for himself/herself or for a third party, in exchange for performing his/her functions or powers or not performing or delaying in carrying out his/her official duties (thus providing a benefit to the person who offered the money or other benefits).

The public official's activity may be expressed either through a purposeful act (e.g. giving priority to the processing of a file of his/her own concern), or through an act contrary to the public officer's duties (e.g. accepting money in exchange of guaranteeing the award of a tender), or through conduct that, while not constituting a specific and predetermined act, falls within his/her functions of public official (e.g. offer of money to the public official to secure future favors).

This crime is different from graft, since here an agreement exists to reach a mutual advantage between the receiver of the money or property and the corrupter, while in graft, the private party suffers against its will the conduct of the public official or of the person in charge of a public service.

Considering the Group's private-based nature, and considering the opinion expressed above, the adoption of the Model, even though optional and not mandatory according to the provisions of the Decree, may represent a valid awareness-enhancing instrument for all those who operate in the name and on behalf of the Group, to follow a conduct that is in compliance with the existing rules; furthermore, in order to pursue the "best practice" policy in performing the company activity, the Group voluntarily intends to focus on relations to be established, with Electricity Sector Operators. and in carrying out the compulsory expropriation activity as better described in paragraph A.3, No. 6.

Within this context, the crime maybe committed, when: (i) a Company Representative receives (or accepts the promise to receive), for itself or for third parties, money or other benefits in order to omit, delay or perform an act pertaining to its task or an act contrary to its task; and (ii) a Company Representative or an External Contractor(acting, in this situation, in the name or on behalf of a Group Company) promises or gives money, or other benefits, to a public official with the purpose of performing, delaying or not performing an office act or an act that is contrary to his/her office duties.

- ***Aggravating circumstances (Article 319-bis of the Italian Criminal Code)***

This provision states that the penalty is increased if the facts referred to in Article 319 of the Italian Criminal Code is based on the assignment of public offices or salaries or pensions or

the signing of contracts involving the public authority to which the public official belongs.

- ***Corruption in judicial acts (Art. 319-ter of the Italian Criminal Code)***

This crime is committed when, in order to privilege or damage a party in legal proceedings and in order to obtain an advantage in the proceeding itself (not expressly provided for by the law), a public official is corrupted (not only a judge, but also a judicial clerk or any other official). This crime is also committed when an advantage is sought for a company that is not necessarily a party in the proceedings.

- ***Undue incitement to give or promise benefits (Article 319-quater Italian Criminal Code)***

This crime is committed when a public official or a person in charge of a public service, abuses of his/her position or power to force someone to provide, for himself/herself or other persons, money or other undue benefits.

In addition to the public official and the person in charge of a public service, this crime also applies to the private individual who, unlike in the situation of graft, is not obliged, but only incited to make the promise or pledge and consequently still has the possibility of making a criminal choice, which justifies the application of a penalty.

- ***Corruption of a person in charge of a public service (Article 320 of the Italian Criminal Code)***

This crime is committed when a person in charge of a public service receives or accepts the promise of receiving money or other benefits, for himself or for others, in exchange for not performing or delaying, having delayed or not having performed an official act or for performing or having performed an act that is contrary to his/her official duties.

- ***Penalties for the corrupter (Article 321 of the Italian Criminal Code)***

This article provides that penalties as indicated in the first paragraph of art. 318 of the Italian Criminal Code, in art. 319,

in art. 319-*bis*, in art. 319-*ter*, and in art. 320 in relation to crimes as stated in articles 318 and 319 of the Italian Criminal Code, are also applied to everyone who gives or promises money or other public benefits to a public official or to a person in charge of a public service.

- ***Incitement to corruption (Article 322 of the Italian Criminal Code)***

This crime is committed when money or another benefit is offered or promised to a public official or to a person in charge of a public service (to induce him to perform, delay or not perform an office act or an act that is contrary to his office duties) and this offer or promise is not accepted.

- ***Peculation, graft, undue incitement to give or promise benefits, corruption and incitement to corruption of members of the International Criminal Court or the European Community bodies and officials of the European Community and of foreign states (Article 322-bis of the Italian Criminal Code)***

On the basis of Article 322-*bis* contained in Article 25 of the Decree, the above-mentioned corruption and graft crimes are also considered as having been committed in cases in which money, or another benefit, is given, offered or promised, also following incitement to do so, to:

- 1) members of the European Community Commission, of the European Parliament, of the Court of Justice and of the Court of Auditors of the European Community;
- 2) officers and agents contracted in compliance with the Staff Regulations of the European Community or with the rules applicable to agents of European Community;
- 3) persons entrusted by member countries or by any public or private body in the European Community which exercise functions corresponding to those of officers or agents of the European Community;
- 4) members and personnel of corporations founded on the basis of Treaties which established the European Community;
- 5) those who, in other member states of the European Union, perform functions and carry out activities corresponding to



those of public officials and those in charge of a public service;

- 6) to judges, prosecutors, deputy prosecutors, officers and agents of the International Criminal Court, to persons entrusted by countries belonging to the Treaty which established the International Criminal Court that exercise functions corresponding to those of officers or agents of said Court, to members and personnel of bodies founded on the basis of the Treaty which established the International Criminal Court;
- 7) those people who perform functions or activities corresponding to those of public officials and those in charge of a public service in other foreign states or international public organizations, in the event that the act was committed in order to obtain for oneself or others undue benefit in international economic transactions or in order to obtain or maintain an economic or financial activity.

- ***Fraud against the State, a public authority or the European Union (Article 640, paragraph 2, no. 1, of the Italian Criminal Code)***

This crime is committed when devises or tricks are carried out in order to obtain an undue profit, misleading and causing damage to the State (or another public body or the European Union).

For instance, this crime may be committed when documents or information prepared to bid in tenders with the Public Administration contain untrue statements (e.g. supported by false documents), in order to be awarded the tender.

- ***Aggravated fraud to obtain public funds (Article 640-bis of the Italian Criminal Code)***

This crime is committed when a fraud is carried out in order to obtain undue public funds.

This circumstance may occur when devises or tricks are carried out, e.g. submitting false information or false documents, in order to obtain public funds.

- ***Computer fraud against the State or other public bodies (Article 640-ter of the Italian Criminal Code)***

This crime is committed when an undue profit is obtained by altering the operation of a computer or online system or by manipulating the data contained therein, and a damage is caused to third parties as a consequence thereof.

In fact, the crime is committed when, once the financing is granted, the computer system is violated in order to enter a higher amount for the financing compared with the one lawfully obtained.

The crime as per art. 640-ter of the Italian Criminal Code is punished on the basis of charges laid by another party.

- ***Incitement not to make statements or to make false statements to the Judicial Authority (Article 377-bis of the Italian Criminal Code)***

The provision included in Article 377-bis of the Italian Cassation Code intends to fine every conduct aiming at influencing a person who has been called before the Judicial Authority to make statements useful in a criminal proceeding or in other related proceedings. Said influence can have as its objective incitement not to make statements or to make false statements in order to conceal “compromising” elements for a certain organization, with evident interest on its part.

The provision aims at ensuring that proceedings are carried out properly by protecting against every form of undue interference.

Such crime occurs even if “transnational” in nature, in compliance with Article 10 of Law No. 146 of March 16, 2006, which ratified and implemented the United Nations Convention and Protocols against Transnational Organized Crime.

In this regard, it should be emphasized that, pursuant to Article 3 of the above-mentioned law, the crime is considered “transnational” when it is punished by imprisonment for a period of not less than four years, when it involves an organized criminal group, and:

- it is committed in more than one State;
- or it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- or it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State;
- or it is committed in one State but has substantial effects on another State.

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With respect to the penalties that can be applied to the organization, should crimes be committed in relations with the Public Administration, they can be of a monetary nature, up to 800 shares (and, therefore, up to a maximum of nearly €1,240,000.00) or of a disqualifying nature, which may obviously vary depending on the type of crime committed.

With respect to the penalties that can be applied to the organization, should crimes of incitement not to make statements or to make false statements to the Judicial Authority be committed, they can be of a monetary nature, of up to 500 shares (and, therefore, up to a maximum of nearly €780,000).

## **A.2 CRITERIA FOR DEFINING PUBLIC ADMINISTRATION, PUBLIC OFFICIALS AND PERSONS IN CHARGE OF A PUBLIC SERVICE**

Crimes under this Special Section "A" are all premised on the establishment of relations with the Public Administration (foreign State Public Administrations are also included in the definition).

Indicated hereinafter are some general criteria for defining "Public Administration", "Public Officials" and "Persons in Charge of a Public Service".

### **A.2.1 Public Bodies**

With respect to criminal law, a "Public Body" is commonly considered as any juridical person who is entrusted with attending to public interests and who performs legislative, judicial or administrative activities by virtue of public law rules and authorization deeds.

The Italian Criminal Code does not include a definition of a public body. In the Ministerial Report on the code itself, and in relation to crimes provided for therein, organizations are considered as belonging to the public administration if they carry out "all the activities of the State and of other public bodies".

In an effort to draft a preliminary classification of juridical persons belonging to said category, reference can be made, finally, to Article 1, paragraph 2 of Legislative Decree No. 165/2001 that deals with labor regulations for employees of public administrations, which defines public administrations as all State administrations.

By way of an example, the following organizations or category of organizations can be indicated as public bodies:

1. institutes and schools of all orders and levels, and education authorities;
2. State entities and administrations having autonomous structures, such as:
  - 2.1. Presidency of the Council of Ministers
  - 2.2. Ministries;

- 2.3. Chamber of Deputies and Senate of the Republic;
- 2.4. Department for Community Policies;
- 2.5. Antitrust Authority;
- 2.6. Electricity and Gas Authority;
- 2.7. Communications and Media Authority;
- 2.8. Bank of Italy;
- 2.9. CONSOB;
- 2.10. Data Protection Authority;
- 2.11. Revenues Agency;
- 2.12. ISVAP: Institute for the Supervision of Private Insurance and of the Collective Interest;
- 3. Regions;
- 4. Provinces;
- 5. Municipalities;
- 6. Mountain Communities, their consortiums and associations;
- 7. Chamber of Commerce, Industry, Handicraft and Agriculture and its associations;
- 8. the European Community and Institutes connected thereto;
- 9. all national, regional and local non-economic public bodies, such as:
  - 9.1. INPS (Italian state body which coordinates national insurance funds);
  - 9.2. CNR (Italian national research council);
  - 9.3. INAIL (national institute for the insurance against occupational injuries);
  - 9.4. ISTAT (Central Statistics Institute);
  - 9.5. ENASARCO (National Entity for Assistance of Commerce Agents and Representatives);
  - 9.6. ASL (local health authority);
- 10. State Monopolies and bodies;
- 11. RAI (Italian national TV and radio corporation).

Being understood that the above mentioned list of public bodies is only provided by way of an example, it should be noted that not all natural persons who act within the activity field and in relation to said bodies are persons against whom (or for whom) criminal offenses can be punished under Legislative Decree No. 231/2001.

In particular, the individuals that are relevant for this purpose are only "Public Officials" and "Persons in charge of a Public Service".

### **A.2.2 Public Officials**

Under the terms of Article 357, paragraph 1 of the Italian Criminal Code, a person is considered a public official "for all effects of criminal law" if he/she carries out "a public legislative, judicial or administrative function".

Paragraph 2 defines the concept of "public administrative function". There has not been, however, a similar definition for "legislative function" or "judicial function" in that identifying the individuals who respectively carry out the functions has not usually caused particular problems or difficulties.

Therefore, for the criminal law "an administrative function is considered public when it is regulated by public law provisions and by authorization deeds and when it is characterized by the expression of the will of the public administration or by it being carried out by means of authorizing or certifying powers".

The aforementioned legislation definition identifies, first of all, the "external" demarcation of the administrative function. Said demarcation is implemented by recourse to formal criteria referencing the nature of the regulation, specifying that an administrative function is public when it is provided for by "public law provisions", namely by those provisions aimed at the pursuit of a public goal and at protecting the public interest and, as such, are juxtaposed to private law provisions.

Paragraph 2 of Article 357 of the Italian Criminal Code acknowledges some of the broad principal criteria identified by the law in order to differentiate between the concept of "public function" and that of "public service". Therefore, Administrative activities are defined as public functions if they respectively and alternately perform: (a) deliberative powers; (b) authoritative powers; (c) certifying powers.

With reference to the above mentioned criteria, the following crimes can be included (crimes which can be committed only by or against public officials):

- Graft (Article 317 of the Italian Criminal Code);
- Corruption for official acts (Article 318 of the Italian Criminal Code);
- Corruption in acts against official duties (Article 319 of the Italian Criminal Code);
- Corruption in judicial acts (Art. 319-*ter* of the Italian Criminal Code);
- Undue incitement to give or promise benefit (Article 319 *quater* ICC);
- Incitement to corruption (Article 322 of the Italian Criminal Code);

Peculation, graft, undue incitement to give or promise benefits, corruption and incitement to corruption of members of the International Criminal Court or the European Community bodies and officials of the European Community and of foreign states (Article 322-*bis* of the Italian Criminal Code)

### **A.2.3 Persons in charge of a public service**

The definition of the category of “persons in charge of a public service” can be found in Article 358 of the Italian Criminal Code, which states that “persons in charge of a public service are those who carry out a public service, with any professional qualification. Public service must be considered an activity regulated in the same ways as a public function, but characterized by a lack of power which is typical in the latter, and with the exclusion of carrying out simple secretarial duties and performance of merely material work”.

The legislator specified the concept of “public service” through two criteria, one positive and one negative. The “service” as long as it can be defined as public – must be regulated in the same way as a “public function” – by public law provisions, but with the differentiation relative to the lack of powers of a certifying, authorizing and deliberative nature of the public function.

Examples of persons in charge of a public service include: employees of the supervisory authorities which do not contribute to form the will of the authority and which do not have authoritative powers, the employees of organizations that perform public services even if of a private nature, clerks in public offices, etc.

Moreover, the legislator specified that neither "simple secretarial duties" nor the "performance of merely material works" may ever represent a "public service". With reference to activities that are performed by private individuals on the basis of a concessionary relation with a public individual, it is deemed that for the purposes of the definition as public service of the entire activity performed under the concessionary relation, the existence of an authoritative act of subjective vesting of the public service is not sufficient, but it is necessary to ascertain whether single activities which come into question have been subjected to regulation of a public nature.

Jurisprudence has identified the category of persons in charge of a public service, focusing on the character of the instrumentality and relating to priority of the activities with respect to the public one. Essentially, this deals with individuals who give a concrete contribution to the implementation of the purposes of a public service, with a connotation of subsidiarity and complementarity exercising, in fact, a public function.

It therefore indicated a series of "revealing indicators" of the public nature of the body, for which case studies on the subject of public joint-stock companies are emblematic. In particular, reference is made to the following indicators:

- (a) being subjected to checks and guidance for social purposes, as well as to the power of the State or other public bodies to appoint and revoke directors;
- (b) the existence of an agreement and/or a concession with the public administration;
- (c) financial contribution from the State;
- (d) the presence of public interests within the economic activity.



On the basis of the indications herein above, the discriminating element to assess whether an individual does or does not possess the qualification of a "person in charge of a public service" can be seen not by the juridical nature taken on or held by the corporation, but rather by the functions that have been entrusted to the individual, which must consist in handling public interests or satisfying the needs of general interest.

With reference to said individual, the following crimes can be included (crimes which can be attributed to persons in charge of a public service):

- Graft (Article 317 of the Italian Criminal Code);
- Corruption for official acts (Article 318 of the Italian Criminal Code);
- Corruption in acts against official duties (Article 319 of the Italian Criminal Code);
- Corruption in judicial acts (Art. 319-*ter* of the Italian Criminal Code);
- Undue incitement to give or promise benefit (Article 319 *quater* ICC);
- Incitement to corruption (Article 322 of the Italian Criminal Code);
- Embezzlement, extortion, bribery and incitement to bribery of the members of European Communities' bodies and of the officials of the European Communities and of foreign States (art. 322-*bis* of the Italian Criminal Code).

### **A.3 AT-RISK AREAS**

Crimes under Articles 24 and 25 of the Decree are all premised on the establishment of relations with the Public Administration (in a broad sense and including the Public Administrations of foreign countries or of performing activities that may involve carrying out a public service). Given the multiplicity of relationships which the Company has with the public administration in Italy and abroad, the areas of activity deemed more specifically at risk are the following:

1. participation in direct tendering or negotiation procedures called by Italian or foreign public authorities for awarding orders (contracts, supplies or services), grants, partnerships, assets (companies, shareholdings, etc.) or other similar dealings, even in association with a Partner (for example: a joint venture, including in the form of a temporary business association, consortium, etc.); above all where such activities are carried out in geographic areas where the procedures do not guarantee appropriate transparency (taking into account the classification given by Transparency International to determine country risk) and where consultancy and/or representative roles are appointed. In the event of awarding, At-Risk Areas also include: i) performing the order; ii) relations with any sub-contractors and iii) testing activities;
2. application to obtain subsidized grants, funds or financing from Italian public authorities or from the EU and their utilization;
3. performance of procedures to obtain authorizations, including international authorizations, from the Public Administration (for example, building licenses, authorizations to build new lines, authorizations for highways crossings, etc.);
4. engagement, including in foreign countries, in relations with representatives of the P.A. that have legislative, regulatory, administrative or judicial powers (for example, the Italian Authority for Electricity and Gas, CONSOB, the Competition and Market Authority, the Judicial Authority,

etc.), when such relations (including the sending of data or information) may lead to the gaining of significant advantages for the Group itself, excluding activities of mere disclosure, participation in events or institutional stages and exchange of views regarding particular policies or regulations;

5. participation in inspections, investigations and checks carried out by representatives of the Public Administration such as ASL, ARPA, AEEGSI, the Italian Revenue Agency and Law Enforcement Agencies;

6. managing relations with the Electricity Sector Operators.

With reference to the crime described in Article 25-*decies*, the identified At-Risk Area refers to:

1) managing criminal proceedings brought before Judicial Authority in Italy and abroad.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group – fully or partly – in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

#### **A.3.1 Instrumental areas**

Furthermore, the following areas have been deemed instrumental to the afore-mentioned crimes:

1. the management of public tender procedures in the role of the Contracting Authority, for the awarding of contracts for corporate activities and non-instrumental contracts;
2. the appointment of professional and consultancy roles;
3. the selection, management and incentivization of personnel;
4. corporate volunteering schemes and corporate giving;
5. management of real-estate assets;

#### **A.4 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of the Recipients of the Model.

The purpose of this Special Section is to ensure that all the Recipients, to the extent they may be involved in carrying out activities in At-Risk Areas, act in compliance with conduct rules as established in the section. This, in order to prevent the occurrence of crimes in relations with the Public Administration and with other parties when TERNAL carries out institutional tasks, considering as well the different position of each Recipient (Company Representatives and External Contractors) in relation with the Group and, therefore, with their different duties, as specified in the Model.

This Special Section has the aim of providing:

- a) specific general and procedural rules which the Recipients, in relation to the type of relation existing with the Company, must comply with for the proper application of the Model;
- b) providing the Vigilance Body, and the Directors of other company departments cooperating with such Body, with the operational tools required to carry out control, monitoring and verification activities.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity - will generally be expected to be familiar with, and comply with, all the procedural rules adopted by the Parent Company and transposed by the Company as well as any procedures provided for by TERNAL PLUS contained, for example, in the following documents:

- the Code of Ethics;
- The Anti-Corruption Guidelines;
- the internal Regulation for the qualification of companies to contact for purchasing, contracting and service contracts;

- the operational procedures aimed at ensuring transparency in the procurement process;
- the internal Regulation for work, supply and service contracts;
- rules, procedures and operating instructions adopted for programming and development of the grid;
- the informative procedures for personnel hiring and training;
- the guidelines relating to the assignment of consulting and professional services to third parties;
- the guidelines for the organization of the Group's events;
- Guidelines and operational instructions concerning the policy and management of corporate giving requests such as, for example, the "Corporate Giving Policy" Guidelines (LG024), the Operational Instructions on the "Management of Corporate Volunteering Schemes" (IO009CO); the "Operational Instructions on the Management of Sponsorship and Donations of the Terna Group" (IO004CO), the Internal Memo which regulates the composition of the "Commission for the Evaluation of Corporate Giving Requests" (NI043CO) and any other relevant policy that the Group chooses to implement;
- the Operational Instructions for the management of requests for the free transfer of corporate assets, including the Instruction which regulates the "Management of requests for the transfer of corporate assets" (IO007CO);
- standard ISO 37001 "Anti-Bribery Management System", the provisions of which must be respected in order to guarantee compliance with the anti-corruption system adopted by Terna in relation to the standard and to ensure the continued validity of the certification obtained by TERNA.
- any other internal regulation concerning the Group's internal control system.
- the disciplinary system applicable to the National Collective Labor Contract.

This Special Section provides that Company Representatives in direct form, and External Contractors by means of specific agreement terms, shall expressly refrain from:

1. behaving in such a way as to fall under the crimes described above (art. 24, 25 and 25 *-decies* of the Decree);
2. implementing conduct that, while not representing one of the crimes as described above, may potentially become a crime;
3. implementing any situation of conflict of interests towards the Public Administration related to the above-mentioned crime cases;
4. obstruction of justice through intimidation.

Within the framework of this conduct (also established by the Code of Ethics) the following activities are specifically prohibited:

- a) making payments - on one's own initiative or upon solicitation - to public officials and/or persons in charge of a public service;
- b) receiving money or other benefits offered for the purpose of influencing the decision-making process in the exercise of powers for expropriation;
- c) distributing and/or receiving gifts or presents or granting other benefits of any kind (e.g. sponsorships), outside that provided for in the company policies and practices (namely, in accordance with the provisions of the Code of Ethics, any form of gift offered or received, beyond normal business practices or courtesy, or aimed at obtaining favorable treatment in the conduct of any business activity). In particular, it is prohibited to offer any type of gift - made on one's own initiative or upon solicitation - to Italian and foreign public officials or persons in charge of public services (even in countries where gift-giving is a widespread practice), or to their relatives, that may affect their impartiality of judgement or induce them to ensure any kind of advantage to the Group. Gifts that are allowed shall always be of low value or be intended to promote social, environmental, humanitarian and cultural initiatives (e.g. distribution of art books), or the Group's brand image. Gifts

offered - with the exception of those having a low value - must be properly proven in order to allow their verification;

- d) hiring people or making promises to hire etc. that are not based on criteria of objectiveness, skills and professional experience and that bring about any favoritism, nepotism or forms of patronage capable of producing the same consequences as described in point c), with respect to a public official or employee of a public service;
- e) pay to the External Contractors and Partners fees that are not justified in relation to the duties they have to perform, to their actual fees, to the characteristics of the partnership agreement and to common local practices;
- f) pay to the Suppliers sums that are not justified with reference to their services;
- g) submit untrue statements to national public authorities or to Community authorities in order to obtain funds, grants or subsidized loans;
- h) obtain funds from the Electricity Sector Operators that are not justified with reference to the duty they have to perform and to common local practices;
- i) allocate amounts received from State or Community public authorities as funds, grants or loans for purposes different from those they were intended for;

In order to implement the conduct guidelines described above, the following rules will apply:

- 1) all relations with the Public Administration must be handled in an open and transparent way;
- 2) in relation to inspections by the Public Administration (e.g. Guardia di Finanza) specific reports on the procedure must be prepared and stored;
- 3) contracts entered into with Consultants must be defined in writing, specifying the payment agreed upon and must be proposed, negotiated or verified or approved by at least two TERNA PLUS representatives;
- 4) contracts entered with Suppliers and Partners must be



defined in writing indicating the payment agreed upon and the general financial conditions and must be proposed or negotiated or verified or approved by at least two TERNA PLUS representatives;

- 5) agreements entered into with Consultants, Partners and Suppliers that TERNA PLUS engages to carry out operations that involve public officials or persons in charge of a public service must include a clause in which they undertake, in the performance of their activities, not to make donations that exceed a modest value that could be interpreted as exceeding the normal business practices or courtesy, or are designed to obtain favorable treatment in the conduct of those activities;
- 6) no payment in cash or in kind is allowed, with the exception for minor expenses;
- 7) all the statements given to national or EU public authorities for the purpose of obtaining funds, grants or loans, must only contain true information and, where said funds, grants or loans are obtained, these must be appropriately accounted for;
- 8) all audit managers and supervisors in charge of the obligations related to the performance of these activities (payment of invoices, allocation of State or European Community funds, etc.) must be particularly careful in complying with said obligations and immediately report any irregularity to the Vigilance Body;
- 9) within the expropriation for public utility procedures in which TERNA PLUS is involved as expropriation authority, it is very important to grant the traceability of every phase of the procedure, with the exception for the ministerial competence ones (see declaration of public utility, prearranged constraint to the expropriation or to the compulsory subjection).

Within the Company, a strong law procedure structure is provided for performing expropriation powers, in order to prevent the commission of crimes described in this Special Section "A".

Regarding specifically the management of criminal proceedings brought before judicial authorities involving Company Representatives or other Recipients (in relation to activities carried out for the Company) it is compulsory for each Recipient not to commit acts of violence, threats (or other

similar forms of coercion) or not to give or promise donations in money or in any other form so that the person charged or under investigation:

- does not collaborate in making statements that are true, transparent and correctly represent the facts;
- does not freely explain the facts, exercising his/her legal right to remain silent, by virtue of the above-mentioned types of influence.

Furthermore, in order to ensure the appropriateness and effectiveness of its anti-corruption management system as well as its compliance with current legislation, TERNA has obtained the certification ISO-37001, issued by the Italian Certification Body following the positive outcome of its assessments.

Standard ISO-37001 defines the requirements of an anti-corruption management system, providing directives to establish, implement, maintain, update and improve management systems aimed at preventing corruption.

#### **A.4.1 Anti-Corruption Guidelines**

All the principles described above are included in the Anti-Corruption Guidelines adopted by TERNA PLUS in order to prevent corrupt activities at a national and international level.

The Policy is based on the most applicable international and Community legislation regarding the fight against corruption, as well as the United States' FCPA and the British Bribery Act. Moreover, this applies to all parties who operate in the name or on behalf of TERNA PLUS or a Group company, including consultants, brokers and suppliers.

Exceptions are allowed for the special precautionary measures established within individual Group companies for carrying out activities in At-Risk Areas in the name of and/or on behalf of the Parent Company by virtue of service agreements signed.

## **A.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

TERNA PLUS's VB shall:

- a) propose the release and update of standardized instructions for actions to be taken in identified At-Risk Areas and, in general, towards the Public Administration.

These instructions should be in writing and saved on hardcopy and on computer file;

- b) periodically check the proxy system in force, recommending changes should the management power and/or qualification not match the powers of attorney granted to Company Representatives and/or the Internal Manager (or Internal Managers) or Internal Sub-managers;
- c) check on a regular basis, with the help of other departments involved, the validity of the standard terms directed to:
  - ensure that Recipients comply with the provisions of the Decree;
  - give TERNA the opportunity to control Model's Recipients in order to assess their compliance with the provisions contained therein;
  - apply penalties (such as withdrawal from contracts with External Contractors) whenever a provision is violated;
- d) examine any specific reporting from supervisory bodies or third parties or any Company Representative to carry out evaluations that are deemed appropriate on the basis of such reporting;
- e) provide the management with recommendations about the most appropriate upgrades to the financial resources (both in and out) already used by the Group, and introducing devices to detect atypical financial flows characterized by greater-than-expected margins of discretion.

TERNA PLUS guarantees the implementation of data stream procedures between the VB and the directors of the competent Departments, the 231 Representatives or other Company Representatives as necessary, each time the VB deems it appropriate.

In particular, the 231 Control Model Department submits an annual report to the VB regarding violations of the Anti-Corruption Guidelines or critical events regarding 231 compliance.

The information to the VB shall be given without delay in the case of violations to specific procedural rules as indicated in Chapter A.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-

### Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.



## **SPECIAL SECTION "B"**

### **CORPORATE CRIMES**

CEO Approval
Luigi Michi
December 04, 2017

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## **DEFINITIONS**

With the exception of the new definitions included in this Special Section "B", the definitions of the General Section remain valid.

### **B.1 TYPES OF CORPORATE CRIMES (art. 25-ter of Decree)**

This Special Section "B" includes a brief description of the crimes considered and defined under article 25-ter of the Decree (hereinafter defined "Corporate Crimes"), grouped into 5 different categories to describe them better.



## **1. FALSE CORPORATE COMMUNICATIONS**

- ***False statements in company notices (Article 2621 of the Italian Civil Code)***

The crime defined by Article 2621 of the Italian Civil Code is committed when, outside the cases established in Article 2622, directors, general managers, managers in charge of preparing the company's financial statements, auditors and liquidators, who, in the financial statements, reports or other company notices and announcements as provided for by the law, addressed to shareholders or the public and with the purpose of obtaining for themselves or for others an unlawful profit, willfully provide material information not corresponding to the truth, or omit material information that is mandatory according to the law regarding the economic, property or financial situation of the company or of the group to which it belongs, in a way that leads addressees to a misinterpretation of the above-mentioned situation.

Liability also extends to the eventuality that the false statements or omissions concern assets owned or managed by the company on the behalf of third-parties.

- ***Minor events (Article 2621-bis of the Italian Civil Code)***

The crime referred to in Article 2621-bis is committed, with the exception whereby it constitutes a more serious crime, if the events referred to in Article 2621 are minor in nature, considering the type and size of the company and the means and the effects of the conduct, or concerning companies not subject to bankruptcy as they do not exceed the limits given in paragraph 2 of Article 1 of Royal Decree no. 267 of March 16, 1942 and subsequent amendments and integrations. In this case the crime is prosecutable upon action taken by the company, shareholders, creditors or other recipients of company notices.

- ***False statements in company notices of listed companies (Article 2622 of the Italian Civil Code)***

The crime defined by Article 2622 of the Italian Civil Code is committed when directors, general managers, managers in charge of preparing the company's financial statements,

auditors and liquidators of companies issuing financial instruments admitted to trading in a regulated market - Italian or of another EU member state - who, in the financial statements, reports or other company notices and announcements addressed to shareholders or the public and with the purpose of obtaining for themselves or for others an unlawful profit, willfully provide material information not corresponding to the truth, or omit material information that is mandatory according to the law regarding the economic, property or financial situation of the company or of the group to which it belongs, in a way that leads addressees to a misinterpretation of the above-mentioned situation.

The companies specified in the previous paragraph are:

- 1) companies issuing financial instruments for which an application has been made for admission to trading in a regulated market - Italian or other EU member state;
- 2) companies issuing financial instruments which have been admitted to trading in an Italian multilateral trading system;
- 3) parent companies of companies issuing financial instruments which have been admitted to trading in a regulated market - Italian or other EU member state;
- 4) companies that invite publicly raised capital or that otherwise manage it.

Liability also extends to the eventuality that the false statements or omissions concern assets owned or managed by the company on the behalf of third parties.

- ***Non-disclosure of any conflict of interests (Article 2629-bis of the Italian Civil Code)***

This crime is represented by the violation of obligations set forth in Article 2391, paragraph 1 of the Italian Civil Code on the part of the managing director of a company with shares listed on the Italian regulated markets or of other EU member states (or other bodies subject to controls), if the above-mentioned violation is detrimental to the company or to third parties.

Article 2391, paragraph 1 of the Italian Civil Code obligates directors of joint stock companies to notify the other directors and the Board of Statutory Auditors on any interest that, on their behalf or on a third party's behalf, they might have in a specific company transaction, specifying its nature, terms, origins and extent. CEOs must also refrain from carrying out the transaction, assigning it to the body in charge. The Sole Administrator must inform about such transactions during the first meeting to be held.

By virtue of the foregoing, this crime is not applicable to the Company.

## **2. PROTECTION AFFORDED BY THE CRIMINAL LAW OVER COMPANY SHARE CAPITAL**

- ***Undue return of contributions (Article 2626 of the Italian Civil Code)***

This crime is committed, with the exception of the cases considered to represent legitimate reductions of the share capital according to the law, through returning capital to shareholders -including simulated returning-, or releasing them from their obligations to do so.

Only company directors are defined as being punishable for having committed the crime. The law thus does not provide for punishment for shareholders benefiting from the return of capital or from being released from their obligations in that regard. However, the event is foreseen, of possible participation in the crime. In such circumstances, in compliance with the general rules applying to participation in a crime under Article 110 of the Italian Criminal Code, shareholders may also be considered guilty of the crime if their conduct has instigated or determined the illegal conduct of the Directors.

- ***Illegal distribution of profits or reserves (Article 2627 of the Italian Civil Code)***

The crime is defined as the distribution of profits (or advances on profits) which have not actually been accrued or

which the law requires to be allocated to reserves, or the distribution of reserves (including those not made up from profits) which cannot be allocated according to the law.

In particular:

- returning profits or replenishing reserves prior to the term established for the approval of the Company's financial statement cancels the crime.

The only persons defined as being punishable for having committed this crime are the Directors. The law does not provide for punishing shareholders benefiting from the distribution of profits or reserves, excluding the possibility of necessary participation in the crime. However, the event is foreseen, of possible participation in the crime. In such circumstances, in compliance with the general rules applying to participation in a crime under Article 110 of the Italian Criminal Code, shareholders may also be considered guilty of the crime if their conduct has instigated or determined the illegal conduct of the Directors.

- ***Unlawful transactions concerning the Company's or Parent Company's shares or quotas (Article 2628 of the Italian Civil Code)***

Such a crime will be committed upon the purchase or subscription of shares or stakes issued by the company (or by its holding company), with the exception for cases provided for by the law, damaging the integrity either of the share capital or of reserves which may not be allocated according to the law. In particular:

- if the share capital or reserves are replenished prior to the term established for the approval of the Company's financial statement referring to the accounting period to which the conduct related, the crime will be cancelled.

The only persons defined as being punishable for having committed this crime are the Directors. Furthermore, it is possible to foresee a situation where directors of a holding company participate in committing the crime together with those of a subsidiary, in the event illegal transactions on the shares owned by the holding company itself are carried out

by the subsidiary's directors on the instigation of the directors of the holding company.

- ***Transactions to the detriment of creditors (Article 2629 of the Italian Civil Code)***

This crime is committed when transactions are carried out, in violation of the law for the protection of creditors, resulting in the reduction of the company's share capital, the merger with other companies or the splitting up of the company in such a way as to cause loss or damage to creditors.

In particular:

- The payment of compensation for damages to creditors prior to court judgement cancels the crime.

The crime will be punished upon charges filed by another party.

The only persons punishable for having committed this crime in this case too, are the directors.

- ***Fictitious formation of corporate capital (Article 2632 of the Italian Civil Code)***

This crime is represented through the following conduct: a) fictitious formation or increase of the share capital, also partly, by means of the allocation of shares or quotas higher than the company's share capital b) mutual subscription of shares or quotas; c) excessively high appraisal/evaluation of contributions in kind, receivables or assets of the company in the case of transformation.

The only persons punishable for having committed this crime are directors and contributing shareholders.

- ***Undue distribution of corporate assets by liquidators (Article 2633 of the Italian Civil Code)***

This crime is committed when company property is divided among shareholders prior to the payment of company creditors or before the amounts necessary to meet their

debts have been set aside, thus causing damage to the creditors.

In particular:

- the crime will be punished upon charges filed by the injured party;
- the payment of compensation for damages to creditors prior to court judgement cancels the crime.

The persons punishable for this crime are only the liquidators.

### **3. PROTECTION AFFORDED BY THE CRIMINAL LAW OVER THE PROPER OPERATION OF THE COMPANY**

- ***Obstruction to supervision (Article 2625 of the Italian Civil Code)***

The crime is committed when control activities legally attributed to shareholders or to other company bodies are prevented or obstructed by the concealment of documents or other methods.

For this crime, an administrative-pecuniary penalty is envisaged.

Penalties are increased (with imprisonment up to 1 year and doubled for companies with shares listed on the regulated Italian markets or of another country of the European Union) if such conduct has been detrimental to shareholders. In this case, the crime is punished only upon charges filed by another party.

Directors are the only persons that can be punished for the commission of the crime.

- ***Illicit influence on the General Meeting (Article 2636 of the Italian Civil Code)***

This crime occurs whenever the majority in the meetings is reached by means of simulated or fraudulent acts, in order for the offender, or for a third party, to obtain unjust profit.

The crime is defined as a common crime which may be committed by “anyone” carrying out the defined criminal conduct.

#### **4. PROTECTION AFFORDED BY THE CRIMINAL LAW AGAINST FRAUD**

- ***Agiotage (Article 2637 of the Italian Civil Code)***

This crime is committed when false information is disseminated, or simulated transactions or other artificial acts are carried out, which are concretely capable of causing a significant change in the price of unlisted financial instruments or financial instruments with respect to which no request for admission to trading on a regulated market has been submitted, or of having a material impact upon the public’s reliance upon the economic stability of banks or banking groups.

This crime, too, is defined as a common crime which can be committed by “anyone” carrying out the criminal conduct as indicated.

Regarding the extent of this crime for listed companies and regarding the measures to be established to avoid it from occurring, please also refer to the provisions included in Special Section “E”.

#### **5. PROTECTION AFFORDED BY THE CRIMINAL LAW OVER SUPERVISORY FUNCTIONS**

- ***Obstruction to the exercise of Public Supervisory Authorities’ functions (Articles 2638 of the Italian Civil Code)***

Two crimes are defined here, distinguished by the manner in which they are carried out:

- the first is committed (i) when material facts not corresponding to the truth relating to the assets or the economic or financial situation of the company under supervision have been included in notices required to be made by law to Public Supervisory Authorities (for the purpose of

preventing such bodies from performing their duties), or (ii) when facts are concealed by other fraudulent means, concerning the same assets or the economic or financial position of the company, which should have been so communicated.

The crime may also be committed in circumstances where the information relates to property held or managed by the company on behalf of third parties;

- the second crime is committed by simply and intentionally preventing a Public Authority from performing its supervisory duties, including in any way, the omission of notices required to be made to such authorities.

Subjects that can be punished for this crime are directors, general managers, the manager in charge of preparing the company's accounting statements, auditors and liquidators; this crime is different from the one provided for by Article 170- *bis* of the Consolidated Law on Finance, not including the list given in Article 25-*ter* of the Decree, which penalizes the conduct of "whoever", outside of those cases described by Article 2638 of the Italian Civil Code, such to compromise the supervisory activities entrusted to Consob.

## **6. PROTECTION AFFORDED BY THE CRIMINAL LAW AGAINST CORRUPTION**

- **Corruption between individuals (Article 2635 of the Italian Criminal Code)**

This crime is included in the list of Predicate Crimes solely for active conduct. Consequently, a person is punishable under the Decree who gives or promises money or other benefits to one of the following persons (to the extent they belong to a joint stock company pursuant to Book V, Title XI, Chapter IV of the Italian Civil Code):

- a manager;
- a director;
- a manager in charge of preparing the company's accounting statements;
- a statutory auditor;
- a liquidator;



- a person subject to the management or supervision of one of the persons listed above;
- persons performing managerial roles other than those of the persons listed above;

The regulation incriminates all those who solicit or receive (including through intermediaries) money or another benefit not justifiably owed to them, or undertake to perform or omit an action in breach of the obligations of their office or loyalty obligations to their group.

Lastly, the crime is punishable upon complaint by the injured party unless the circumstance results from a distortion of competition in the acquisition of goods or services.

- **Incitement to corruption between individuals (Article 2635-*bis* of the Italian Civil Code).**

Italian Legislative Decree no. 38 of March 5, 2017 regarding the "Implementation of the framework decision 2003/568/GAI of the Council, dated July 22, 2003, in relation to the fight against corruption in the private sector, introduced the cases of "Incitement to corruption between individuals" which penalizes those who offer or promise money or another unjustified benefit to senior management figures or persons with managerial roles in private companies or institutions aimed at the performance or omission of an act in breach of the obligations of the office or the obligations of loyalty in the case that said offer or promise is not accepted (paragraph 1), those who solicit, for themselves or others, including as intermediaries, a promise or payment of money or another benefit in exchange for the performance or omission of an act in breach of the obligations of their office or the obligations of loyalty, in the case that the solicitation is not accepted (paragraph 2).

In both cases, the penalties provided for corruption between individuals, reduced by one third, apply.

\*\*\*\*\*

As for penalties attributable to the Organization in the event of Corporate Crimes, these can consist of pecuniary penalties and interdictory penalties pursuant to Article 9, paragraph 2.

In particular, in the case of an act of corruption between individuals, pecuniary penalties of a minimum of four hundred to a maximum of six hundred shares and interdictory penalties pursuant to Article 9, paragraph 2, shall be applied.

In the case of incitement to corruption, a pecuniary penalty of a minimum of two hundred up to a maximum of four hundred shares shall be applied to the Organization, as shall the interdictory penalties pursuant to Article 9, paragraph 2.

## **7. Extension of subjective qualifications**

- **Extension of subjective qualifications (Article 2639 of the Italian Civil Code).**

The law extends the subjective application of the offenses envisaged in the present special section, equalizing the formal holder of an office or role with both the person who is required to perform the same role, otherwise qualified, and the person who in fact exercises the typical powers relating to the qualification or role in a continuous and significant way.

Furthermore, except in cases where the laws regarding crimes committed by public officials against the Public Administration apply, the punitive provisions relative to administrators also apply to persons who are legally charged by the judicial authority or the public supervisory body to manager to company or the assets held by the same or managed on behalf of third parties.

## **B.2 AT-RISK AREAS**

With regard to the crimes and criminal conduct set out above, the areas deemed more specifically at risk, for the purposes of this Special Section "B" of the Model, are the following:

- 1.** the preparation of notices addressed to shareholders or to the general public regarding the TERNA's assets or its economic or financial position and that of the other Group companies, even if different from periodic accounting documents;
- 2.** the preparation and distribution of data or information to the public (even further compared to point 1) relative however to the Company;
- 3.** the preparation of reports to the Public Supervisory Authorities and the management of relations with them (Electricity and Gas Authority, The Italian Antitrust Authority, etc.);
- 4.** the conclusion of extraordinary, significant or internal transactions with both third parties and related parties.

In relation to the crime of corruption between individuals, the areas considered more specifically exposed to risk, also taking into account activities carried out for other Group companies, are the following:

- 5.** the management of procurement, with particular regard to the definition and subsequent fulfilment of contractual provisions;
- 6.** the management of relations with credit institutions;
- 7.** the management of relations with insurance companies (solely for the definition of compensation);
- 8.** investment activities, in Italy and abroad, with particular regard to the negotiation stages in direct dealings or competitive bidding sales processes;
- 9.** the management of relations with the media;

- 10.**the management of relations with ratings agencies;
- 11.** the management of relations with investors and with financial analysts;
- 12.** The management of relations with Trade Unions;
- 13.**participation in tenders;
- 14.**the management of disputes with counterparties, particularly with regard to the definition of settlement agreements;
- 15.** the management of relations with the auditor and/or the auditing company.
- 16.** the management of relations with Certification Bodies;
- 17.** the management of industrial, civil, instrumental and non-instrumental real-estate assets, including the purchase, divestment and transformation of the same through modifications to the works.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group – fully or partly – in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

Any additions to said at-risk areas may be defined by the CEO of TERNA PLUS who is mandated for this purpose to analyze the

existing control system and define the appropriate operational measures.

### **B.2.1 Instrumental areas**

Furthermore, the following areas have been deemed instrumental to the afore-mentioned crimes of corruption between individuals:

1. the management of public tender procedures in the role of the Contracting Authority, for the awarding of contracts for corporate activities and non-instrumental contracts;
2. the appointment of professional and consultancy roles:
3. the selection, management and incentivization of personnel;
4. corporate volunteering schemes and corporate giving.

### **B.3 RECIPIENTS OF THIS SPECIAL SECTION - GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section concerns the conduct of Company Representatives, Consultants and other Recipients of the Model.

The purpose of this Special Section is to ensure that these Recipients, to the extent in which they may be involved in activities in At-Risk Areas, follow rules of conduct consistent with the provisions set out herein in order to prevent the occurrence of Corporate Crimes, while considering the different positions held by them with regard to the Group and, therefore, the different obligations they may have as specified in the Model.

In particular, the function of this Special Section is to:

- a. to provide a list of general and specific procedural principles which Company Representatives, Consultants and Partners will be required to comply with to ensure a correct application of the Model, based on the type of relations they have with the Group;
- b. provide the VB and the directors of other company departments cooperating with the latter, the operational tools to control, monitor and verify the activities established.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity - will generally be expected to be familiar with, and comply with, all the procedural rules adopted by the Parent Company and transposed by the Company as well as any procedures provided for by TERNA PLUS contained, for example, in the following documents:

- the Code of Ethics;
- the Anti-Corruption Guidelines;

- the Corporate Governance rules adopted in compliance with the Governance Code of Listed Companies and with relevant company rules;
- Internal Rules for processing confidential information and for the distribution to the public of documents and information;
- in the Procedure for managing, processing and communicating to the market information relating to transactions on financial instruments carried out by "relevant persons";
- the operating instructions for preparation of the financial statements;
- the administrative and accounting procedures for preparation of the financial statements;
- the 262 Audit Model;
- the General Accounting plan;
- the Industrial Accounting Manual;
- the Guidelines for approval of significant transactions and managing situations of interest;
- the operational instructions for the conduct of tenders and "non-instrumental" tenders;
- the operating instructions for the process of evaluation and approval of investment opportunities;
- the guidelines for the management systems for certifications and accreditations;
- the operational instructions for Group's media relations activities;
- the guidelines for the organization of the Group's events;
- the Guidelines regarding the assignment of consultancy roles and duties for professional services to third parties; the Guidelines and operational instructions regarding the corporate giving policy and the management of corporate giving requests;
- operational instructions for the management of requests for transfer free of charge of corporate assets;

Any other internal regulation relative to the control system existing within TERNAPLUS.

In particular, in carrying out activities considered to be at risk, Company Representatives, directly, and other Recipients, according to specific contract provisions, must comply with the following

general conduct principles, based on the type of relation they have with the Company:

- 1.** avoiding conduct representing Corporate Crimes as described above;
- 2.** avoiding conduct that is not in itself such as to represent the commission of one of the above Crimes, but has the potential to become so;
- 3.** adopting proper and transparent conduct, ensuring full compliance with both the regulating law and the internal company procedures when carrying out all activities forming part of the drafting of the accounts, of periodical accounting documents and other company notices, in order to provide shareholders and the public in general with truthful, complete and appropriate information concerning the Company's assets and economic and financial position.

As a consequence of the above, the following is prohibited:

- (i) preparing, presenting and communicating untrue material information, false or incomplete data or data which may in any case provide an incorrect description of the real situation, regarding the Company's assets or economic or financial position;
  - (ii) failing to present or communicate relevant material information or data and information required by the law and by existing procedures regarding the Company's assets or economic or financial position;
  - (iii) failing to comply with the principles and provisions included in the instructions for drawing up financial statements, in the administrative and accounting procedures, in the General Accounting plan and in the Industrial Accounting Manual;
- 4.** holding correct and transparent conduct, ensuring full respect of the legal and customary rules and of the internal company procedures in carrying out all the activities aimed at managing, processing and communicating to the external world the information necessary to allow investors to obtain a well-grounded opinion on the Company's financial status on the whole and on the progress of the related activities, as well as on the Company's financial instruments and relative rights.



With regard to this point, it is prohibited to present all data and information in such a way as to provide an improper and untruthful representation of the Company's financial status and on the progress of the related activities, as well as on the Company's financial instruments and relative rights;

- 5.** Ensuring the proper operation of the Company and of company bodies, guaranteeing and favoring all types of internal control on company management as required by the law, in addition to ensuring the free and proper application of the indications of the General Meeting.

As a consequence of the above, the following is prohibited:

- (i) conduct which hinders or obstructs, through concealment of documents or other fraudulent means, activities involved in checking, audit and managing company activities by the Board of Statutory Auditors or the Auditing Company or the shareholders;
  - (ii) carrying out simulated or fraudulent acts during General Meetings intended to alter the proper procedure involving the application of the indications of the General Meeting;
- 6.** making all notices, as required by law and regulations, with the Public Supervisory Authorities, in a correct, complete, proper and expeditious manner, not preventing them, in any way, from performing their duties.

As a consequence of the above, the following is prohibited:

- (i) failing to carry out the following in relation to the Authorities concerned with the necessary requirement of clarity, completeness and expedition:  
(a) all notices, whether of a periodical nature or not, provided for under the law and by additional sector regulations, and (b) the transmission of data and documents required under the law in force and/or specifically requested by the above-mentioned Authorities;
  - (ii) the inclusion of material information not corresponding to the truth or the omission of relevant material information concerning the Company's assets and economic and financial situation, in the above notices or in any documentation sent;

- (iii) adopting any conduct to prevent the Public Supervisory Authorities from performing its duties even in the context of inspections (express opposition, unreasonable refusal, obstructive conduct or failure to give collaboration in the form of delays in notices and in making documents available).

**7.** careful compliance with all the provisions provided for by the law for the protection of the integrity of the share capital and always behaving with respect for company procedures that are based on such provisions with the aim to not damage the interests of creditors and third parties on this matter.

As a consequence of the above, the following is prohibited:

- (i) returning capital contributions to the shareholders or freeing them from the obligation to implement them, except for the cases of the legal reduction of the share capital;
- (ii) distributing profits (or advances on the profits) not actually earned or intended for reserves according to the law and distributing reserves (even not set up with profits) that cannot be distributed pursuant to the law;
- (iii) purchasing or underwriting the Parent Company's shares except for the cases provided for by the law, damaging the integrity of the share capital or of reserves that cannot be distributed according to the law;
- (iv) implementing reductions in the share capital, carrying out mergers or split-offs in violation of the law for the protection of creditors;
- (v) carrying out fictitious capital formation or increase;
- (vi) distributing corporate assets among shareholders – during the winding-up phase – before paying creditors or allocating to reserves the necessary sums to pay them;

**8.** refraining from performing simulated or fraudulent transactions and spreading false or incorrect information,

which could cause a significant price modification in non-listed financial instruments or in instruments for which an admission request to the negotiations was not submitted for a regulated market. With reference to the above, it is prohibited to publish or spread false information, or carry out simulated transactions or other fraudulent, deceiving conduct which can influence non-listed financial instruments or instruments for which an admission request to the negotiations was not submitted for a regulated market and suitable to considerably change their price;

With reference to listed financial instruments or to instruments for which an admission request has been submitted for negotiations or for a regulated market, please refer to Special Section E;

- 9.** ensuring, during the implementation of significant transactions carried out both with third parties and with related parties, transparency and compliance with essential and procedural correctness criteria and the approval terms provided for by internal provisions;
- 10.** refraining from making cash donations and offerings designed to obtain favorable treatment in conducting any business activity. In particular, it is prohibited to make any form of donation to any Italian and foreign counterparty (even in those countries where the giving of donations is a widespread practice), that may affect their impartiality of judgement or induce them to ensure any kind of advantage to the Group;
- 11.** granting other types of advantages to an Italian or foreign counterparty (promises to hire, etc.), that may lead to the same consequences as described in point 10;
- 12.** pay to fees or provide services to Suppliers, External Contractors or Partners that are not justified in relation to the respective service requested, the duties to be performed, the characteristics of the partnership agreement, and common local practices.

## **B.4 SPECIFIC PROCEDURAL RULES**

### **B.4.1 Procedural rules to be complied with in individual At-Risk Operations**

Specific procedural rules have been set out hereunder. These have to be complied with by all Company Representatives for each At-Risk Area (as identified under B.2) through existing company procedures.

- 1.** The Chief Executive Officer or other person possibly identified by the Administrative Body:
  - a) through an appropriate identification process of the principal risks concerning the preparation and distribution of the financial reports (financial statements and, if necessary, consolidated financial statement and any other financial report), ensures that the internal accounting control system aims at reaching the truthfulness and correctness objectives of the reports. These elements belong to the system:
    - the administrative and accounting procedures for drawing up financial statements and consolidated financial statements;
    - risk assessment;
    - the periodic evaluation of the adequate and effective implementation of key controls;
    - the communication and documentation process highlighting the effectiveness of controls and of the results of assessments;
  - b) together with the appointed administrative body, issues - for drafting TERNA's deeds and notices intended for the market, that include TERNA's and the Group's accounting data concerning assets and the economic and financial situation, and for drafting TERNA's financial statements, concise financial statements, half-year reports and any other periodical financial documents, as well as for the Group's consolidated financial statement- a written declaration stating compliance with accounting books and records of TERNA's deeds and notices

intended for the market and relative to the accounting reports also periodical;

- c) verifies and certifies, together with the delegated administrative bodies, on preparing the financial statements:
  - i. the adequacy in relation to the characteristics of the company and the effective implementation of administrative and accounting procedures for preparation of the financial statements, as well as the correspondence of these documents with the accounting books and records and their suitability in providing a true and fair representation of the economic, equity and financial position of the Company;
  - ii. the report concerning the management includes a reliable analysis of the trend and results of the management and of the situation of the Company and of all the companies included in the consolidation, together with the description of the principal risks and uncertainties to which they are exposed.

This certification, according to that already established by the TERNA Model, must be sent in original copy to the Manager in charge of preparing the accounting statements of TERNA.

**2.** In the activities regarding processing, management and communication to the external public of information or data concerning the Company, the Company Representatives shall comply with that provided for:

- a) in the *Internal Rules for processing confidential information and for the distribution to the public of documents and information* adopted by the Parent Company and transposed by the Company;
- b) in the *"Procedure for managing, processing and communicating to the market information relating to transactions on financial instruments carried out by Relevant Persons"*, adopted by the Parent Company and transposed by the Company.

**3.**

3.1 In preparing notices to Public Supervisory Authorities and in managing relations with such bodies, particular attention must be devoted to the following:

- a) legal and regulatory provisions governing notices, whether of a periodical nature or not, to be sent to such Authorities;
- b) the obligation to send to the above-mentioned Authorities the documents and data required by the law in force or specifically requested by such Authorities (e.g. Company accounts and minutes of company bodies);
- c) obligations of cooperation to be provided during any inspections, in accordance with the procedures for the management and control of communications to Public Supervisory Authorities adopted by the Parent Company and transposed by the Company.

3.2 The procedures to be respected to ensure compliance with the principles set out under point 4.1. above must be consistent with the following criteria:

- a) all organizational and accounting measures must be implemented which are necessary to ensure that the acquisition and processing of data and information guarantees correct and complete preparation of notices and their timely forwarding to Public Supervisory Authorities, in compliance with the procedures and time limits provided for by sector regulations;
- b) the procedures followed in the implementation of the measures described under point 4.1 above, must be adequately underlined, with particular reference to the identification of the managers who carried out the collection and processing of the data and information referred to;
- c) in the event of investigative inspections carried out by the authorities involved, collaboration must be provided by the relevant business units. In particular, for each inspection established by the

relevant authorities, a manager within the Company must be identified with the responsibility to ensure coordination among personnel in the different business units for their proper implementation of the activities they are responsible for. The manager will be entrusted with the task of coordinating the different competent business units and the officers of the Authority concerned to allow the latter to obtain the elements they require;

- d) the manager appointed pursuant to point c) above will be required to draw up a special informative report on the investigations undertaken by the Authority which must be periodically up-dated in relation to the on-going progress of the investigation itself and its final outcome; this report must be sent to the VB and to the business units with competence in relation to the matters dealt with.

**4.** In managing transactions concerning assignments, distribution of profits or reserves, shares or stakes' subscription or purchase, transactions on the company's share capital, mergers and acquisitions, assets distribution during winding-up, the following procedural principles must be respected:

- a) each activity concerning the establishment of new companies, the acquisition or sale of significant shareholdings, assignments, profits or reserves distribution, transactions on share capital, mergers and acquisitions and assets distribution during winding-up, must be submitted to the administrative body of the company involved (also a delegated body), whose decisions shall be submitted to TERNA's prior evaluation (in particular, to the Administrative, Finance and Control Department in agreement with the Legal and Corporate Affairs Department);
- b) all the documentation concerning the transactions under point a) shall be kept at the VB's disposal.

- 5.** In carrying out relevant transactions with both third parties and related parties, performed directly by TERNA PLUS or through a company of the Group, Company Representatives are obliged to comply with the Guidelines for the *Approval of significant transactions and managing situations of interest* and in the *Procedure for Related-Party Transactions* adopted by the TERNA Board of Directors with the Resolution of November 12, 2010, as amended.
- 6.** In managing procurement activities and relations with credit institutions, the Company Representatives undertake to comply with the corporate procedures adopted by the Group aimed at preventing corruptive conduct designed to obtain particularly favorable contractual conditions.
- 7.** In relation to the management of investment processes (e.g. acquisitions and disposals) the Company Representatives undertake to adhere to the principles of professionalism, integrity and fairness, through:  
careful analysis of the asset object of the investment process, carrying out appropriate due diligence activities whose results are properly reflected in the contractual provisions;  
- identification and monitoring of any conflicts of interest;  
- the involvement of several Departments in the negotiation process and the subsequent signing of the agreements.
- 8.** In relations with investors and financial analysts the Company Representatives shall provide clear, prompt and consistent information over time that must be shared with top management with the support of several Departments.
- 9.** Unless expressly authorized, Company Representatives undertake not to express opinions, make statements or provide information to the media on behalf of TERNA PLUS outside the channels and procedures established. The organization of corporate events dedicated to the media is regulated in such a way as to avoid providing gifts or forms of entertainment that could affect the objectivity of judgement and independence of the media participants.
- 10.** The contacts with company representatives of rating agencies and certification companies must be limited to the



exchange of information that is necessary - on the basis of agreed contractual provisions - for the fulfillment of the engagement, avoiding any conduct prejudicial to any behavior potentially capable of undermining their independence.

- 11.** In the management of partnership relationships, TERNA PLUS adopts measures aimed at preventing: i) the Company from being held responsible for corruption activities carried out by its partners; 2) the Company from committing corruptive conduct aimed at obtaining particularly favorable contractual conditions.
- 12.** When participating in tenders, Company Representatives shall refrain from maintaining relationships with representatives of the commissioning entity or the principal competitors for reasons other than professional motives and not attributable to the skills and functions assigned and the use of any preferential pathways - including legitimate - or personal knowledge acquired even outside of their professional environment. TERNA PLUS also requires the person responsible for the process:

  - to complete and comprehensively inform the head of the competent Department regarding the progress of the individual steps of the process;
  - to inform the head of the competent Department, without delay, of any behavior by the counterparties aimed at obtaining favors, illegal cash donations or other benefits also with respect to third parties.
- 13.** In managing disputes with counterparties and concluding settlement agreements, Company Representatives undertake to act in order to ensure maximum transparency and traceability of the decision-making process.
- 14.** In carrying out intra-group transactions, the Company Representatives undertake to ensure that they are preceded by an adequate evaluation and subsequent motivation by the competent bodies.

In relation to the management of these relations, the provisions set out in Chapter B.3 shall apply in any event.

- 15.** In the selection and management of relations with the auditor and/or auditing firm, company policies and current legislation shall apply<sup>1</sup>. In particular, TERNAL PLUS adopts control measures aimed at ensuring compliance with the professional perquisites, incompatibilities and non-compliances provided for by law.
- 16.** In order to prevent corruptive conduct in relation to the management of the aforementioned relations, and in addition to what is established in those points, TERNAL PLUS shall ensure that any form of donation (meaning gifts, entertainment and hospitality, charitable contributions and sponsorships) that is promised or offered to individuals must be made in good faith and not motivated by the expectation of reciprocity or the desire to influence the independent judgement of the counterparty.
- 17.** In relation to the management of gifts and entertainment and hospitality (collectively, the "Gifts"), the Company Representatives undertake to comply with corporate procedures adopted by TERNAL PLUS to prevent corruptive conduct aimed at obtaining particularly favorable contractual conditions.
- 18.** In relation to sponsorships and contributions and aimed at promoting initiatives of social, environmental, humanitarian and cultural interest, the Company Representatives undertake to comply with corporate procedures adopted by TERNAL PLUS to prevent corruptive conduct aimed at obtaining particularly favorable contractual conditions.
- 19.** Agreements entered into with Consultants, Partners and Suppliers that TERNAL PLUS engages to carry out operations that involve public officials or persons in charge of a public service must include a clause in which they undertake, in the performance of their activities, not to make donations that exceed a modest value that could be interpreted as exceeding the normal business practices or courtesy, or are designed to obtain favorable treatment in the conduct of those activities.

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<sup>1</sup> Legislative Decree no. 39 of January 27, 2010 re-established the auditor and the auditing company guidelines, introducing new criminal cases not otherwise regulated by Decree 231: falsification of audit reports or communications (article 27); corruption of auditors (article 28), prevented control (article 29), illegal rewards (article 30), illicit financial transactions with the auditing company (article 31).

## **B.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's supervisory duties in relation to compliance with the Model regarding Corporate Crimes are as follows:

- a) propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- b) with reference to financial statements, reports and other company notices required by the law or distributed to the market, since the financial statement is subject to audit by an audit company, the VB will be carry out the following tasks:
  - monitoring the effectiveness of internal procedures in the prevention of the crime of false statements in company notices;
  - examining any specific reporting from control bodies, third parties or Company Representatives and carrying out any investigation considered necessary or appropriate following the reporting received;
  - supervising the true occurrence of conditions allowing the audit company's effective independence in checking and controlling business activities;
- c) with reference to other At-Risk activities:
  - carrying out periodical checks on compliance with internal procedures;
  - carrying out periodical checks on notices to Public Supervisory Authorities and on compliance with the procedures adopted during inspections carried out by the officers of such authorities;
  - periodically monitoring the effectiveness of the established checks for preventing crimes from being committed;
  - examining any specific reporting by the control bodies, third parties or any Company Representative and carrying out any investigation considered necessary or appropriate following the reporting received.

TERNA guarantees establishing proceduralised information flows between the VB and the directors of the competent structures, the 231 Representatives or other Company Representatives each time the VB deems it appropriate.

The information to the VB shall be given timely should violations to specific procedural rules be detected as indicated in Chapter B.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.



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T E R N A G R O U P

**SPECIAL SECTION "C"**

**TERRORISM CRIMES**

**AND OF SUBVERSION OF DEMOCRACY**

CEO Approval
Luigi Michi
December 04, 2017

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## **DEFINITIONS**

With the exception of the new definitions included in this Special Section "C", the definitions of the General Section remain valid.



## **C.1 TYPES OF TERRORISM CRIMES AND OF SUBVERSION OF DEMOCRACY**

This Special Section "C" refers to crimes aimed at terrorism or at the subversion of democracy.

Article 3 of Law no. 7 of January 14, 2003 ratified and rendered effective in Italy by the International Convention for the suppression of the financing of terrorism, signed in New York on December 9, 1999, introducing Article 25-quater to the Decree.

### **1. CRIMES INCLUDED IN THE ITALIAN CRIMINAL CODE**

- ***Subversive Associations (Article 270 of the Italian Criminal Code.)***

This crime is committed when, within the territory of the State, any person promotes, forms, organizes or manages associations aimed at violently establishing a dictatorship of one social class over another, or violently eliminating a social class or violently subverting the economic and social orders of the State having as their aim the violent suppression of any political and legal system in the society.

- ***Associations with terrorist or subversive purposes, also of an international nature, against the democratic order (Article 270-bis of the Italian Criminal Code)***

This crime is committed when any person promotes, forms, organizes, manages or funds associations that are set out to perform acts of violence aimed at terrorism or at the subversion of democracy.

According to the Criminal law, terrorism objectives also include those acts of violence addressed against a foreign nation, institution or international organization.

- ***Crime involved in assisting the associates (Article 270-ter of the Italian Criminal Code.)***

This crime is committed when any person, with the exception of cases of participating in or facilitating a crime, offers refuge or hospitality, means of transportation or means of communication to any person who participates in the associations specified in the above-mentioned Articles 270 and 270-*bis* of the Italian Criminal Code.

If the person commits the crime in support of a close relative, he/she is not punishable.

- ***Recruitment with the aim of terrorism, also of an international nature (Article 270-quater Italian Criminal Code.)***

This crime is committed when any person, with the exception of the cases specified in Article 270-*bis*, recruits one or more persons for carrying out acts of violence or for the sabotage of crucial public services, aimed at terrorism, even if addressed against a foreign nation, institution or international organization and, with the exception of training, is also committed by the person recruited.

- ***Organization of transfers with the aim of terrorism (Article 270-quater 1 of the Italian Criminal Code)***

This crime is committed when any person, with the exception of cases specified in Articles 270-*bis* and 270-*quater* of the Italian Criminal Code, organizes, funds or advertises travel to foreign territories aimed at carrying out acts of terrorism included within Article 270-*sexies* of the Italian Criminal Code

- ***Training and activity aimed at terrorism, also of an international nature (Article 270-quinquies of the Italian Criminal Code.)***

This crime is committed when any person, with the exception of cases specified Article 270-*bis*, trains or provides instructions on the preparation or use of explosive materials, fire weapons, or other weapons, of chemical or bacteriological weapons that are harmful and dangerous, as well as any other technique or method for performing acts of violence aimed at terrorism, even if against a foreign nation, institution or international organization.

- ***Conduct with terrorist purposes (Article 270-sexies of the Italian Criminal Code.)***

Conduct that owing to its nature or context can seriously damage a nation or an international organization and that is performed with the purpose of intimidating the population and forcing public authorities or an international organization to perform or not perform any act or destabilize or destroy the fundamental public, constitutional, economic and social structures of a nation or of an international organization, as well as other conduct defined as terrorism or committed with terrorist purposes is defined as having terrorist purposes by conventions or other international law provisions in force in Italy.

- ***Act of terrorism or subversion (Article 280 of the Italian Criminal Code)***

This crime is committed when any person, for purposes of terrorism or of subverting democracy, attempts against the life or safety of another person.

The crime becomes aggravated if the attempt against the safety of any person causes a serious injury or the death of the person, or if the action is addressed against persons who perform legal or penitentiary functions, i.e. for public safety while they are performing their duties.

- ***Terrorist act with lethal or explosive devices (Article 280-bis of the Italian Criminal Code)***

This crime is committed when any person, for terrorist purposes, carries out any acts aimed at damaging tangible or intangible property belonging to another person, through the use of lethal or explosive devices.

- ***Unlawful restraint for terrorist or subversive purposes (Article 289-bis of the Italian Criminal Code)***

This crime is committed when any person kidnaps another person for terrorist purposes or for subverting democracy.

The crime is aggravated by the death, intentional or unintentional, of the person kidnapped.

- ***Incitement to commit one of the crimes against the figure of the State (Article 302 of the Italian Criminal Code)***

This crime is committed when someone instigates any person to committing one of the unintentional crimes envisaged in the chapter of the Italian Criminal Code devoted to crimes against the figure of the State, for which the law establishes life-imprisonment or imprisonment. Mitigating circumstances are the cases in which the instigation is not accepted, or if accepted, the crime is not however committed.

- ***Political conspiracy by means of an agreement or of an association (Articles 304 and 305 of the Italian Criminal Code.)***

This crime is committed when any person agrees upon or associates with others for the purpose of committing one of the crimes described in the above-mentioned point (Article 302 Italian Criminal Code).

- ***Armed band: establishment and participation and assistance to the participants in conspiracy (Articles 306 and 307 of the Italian Criminal Code)***

These crimes are committed when any person (i) promotes, establishes or organizes an armed band with the purpose of committing one of the crimes described in Article 302 of the Italian Criminal Code (ii) with the exception of participation in the crime or of complicity, offers refuge, board, hospitality, means of transportation or of communication to any person participating in the association or the band, as stated in Articles 305 and 306 of the Italian Criminal Code.

## **2. CRIMES WITH THE OBJECTIVE OF TERRORISM OR SUBVERTING DEMOCRACY AS ESTABLISHED BY SPECIAL LAWS**

Along with the cases expressly ruled by the Italian Criminal Code and in compliance with the terms stated in Italian Legislative Decree

231/2001, crimes included in provisions contained in special laws must also be considered, in particular:

- Article 1 of Law no. 15 of February 6, 1980, which states that an aggravating circumstance applicable to any crime is the fact that the crime itself was "committed with objectives of terrorism and of subverting democracy". Consequently, any crime included in the Italian Criminal Code or in special laws, even if different from those expressly aimed at punishing terrorism, can become, provided it is committed with these objectives, one of those crimes representing, as stated in Article 25-*quater*, basis for establishing the Corporation's responsibility.
- Law no. 342 of May 10, 1976 regarding crimes against air traffic safety.
- Law no. 422 of December 28, 1989, regarding crimes against maritime navigation safety and crimes against the safety of fixed installations on the intercontinental platform.

### **3. CRIMES WITH TERRORIST PURPOSES IN VIOLATION OF ARTICLE 2 OF THE NEW YORK CONVENTION DATED DECEMBER 9, 1999**

In compliance with the above-mentioned Article, a crime is committed when any person by any means, directly or indirectly, provides or collects funds with the intention of utilizing them or knowing that such funds are intended to be utilized, fully or partially in order to perform:

- (a) an act representing a crime according to the terms and as defined in one of the treaties listed in the attachment; or
- (b) any other act aimed at causing the death or serious physical injury to a civilian, or any other person not having an active part in situations of armed conflict, when the objective of such act is to intimidate a population, or to obligate a government or international organization to perform or refrain from performing a certain action.

In order for an act to realize one of the above-mentioned definitions, it is not necessary that the funds be actually utilized to perform the provisions described in points (a) and (b).

A crime is considered committed, anyhow, by any person who attempts to commit one of the above-mentioned crimes.

A crime is also committed by any person who:

- (a) participates as an accomplice in committing one of the above-mentioned crimes;
- (b) organizes or directs other persons with the objective of committing one of the above-mentioned crimes;
- (c) contributes to committing one or more of the above-mentioned crimes with a group of persons that act with a common objective. This act must be intentional and must:
  - (i) be committed with the objective of facilitating the group's criminal objectives, where such activity or objective implies the committing of the crime; or
  - (ii) have a full awareness that the group's intention is that of committing a crime.

In order to determine whether or not the risk of committing such a type of crime is recognizable, it is necessary to examine the subjective profile requested by the rule regarding the identification of a crime.

From a subjective point of view, terrorist crimes are considered as willful crimes. Therefore, in order for willful crimes to be committed, from the point of view of the person's psychological representation, the latter must be aware of the action's illegality and must want to perform such action through a conduct that is traceable to him. Therefore, in order for the types of crimes in question to be identified, it is necessary that the person is aware of the terrorist nature of the action and that he/she has the intention to support it.

The above being considered, in order to identify criminal conduct that is part of a terrorist crime, it is necessary that the person is aware of the fact that the association to which the funding is being donated has objectives of terrorism or of subversion and that he/she has the intention of supporting such activity.

Moreover, this type of crime would also occur if the subject acts willfully. In this case, the person should foresee and accept the risk of the occurrence of the event, while not wishing for it directly. Foreseeing the risk of the occurrence of the event and the willful intention of adopting criminal conduct must however be inferable from univocal and objective elements.

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For crimes of terrorism or subversion of democracy, the pecuniary penalty that can be applied to the Corporation ranges from a minimum of 200 to a maximum of 1000 shares; therefore, considering that the amount of a share may vary from around €258 to around €1,549, the pecuniary penalty may reach around €1.5 million. Moreover, for these crimes, disqualifications can be applied to the Corporation as established by Article 9, paragraph 2, of the Decree, for at least one year, in addition to indefinite disqualifications from performing its business activity pursuant to Article 16, paragraph 3, of the Decree.

## **C. 2 AT-RISK AREAS**

With regard to the crimes and criminal conduct set out above, the areas deemed more specifically at risk are, in the context of international level activities enhancement, the financial or commercial transactions with:

- Natural persons or corporations with residence in the at-risk countries as identified in the "Lists of countries" and/or natural persons or corporations indicated in the "Nominative Lists" (hereinafter collectively the "Lists") connected to international terrorism and listed on the Bank of Italy website (Financial Intelligence Unit (FIU) > combating the funding of terrorism > lists) and also indicated in the Lists published by the Office of Foreign Assets Control.
- companies controlled directly or indirectly by the above-mentioned subjects.

These Lists can be provided by the VB and/or in the intranet of the Parent Company that updates them, also aided by the Security Services Department.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group - fully or partly - in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.



### **C.3 RECIPIENTS OF THIS SPECIAL SECTION - GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of the Recipients as already defined in the General Section.

The objective of this Special Section is that these subjects, if they are involved in carrying out activities in At-Risk Areas, respect conduct rules in compliance with the provisions stated in this Special Section in order to prevent and avoid Terrorist Crimes from occurring, while considering the different position of each of the subjects with respect to the Group and, therefore, of their obligations as specified in the Model.

In particular, the function of this Special Section is to:

- a. provide a list of the general and specific procedural rules which the Recipients, in relation to the type of relation they have with the Group, must comply with for correctly applying the Model;
- b. provide the VB and the Company Representatives with the operational tools for carrying out the necessary checks, monitoring and verifications;

In carrying out all the transactions involved in company operations, in addition to the rules of this Model, Company Representatives, in relation to their respective work, should, in general, know and comply with all the procedural rules adopted by the Parent Company and implemented by the Company as well as any procedures provided by TERNA PLUS set out in the following documents, by way of an example:

- the Code of Ethics;
- the rules, procedures and operational instructions adopted by TERNA concerning the qualification and selection of suppliers, among which, by way of an example:
  - a) TERNA's Regulations for the qualification of companies;
  - b) Monitoring of qualified companies;
  - c) TERNA's Regulations on procurement;
  - d) Transparency in the procurement process;
- procedures and operational instructions regarding the assessment of counterparties (see, in the first instance, IO711SA);

- any other documents concerning the control system existing at TERNA PLUS.

In carrying out At-Risk activities, this Special Section explicitly prohibits Recipients from:

1. engage in, promote, collaborate or cause conduct that if taken individually or collectively integrate directly or indirectly the types of Crimes that fall under those considered in this Special Section (Article 25-*quater* of the Decree);
2. utilizing, even if occasionally, the Company or one of its organizational units with the purpose of allowing or facilitating a Crime included in this Special Section being committed;
3. promoting, establishing, organizing or managing associations that intend to commit acts of violence particularly with the aim of subverting democracy;
4. providing, directly or indirectly, funds in support of subjects that intend to carry out Terrorist Crimes;
5. taking on or assigning orders or carrying out any type of commercial and/or financial transactions, either directly or through an intermediate person, with subjects –natural persons or corporations- whose names are included in the Lists or controlled by subjects included in the Lists and this type of control is known;
6. taking on or assigning orders or carrying out any type of commercial and/or financial transactions, either directly or through an intermediate person, with subjects – natural persons or corporations - residing in the countries included in the Lists, unless explicit approval is given by the VB and by the Company's CEO;
7. carrying out transactions, taking on or assigning orders that present anomalous characteristics according to type or object and establish or maintain relations with anomalous

profiles from the point of view of reliability and reputation of the subjects and of the transactions to be concluded;

8. carrying out transactions in support of External Contractors that cannot be adequately justified within the context of the contract terms established with them;
9. making payments to External Contractors that cannot be adequately justified in relation to the type of assignment to be carried out and to common local practices.

## **C.4 SPECIFIC PROCEDURAL RULES**

### **C.4.1 Procedural rules to be complied with in individual At-Risk Operations**

The procedural rules that, in relation to each At-Risk Area (as identified in paragraph C.2), Company Representatives must comply with are listed below:

1. any financial transaction must provide for the knowledge of the beneficiary, at least direct, and of the relative sum;
2. significant transactions must be carried out with natural persons or corporations who have been preventively checked through appropriate controls, assessments and verifications.
3. in the event TERNA PLUS involves in its transactions those subjects whose names are included in the Lists or who are notoriously controlled by subjects included in the Lists, such transactions must be automatically suspended or interrupted and be submitted for assessment by TERNA PLUS' VB;
  4. in the event TERNA PLUS is proposed irregular transactions, these transactions will be suspended and evaluated beforehand by the VB. Specifically, the latter will express its opinion on the appropriateness of the transaction and will adopt the necessary precautionary measures for the continuation of the transactions; such opinion will be taken into account during the approval process of the transaction itself;
5. contracts with External Contractors must include a specific statement according to the terms established in the company procedures and/or to the VB's indications, which must clearly indicate that the parties are fully aware of their mutual commitment to establish conduct aimed at implementing initiatives based on transparency principles in the strictest compliance with legal provisions;
6. data collected relative to relations with customers and External Contractors must be complete and updated, both to

properly and immediately identifying them, and to correctly evaluate their profile.

## **C.5 INSTRUCTIONS AND INSPECTIONS OF THE VB**

TERNA PLUS VB's duties in relation to compliance with the Model regarding Terrorist Crimes are as follows:

- a) propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- b) conduct periodical checks on compliance with internal procedures and periodically evaluate their effectiveness in preventing Crimes from being committed;
- c) examine any specific reports and carry out the necessary check operations deemed necessary or appropriate in relation to the reporting received;
- d) consult periodically, or when deemed necessary, with the Director of the Security and Services Department, also for evaluating a possible update of the Lists.

TERNA PLUS guarantees the implementation of data stream procedures between the VB and the directors of the relevant Departments, the 231 Representatives or other Company Representatives who may in any case be contacted by the VB whenever it deems appropriate.

The information shall be given without delay to the VB should violations to specific procedural rules be detected as indicated in chapter C.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.



**SPECIAL SECTION "D"**

**CRIMES AGAINST THE INDIVIDUAL AND IN VIOLATION  
OF THE CONSOLIDATED LAW ON IMMIGRATION**

CEO Approval Luigi Michi
December 04, 2017

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## **DEFINITIONS**

Except for the new definitions included in this Special Section "D", the definitions of the General Section remain valid.

**D.1 CRIMES AGAINST THE INDIVIDUAL (Article 25-*quinquies* of the Decree) AND IN VIOLATION OF THE CONSOLIDATED LAW ON IMMIGRATION (Article 25-*duodecies* of the Decree)**

**A) Crimes against the individual**

Article 5 of Law no. 228 dated 11 August 2003 introduced Article 25-*quinquies* in the Decree, which establishes the application of relative sanctions to the Organizations in which representatives commit crimes against individuals (if the Corporation or one of its organizational units is steadily utilized with the sole or prevalent purpose of allowing or facilitating crimes being committed as considered in this Special Section, the penalty of indefinite disqualification from performing business activity is applied).

- ***Reducing to slavery or enslaving (Article 600 of the Italian Criminal Code)***

This crime is committed when someone exercises over a person powers corresponding to those of the right of ownership, or reduces or keeps a person in a condition of continuous subjection, forcing that person to perform work or sexual activity, or begging, or any illegal activity that involves exploitation or the removal of organs.

Reducing or maintaining in a condition of subjection occurs when such conduct is carried out through violence, threats, deceit, abuse of authority or exploitation of vulnerabilities, of physical or psychological inferiority or of a situation of need, or through promises or giving amounts of money or other benefits by the person having authority over the other person.

- ***Juvenile Prostitution (art. 600-bis Italian Criminal Code)***

a) This crime is committed when any person: recruits or induces a person under the age of eighteen to prostitution;

- b) encourages, exploits, manages, organizes or controls the prostitution of a person under the age of eighteen, or otherwise profits from the same.

The crime in question punishes anyone, with the exception of where the deed constitutes a more serious crime, who has performed sexual acts with a child between the ages of fourteen and eighteen, in exchange for money or other benefits, even merely promised.

- ***Juvenile Pornography*** <sup>1</sup>(***art. 600-ter Italian Criminal Code***)

This crime includes any person who:

- a) realizes pornographic performances or exhibitions or produces pornography using children under the age of eighteen;
- b) recruits or induces children under the age of eighteen to participate in pornographic performances or exhibitions or makes a profit from the above-mentioned performances;
- c) trades above-mentioned pornographic material.

In addition to the cases established in the first and second paragraphs, punishment is inflicted also to any person who, through any means, also via computer, distributes, circulates, disseminates or advertises pornographic material as stated in paragraph one, or distributes or circulates news or information aimed at luring or sexually exploiting children under the age of eighteen; or who, in addition to the cases established in the first, second and third paragraphs, offers or gives others, even free of charge, the pornographic material produced and referred to in paragraph one, or anyone assisting in pornographic performances or exhibitions that involve children under the age of eighteen, with the exception of where the deed constitutes a more serious crime.

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<sup>1</sup> Juvenile pornography refers to any representation, through any means, of a child under the age of eighteen engaged in explicit sexual activities, whether real or simulated, or any representation of the sexual organs of a child under the age of eighteen for sexual purposes.

- ***Possession of pornographic material (Article 600-quater of the Italian Criminal Code)***

This crime is committed when a person, in addition to the cases established in Article 600-ter of the Italian Criminal Code, willfully obtains or is in possession of pornographic material produced using minors under the age of eighteen. Large quantities of material entail an increased punishment.

- ***Virtual Pornography (Article 600-quater of the Italian Criminal Code)***

The crimes mentioned in Articles 600-ter and 600-quater also include pornographic material consisting of virtual images made using the images of children under the age of eighteen or parts thereof. Virtual images refer to images created using graphic techniques which are not associated, in whole or in part, to real situations, the quality of which, however, make them look like real situations.

- ***Tourist projects aimed at the exploitation of juvenile prostitution (art. 600-quinquies Italian Criminal Code.)***

This crime is committed when a person organizes or advertises travel aimed at prostitution activities harmful to children or inclusive of such activity.

- ***Slave trade (art. 601 Italian Criminal Code.)***

This crime is committed when a person recruits, introduces into the territory of the country, or moves out of the same, transports, gives authority over the person or hosts one or more people that find themselves in the conditions stated in Article 600 of the Italian Criminal Code, or behaves in the same way towards one or more persons through deceit, the use of violence, threat, abuse of authority or the exploitation of a situation of vulnerability (physical or psychologically inferior condition, or situation of need) or through promises of or giving money or other benefits, to the person over which they have authority, in order to

induce or force them to perform work or sexual activity, or begging, or any illegal activity that involves exploitation or the removal of organs.

The same punishment is applied to anyone who behaves in the same way towards minors, even outside the criteria referred to in paragraph 1.

- ***Purchase and disposal of slaves (art. 602 Italian Criminal Code.)***

This crime is committed when a person, in addition to the cases envisaged in Article 601 of the Italian Criminal Code, purchases or sells, or transfers a person who is found to be in one of the conditions as stated in Article 600 of the Italian Criminal Code.

- ***Illicit brokering and exploitation of labor (illegal recruitment) (Article 603-bis of the Italian Criminal Code)***

This type of offence aims to protect workers who are recruited in order to be exploited by a third-party employer.

In particular, the law penalizes those who recruit workers to work for third parties in exploitative conditions, taking advantage of the state of need of the workers, or rather the recruiter, and those who employ or engage workers, including through intermediaries as per point 1), subjecting the workers to exploitative conditions and taking advantage of their state of need, or rather the employer.

- ***Child grooming<sup>2</sup> (Article 609-undecies of the Italian Criminal Code)***

This crime is committed when, if the deed does not constitute a more serious crime, a person, for the purposes of committing crimes referred to in Articles 600, 600-bis, 600-ter and 600-quater, also in relation to pornographic material referred to in Articles 600-quater-1, 600-quinquies,

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<sup>2</sup> Grooming refers to any act aimed at eliciting the trust of a minor through artifice, flattery or threats made also through the use of the internet or other networks or communication means.

609-bis, 609-quater, 609-quinquies and 609-octies, grooms a child of sixteen years or younger.

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With regard to the above-mentioned crimes, it is necessary to bear in mind that not only those persons who directly engage in criminal activity are to be considered as being responsible, but also those persons who willfully engage in, even if only financially, the same conduct.

Consequently, crimes considered above could include any financial disbursement granted to third parties, made by TERNA PLUS with the awareness that such disbursement could be utilized by such parties for criminal purposes.

For Crimes against individuals, a pecuniary sanction may be applied to the Organization ranging from 200 to 1000 shares; therefore, considering that the value of a share may vary from around €258 to around €1549, the pecuniary penalty may reach around €1.5 million. Moreover, for these crimes, disqualifications can be applied to the Corporation as established by Article 9, paragraph 2, of the Decree, for at least one year, in addition to indefinite disqualifications from performing its business activity pursuant to Article 16, paragraph 3, of the Decree, should the organization or its organizational unit be steadily used for the sole or prevailing purpose of allowing or facilitating these crimes.

## **B) Crimes set forth by the Consolidated Law on Immigration.**

Italian Legislative Decree no. 109 dated July 16, 2012, entitled "*Implementation of Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*", in Article 2, by inserting in the Decree Article 25-duodecies, provides the extension of administrative responsibility for the Organizations violating certain standards relating to the employment of illegally staying third-country nationals, as established in

Italian Legislative Decree no. 286 dated July 25, 1998 (the so-called Consolidated Law on Immigration).

Furthermore, Law no. 161 of October 17, 2017 referring to *"Amendments to the anti-mafia law and preventative measures, pursuant to Italian Legislative Decree no. 159 of September 6, 2011, the Italian Criminal Code and regulations, including temporary regulations, regarding the implementation and coordination of the criminal procedure and other provisions. Powers of the Government for the protection of jobs in seized and confiscated companies"* introduced as crimes those provided for by Article 12, paragraphs 3, 3-bis, 3-ter and 5 of the Consolidated Law on Immigration.

- ***Employment of illegally staying third-country nationals (Article 22, paragraph 12 and 12-bis, Italian Legislative Decree. 286/1998)***

This crime is committed when the employer which hires foreign workers without residence permit or whose permit has expired and has not been requested, in accordance with the law, to be renewed or has been revoked or cancelled.

Article 22, paragraph 12-bis, Italian Legislative Decree 286/1998 provides for an increase of the penalties by a third to half if the following assumptions occur:

- if the hired workers are more than three;
- if the hired workers are children in non-working age;
- if the hired workers are subject to the other particularly exploitative working conditions under paragraph 3 of Article 603-bis of the Italian Criminal Code (i.e., in addition to the assumptions above, if workers are exposed to situations of serious danger, having regard to the characteristic of the performances to be undertaken and working conditions).

The Corporation's responsibility occurs when the crime is aggravated by the number of the hired subjects or by their non-working age or, lastly, by working performances in conditions of serious danger.

For Crimes of employment of illegally staying third-country nationals, a pecuniary penalty may be applied to the organization ranging from 100 to 200 shares, within the limit of €150,000.

- ***Provisions against illegal immigration (Article 12, paragraphs 3, 3-bis, 3-ter and 5 of Legislative Decree no. 286/1998).***

Such offences are intended to incriminate the illegal trafficking of migrants, which applies in the case of direct acts to facilitate the entry of immigrants into the country in breach of the Consolidated Law on Immigration no. 286/1998 or, in any case, the case of direct acts to facilitate the illegal entry to another country of which the person is not a citizen nor has the right of permanent residency in order to profit directly or indirectly from said act.

In particular, Article 12, paragraphs 3, 3-bis and 3-ter penalizes those who *"...promote, direct, organize, finance and carry out the transportation of foreign nationals in the country or commit other direct acts to facilitate the illegal entrance of foreign nationals into the country or any other country of which the person is not a citizen nor has the right of permanent residency"*.

Article 12, paragraph 5 penalizes those who *"in order to derive an unfair profit from the illegal status of the foreign national or in the context of activities punishable by law [article 12], facilitate the residence of such foreign nationals in the country in breach of the regulations"* set forth by the Consolidated Law on Immigration.

As regards penalties, in the first circumstance a pecuniary penalty of between 400 and 1000 shares is applied to the organization; in the second circumstance, a pecuniary penalty of between 100 and 200 shares is applied.

In both cases, interdictory penalties pursuant to Article 9, paragraph 2 of Legislative Decree no. 231/2001 for a period of no less than one year shall be applied.

Finally, under the terms of Article 10 of Law no. 146 of 2006, migrant trafficking pursuant to Article 12, paragraphs 3, 3-bis,



3-ter and 5 of Legislative Decree no. 286/1998 and aiding and abetting pursuant to Article 378 of the Italian Criminal Code are also applicable to this Special Section in cases of an international nature as defined by Article 3 of Law no. 146/06.

The crime of migrant trafficking incriminates those who commit direct acts such to facilitate the entry of persons into the country in breach of the provisions of the Consolidated Law on Immigration 186/98, or rather such to facilitate the illegal entry into another country of a person who is not a citizen nor has the right to permanently reside in that country, in order to derive direct or indirect profit.

The crime of aiding and abetting pursuant to Article 378 of the Italian Criminal Code incriminates those who, after an offence punishable by life imprisonment or confinement has been committed and asides from cases of complicity in the same, help such persons to avoid investigation by Italian or international authorities.

In particular, the company may be held responsible not only for acts of omission (such as withholding or falsifying the identity of the guilty party) but also direct actions such to represent the creation of obstructions to the investigations.

As regards the penalties, a pecuniary administrative penalty from two hundred to one thousand shares is applied to the organization in the case of international trafficking of migrants and a pecuniary penalty of up to a maximum of 500 shares in the case of international aiding and abetting.

## **D.2 AT-RISK AREAS**

With regard to the crimes and criminal conduct set out above, the areas deemed more specifically at risk are:

1. management of commercial activity, also in partnership with third parties or by relying on local entrepreneurs, in Countries where individual rights are not fully protected;
2. signing of contracts with companies that utilize unskilled personnel coming from countries outside of the European Union;
3. personnel selection;
4. Operational management of maintenance works, with specific reference to access control.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group – fully or partly – in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **D.3 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of the Recipients as already defined in the General Section.

The object of this Special Section is that such parties, to the extent in which they can be involved in carrying out activities in At-Risk Areas, comply with conduct regulations in order to prevent and avoid the occurrence of Crimes against individual personality, while considering the different position of each party with respect to the Group and therefore their different obligations as specified in the Model.

In particular, the function of this Special Section is to:

- a. providing a list of general rules as well as specific procedural rules which the Company Representatives and the External Contractors, with regard to the type of relation existing with the Group, should comply with in order to properly apply the Model;
- b. Providing the VB and the Directors of other company departments cooperating with the latter, the operational tools to control, monitor and verify the activities established.

In carrying out all the transactions involved in company operations, in addition to the rules of this Model, Company Representatives, in relation to their respective work, should, in general, know and comply with all the procedural rules adopted by the Parent Company and implemented by the Company as well as any procedures provided by TERNA PLUS set out in the following documents, by way of an example:

- a) the Code of Ethics;
- b) procedures concerning the ways in which recruitment and external selection are conducted;
- c) the informative procedures for personnel hiring and training;
- d) the disciplinary system applicable to the National Collective Labor Contract;

- e) the rules, procedures and operational instructions adopted by TERNAL concerning the qualification and selection of suppliers, among which, by way of an example:
  - TERNAL's Regulations for the qualification of companies;
  - Monitoring of qualified companies;
  - TERNAL's Regulations on procurement;
  - Transparency in the procurement process;
- f) procedures relative to the management of site security (see, in the first instance, the Operational Instructions IO404SA on "management of site security");
- g) Guidelines on the Organization of Health and Safety in the Workplace in the context of the activities carried out abroad by the Terna Group (LGO55);
- h) Guidelines on the "Protection of Human Rights within the Terna Group";
- i. any other internal regulation concerning the Group's internal control system.

Specifically, in carrying out at-risk activities, the Recipients are expressly prohibited from:

1. maintain, promote, collaborate in or cause conduct that, if taken individually or collectively, integrate directly or indirectly the types of Crimes that fall under those considered in this Special Section (Article 25-*quinquies* of the Decree);
2. engage in conduct that, even if not considered as representing per se the types of Crimes included in the above-mentioned ones, can potentially become such;
3. utilize, even if occasionally, the Company or one of its organizational units with the purpose of allowing or facilitating a Crime included in this Special Section being committed.

## **D.4 SPECIFIC PROCEDURAL RULES**

### **D.4.1 Procedural rules to be complied with in individual At-Risk Operations**

With reference to each single At-Risk Area (as identified in paragraph D.2), the procedural rules are indicated hereunder that must be implemented in specific company procedures and respected by all Company Representatives:

1. Recipients should respect law provisions regarding the protection of child labor and of women, hygienic-sanitary conditions, safety, union rights or right to form associations and to representation included in the regulations of the country where they work;
2. the selection of counterparts for providing special services (as for example companies with a high amount of unskilled labor), whether Partners or Suppliers, should be conducted with particular attention and on the basis of appropriate internal procedures. Specifically, the reliability of such Partners or Suppliers should be evaluated in order to prevent the Crimes included in this Special Section, also through specific *ex ante* investigations;
3. in case of personnel being directly hired by TERNA PLUS, the respect of labor provisions and union agreements for hiring employees should be verified as well as the labor relation in general. It is also necessary to verify compliance with the conduct regulations in the work place and in any case special attention should be placed to abnormal work situations;
4. if a Partner has a registered office abroad and carries out work for TERNA PLUS abroad, the Partner should comply with local rules or, if stricter, with the ILO conventions on the minimum age for employment and on the worst forms of child labor ("C138 Minimum Age Convention, 1973" and "C182 Worst Form of Child Labor Convention, 1999");
5. in the case that a maintenance works manager discovers the irregular management of employees used

the Partner, the manager must immediately inform his/her own manager who shall conduct an evaluation and take, where necessary, the appropriate action;

6. The appointed person shall monitor work accesses and prevent the entry of those without the necessary authorization;
7. Partnership and Supplier contracts should contain a clause through which Partners and Suppliers expressly declare their compliance with the principles provided by the 231 Model and the TERNA Code of Ethics. Furthermore, External Collaborators must declare any definitive convictions of a 231 offence and any ongoing criminal proceedings relating to a 231 offence against them;
8. all Company Representatives should comply with the term of the Code of Ethics aimed at prohibiting any conduct that is in contrast with the prevention of Crimes included in this Special Section;
9. TERNA PLUS, in compliance with the Group's corporate policy, should be in possession of computer devices that are constantly updated and programmed by leading and reputable companies in the sector that contrast access to Internet websites containing material relative to child pornography (content filtering devices);
10. TERNA PLUS periodically calls its Company Representatives to the proper use of computer devices in their possession;
11. in complying with the existing regulations, TERNA PLUS reserves the right to conduct period controls to prevent the abuse of corporate information systems or committing a Crime through their use;
12. TERNA PLUS evaluates and arranges with particular attention and care the direct and/or indirect organization of travel or periods of stay in foreign locations with specific focus on locations known for the phenomenon of "sexual tourism";

13. in case violations of the provisions of the Decree are reported concerning its Consultants, Partners or Suppliers, TERNA PLUS should undertake the most appropriate initiatives to acquire every related useful information;
14. in case doubts persist regarding the proper conduct of Consultants, Partners or Suppliers, the VB will issue notification for the CEO and/or the Executive Bodies of TERNA PLUS.

## **D.5 INSTRUCTIONS AND INSPECTIONS OF THE VB**

TERNA PLUS VB's duties in relation to compliance with the Model regarding Crimes against Individual Personality are as follows:

- propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- conduct periodical checks on compliance with internal procedures and periodically evaluate their effectiveness in preventing Crimes from being committed;
- examine any specific reports and carry out the necessary check operations deemed necessary or appropriate in relation to the reporting received.

TERNA PLUS guarantees the implementation of data stream procedures between the VB and the directors of the relevant Departments, the 231 Representatives or other Company Representatives who may in any case be contacted by the VB whenever it deems appropriate.

The information shall be given without delay to the VB should violations to specific procedural rules be detected as indicated in Chapter D.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.





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T E R N A G R O U P

**SPECIAL SECTION "E"**

**MARKET ABUSE**

CEO Approval
Luigi Michi
December 04, 2017

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## **DEFINITIONS**

Except for the new definitions included in this Special Section “E”, the definitions of the General Section remain valid.

## **E.1 TYPES OF CRIMES AND THE ADMINISTRATIVE CRIME OF MARKET ABUSE (Article 25-*sexies* of the Decree and Article 187-*quinquies* of the "Consolidated Finance Act" hereinafter "TUF")**

This Special Section "E" refers to crimes of market abuse:

- abuse of insider information, market manipulation and illicit disclosure of insider information pursuant to Articles 8-10-12-14-15 of MAR (defined below) as well as the relative administrative crimes.
- section II (criminal penalties) and section III (administrative sanctions) of the Consolidated Law on Finance This Special Section takes into account the annulment of Direction 2003/6/CE following the issue of EU Regulation no. 596/2014 ("**MAR**") and its relative implementing provisions, as well as the applicable provisions of Italian Legislative Decree no. 58 of February 24, 1998 (the "**Consolidated Law on Finance**", hereinafter the "**TUF**") and the Issuers' Regulation adopted with CONSOB Resolution no. 19971 of May 14, 1999 (the "**Issuers' Regulation**"), and taking into account the indications on the subject given by the European Securities and Markets Authority ("**ESMA**") and CONSOB, and in particular the operational instructions contained in the CONSOB Guidelines regarding the "*Management of Insider Information*" (the "**CONSOB Guidelines**") and the provisions of the Governance Code for the listed companies (July 2015 edition).

### **THE CRIMES**

As regards the category of alleged crimes, it is noted that the 2004 Community Law, introducing Article 25-*sexies* of the Decree, included legal cases of the aforementioned section II and, furthermore, stated that in relation to the commission of such crimes, a pecuniary penalty is applicable to the corporation for a minimum of four hundred and a maximum of one thousand shares (approximately €1.5 million). When the corporation is responsible for a number of crimes committed with a single operation or omission during the execution of such activity, the pecuniary penalty for the most serious violation is applied, increased up to three times (up to approximately €4.5 million).

If a significant amount of results or profits are gained by the company, the penalty could be increased up to ten times the results or profits value.

Here below are described the single crimes established in Article 25-*sexies* of the Decree with some examples of relevant criminal conduct:

- ***Abuse of Insider Information (Articles 8 of MAR and 184 of TUF)***

Pursuant to Article 8 of MAR, abuse of insider information occurs when a person in possession of insider information uses such information when purchasing or divesting, for themselves or on behalf of third parties, directly or indirectly, the financial instruments to which the information refers. The use of such information through the cancellation or modification of an order concerning a financial instrument to which the information refers, when the order was submitted before the person concerned came into possession of such insider information, is also considered abuse of insider information.

It is understood that another person has committed abuse of insider information or has induced another person to commit abuse of insider information when the person is in possession of insider information and:

- recommends, on the basis of such information, that another person buy or sell financial instruments to which the information refers or induces the person to make a purchase or sale; or
- recommends, on the basis of such information, that another person cancel or modify an order concerning a financial instrument to which the information refers or induces the person to cancel or modify the order.

The abuse of such recommendations or incitements constitutes abuse of insider information when the person who uses the recommendation is aware or should be aware that such recommendations are based on insider information.

This discipline applies to all persons in possession of insider information:

- a) due to being a member of the administrative, management or supervisory board of the issuer or a participant in the emission allowances market;

- b) due to holding shares in the share capital of the issuer or of a participant in the emission allowances market;
- c) due to having access to such information in the course of a job, profession or role; or
- d) due to their involvement in criminal activity;
- e) due to circumstances other than the above, but nonetheless in the case that said person knows or should know that the information is classed as insider information.

In the case that the abuse is committed by a legal person, this provision also applies, in compliance with Italian law, to natural persons who participate in the decision to make the purchase, sale, cancellation or modification of an order on behalf of the legal person in question.

- ***Illegal disclosure of Insider Information (Article 10 of MAR)***

Pursuant to Art. 10 of MAR, illegal disclosure of insider information occurs when a person is in possession of insider information and discloses such information to another person, except in cases where such disclosure takes place during the normal execution of a job, profession or role. This provision applies to any natural person or corporation in the situations or circumstances referred to in the previous paragraph "Abuse of Insider Information".

Disclosure to third parties of the recommendations or incitements referred to in the previous paragraph "Abuse of Insider Information" is understood as illicit disclosure of insider information when the person who discloses the recommendation or incitement knows or should know that it is based on insider information.

- ***Market Manipulation (Articles 12 of MAR and 185 of TUF)***

Pursuant to Article 12 of MAR, market manipulation refers to the following activities:

- a) the conclusion of a transaction, the submission of a purchase or sales order or any other conduct that:
  - i) sends, or is likely to send, false or misleading signals regarding the supply, demand or price of a financial

- instrument, a related spot commodity contract, or an auctioned product based on the emission allowance; or
- ii) fixes, or is likely to fix, the market price or one of more financial instruments, a related spot commodity contract, or the auctioned product based on the emission allowance at an abnormal or artificial level;
- unless the person who concludes a transaction, submits a purchase or sales order or engages in any other such conduct demonstrates that the transaction, order or conduct are justified by valid motives and comply with accepted market practices as established in law by Article 13 of MAR;
- b) the conclusion of a transaction, the submission of a purchase or sales order or any other activity or conduct that impacts, or is likely to impact, the price of one of more financial instruments, a related spot commodity contract, or an auctioned product based on the emission allowance using deceptive or contrived devices or means;
  - c) the dissemination of information through electronic means, including the internet, or any other means, that gives or is capable of giving false or misleading information regarding the supply, demand or price of a financial instrument, a related spot commodity contract, or an auctioned product based on the emission allowance or that fixes, or is likely to fix, the market price of one or more financial instruments or the related spot commodity contracts, or the auctioned products based on the emission allowance at an abnormal or artificial level, including the dissemination of rumors, when the person who has disseminated the information knew, or should have known, that the information was false or misleading;
  - d) the transmission of false or misleading information or the disclosure of false or misleading information in relation to a benchmark, when the person who transmitted or provided the data knew, or should have known, that the information was false or misleading, or any other conduct that manipulates the calculation of a benchmark.

The following conduct is considered, among other things, as market abuse:

1. the conduct of one or more persons acting in concert to acquire a dominant position on the supply or demand of a financial instrument, a related spot commodity contract, or an auctioned product based on the emission allowance that has, or is likely to have, the effect of fixing, directly or indirectly, the purchase or

- sales prices or creates, or is likely to create, other incorrect commercial conditions;
2. the purchase or sale of financial instruments at the opening or closing of the market, with the effect or likely effect of misleading investors acting upon the prices displayed, including opening and closing prices;
  3. the placement of orders in a trading venue, including any relative cancellations or amendments, through any available trading means, including electronic means, such as algorithmic and high-frequency trading strategies, and which has one of the effects referred to in paragraph 1, section a) or b), in that:
    - i. it interrupts or delays, or is likely to interrupt or delay, the functional operation of the trading system of the trading venue;
    - ii. it makes, or is likely to make the identification of authentic orders on the trading system of the trading venue more difficult for other market participants, including the placement of orders which result in an overload or destabilization of the order book; or
    - iii. it creates, or is likely to create, a false or misleading signal regarding the supply, demand or price of a financial instrument, in particular the placement of orders to spark or intensify a trend;
  4. the gaining of an advantage from occasional or regular access to traditional or electronic information disseminating a valuation of a financial instrument, a related spot commodity contract or an auctioned product based on the emission allowances (or, indirectly, on its issuer) having previously held positions on this financial instrument, related spot commodity contract or auctioned product based on the emission allowance, benefitting from the impact of the disclosed valuation of the price of the instrument, related spot commodity contract or auctioned product based on the emission allowance, without having contemporaneously, correctly and effectively disclosed to the public the existence of a conflict of interest;
  5. the purchase or sale on the secondary market, in advance of the auction held in accordance with EU Regulation no. 1031/2010, of emission allowances or the relative derivative instruments, with the effect of fixing the auction price at an abnormal or artificial level or of misleading other auction participants.

The consequences of this crime for unlisted companies regarding the agiotage crime (Article 2637 of the Italian Civil Code) and the



measures established to avoid its occurrence are also found in Special Section "B".

## **THE OFFENCES**

The 2004 Community Law introduced the so-called "twin track" system, pursuant to which the cases of administrative crimes can be added to the criminal cases of insider trading and market manipulation described above for the same unlawful actions established in Part V, Section I – *bis*, Chapter III of the TUF, according to Articles 187-*bis* and 187-*ter*.

The first crimes are verified and punished by the criminal courts, the latter directly and autonomously by Consob.

With reference to this assumption of administrative crime and in addition to the individual responsibility of the person who committed the crime, the Corporation may be held responsible by virtue of the provisions established in Article 187-*quinquies* TUF, for the crimes committed in its interest and to its advantage:

- a) by people holding representation, administration or managerial positions in the Corporation or in one of its organizational units having financial and operational independence, as well as by people who carry out the Corporation's management and control, also *de facto*;
- b) by people who are supervised or inspected by one of the entities mentioned under point a).

The definitions of the administrative crimes of misuse of privileged information and market manipulation refer to those defined in the respective criminal crimes, but have greater consequences and also include negligence and not only fraud as a subjective element.

In this case the Corporation is responsible for the payment of a sum equal to that of the administrative penalty inflicted – for the administrative crimes of abuse of insider information (penalty that can reach up to fifteen million euros and is increased until it triples or reaches the greater amount of ten times the results or profits earned by the unlawful actions when, due to the significant offensiveness of the act, the personal characteristics of the offender or the amount of the results or profits earned by the unlawful action, the penalty appears inadequate even when applied in the highest amount) and of market manipulation (penalty that can reach up to twenty-five million

euros and can be increased up to three times or up to the greater amount of ten times the results or profit earned by the unlawful action when, due to the personal characteristics of the offender or the amount of the results or profit earned by the unlawful action, the penalty appears inadequate even if applied in the highest amount).<sup>1</sup> Also in this case, if the results or profits earned by the company are of a significant amount, the penalty can be increased up to ten times the results or profits value.

Article 187-*quinquies* of the TUF does not distinguish, with respect to the burden of proof, the case where the offender causing the corporation's administrative responsibility is an individual in a top position or, rather, in a subordinate position, attributing in both cases the burden of proof to the legal person.

Here below the crimes are illustrated covered in articles 187-*bis* and 187-*ter* of the TUF:

- ***The Administrative crime of insider trading (Article 187-bis TUF)***

The provision included in Article 187-*bis* TUF punishes with an administrative penalty both the conduct of the primary insiders already punished as a crime with Article 184 TUF (*"any person who having obtained privileged information as a member of the board of directors, of the management or control bodies of the issuer, with a share in the capital of the issuer, or in carrying out work activity, a profession or function, even public, or of an office"*), and that carried out by the secondary insiders (or *tippees*, persons obtaining access to privileged information directly or indirectly by primary insiders), where the corresponding crime attributes relevance exclusively to the conduct performed by the primary insiders.

The only difference consists in the fact that the conduct of the secondary insiders is punished both if committed with fraudulent intention or with negligence (*"the penalty provided for in par. 1" of Article 187-bis "is applied to any person who, in possession of privileged information, knowing or being in the condition to know, on the basis of ordinary diligence, their privileged characteristics, commits any of the facts therein described"*).

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<sup>1</sup> It is noted that the Corporation is obliged to pay, in the case of the insolvency of a natural convicted person, a sum equal to the amount of the fine or the inflicted penalty (pursuant to Article 197 of the Italian Criminal Code).

Moreover, it should be emphasized that even a simple attempt can justify the application of this disciplinary action.

- ***The administrative crime of market manipulation (Article 187-ter TUF)***

The provision pursuant to Article 187-ter TUF extends the application of administrative penalties in addition to criminal penalties to include persons who, through any means of communication, disseminate information, rumors, or false or misleading news that provide or “*are susceptible to provide false or misleading indications with regard to financial instruments*”, regardless of the effects (Article 185 TUF requires, for punishing the conduct, that the false news be “*actually suitable*” to alter the prices). Even in this case fraud is not required as a general subjective requirement.

The definition of administrative crime relating to market manipulation is more detailed with respect to the criminal crime and includes:

- a) the transactions or purchase and sale orders that provide or aim at providing false or misleading indications with regard to the offer, to the demand or to the price of the financial instruments;
- b) the transactions or purchase and sale orders that allow, through the action of one or more persons acting jointly, to set the market price of one or more financial instruments at an anomalous or artificial level;
- c) the transactions or purchase and sale orders that use stratagems or other types of deception or expedients;
- d) the other deceptions aiming at providing false or misleading indications with regard to the offer, to the demand or to the price of the financial instruments.

For the offences described in sections a) and b), persons able to prove to act acted with legitimate reasons and in compliance with the market practices established by Article 13 of MAR or accepted by ESMA or the CONSOB of the relevant market cannot be subject to administrative penalties pursuant to Article 180, paragraph 1, section c) of TUF. In this regard, with Resolution no. 16839 of March 19, 2009 CONSOB accepted as market practices those involving:

)

activity aimed at supporting market liquidity;

b) the purchase of own shares to form a securities portfolio.

Both market procedures are accepted upon condition that they are implemented according to the terms established by the resolution, to which reference is made for further information on the matter.

### **E.1.1 INSIDER INFORMATION**

The concept of insider information represents the cornerstone around which the entire insider trading discipline is based, as well as the corporate information discipline regulated by Article 7 of MAR.

According to the provisions of MAR, as implemented in company procedures, definitions related to the concept of insider information must be given. Therefore, the following definitions are understood:

1. "Insider Information": information defined as such according to current legislation and, in particular, information of a precise nature which has not been made public regarding, directly or indirectly, TERNA PLUS or rather one or more of the financial instruments issued by TERNA which, if made public, could have a significant effect on the prices of such financial instruments or the prices of related derivative financial instruments. For the purposes of the above, information of a precise nature is considered as such if: a) it makes reference to a series of existing circumstances or circumstances that can be reasonably expected to occur, or the occurrence of an event or an event that can be reasonably expected to occur; b) it is sufficiently specific as to enable conclusions to be drawn on the possible effect of the circumstances or events described in point a) on the

prices of the financial instruments or derivative financial instruments.

In the case of a prolonged process that is expected to lead to, or that determines, a particular circumstance or event, the future circumstance or future event, as well as the intermediary stages of processes linked to the occurrence or determination of the future circumstance or event, may be considered information of a precise nature.

An intermediary stage of a prolonged process is considered Insider Information if it meets the aforementioned criteria regarding Insider Information.

Information that, if disclosed to the public, would likely have a significant effect on the prices of financial instruments or derivative financial instruments (price sensitive information) is understood as information that an investor would likely use as one of the elements upon which to base investment decisions.

As regards Subsidiary Companies, all information that may be considered to be of a precise nature for TERNAL PLUS in the light of the significance of the activities carried out by said Subsidiary Companies is considered.

2. "Types of Significant Information": types of information that TERNAL PLUS deems to be generally significant as regards dates, events, projects or circumstances that, in a continuous, repeated, periodic or occasional, sporadic or unplanned manner, directly affect TERNAL PLUS (or a Subsidiary in the case that the information also directly affects TERNAL PLUS) and which, based on relative

characteristics, experience and other circumstances, may, in the abstract, later develop into Insider Information or Potential Insider Information.

3. "Potential Insider Information" (or "Precise Significant Information" according to the definition provided in the CONSOB guidelines): precise information that usually falls under the Types of Significant Information which is deemed by TERNA PLUS to be effectively significant in that it presents all the characteristics to reasonably become Insider Information at a later or future moment, but which currently lacks one or more of the prerequisites to qualify as Insider Information pursuant to current legislation.

Acknowledgment of the Community Law on the subject of market abuse has brought about important innovations to the listed companies' information systems.

In fact, based on the Issuers' Regulation, in compliance with the legal provisions introduced in Title III, Chapter I Article 114 and subsequent articles of the TUF, CONSOB ruled the conditions and terms of the communications to the public of the information flows regarding price sensitive matters provided in the TUF.

Based on these amendments, CONSOB<sup>2</sup> also provided indications and interpretations on the correct implementation of such information obligations, partly included in the following chapter E.4.1.

Regarding the concept of Insider Information and the potential possibility of some conduct to include the crimes and offences of abuse of insider information and market manipulation, it should be noted that TERNA PLUS adopted procedures and operational instructions including a "Compliance Regulation for the prevention of administrative and market abuse crimes and offences" (hereinafter the "Regulation")

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<sup>2</sup> CONSOB Guideline no. 1/2017 of October 2017 relative to the "Management of Insider Information".

On the basis of this Regulation, the Recipients of the Model have an effective instrument at their disposal to assess if their conduct may lead to administrative and market abuse crimes and offences and, consequently, to prevent conduct which could result in administrative responsibility for TERNA PLUS.

## **E.2 AT-RISK AREAS**

According to the terms of this Special Section "D" of the Model and in relation to the above-mentioned crimes and criminal conduct, the areas that are more specifically considered to be at-risk are the following:

1. management of public information (relations with investors, financial analysts, ratings agencies, journalists and other mass communication representatives; organization and participation of meetings, held in any form, with the above parties);
2. management of Insider Information relative to TERNA PLUS (directly or indirectly) and/or Electricity Sector Operators who are listed issuers or subsidiary companies of listed issuers; for example, new products, services and markets, accounting reports, provisional data and quantitative objectives concerning management procedures, communications relative to merger/demerger transactions and new initiatives of particular importance or contracts and/or agreements regarding the purchase and/or sale of significant assets, quantitative data regarding the production or importation of energy, M&A activities;
3. production of the accounting documents and information regarding TERNA PLUS and Group Companies destined for public disclosure by law or company decisions;
4. purchase/sale/emission or any other transaction relative to owned or third-party financial instruments on regulated markets.

All At-Risk Areas as indicated above take on importance also if the activities that form their objective are carried out by the Companies – fully or partly – in the name of and/or on behalf of the Parent Company, by virtue of the agreements signed or of specific proxies granted.

For activities performed in the name and/or on behalf of the Parent Company, Companies must submit reports as specified in the General Section and the individual Special Sections according to the methods prescribed for Company Representatives.



The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **E.3 GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section is intended to regulate the conduct of Company Representatives and of External Contractors.

The purpose of this Special Section is to ensure that its Recipients, to the extent that these may be involved in the performance of activities in At-Risk Areas, and in consideration of the different position and obligations that each Recipient assumes as regards the Group, comply with rules of conduct conforming to those prescribed by the Special Section in order to prevent the occurrence of the offences prescribed herein.

In particular, the function of this Special Section is to:

- a) provide Recipients with an illustrative list of the transactions with the most relevance to TERNA PLUS considered by CONSOB as transactions involving market abuse or "suspicious" transactions (the performance of the latter requires proof of a valid motive and prior authorization);
- b) provide specific procedural rules to which the Recipients, in relation to the type of relation with the Group, must comply for the proper application of the Model;
- c) provide the VB, as well as the managers of company departments cooperating with the Body, with the effective instruments required for the performance of the necessary checks, monitoring activities and verifications entrusted to it.

While performing all activities related to the corporate management, in addition to the regulations included in this Model, Company Representatives –with reference to their respective activities- must, in general, understand and respect all current Community and Italian legislation as well as all the rules and principles set forth in the following documents:

- the Code of Ethics;
- the Procedure for managing, processing and communicating corporate information relating to TERNA S.p.A. and its subsidiaries;
- the Procedure for the maintenance and upkeep of the Register of Persons with access to Insider Information and Potential Insider Information;
- the Procedure on Internal Dealing;

- the operational rules, procedures and instructions adopted by TERNA PLUS for the upkeep of the "Register of Potential Insider Information";
- the operational rules, procedures and instructions adopted by TERNA PLUS in relation to the guidelines regarding the identification of Potential Insider Information and Company Insider Information and the prerequisites for the application of the procedure for the delay in communications;
- any other rule related to the internal control system existing within the Group.

This Special Section provides that Company Representatives in direct form, and External Contractors by means of specific agreement terms, shall expressly refrain from:

1. implementing conduct that constitutes one of the crimes described above;
2. implementing conduct that, while not representing one of the crimes as described above, may potentially become a crime.

### **E.3.1 Prohibited Transactions and Suspicious Transactions**

The following are examples of transactions and/or conduct, applicable in the abstract to TERNA PLUS, to be considered:

- a) Prohibited conduct, such to represent an offence of market abuse (E.3.1.1),
- or
- b) Suspicious conduct such that could be interpreted as being aimed at the commission of an offence of market abuse (E.3.1.2).

In the cases under point b), the transactions may be carried out on the condition that they are executed for a valid reason (such that excludes the possibility of market abuse), that the transactions themselves were previously authorized by the department manager or the competent unit and, finally, that the VB has been notified.

The examples of conduct given below are based predominantly on the indications provided by Community legislation as well as relevant Italian law.

#### **E.3.1.1 Illicit conduct**

- *Insider trading*

The following indicates various examples of conduct constituting insider trading which could potentially occur within TERNA PLUS, it being understood that reference must be made to MAR for the specific identification of prohibited conduct. Such conduct is always considered as illicit behavior.

1. the direct or indirect trading - carried out using insider information (obtained from Company Representatives due to his/her position within the Group or from third parties due to business relations with the Group) regarding shares (or other financial instruments that are tradeable or for which a request for admission to trading has been made) of the Parent Company or other Group Companies, as well as client or competitor companies, or any other company, when the transaction is aimed at enhancing or otherwise creating an advantage for TERNA PLUS. Such conduct, usually carried out by issuer companies or the parties that control them, must be held separate from conduct regarding the conclusion of transactions included in own share purchase programs or the stabilization of the financial instruments provided for by the regulations. The latter activities may in fact be carried out in compliance with Community and Italian law.
2. the disclosure to third parties of insider information (obtained from Company Representations due to their position in the Group or from third parties due to business relations with the Group), except in cases where such disclosure is required by law, by other regulatory provisions or by specific contractual agreements, where such disclosure is aimed at enhancing or otherwise creating an advantage for TERNA PLUS.
3. the recommendation to third parties or incitement, on the basis of insider information (obtained from Company Representations due to their position in the Group or from third parties due to business relations with the Group), to make purchase, sales or other transactions on financial instruments, where the execution of such transactions is aimed at enhancing or otherwise creating an advantage for TERNA PLUS.

- *Market Manipulation*

The following indicates various examples<sup>1</sup> of conduct constituting market manipulation which could potentially occur within TERNAL PLUS, it being understood that reference must be made to MAR and paragraph E.1 above. Such conduct is always considered as illicit behavior.

- a) the purchase, including by colluding parties, of positions of a financial instrument on the secondary market after placement on the primary market, in order to set the price at an artificial level and generate interest among investors - this practice is generally known in the context of shares as "colluding in the after-market of an Initial Public Offer where colluding parties are involved". This practice may also be illustrated by the following additional indicators of market manipulation:
  - i) unusual concentration of purchase and sale transactions and/or orders, in general terms or by an individual who uses one or more accounts or by a limited number of people;
  - ii) purchase and sale transactions without any other apparent justification other than to increase the price or the volumes of trades, in particular at a crucial time of the trading day such as opening or closing;
- b) purchase and sale transactions or orders that prevent the prices of the financial instrument from falling below or surpassing a predetermined level, principally to avoid negative consequences related to price variations of the financial instrument - this practice is generally known as the "creation of a floor, or a ceiling in the price pattern". This practice may also be illustrated by the following additional indicators of market manipulation:
  - i) purchase or sales transactions or orders that have or are likely to have the effect of increasing or reducing the average weighted price on a certain day or period during the trading session;

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<sup>1</sup> EU delegated regulation 2016/522

- ii) transactions that have or are likely to have the effect of modifying the settlement price of a financial instrument if this price is used as a benchmark or is particularly relevant for the calculation of margin requirements;
- c) actions such to take advantage of the significant influence of a dominant position on the supply or demand of delivery mechanisms of a financial instrument in order to create or make probable a substantial price distortion to which other parties must deliver, take delivery or postpone delivery in order to fulfill their obligations - this practice is generally known as "abusive squeeze";
- d) trades or placements of purchase or sale orders in a trading venue or outside a trading venue (including expressions of interest) in order to unfairly influence the price of the same financial instrument in another trading venue or outside a trading venue - this practice is generally known as "inter-trading venue manipulation". This practice may also be illustrated by the following additional indicator of market manipulation: making a transaction to modify the purchase and sale prices when the differential between these two prices is a price calculation factor in any other transaction, whether in the same trading venue or in other venues;
- e) entering into agreements for the sale or purchase of a financial instrument without changes to the beneficiary interests or market risk or by transferring the beneficiary interest or market risk between parties acting in concert or in collusion with each other - this practice is generally known as "wash trades". This practice may also be illustrated by the following additional indicators of market manipulation:
  - i) unusual repetition of a transaction by a limited number of individuals during a set period of time;
  - ii) purchase and sales transactions or orders that modify or are likely to modify the valuation of a position without reducing or increasing its dimension;
- f) purchase and sales orders or participation in a transaction or series of transactions listed on publicly available devices in order to create apparent trading activity or price movement on a certain financial instrument - this practice is generally known as "painting the tape";
- g) transactions following the placement of purchase and sale orders that are traded contemporaneously or almost

contemporaneously in similar quantities and at a similar price by one individual or group of individuals in collusion with one another - this practice is generally known as "improper matched orders". This practice may also be illustrated by the following additional indicator of market manipulation: purchase and sale transactions or orders that have or are likely to have the effect of setting a market price when the liquidity or weight of the order book is not sufficient to set a price during the session;

- h) a transaction or series of transactions aimed at concealing the ownership of a financial instrument, violating the obligations of communication through the possession of the financial instrument in the name of one or more individuals in collusion with one another. The communications are misleading as regards the actual owner of the financial instrument - this practice is generally known as "concealing ownership";
- i) taking a long position in a financial instrument and then performing additional purchasing activities and/or disseminating misleading positive information relating to the financial instrument in order to increase its price and attract other buyers. When the price is at an artificially high level, the long position is liquidated - this practice is generally known as "pump and dump";
- j) taking a short position in a financial instrument and then performing additional sales activities and/or disseminating misleading negative information relating to the financial instrument in order to reduce its price and attract other buyers. When the price has fallen, the position is closed - this practice is generally known as "trash and cash";
- k) entering large quantities of purchase and sales orders and/or cancellations and/or updates of such orders to create uncertainties among other participants, slow down the process of other participants and/or mask personal strategies - this practice is generally known as "quote stuffing";
- l) entering purchase and sales orders or a series of such orders or make transactions or a series of transactions that are likely to start or accentuate a trend and encourage other participants to accelerate or amplify the trend to create the opportunity to close or open a position at a favorable price - this practice is generally known as "momentum ignition".

This practice can also be illustrated by a high rate of cancelled orders (the order-to-trade ratio), which may be associated with a volume rate (such as number of financial instruments per order);

- m) the purchase or sale of a financial instrument deliberately at a crucial moment of the trading session (such as the opening, closing or price fixing) with the intention of increasing, decreasing or maintaining the reference price (such as the opening price, closing price, fixed price) at a certain level - this practice is generally known as "marking the close". This practice may also be illustrated by the following additional indicators of market manipulation:
  - i) placement of orders that represent significant volumes of the central order book of the trading system a few minutes before the price fixing on the market and the subsequent cancellation of such orders a few seconds before the order book is frozen to calculate the market price, in order that the theoretical opening price may seem higher/lower than it would otherwise be;
  - ii) performance of transactions or the presentation of trading orders in particular near a crucial moment of the trading day which, due to their dimension compared to the market, clearly have a significant impact on the supply or demand or on the price or value;
  - iii) purchase and sale transactions without any other apparent justification other than to increase/decrease in price or increase the volumes of trades, in particular at a crucial time of the trading day, such as the opening or closing time;
- n) placement of orders that are removed before their execution in order to create or have the likely effect of creating, in a misleading manner, apparent supply or demand of a financial tool at that price - this practice is generally known as "placing orders with no intention of executing them". This practice may also be illustrated by the following additional indicator of market manipulation: purchase and sales orders placed at a price that would increase demand or reduce supply and have or are likely to have the effect of increasing or decreasing the price of a related financial instrument;
- o) placement of purchase and sales orders that increase demand (or reduce supply) of a financial instrument in order



to increase (or reduce) its price - this practice is generally known as "advancing the bid";

- p) disseminating false or misleading information in relation to the market through the media, including the internet, or through any other means, that lead or are likely to lead to changes to the price of a financial instrument in a way that is favorable to the position held or a transaction planned by the person or persons involved in the dissemination of such information;
- q) opening a position in a financial instrument and closing it immediately after publicly and emphatically declaring a long investment holding period - this practice is generally known as "opening a position and closing it immediately after its public disclosure".

### **E.3.1.2 Suspicious Conduct**

The following provides various examples of conduct that may be interpreted as being aimed at the execution of an offence of market abuse (abuse of insider information or market manipulation), which could potentially occur within TERNAL PLUS. Such conduct may be performed provided that there exists a valid justification and the activity is duly authorized.

1. Participating in Internet discussion groups or chat rooms on the subject of financial instruments or issuers of financial instruments, listed or unlisted (and where there is an exchange of information concerning the Group, its companies, competitors or listed companies in general or financial instruments issued by these entities). The exchange of information obtained within these initiatives may give rise to a possible case of market abuse. Consequently, these initiatives may be conducted only if they refer to institutional meetings for which the relevant departments have verified its legitimacy or when it is clear that the exchange of information does not involve insider information;
2. The execution of an unusual number of transactions on a particular financial instrument (for example, between one or more institutional investors that are known to be linked to the Issuer Company or to parties with interests in its regard, who may intend to or could make a purchase offer;
3. Unusual repetition of a transaction by a small number of individuals during a set period of time;

4. Performance of transactions with no other apparent reason other than to increase or reduce the price of a financial instrument or to increase the quantities exchanged on a certain financial instrument, especially when orders of this type lead to the execution of contracts during negotiation periods that are required to determine benchmark prices (for example, towards the end of negotiations);
5. Unusual activity on the shares of a company before price sensitive information on the company is announced. Transactions that lead to sudden and unusual changes in the total value of the orders and in the prices of shares before public disclosure of information regarding these shares;
6. Awarding of orders which, due to their size compared to the liquidity of a specific financial instrument, will have a clear, significant impact on the supply and demand or on the price or on the valuation of said financial instrument, especially when such orders lead to the execution of transactions during negotiation periods that are required to determine reference prices (for example, towards the end of negotiations);
7. Performance of transactions that appear to be aimed at increasing the price of the financial instrument in the days prior to the release of a related derivative financial instrument or a convertible financial instrument;
8. Performance of transactions that appear to attempt to change the evaluation of a position, without it being changed, either increasing or decreasing the size of the same position;
9. Performance of transactions that, precisely in the days prior to the Company's release of a related derivative financial instrument or a convertible financial instrument, appear to be aimed at sustaining the price of the financial instrument when there is a downwards trend in the prices of said financial instrument;
10. Performance of transactions that seem to attempt to increase or decrease the weighted average price of the day or of a period during negotiations;
11. Performance of transactions that appear to attempt to define a market price for the financial instrument, while its liquidity is not sufficient to define a price during negotiations (unless market rules and mechanisms explicitly allow such transactions);

12. Performance of transactions that appear to attempt to circumvent measures put in place by negotiation mechanisms (for example, with reference to quantity limits, parameters related to the differential between the proposals for buying and selling and alternative trading on prices);
13. Modification of the bid-ask spread (as calculated by the trading system) exactly when a transaction must be concluded or executed, and this spread is a factor in determining the price of said transaction;
14. Cancellation of large orders a few seconds before the end of the auction via an electronic call, resulting in a significant variation in the theoretical price of the auction and, therefore, in the price of the auction itself;
15. Performance of transactions that seem to attempt to maintain the price of an underlying financial instrument below the exercise price of the derivative financial instrument on the maturity date of said derivative;
16. Performance of transactions that seem to attempt to push the price of an underlying financial instrument above the exercise price of the derivative financial instrument on the maturity date of said derivative;
17. Performance of transactions that seem to attempt to modify the settlement price of a financial instrument when this price is to be used as a reference for calculating margins;
18. When a person opens an account and immediately orders a significant transaction or, operating on wholesale markets, makes unusual orders or exceptionally large ones on a specific financial instrument; it is even more significant in the event that the person insists on the order being carried out with particular urgency or before a certain time;
19. When the transaction or the investment strategy implemented by a person is significantly different to previous investment strategies used for the same type of financial instrument or for the total value of the investment or for the order size or investment duration, etc. Some examples in this regard are given below:
  - the person sells all the stocks he/she has in their portfolio to invest the arising liquidity in a specific financial instrument;

- the person, who has only invested in mutual investment funds previously, suddenly makes a request to purchase financial instruments issued by a specific company;
  - the person, who has only invested in blue chip stocks previously, moves their investments to an illiquid stock;
  - the person, who has carried out long-term (buy and hold) investments in the past, suddenly makes a purchase on a specific financial instrument just before price sensitive information is announced and, then sells those stocks.
20. When a person specifically requests the immediate execution of an order, regardless of the price that the order is made at (this example implies something more serious than a simple order at market price).
21. When a significant transaction occurs between major shareholders or managers of a subject prior to the announcement of an important corporate event;

## **E.4 SPECIFIC PROCEDURAL RULES**

### **E. 4.1 Procedural Rules**

Consistently with: (i) Community legislation and CONSOB regulations, (ii) the corporate governance system (iii) the Code of Ethics, (iv) the Procedure on internal dealing, (v) the Procedure for managing, processing and communicating corporate information relating to TERNA S.p.A. and its subsidiaries, (vi) the Procedure for the maintenance and upkeep of the Register of Persons with access to Insider Information and Potential Insider Information; and the controls and procedures for the disclosure of external information, the following provisions must be complied with:

#### ***1. Mapping of Types of Significant Information***

In order to promptly comply with the communications obligations regarding Insider Information prescribed by current legislation, TERNA PLUS, taking into account the specific activities it performs, identifies and monitors the Types of Significant Information.

#### ***2. Handling of Privileged Information***

The handling of Insider Information must comply with internal procedures, which must prescribe:

- The duties and roles of persons responsible for managing Privileged Information (the "Persons in charge");
- Provisions to regulate its circulation and procedures that the Persons in Charge are obliged to follow during its handling and publication;
- Suitable criteria such to qualify the information as Insider Information or destined to become Insider Information;
- The measures to protect, preserve and update the information and avoid inappropriate or unauthorized communication within or outside of the Group;
- Those persons who, because of their professional activity or functions, have access to Privileged Information or information intended to become privileged;
- The creation of a register of the persons who, in the course of their working or professional activities or their assigned roles,

manage and have access to precise Insider Information or information destined to become Insider Information. In particular the criteria for updating the register must be established with access limitations. Inclusion in the register must be communicated to the person involved in order to oblige him to comply with the procedures and consequent restrictions. Each time a transaction is carried out where privileged Information is involved, the persons concerned will be listed into the register and must undersign the necessary subscription.

### ***3. Information management and public disclosure obligations***

TERNA PLUS discloses to the public, as soon as possible, the Insider Information that refers directly to TERNA PLUS, ensuring that such information is made public according to the means prescribed by current law, in such a way as to enable rapid access and a complete, accurate and prompt evaluation of the information by the public and avoiding linking the public disclosure of Insider Information with the commercialization of its activities.

By way of exception, TERNA PLUS may delay, at its own liability, public disclosure of Insider Information provided that the following conditions are met:

- a) immediate disclosure would likely prejudice the legitimate interests of TERNA PLUS;
- b) the delay would be unlikely to mislead the public;
- c) TERNA PLUS is able to guarantee the confidentiality of such information.

Certain regulations that impose upon the issuers further disclosure obligations to the public and CONSOB should be noted:

#### **Disclosure to the public**

- a) Information on extraordinary transactions (Section II, Subsection IV, Articles 70 et seq. of the Issuers' Regulation);
- b) Periodic information (Section II, Subsection V, Articles 77 et seq. of the Issuers' Regulation);

- c) Other information (Section II, Subsection VI, Articles 84 et seq. of the Issuers' Regulation);

### **Disclosure to CONSOB**

- a) Information on extraordinary transactions (Section II, Subsection IV, Articles 70 et seq. of the Issuers' Regulation);
- b) Periodic Information (Section II, Subsection V, Articles 77, 81 and 82 of the Issuers' Regulation);
- c) Other information (Section II, Subsection VI, Articles 85-*bis* of the Issuers' Regulation; Chapter III, Section I, Subsection I, Article 117 et seq. of the Issuers' Regulation).

### ***4. Information relative to transactions on financial instruments performed by "Relevant Persons"***

The management, handling and disclosure to the market of information relating to transactions regarding financial instruments carried out by "Relevant Persons" must respect internal procedures that regard:

- The sphere of application within the Group;
- The sphere of relevant parties ("Relevant Persons") and "Closely-Related Persons";
- The type of transactions involved;
- The type of financial instruments involved in the communications;
- The timing of the communications by the Obligated Persons;
- the communication flow;
- the sphere of exempt transactions;
- the terms for disseminating information;
- the communication procedure that the Obligated Persons must submit to the Issuer.

### ***5. Controls on equity movements***

On trading days, controls are carried out ex post or contemporaneously on the movement of TERNA securities in order to report any risk factors (e.g. quantity of shares sold/small number of buyers/time of purchase).

## ***6. Transactions to purchase own shares and stabilization activities***

Internal procedures on transactions to purchase own shares and stabilization activities must be performed in accordance with Article 5 of MAR and the legislation pursuant to Articles 132 of TUF, 73 and 144-*bis* of the Issuers' Regulation and taking into account accepted market practices.

## ***7. Information to the VB in case of suspicious transactions***

In all cases of suspicious transactions, such transactions may be legitimately performed provided that:

- A valid motive exists (such to exclude the possibility of market abuse);
- The transactions are previously authorized by the director of the competent department or unit;
- The VB is informed.

## ***8. Training***

TERNA PLUS arranges for a periodical training and information program for the Recipients of this Special Section referring to crimes and administrative offences of market abuse and the relative company procedures.

## ***9. Waivers to the procedures in urgent cases***

Exceptions to the principles set out in paragraphs E.3.1 and E.4 are permitted, at the responsibility of those implementing them, only in cases of particular urgency in the formation or implementation of the decision or in the case of temporary impossibility of compliance with procedures. In these cases, the information is immediately sent to the VB and a subsequent approval is always requested by the competent body.



## **E.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The supervision functions of the VB to enforce the correct application of the Model with regard to the crime of market abuse are the following:

- a) propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- b) propose that company procedure regarding the prevention of crimes and of administrative crimes included in this Special Section are updated;
- c) with reference to the handling of Privileged Information, the VB will undertake to fulfill the following duties:
  - Monitoring the effectiveness of the internal procedures used in the prevention of abuse of privileged information;
  - Examining any specific case signaled by the internal control bodies or by any Employee and execution of the necessary or opportune verification as a result of the reporting received;
  - supervising that conditions exist to guarantee the auditing company true independence in its control functions over company activities;
- d) with reference to other at-risk activities:
  - carrying out periodical checks on compliance with internal procedures;
  - carrying out periodic inspections on the disclosure of information to the Public Supervisory Bodies;
  - periodically monitoring the effectiveness of the established checks for preventing crimes from being committed;
  - examining any specific cases signaled by the internal control bodies or by third parties or any Company Representative and carry out the relative necessary or opportune verifications.

TERNA PLUS guarantees the establishment of proceduralised information flows between the VB, the 231 Representatives and the directors of the competent Departments, or other Company Representatives each time the VB deems it appropriate.

The information to the VB shall be given without delay in the case of violations to specific procedural rules as indicated in Chapter E.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.



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T E R N A G R O U P

**SPECIAL SECTION "F"**

**MONEY LAUNDERING  
AND  
SELF-LAUDERING**

CEO Approval December 04, 2017
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Luigi Michi
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## **DEFINITIONS**

Except for the new definitions included in this Special Section “F”, the definitions of the General Section remain valid.

## **F.1 TYPES OF MONEY LAUNDERING/SELF-LAUNDERING CRIMES (Article 25-*octies* of the Decree)**

This Special Section "F" refers to money laundering/self-laundering crimes (hereinafter "Money Laundering Crimes") introduced into Legislative Decree 231 of 2001, art. 25-*octies*, by means of Legislative Decree 231 of November 21, 2007 as amended<sup>1</sup> (hereinafter the "Anti-Money Laundering Decree").

Furthermore, TERNA PLUS complies with the recommendations against money laundering and the financing of terrorism issued by the international body of the Financial Action Task Force (FATF-GAFI) which coordinates the fight against money laundering and the financing of terrorism and any other applicable regulation relevant to the Group.

Money Laundering Crimes, considered to be such even if the activities that have generated the assets to be laundered were performed in the area of another Member State or a non-European Union State, are listed below:

- ***Handling of stolen goods (Article 648 of the Italian Criminal Code)***

This crime is committed when a person, in order to obtain a profit for himself or for others and asides from cases regarding complicity in the crime, acquires, receives or conceals money or things resulting from any crime, or if he/she is in any case involved in arranging for such money or things to be acquired, received or concealed. The crime is punishable with two to eight years' imprisonment and a fine from €516 to €10,329. The penalty is increased in the case offences relating to money or other things resulting from acts of aggravated robbery, aggravated extortion or aggravated theft, and is reduced in the case of minor crimes.

- ***Money Laundering (art. 648-bis of the Italian Criminal Code)***

This crime is committed (asides from cases of complicity in the crime) when a person substitutes or transfers money, goods or other benefits resulting from an unpremeditated crime, or carries

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<sup>1</sup> The latter is implemented by Legislative Decree no. 90 of May 25, 2017, which implements EU Directive 2015/849 ("IV Self-Laundering Director").

out other transactions in relation to these assets, in such a way as to hinder their identification as the proceeds of a crime. The crime is punishable with four to twelve years' imprisonment and a fine from €5,000 to €25,000. The penalty is increased if the crime is committed during the performance of a professional activity and reduced if the money, goods or other profit resulting from an unpremeditated crime punishable by imprisonment of up to five years.

- ***Use of money, goods or benefits of unlawful origin (Article 648-ter of the Italian Criminal Code)***

This crime is committed in the case that (asides from cases of complicity in the crime and in the cases prescribed by the aforementioned articles) a person uses money, goods or other profit resulting from the crime in financial activities or transactions. The crime is punishable by four to twelve years' imprisonment and a fine from €5,000 to €25,000. The penalty is increased if the crime is committed during the performance of a professional activity and reduced in the case of minor crimes.

It should be noted that, with regard to all the above-mentioned crimes, the relative provisions apply also in cases where the perpetrator of the crime from which the money or things derive is imputable or not punishable or when there is a lack of procedural conditions referring to such a crime.

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With reference to the prevention of Money Laundering Crimes, the Italian law includes provisions whose purpose is to counter money laundering practices, prohibiting, among other things, the carrying out of transactions whereby substantial amounts of money are transferred using anonymous instruments and making it possible to retrace transactions by the identification of customers and the recording of the data in special databases.

Specifically, the anti-money laundering legislative body is above constituted of the Anti-Money Laundering Decree.

Essentially, the Anti-Money Laundering Decree includes the following tools to counter the laundering of money of unlawful origin:

1. under art. 49, the prohibition to transfer cash, bearer bank or post office savings books or bearer instruments (checks, postal orders, deposit certificates, etc.) in Euro or foreign currency carried out between different persons for any reason if the value of the transaction is equal to or higher than €3,000. The transfer may however be carried out using banks, electronic money institutions, payment institutions and Poste Italiane S.p.A.;
2. under Article 17, the obligation on the part of some of the recipients of the Anti-Money Laundering Decree (the "Responsible Parties" listed in Article 3) with regard to the relations and transactions involved in the performance of the institutional or professional activities of such entities;
3. under Article 31, the specific obligations regarding the storing of useful documents, data and information entrusted to the Responsible Parties in order to prevent, identify or ascertain any money-laundering activities or financing of terrorism, as well as copies of documents acquired in the course of appropriate customer checks as well as the originals (or copies admissible in court) of the documents and registrations regarding the transactions);
4. under Article 35, the obligation of the Responsible Parties to notify all transactions instigated by the customer that are deemed "suspicious" or in the case of their knowing, suspecting or having reasonable grounds to suspect that money laundering activities or the financing of terrorism is taking place, has taken place or has been attempted or that the funds, independently of their amount, come from criminal activity;
5. under Article 42, certain obligations of abstention on the part of the Responsible Parties, in particular in the case of the impossibility of objectivity in the performance of appropriate customer checks;
6. under Article 46, specific notification obligations on the part of the members of the Board of Statutory Auditors, the Supervisory Board and the Committee for Management Control of Responsible Parties.



The Responsible Parties are subject to the obligations in points 2, 3, 4, 5, and 6 above and are indicated in Article 3 of the Anti-Money Laundering Decree. These are:

1) Banking and financial brokers. Among these entities are, by way of an example:

- banks;
- Poste Italiane S.p.A.;
- electronic money institutions (IMEL);
- brokerage firms (SIM);
- asset management companies (SGR);
- variable capital investment funds (SICAV);
- insurance companies operating in the "life insurance" sector.

2) Other financial operators. These include but are not limited to:

- trust companies;
- credit brokers;
- persons who carry out professional foreign exchange activities.

3) professionals, some of whom are:

- persons registered on the Register of Chartered Accountants and Bookkeepers and the Employment Consultants' Register;
- notaries and lawyers when they carry out financial or real estate transactions in the name and on behalf of their clients and when they assist their clients in certain transactions;
- auditors and auditing firms.

4) Other non-financial operators; these may include but are not limited to:

- antiques dealers;
- auction house or art gallery operators;
- professional gold traders;
- persons who perform activities relating to the storage and transport of cash, securities or values.

#### 5) Gambling service providers.

As shown by the above list, TERNA does not feature among the recipients of the Anti-Money Laundering Decree; however, Company Representatives may, in the abstract, commit one of the Money Laundering Crimes in the interests or to the advantage of the Company.

Furthermore, Article 22 of the Anti-Money Laundering Decree provides for a series of obligations borne by customers of the Responsible Parties, who must:

- submit in writing and at their own liability, all necessary and up-to-date information required to enable the Responsible Parties to fulfil their appropriate due diligence obligations'
- as regards businesses with judicial roles and private judicial persons, obtain and retain, for a period not less than five years, appropriate, accurate and up-to-date information regarding their beneficial ownership as well as submit such information to the Responsible Parties to enable the performance of appropriate customer checks<sup>2</sup>.

Article 25-*octies* of Decree 231 ("Handling of stolen goods, money laundering and use of money, goods or properties of unlawful origin, as well as self-laundering") may therefore theoretically apply to TERNA PLUS.

- ***Self-Laundering (Article 648-. 1 of the Italian Criminal Code)***

This crime occurs when a person, having committed or participated in committing an intentional criminal act, uses, substitutes or transfers, in economic, financial, entrepreneurial or speculative

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<sup>2</sup> This information must be acquired by the directors on the basis of the results of the accounting entries and financial statements, the shareholders' register, communications relating to the ownership or control structure of the entity, to which the company is held according to the current provisions as well as communications received from members and any other data available to them. Should any doubts remain regarding the beneficial ownership, the information is acquired by the directors following an express request addressed to the shareholders with respect to whom further information regarding the organization is required.

activities, money, goods or other benefits resulting from the aforementioned crime, in such a way as to tangibly hinder their identification as the proceeds of a crime. The crime is punishable with two to eight years' imprisonment and a fine from €5,000 to €25,000.

The punishment of one to four years' imprisonment and a fine from €2,500 to €12,500 is applied if the money, goods or other benefits result from an intentional crime punished with an imprisonment term of less than five years.

The penalty is increased if the crimes are committed during the exercise of banking or financial activities or another professional activity.

The penalty is reduced by up to half for people that undertook effective measures to prevent the conduct from leading to further consequences or to safeguard the evidence of the crime and the identification of the goods, money and other benefits resulting from the crime.

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As shown by the description of the crime of self-laundering given above, the latter has as a necessary condition the commission of other "upstream" crimes. The types of offences specifically provided for in the Decree have been analyzed and detailed in the relevant Special Sections (to which reference should be made), irrespective of whether or not such offences are crimes of self-laundering. Conversely, TERNA PLUS has decided to give relevance and importance to the following type of corporate crimes not provided for directly by the Decree but which, by virtue of the acts that are punished by law, is potentially applicable in relation to self-laundering conduct.

- ***Fiscal crimes***

Fiscal crimes provided for by Legislative Decree no.74/2000 containing the "new rules on crimes relating to income tax and value added tax, pursuant to Article 9 of Law no. 205 of June 25, 1999", are the following:

- a) Fraudulent statement put in place by the use of invoices or other documents for non-existent operations;
- b) Fraudulent misrepresentation by other devices;
- c) Misrepresentation;
- d) Non-declaration;

- e) Issuance of invoices or other documents for non-existent operations;
- f) Concealment or destruction of accounting records;
- g) Non-payment of outstanding or certified withholding taxes;
- h) Non-payment of VAT;
- i) Unlawful compensation;
- j) Fraudulent avoidance of tax payment.

Although such crimes are not included in the list of Predicate Crimes, TERNA PLUS, in the belief that a policy of zero tolerance towards self-laundering is an essential prerequisite for the proper conduct of its business, has decided to include this crime in this Special Section.

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Considering the above, a corporation is punished for a Money Laundering Crime by a fine of two hundred to eight hundred shares. If the money, goods or benefits resulting from a crime for which the penalty established is imprisonment for at most five years, a fine from 400 to 1,000 shares is imposed: considering that the amount of a share may vary from nearly €258 to nearly €1,549.00, the fine may reach the amount of nearly €1.5 million. If such a crime is committed, the corporation is also punished with disqualification measures established in Article 9, paragraph 2, of the Decree for a period of not over two years.

## **F.2 AT-RISK AREAS**

According to the terms of this Special Section "D" of the Model and in relation to the above-mentioned crimes and criminal conduct, the areas that are more specifically considered to be at-risk are the following:

1. relations with Suppliers and Partners at domestic and transnational level;
2. relations with counterparties, other than Partners and Suppliers, with whom the company has agreements for the development, including abroad, of electricity transmission and dispatching activities and the identification of business development opportunities, including in other countries, and the management of subsequent contractual and commercial relations related to the same, including by other Group companies;
3. management of cash flows;
4. the compilation, upkeep and storage of tax records; preparation of tax returns and tax payment records;
5. management of corporate giving schemes, donations and sponsorships;
6. management of industrial, civil, instrumental and other real-estate assets, including the acquisition, divestment or transformation of the same through operations to modify works;
7. management of intra-group relations, with specific reference to intercompany contracts;
8. management of extraordinary transactions.

All At-Risk Areas as indicated above take on importance also if the activities that form their objective are carried out by the Companies – fully or partly – in the name of and/or on behalf of the Parent Company, by virtue of the agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Companies shall implement the reporting activity according to the terms indicated in the General Section and in the individual Special Sections.

The Companies shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **F.3 RECIPIENTS OF THIS SPECIAL SECTION - GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of Company Representatives and of External Contractors as already defined in the General Section.

The purpose of this Special Section is to ensure that these Recipients, to the extent in which they may be involved in activities in At-Risk Areas, follow rules of conduct consistent with the provisions set out herein in order to prevent the occurrence of Money-Laundering Crimes, while considering the different positions held by them with regard to the Group and, therefore, the different obligations they may have as specified in the Model.

In particular, the function of this Special Section is to:

- a. set out a list of the general rules and specific procedural rules that Company Representatives and External Contractors, according to the different type of relationship they have with the Company, shall comply with for the purposes of a correct application of the Model;
- b. provide the VB and the Directors of other company departments cooperating with the latter, the operational tools to control, monitor and verify the activities established.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity – will generally be expected to be familiar with, and comply with, all the rules, procedures and principles – that must be considered as implementing and integrating the Model – contained, by way of example, in the following documents:

- the Code of Ethics;
- the internal Regulations for the qualification of companies;
- company procedures and all other internal regulations regarding the selection and verification of contractual counterparties (see, in the first instance, the Operational Instructions IO711SA on the evaluation of counterparties and Guideline 012 on Fraud Management);
- the corporate governance rules adopted by the Company;

- the Group's Corporate Giving Policy (see, in the first instance, Guideline 014);
- regulations regarding asset management (see, in the first instance, Operational Instructions IO101PM);
- procedures relative to intra-group relations;
- procedures relative to the management of preliminary activities; connected or arising from the fulfilment of tax obligations such as active and passive cycle procedures, payment procedures for direct taxes, etc.;
- procedures relative to the financial management and the treasury;
  - 262 Control Model <sup>1</sup> and operating and accounting procedures;
  - Regulations of the Executive in Charge;
  - Procedure relative to International Business Development.

Specifically, in carrying out activities that are deemed to be at risk, Company Representatives and External Contractors, by means of special contractual clauses according to the type of relationship they have with the Group, must comply with the following general conduct rules:

- 1.** they must refrain from conduct that represents the commission of a Money Laundering Crime;
- 2.** avoiding conduct that is not in itself such as to represent the commission of one of the above Crimes, but has the potential to become so;
- 3.** they must behave in a correct, open and collaborative manner, complying with the law and internal corporate procedures, in all the activities involved in keeping master data of Suppliers and Partners, including foreign ones;
- 4.** they may not have business dealings with persons (both natural and legal) who are known or suspected to belong to criminal organizations or organizations in any way operating illegally, such as, not limited to, persons connected with money laundering, drug trafficking and usury;
- 5.** perform the correct acquisition and archiving of data relating to Suppliers and Partners (including Corporate Structure statements);



- 6.** not receive or make payments through the use of anonymous tools for the execution of transactions involving the transfer of significant amounts;
- 7.** constantly monitor corporate cash flows (including in relation to intragroup payments);
- 8.** ensure the correct preparation, upkeep and conservation of accounting records relevant to tax purposes and the correct transposition of the relative data in the annual statements and departmental reports regarding the payment of taxes, ensuring the correct payment of the same.

## **F.4 SPECIFIC PROCEDURAL RULES**

### **F.4.1 Procedural rules to be complied with in individual At-Risk Operations**

The following are the procedural rules that may be implemented, as regards each of the At-Risk Area nos. 1-2-3-5-6-7-8 (as defined in paragraph F.2), also with specific corporate procedures that Company Representatives must comply with:

- a) verify - before the relative relationship is established - the commercial, reputational and professional trustworthiness of the Suppliers and Partners (both commercial/financial), after the definition (i) of the criteria for the preliminary verification/accreditation or qualification; (ii) the procedures and rules for the assignment, modification, suspension and revocation of accreditation/qualification, also in the light of any critical situations during the contractual relationship; and (iii) methods for updating accreditation/qualification in order to verify the maintenance of the required requisites over time;
- b) verify that commercial and financial Suppliers and Partners do not have registered offices or residences in or connections to countries considered as non-cooperative by the Anti-Money Laundering Financial Action Group (GAFI) or "Tax Havens" as defined by recognized national and/or international bodies (e.g. Italian Agency for Tax Revenue, OSCE) or that such counterparties are not included on the lists published by recognized national and/or bodies (e.g. United Nations, European Union, OFAC) in the context of systems to prevent and combat the financing of terrorism. Should any Suppliers or Partners be connected in any way with one of these countries or included on any such list, any relative decision should be expressly authorized by the CEO; the VB should be given prior notification of the decisions taken;
- c) assure the openness and traceability of agreements/joint ventures with other companies for making investments awaiting approval from the appropriate authorization levels;
- d) verify the economic suitability of investments made as part of joint ventures (e.g. respect of average market prices); the relevant branch of the business is obliged to produce an evaluation aimed at assessing said suitability and its reference parameters; verify that individuals and legal

entities with whom the Company concludes purchasing contracts necessary for the development of the electricity grid, including in other countries, do not have their headquarters or residence in, or other connections to, countries considered as non-cooperative by the Anti-Money Laundering Financial Action Group (GAFI) or considered as "Tax Havens" as defined by recognized national and/or international bodies (e.g. the Italian Tax Revenue Agency, OCSE) or that such counterparties are not included on the lists published by recognized national and/or international bodies (e.g. UN, EU and OFAC) in the context of systems aimed at preventing and combating the financing of terrorism; where such counterparties are in some way connected to one of these countries, the relative decisions must require express authorization from the CEO and the VB must be notified in advance of any decisions taken;

- e) keep evidence, in the format of computer records to be retained for a period of ten years, of the checks performed in relation to the previous points and any transactions with parties that have registered offices or residences in, or connections to, countries considered as non-cooperative by the Anti-Money Laundering Financial Action Group (GAFI) or "Tax Havens" as defined by recognized national and/or international bodies (e.g. Italian Agency for Tax Revenue, OSCE), or included on the lists published by recognized national and/or bodies (e.g. United Nations, European Union, OFAC) in the context of systems to prevent and combat the financing of terrorism;
- f) carry out formal and significant controls on corporate financial inflows; these controls must take into account the country in which the counterparty receives the payment (for example tax havens, countries at risk from terrorism, etc.) and any front companies or trust structures used for extraordinary transactions;
- g) not accept cash or bearer instruments (checks, postal orders, deposit certificates, etc.) for amounts totaling over €3,000 for any inbound transaction, payment or transfer of funds, unless transferred by approved intermediaries such as banks, electronic money institutions and Poste Italiane S.p.A. (except as provided for the management of petty cash) and not use current accounts or savings accounts anonymously or registered to a fictitious name;

- h) in terms of the management of financial transactions, only use operators who certify that they are equipped with manual, computerized and/or telematic control measures suitable for preventing money laundering;
- i) not make payments (i) in favor of parties that are not correctly identifiable; (ii) to current accounts not indicated in the contract, in the purchase order or in other documents signed with the counterparty;
- j) carry out formal and significant controls on corporate financial outflows; these controls must take into account any front companies or trust structures that are also used for extraordinary transactions. These checks must also include consistency and concordance checks between the holder of the contractual relationship (i.e. the creditor of the payment) and the name of the account to which the transaction is to be made;
- k) obtain and retain, for a period of no less than five years, appropriate, accurate and up-to-date information of the beneficial ownership of the Company;
- l) where the Company receives a request to do so from Responsible Parties, provide them in writing with all the necessary and updated information to enable them to fulfill their due diligence obligations;
- m) perform preventive checks on the integrity of the beneficiaries of donations and recipients of sponsorships;
- n) maintain traceability of authorization processes for aid grants, guaranteeing the collegiality of the decisions in this regard;
- o) where possible, check that the funds paid as a charitable contribution were used for the intended purposes;
- p) annually report corporate giving schemes, donations and sponsorships carried out in the given period to the VB;
- q) conduct relations with companies of the Group with the utmost integrity, fairness and transparency;
- r) ensure that the services rendered by/for companies of the Group are made under market conditions and regulated in writing by specific contracts;
- s) ensure the constant and prompt updating of the related-parties transaction register;
- t) ensure that the management of M&A transactions and those relating to the management/acquisition of real-estate assets

are made in compliance with the relevant proxies and powers of attorney;

- u) ensure the correct filing of the documentation relating to ordinary, extraordinary, real-state and investment solicitation transactions, as well as to ensure the traceability of the same.

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In regards to self-laundering, taking into account that the types of offences specifically provided for in the Decree have been analyzed and detailed in the relevant Special Sections (to which reference should be made) and in light of the relevance and importance given by TERNA PLUS to fiscal crimes, the following are the procedural rules that may be implemented as regards each of the At-Risk Area nos. 5-6 (as defined in paragraph F.2), including in the context of specific corporate procedures that Company Representatives must comply with:

- a) in the preparation and subsequent keeping of the accounting books that are relevant for tax purposes, TERNA PLUS shall adopt a series of measures to ensure that Company Representatives – within their own field of competence:
  - do not issue invoices or release other documents for non-existent transactions in order to enable others to commit tax evasion;
  - keep accounting books and any other record that must be kept for tax purposes in a fair and orderly manner, while setting up physical and/or computer systems to prevent the possible destruction or concealment of such documents;
- b) in the preparation of annual statements relating to income taxes and value added tax, TERNA shall ensure that Company Representatives - within their own field of competence:
  - do not indicate fictitious liabilities items using invoices or other legally relevant documents for non-existent transactions;
  - do not indicate assets items for a total amount that is lower than the real one or fictitious liabilities items (e.g. fictitious costs incurred and/or revenues that are lower

than the real ones) by means of misrepresentation in the required accounting books and using appropriate means to hinder any inspection;

- do not indicate a taxable income lower than the actual one by recording assets items for an amount that is lower than the real one or fictitious liabilities items;
  - do not let the time period expire that is established by the applicable regulations before submitting these documents or paying the taxes resulting therefrom;
- c) TERNA PLUS, also through the provision of specific procedures, shall ensure the implementation of the principle of segregation of duties in relation to the management of company bookkeeping and the subsequent data transposition in the tax returns with reference, by way of example, to the following activities:
- verifying that services and issued invoices match;
  - verifying the accuracy of statements compared to the information contained in the accounting books;
  - verifying that the certificates issued as withholding agents and the actual withholding tax payments match, or rather ensuring correspondence between withholdings due and actual payments made.

Reference should also be made to the procedural rules included in the Special Section "B" of this Model.

Finally, with specific reference to the at-risk areas relating to the management of corporate giving schemes, donations and sponsorships, TERNA PLUS undertakes to verify *ex post* the effectiveness of the service provided in the context of the above activities.

## **F.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's duties in relation to compliance with the Model regarding Money Laundering Crimes are as follows:

- a) carrying out periodic controls on compliance with this Special Section, and periodically verify the effectiveness of such controls in preventing the commission of the crimes provided for herein.
- b) assisting, if requested, to propose/update standardized instructions regarding the rules of conduct to observe within the At-Risk Areas as defined in this Special Section. These instructions should be in writing and saved on hardcopy and on computer file;
- c) assisting, if requested, to propose/update the specific procedure for the monitoring of contract counterparties other than Partners and Suppliers;
- d) constantly monitor the effectiveness of the internal procedures that the Company has already adopted and supervise the effectiveness of those introduced in future.

TERNA PLUS guarantees the implementation of data stream procedures between the VB and the directors of the relevant Departments, the 231 Representatives or other Company Representatives who may in any case be contacted by the VB whenever it deems appropriate.

The information shall be given without delay to the VB should violations to specific procedural rules be detected as indicated in Chapter F.4 of this Special Section, or significant violations to procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.



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T E R N A G R O U P

**SPECIAL SECTION "G"**

**CRIMES INVOLVING MANSLAUGHTER AND SERIOUS OR  
VERY SERIOUS INJURIES, COMMITTED BY INFRINGING  
THE ACCIDENT PREVENTION REGULATIONS AND THE  
STANDARDS FOR THE PREVENTION OF OCCUPATIONAL  
SAFETY**

CEO Approval Luigi Michi
December 04, 2017



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## **DEFINITIONS:**

Except for the new definitions included in this Special Section "G", the definitions of the General Section remain valid.

**Members of the Safety, Prevention and Protection Group (ASPP):** persons possessing the capabilities and satisfying the professional requirements established in Article 32 of the Health and Safety Decree and belonging to the Prevention and Protection Service.

**BS – OHSAS 18001:** British Standard OHSAS 18001, 2007 edition.

**Temporary or Mobile Site or Site:** any place in which building or civil engineering works are carried out as described in Appendix X to the Health and Safety Decree, including, by way of example, works of construction, maintenance, repair, demolition, conservation, reclaim, reconstruction, fitting, transformation, renewal or removal of fixed, permanent or temporary works, including electricity lines and the structural parts of electricity plants and systems. Also classified as building or civil engineering works are excavations and the assembly or disassembly of prefabricated elements used for building or civil engineering works.

**Procurement Code:** Italian Legislative Decree no. 163/2006 - Law governing contracts for public works, supply and services implementation of Directives 2004/17/EC and 2004/18/EC and subsequent amendments and integrations.

**Client:** the person on whose behalf the entire building or civil engineering work is implemented, regardless of any division of the work involved, in compliance with the provisions of Articles 88 et seq. of the Health and Safety Decree.

**Site Coordinator:** the person, other than the Employer of the contracting and executing company, or an employee of the same, or the RSPP assigned to him (except in cases where the client and the acting company are the same, in which case such incompatibility does not apply), charged by the Client or the Site Manager, among other duties, to check, with duly appropriate coordination and control activities, the application

by the acting companies and freelancers of the provisions relevant to them contained in the Health, Safety and Coordination Plan, and to verify the suitability of the Operational Health and Safety Plan, ensuring its compliance with the former.

**Project Coordinator:** the person appointed by the Client or the Works Manager, among other things, to write the Health, Safety and Coordination plan and to prepare the Works Dossier.

**Employer:** the person that is the principal party to the work contract with the Employees or, in any event, the person that, according to the type and structure of the organization for which Employees perform their activities, is responsible, by virtue of appropriate assignment, for said organization or for the Production Unit thereof, inasmuch as he exercises decision-making and spending powers.

**Client's Employer:** the person who entrusts works, services or supplies to contracting companies or freelancers, according to Article 26 of the Health and Safety Decree.

**Health and Safety Decree:** Italian Legislative Decree no. 81 of April 9, 2008 *-Implementation of Article 1 of Law no. 123 of August 3, 2007 regarding the protection of occupational health and safety* and subsequent amendments and integrations.

**Manager:** the person who, according to his/her professional expertise and hierarchical and functional powers that are adequate to his/her assignment, implements, on the basis of the Health and Safety Decree, through a proxy or sub-proxy, the Employer's directives by organizing the working activity and supervising it.

**Interference Risk Assessment Document (hereinafter DUVRI):** the document published by the Employer/Client in the case of the assignment to provide works, services and supplies to the contracting company or freelancers within its own company, or of a single Production Unit of the same, containing an assessment of the risks and the measures to eliminate or, where this is not possible, reduce to a minimum interference risks in tender, works or supply contracts.

**Risk Assessment Document (hereinafter DVR):** the document produced by the Employer containing an assessment report of the risks to health and safety during the work and the criteria of such assessments, prevention and protection measures and the personal protection equipment adopted following the assessment, the schedule or measures deemed appropriate to ensure improvement over time of safety levels, the identification of implementation procedures and the roles that the corporate structure must appoint, the names of the RSPP, the RSL and the Appointed Doctor who contributed to the risk assessment, as well as the identification of assignments that may expose Employees to specific risks that require recognized professional skills, experience and appropriate training and education.

**Works Dossier:** the folder prepared by the Project Coordinator including all useful information for the prevention and protection of risks to which Employees are exposed.

**Safety Unit:** company unit - within the organizational structure of the Parent Group - with the duty of coordinating, monitoring and reporting activities in connection with issues of health and safety in the workplace.

**Employees:** persons that, regardless of the type of contract, perform a working activity within TERNA PLUS.

**UNI-INAIL guidelines:** the guidelines drawn up by UNI, the Italian Unification Board, and INAIL, the Italian Insurance Institute for Occupational Injuries, for the voluntary establishment on the part of businesses of an occupational health and safety management system (September 2001 edition).

**Appointed Doctor:** the doctor that holds one of the formal or professional qualifications laid down in the Health and Safety Decree, that collaborates with the Employer to contribute to the risk assessment and is appointed by the latter to carry out Health Surveillance.

**Observatory:** the Observatory of Public Contracts relating to works, services and supplies referred to in the Procurement Code.

**Operational Safety Plan (OSP):** the document produced by the Employer of the executing company, in line with the Safety and Coordination Plan of each relevant Site.

**Officer in Charge:** the person that, by reason of his/her professional skills and the hierarchical and functional powers appropriate to the position that he/she holds, supervises the work activity and guarantees the implementation of directives, checking the proper execution on the part of Employees and working also based on personal initiative.

**Designers, Manufacturers, Suppliers and Installers:** the natural or legal persons that are entrusted with designing the premises, workplaces and plants, or that produce, supply, hire out, grant the use of or install plants, machinery or other technical equipment for TERNA PLUS.

**Safety and Coordination Plan (SCP):** the document prepared by the Project Coordinator containing the risk structure and assessment at the Site.

**Management Systems Representative:** the person that is entrusted with the responsibility and the authority necessary for: (a) ensuring that management system processes are implemented and kept operational; (b) reporting to the top management on management systems performance, including the need for improvements; (c) conducting relations with external parties on matters involving management systems (such as the certification body and customers).

**Crimes Committed in Violation of the Law on the Protection of Occupational Health and Safety:** crimes under Article 25- *septies* of Legislative Decree no. 231/2001, or manslaughter (Article 589 of the Italian Criminal Code), and serious or very serious personal injuries (Article 590, paragraph 3 of the Italian Criminal Code) committed in breach of the standards of occupational health and safety.

**Works Manager:** a person that may be appointed by the Client or Employer/Client to carry out the duties as per Legislative Decree 81/2008, as amended, within TERNAL; duties entrusted to the Works Manager should be divided into duties for works in the planning phase, duties for works in the assignment phase and duties for works in the execution phase.

**Employees' Health and Safety Representative ("RLS"):** the person appointed or entrusted to represent the Employees with regard to aspects concerning occupational health and safety.

**Members of the Safety, Prevention and Protection Group (RSPP):** persons possessing the capabilities and satisfying the professional requirements established in the Health and Safety Decree, chosen by the Employer, and belonging to the Safety, Prevention and Protection Service.

**Health Surveillance:** the complex of medical activity undertaken to safeguard Employees' health and safety in relation to the work environment, occupational risk factors and methods of work.

**Prevention and Protection Service (SPP):** the combination of persons, systems and means, both within and outside TERNAL PLUS, whose purpose is to take action to prevent professional risks to Employees.

**Employees' H&S:** Employees' Health and Safety.

**Issuing Office:** the Procurement Department and other offices that, by virtue of TERNAL PLUS' internal organizational regulations, carry out procurement processes in compliance with TERNAL's Regulations for purchases and enter into the contracts concerned abiding by the procurement system in force.

**Production Unit:** TERNAL PLUS plants or structures that produce goods or deliver services and are financially and technically/functionally independent.

### **G.1 CRIMES INVOLVING MANSLAUGHTER AND SERIOUS OR VERY SERIOUS INJURIES, COMMITTED BY INFRINGING THE ACCIDENT PREVENTION REGULATIONS AND STANDARDS FOR OCCUPATIONAL SAFETY (Article 25-septies of the Decree)**

The following is a brief description of the Crimes committed in violation of the law on the protection of occupational health and safety as specified in Article 25-septies of the Decree.

This article, first introduced by Law no. 123 of August 3, 2007 and later replaced pursuant to Article 300 of the Health and Safety Decree, provides for the application of pecuniary and interdictory penalties to Corporations whose representatives commit the crimes referred to in Articles 589 (manslaughter) and 590, paragraph 3 (serious or very serious personal injury) of the Italian Criminal Code, in breach of the standards for the protection of occupational health and safety. Cases in which crimes included in Article 25-septies are only those in which the event has occurred not as a result of generic negligence (therefore only due to inexperience, imprudence or negligence) but of "specific negligence", which arises when the event occurs due to non-compliance with the standards for the protection of occupational health and safety.

#### **• *Involuntary Manslaughter (Article 589 of the Italian Criminal Code)***

This crime is committed whenever a person causes the death of another person because of negligence, [infringing the rules for the prevention of occupational accidents](#).

#### **• *Serious or very serious injuries (Article 590, paragraph 3, of the Italian Criminal Code)***

This crime is committed whenever a person, infringing the law on the prevention of occupational accidents, causes to another person serious or very serious injuries.

"(1) if the accident gives rise to an illness that endangers the injured person's life, or to an illness or an incapacity that

renders the person unable to perform his/her day-by-day duties for a period of over forty days;

(2) if the accident produces the permanent weakening of a sense or an organ".

Under paragraph 2, Article 583 of the Italian Criminal Code, an injury is considered to be very serious if the accident gives rise to:

"an illness that is certainly or probably incurable;

the loss of a sense;

the loss of a limb or a mutilation that renders the limb unusable or the loss of the use of an organ or of the capacity to procreate or a permanent and serious difficulty in speech;

the disfigurement of, or a permanent scar, on the face".

In both the cases of crimes stated above - namely involuntary manslaughter and serious or very serious injuries - Corporations are liable to a pecuniary penalty between 250 and 1,000 shares (it should be considered, in this connection, that the value of a share may be determined, on the basis of the corporation's economic and financial assets, between €258 and €1,549).

For TERNAL PLUS to be considered as administratively responsible in compliance with the Decree, however, under Article 5 of the Decree, the crimes would have to be committed in its interest or to its advantage (by way of example, if they aimed at reducing the costs of occupational health and safety).

In the event of a sentence for one of the above crimes, TERNAL PLUS might also be subjected to one of the following interdictory penalties for a duration of not less than three months and not over one year:

- disqualification from conducting business activities;
- the suspension or revocation of the authorizations, licenses or concessions related to the commission of the crime;



- a prohibition on negotiations with public authorities except for obtaining the handover of a public service;
- the exclusion from facilitations, loans, grants or subsidies and possibly the revocation of those already awarded;
- a prohibition on advertising goods or services.

Furthermore, of the “**transnational**” crimes pursuant to Law no. 146 of 2006, the crime of aiding and abetting established by Article 378 of the Italian Criminal Code is given particular relevance, especially with reference to the Management of At-Risk Countries.

Pursuant to Article 378 of the Italian Criminal Code, persons who, after an offense punishable by life imprisonment or confinement has been committed and asides from cases of complicity in the same, help such persons to avoid investigation by Italian or international authorities, are punishable by up to four years’ imprisonment.

In particular, the company may be held responsible not only for acts of omission (such as withholding or falsifying the identity of the guilty party) but also direct actions such to represent the creation of obstructions to the investigations (for example, the payment of a ransom to a criminal organization that has kidnapped an employee).

A pecuniary penalty of a maximum of 500 shares is applied to the organization.

In order to guarantee the adoption of an effective defense against the potential commission of Crimes under Article 25 *septies* and implementing the Safety Decree, TERNA PLUS has decided to adopt this Special Section G, which, in addition to taking into account the UNI-INAIL Guidelines, has also been drawn up in compliance with the requirements of BS – OHSAS 18001-2007 standards, based on the certification obtained for the Occupational Health and Safety management system for Employees adopted by the Company.

This British Standard, whose adoption does not, in any event, relieve TERNA PLUS and each Company Representative from complying with the requirements or fulfilling the obligations laid down in current legislation, states the essential measures to take in order to prepare a satisfactory corporate policy and in order to ensure that specific objectives are scheduled in

pursuing this policy, and states the action to take - both for improvement and for correction - in order to ensure constant compliance with the management system adopted for the protection of the Employees' health and safety.

In this Special Section, the corporate conduct, actions and [procedures](#) referred to are to be considered as always implemented in compliance with the above-mentioned British Standard as adopted by TERNA PLUS, unless explicitly stated otherwise.

## **G.2 AT-RISK AREAS**

In relation to the crimes referred to above, risk analysis activity has been conducted on the basis of the consideration that, unlike the other types of crimes specified in the Decree, the main factor here is the failure to respect laws issued in order to protect Employees' health and safety that gives rise to the harmful event (death or injury) and not the psychological element in the negligent act (the agent's awareness of causing the event and the intention of doing so).

Therefore, the areas deemed more specifically at risk for TERNA PLUS are all connected to eventual non-compliance and are, also with regard to the activities carried out by TERNA PLUS in the name and/or on behalf of the Parent Company based on agreements and vice versa, the following:

1. building, developing and renewing the electricity grid (lines and substations) and other infrastructures connected with said grids as well as plants and equipment necessary for the implementation of said work and all other Site works;
2. supply for the activities referred to in the previous point;
3. International Travel Security: management of At-Risk countries to ensure the safety of TERNA PLUS and/or external personnel who work abroad on behalf of the Company on a regular or occasional basis. This refers to persons for whom TERNA PLUS is obliged to adopt appropriate safety measures in line with the critical situations of the relevant country;
4. staff training on Consolidated Law 81/08;
5. obligations established by Legislative Decree 81/08;
6. implementation of the proxy pursuant to Article 16 of Legislative Decree no. 81/08.

Specific attention should be devoted to activities assigned to

contractors for the above-mentioned activities.

Furthermore, also important is office work, particularly with respect to the use of video terminals and work-related stress.

The following activities are considered to be particularly important in order to reduce the risk of non-compliance with the laws issued to protect Employees' health and safety, and prevent a harmful event from occurring in one of the At-Risk Areas described above:

a) adopting the occupational health and safety policies defined by the Parent Company, in which the general commitments undertaken by TERNA PLUS for health hazards prevention and the progressive improvement of health and safety conditions are set forth;

b) correctly applying the provisions of the applicable occupational health and safety laws and regulations;

c) identifying and assessing risks for all categories of Employees, with particular reference to:

- the preparation of the Risk Assessment Document;
- tender contracts;
- interference risk assessment;
- Safety and Coordination Plans, Works Folders and Operational Safety Plans;

d) setting targets in line with the general commitments defined in the policies mentioned in section (a) above and drawing up plans for achieving these targets, setting priorities, timing and assigning responsibilities as appropriate and also allocating the necessary resources with regard to occupational health and safety, with particular reference to:

- the distribution of tasks and duties;
- the work of the Prevention and Protection Service, and the Appointed Doctor;

- the work of all the persons involved with responsibility for implementing Employees' health and safety measures;

e) raising awareness at all levels of the corporate structure in order to ensure the achievement of the targets that have been set, also by planning training programs, also with the support of the Parent Company, with particular reference to:

- monitoring, frequency, utilization and learning;
- special training for persons exposed to specific risks;

f) implementation of appropriate monitoring, control and inspection activities to ensure effective management on issues related to occupational health and safety, in particular in relation to:

- measures to maintain and improve the system;
- managing, correcting and prohibiting conduct carried out in violation of the law, making use of disciplinary measures;
- coherence between the activities performed and one's own skills;

g) implementing the necessary corrective and preventive measures according to the outcome of monitoring;

h) periodic review by the Company management in order to assess the efficacy and efficiency of the occupational health and safety management system and the health protection system in achieving the targets set, as well as the adequacy of said targets compared both to TERNA PLUS' specific situation and to any changes in activity, as set out in paragraph G.4.4.5 that follows.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group - fully or partly - in the name of and/or on behalf of

the Company, by virtue of service agreements signed or of specific proxies granted. This cautionary approach also extends to activities referred to in points a) to h).

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **G.3 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of TERNA PLUS' Company Representatives, Suppliers and Partners and, if they do not fall under any of these categories, also the relevant persons as specified in paragraph G.4.4.1 of this Special Section ("Recipients") and aims to prevent the same promoting, collaborating or maintaining conduct that may cause the commission of the crimes infringing the rules for the protection of employees' health and safety.

The aim of this Special Section is that such Recipients, if they are involved in performing the activities falling within At-Risk Areas and considering their different positions and different obligations with respect to TERNA PLUS, should respect the rules of conduct that comply with TERNA PLUS' instructions on the matter, in order to prevent and hinder the occurrence of Crimes committed infringing the law on the protection of occupational health and safety.

In particular, the function of this Special Section is to:

- a) provide a list of the general rules as well as the specific procedural rules which the Recipients must comply with for the correct application of the Model;
- b) provide the Vigilance Body, as well as the directors of company departments called to cooperate with the Body, the operational principles and tools for carrying out the necessary checks, monitoring and verifications entrusted to them.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity - will generally be expected to be familiar with, and comply with, all the procedural rules adopted by the Parent Company and transposed by the Company as well as any procedures provided for by TERNA PLUS contained, for example, in the following documents:

1. the company organization chart;

2. the national collective labor contract;
3. the Risk Assessment Document, with the relative supplementary documents for each TERNA PLUS' Production Unit;
4. the Quality, Environment, Occupational Safety and Health Protection Manual;
5. The Occupational Safety Organizational Model within Terna Plus.
6. Guidelines on the Organization of Occupational Health and Safety in the context of the activities carried out abroad by the Terna Group (LGO55);
7. operating procedures and instructions adopted by TERNA PLUS as regards occupational health and safety, concerning, for example:
  - a. the assessment of risks to occupational safety and the protection of health;
  - b. occupational health and safety management;
  - c. construction site management;
  - d. health surveillance for the protection of occupational health and safety;
  - e. Procurement management;
  - f. deliver areas to third parties.
8. Code of Ethics;
9. all other internal regulations adopted by TERNA PLUS with regard to the occupational health and safety system or that may affect said system, even if indirectly.



## **G.4 SPECIFIC PROCEDURAL RULES**

In order to facilitate the implementation of the principles governing the protection of Employees' health and safety and ensuring adequate supervision in the various At-Risk Areas, TERNA PLUS, in addition to carrying out the activities specified in paragraph G.2 and G.3 above, has set forth following procedural rules.

### **G.4.1 Corporate occupational health and safety policies**

The occupational health and safety policy adopted by TERNA PLUS must be considered as a fundamental reference document for all Company Representatives and all those outside TERNA PLUS that have dealings with the company.

This policy must be applied to all the activities performed by TERNA PLUS and its objective must be that of listing the principles by which all corporate actions are inspired; everyone, according to their role and the responsibilities they take on at TERNA PLUS, shall respect this policy with a view to protect the health and safety of all Employees.

On the basis of this policy, TERNA PLUS must therefore conduct its activities respecting the following specific procedural rules:

- responsibility for managing the occupational health and safety system on the entire company structure from the Employer down to each Employee, each according to his own functions and skills, in order to avoid prevention activities being considered the sole responsibility of certain persons and a consequent lack of active participation by some Company Representatives;
- commitment to considering the health and safety system as an integral part of corporate management and one that all Company Representatives should be familiar with;
- commitment toward continuous improvement and prevention;

- commitment toward providing the necessary human and instrumental resources, evaluating the advisability of investments in new plants and considering aspects of the protection of Employees' health and safety in addition to the economic and financial issues in such evaluations;
- commitment toward ensuring that all Company Representatives, within the limits of their functions, are made aware of their duties and are trained to carry them out in compliance with the standards on the protection of occupational health and safety;
- commitment toward involving and consulting Employees, also through the Employees' Health and Safety Representatives; specifically, TERNA PLUS lays down appropriate measures to gain the involvement of Employees, also through the Employees' Health and Safety Representatives, by engaging in prior consultation in the identification and assessment of risks and the definition of the preventive measures to take, as well as taking part in periodic meetings with the Employees;
- commitment to fostering collaboration with the competent authorities (such as INAIL, local health authorities, etc.) in order to create an effective communication channel for the continuous improvement of the safety performance and the protection of Employees' health;
- commitment toward the constant monitoring of work-related accidents in order to ensure control, identify criticalities and the corrective action or training activities to be implemented;
- commitment toward laying down the guidelines and the organizational methods of the safety management system in compliance with the British Standard;
- commitment toward defining health and safety objectives and the relative implementation activities and making them known within TERNA PLUS;

- commitment toward a periodic review of the health and safety policy that has been adopted and of the relative management system that has been put into practice, in order to ensure that they are always appropriate to TERNA PLUS' organizational structure.

It being understood that the responsibility lies with Employers, the Safety Unit applies the contents of the health and safety policy in collaboration with the Employers themselves. The policy is defined, approved and issued by the TERNA PLUS' top management.

The policy is reviewed it at least once a year by TERNA PLUS' top management on the basis of the results of the system monitoring. The review, whose outcome should not entail any changes to the policy, may also take place as a result of events or situations that make it necessary.

#### **G.4.2 Identification of statutory occupational health and safety requirements**

Before specific health and safety objectives are defined, TERNA PLUS, by means of the activity of the Parent Company, by virtue of the applicable agreements, shall correctly identify the requirements laid down in Community, domestic, regional and local laws and regulations, also in order to ensure that the Employees' health and safety management system is prepared and implemented correctly.

To this end, in order to harmonize conduct within their field of activity, the Prevention and Protection Service Managers (RSPP), coordinated and supported by the Safety Department, shall:

- analyze all the aspects of health and safety that are regulated by law, using any existing database, employers' association and trade union documents, etc.;
- identify legal provisions that concern TERNA PLUS, on the basis of the activity performed by each Production Unit;
- establish the requirements and obligations arising from compliance with these provisions that are applicable to TERNA PLUS' activities;

- set out these requirements and obligations in a specific list.

### **G.4.3 Planning process**

In the framework of the process for planning health and safety objectives with a view to implementing the policy referred to in paragraph G.4.1, by means of the activity of the Parent Company, by virtue of the applicable agreements, TERNA PLUS:

- defines the objectives whose aim is to maintain and/or improve the system;
- draws up a plan for the attainment of each objective, for identifying the persons/structures to be involved in carrying out the plan and for assigning the relative duties and responsibilities;
- determines the resources, including the economic resources, that are necessary;
- lays down the method for verifying the true and effective achievement of the objectives.

### **G.4.4 Organization of the system**

#### **G.4.4.1 Duties and responsibilities**

The definition of the organizational and operational duties of the Employer, the Officers, the Officers in Charge and the Employees must also explicitly state and inform about the duties involved in safety activities for which they are responsible, in addition to the responsibilities linked to these activities and their duties as regards occupational health and safety inspections, verification and supervision.

Furthermore, the names of the Prevention and Protection Service Managers (RSPP) and Members (ASPP) should be recorded and made known at all corporate levels, as well as the names of those in charge of emergency management, the duties and the responsibilities of the Appointed Doctor.

The relevant persons are responsible for carrying out the duties set out below, in the implementation of the principles that have been mentioned above and of existing regulations,

without prejudice to the fact that, if one or more of the above-mentioned persons were not included within TERNAL PLUS' organizational structure due to the signing of service agreements that assign issues relating to the protection of occupational health and safety to other Group companies, the provisions included in the Organizational Models adopted by these companies will be applied, which, in case are in line with this model.

## **Employer**

The Employer of TERNAL PLUS' Production Unit is responsible for all occupational health and safety obligations, among which the following may not be assigned to others:

1) assessing, all risks to Employees' health and safety, also in the choice of the work equipment and materials or chemicals utilized, of the workplace layout - and in regard to groups of Employees exposed to particular hazards, including work-stress related risks, as well as those regarding group of Employees exposed to particular hazards (such as risk arising from gender and age differences and Employees coming from other Countries); in this regard, the Employer shall ensure all decisions comply with statutory technical and structural standards;

2) after the assessment, draw up a Risk Assessment Document (DVR). Such document must indicate the date or, as an alternative, must indicate a date as certified by its signing by the persons specified in the Health and Safety Decree (namely the Employer and the Safety, Prevention and Protection Manager -RSPP -, the Employees' Health and Safety Representative - RLS - and the Appointed Doctor, if any). The document must be kept at the Production Unit for which the risk assessment was made or must be stored in a computer file according to the terms established by the Health and Safety Decree. The DVR shall contain:

- a report on the assessment of all risks to occupational health and safety, specifying the criteria adopted for the assessment; such criteria must be simple, concise and easily understandable, so as to guarantee their

completeness and suitability as a planning tool for the corporate and prevention measures to be undertaken;

- an indication of the prevention and protection measures that have been implemented and the personal protection equipment adopted on the basis of the risk assessment mentioned above;
- the program for the measures that are deemed appropriate to ensure an improvement in safety levels over time;
- the definition of the procedures for implementing the measures that need to be undertaken and the persons/positions in the company that must see to the matter;
- the names of the Prevention and Protection Service Manager –RSPP-, the Employees’ Health and Safety Representative –RLS- and the Appointed Doctor that took part in the risk assessment process;
- the details of the duties that expose Employees to specific risks requiring recognized professional skills, specific experience and adequate training and instructions.

The assessment activity and the preparation of the document must take place in collaboration with the Prevention and Protection Service Manager -RSPP- and the Appointed Doctor. The Employees’ Health and Safety Representative shall be consulted before the risk assessment is conducted and the assessment shall be repeated – according to the terms established in the Health and Safety Decree - when significant changes take place in the production process [or in work organization](#) that have significant implications for Employees’ health and safety or relating to important technological developments in the prevention and protection methods, following serious accidents or the outcome of the Health Surveillance so requires.

3) appoint the Prevention and Protection Service Manager.

The Employer is assigned a number of other duties that he may transfer to qualified persons. These tasks, provided for in the Health and Safety Decree, regard, among other things, the power to: a) appoint the Competent Doctor for performing the Health Surveillance; b) designate in advance the Workers appointed to implement the measures of fire prevention and fire-fighting, evacuation of the workplaces in the event of serious and immediate danger, rescue, first aid and, in any case, emergency management; c) provide to the Workers the necessary and suitable personal protection equipment, after consulting the RSPP and the Competent Doctor; d) take appropriate measures so that only Workers who have received adequate instructions and specific training have access to the zones that expose them to a serious and specific risk; e) fulfill the obligations of information, training and coaching pursuant to paragraph G.4.3.2 below; f) communicate to INAIL, in relation to the respective responsibilities, for statistical and information purposes [\(and, through it, to the national information system for prevention in the workplace - SINP\)](#), the data related to injuries in the workplace that entail an absence from work of at least one day, excluding that of the event and, for insurance purposes, the information related to injuries in the workplace that entail an absence from work of more than three days; g) call the periodic meeting pursuant to Article 35 of the Health and Safety Decree; h) update the prevention measures in relation to organizational and production changes which are significant for occupational health and safety purposes, or in relation to the degree of evolution of prevention and protection techniques; i) provide for an adequate supervisory system on observance of the procedures and safety measures by the Workers, identifying within his or her Production Unit specific figures responsible for this;

I) adopting disciplinary measures in compliance with contract and law provisions towards those Employees who do not respect prevention measures and safety procedures thus causing a real or potential hazard to themselves or others.

The Employer may assign these duties and all others entrusted to him under the Health and Safety Decree provided that the proxy is made public promptly and in the appropriate manner, within the following terms and conditions:

- the proxy must be recorded in writing and clearly dated;
- the proxy holder must satisfy all the requirements of professionalism and experience needed in view of the specific nature of the transferred functions;
- the proxy holder is assigned all the powers of organization, management and control required by the specific nature of the transferred functions;
- the proxy holder is granted autonomous spending power necessary for the performance of the transferred functions;
- the proxy must be accepted by the proxy holder in writing.

Following an agreement with the Employer, each Manager may in turn assign specific duties regarding occupational health and safety issues based on the same conditions as stated above. Such transfer of duties does not exclude the obligation of supervision for the person giving the proxy regarding the correct implementation of the duties transferred. The proxy holder cannot, in turn, transfer the duties assigned to him.

For a more detailed indication regarding the officialization of such proxies, the persons that can be assigned the proxies and the powers normally assigned, reference should be made to the organizational procedures adopted by the Company.

In order to ensure that the corporate safety model to be implemented is synergic and participative, the Employer gives the Prevention and Protection Service and the Appointed Doctor information regarding:

- a) the nature of the risks;
- b) the organization of work and the planning and implementation of preventive and protective measures;
- c) the description of the plants and production processes;
- d) the accident and occupational illness data;
- e) the measures undertaken by Vigilance Bodies.

The Employer or, in case of assigned duties, the proxy holder, must supervise, based on the provisions of the Health and Safety Decree, the fulfillment of obligations on the part of i) Officers in Charge, ii) Employees, iii) Designers, iv)



Manufacturers, v) Suppliers, vi) Installers, vii) Appointed Doctor.

### **Safety, Prevention and Protection (SPP)**

In fulfilling his obligations with regard to occupational health and safety, the Employer shall organize the Prevention and Protection Service [within the company or shall entrust persons or external services making sure that the appointed members of the ASPP and RSPP possess the professional skills and requirements stated in Article 32 of the Health and Safety Decree.](#)

The Prevention and Protection Service Manager (RSPP) is responsible for:

- identifying risk factors, assessing risks and determining the safety and soundness of the workplace in compliance with the legislation in force and on the basis of his specific knowledge of the company's organization;
- as far as he is responsible to do so, preparing preventive and protective measures as per Article 28 of the Health and Safety Decree and the control systems for these measures;
- drawing up safety procedures for the various activities performed in the company;
- proposing programs for employee information and training;
- taking part in consultations regarding occupational health and safety and organizing "periodical meetings for risk prevention and protection" as specified in Article 35 of the Health and Safety Decree;
- providing Employees with all the information regarding occupational health and safety that is necessary.

Should the RSPP Manager or the Members of the Prevention and Protection Service –ASPP- in a Production Unit find that there are criticalities in the implementation of the recovery actions established by the Employer, the Manager of the Prevention and Protection Service concerned –RSPP- must immediately inform the Vigilance Body through the Safety Function.

The Vigilance Body should also be informed if an RSPP Manager is replaced, and the reasons for this decision should be indicated through the Safety Unit.

### **Appointed Doctor**

The Appointed Doctor, among other duties:

- must collaborate with the Employer and the Prevention and Protection Service in risk assessment, also with a view to the planning, if necessary, of Health Surveillance, in preparing the ground for the implementation of measures to protect the Employees' health and their psycho-physical integrity, in training and informing Employees within the area of their competence and in organizing the first-aid service, considering the particular types of production and exposure and the particular ways in which work is organized;
- plans and carries out Health Surveillance;
- opens a health record and updates and keeps it, based on his own responsibility for each Employee subject to Health Surveillance;
- provides Employees with information regarding the importance of the health checks that they undergo and informs them of the outcome;
- at the meetings held under Article 35 of the Health and Safety Decree, provides written reports regarding the anonymous collective results of the health surveillance that has been carried out and explains the meaning of these results in the light of the implementation of measures to protect the Employees' health and psycho-physical integrity;
- visits workplaces at least once a year or with other time intervals determined on the basis of the risk assessment;
- takes part in scheduling the checking of Employees' exposure, the results of which are given to him promptly for the purposes of risk assessment and Health Surveillance.

### **Employees' Health and Safety Representative (RLS)**

This is the person appointed or designated, in compliance with the provisions of labor agreements regarding the matter, to

represent the Employees as far as aspects of occupational health and safety are concerned.

The Employer or a delegate of the Employer gives him the established special training in health and safety.

Among other duties, the Employees' Health and Safety Representative (RLS):

- enters and visits the workplaces;
- is consulted beforehand and promptly with regard to risk assessment and the identification, planning, execution and check of preventive measures;
- is consulted on the appointment of the Manager (RSPP) and Members of the Prevention and Protection Service (ASPP), of the persons in charge of the implementation of emergency and first aid measures and of the Appointed Doctor;
- is consulted on the organization of training activities;
- fosters the identification, preparation and implementation of prevention measures helpful in protecting the Employees' health and psycho-physical integrity;
- attends the periodical health and safety meeting and risk prevention and protection meeting as established in Article 35 of the Health and Safety Decree;
- receives company information [and documentation](#) on the assessment of risks and the consequent prevention measures and, if he so requests and to assist him in fulfilling his functions, a copy of the Risk Assessment Document and the Consolidated Document for Assessment of Interference Risks (DUVRI).

The Health and Safety Representative - RSL - must be provided with the time required to undertake the role, without loss of earnings, as well as the means necessary to carry out the tasks and powers conferred. He/she may not be discriminated as a result of the performance of his/her activities and will benefit from the same safeguards as those legally applicable to trade union representatives.

## **Client**

The Client (and therefore, for example, TERNA PLUS' production Unit Managers, etc., that take on this role by virtue of the award of a contract), among other things, must act as follows:

- during the design phase of the work and in particular when technical, architectural and organizational decisions are made, and the time schedule of works is drawn up, fulfill the general protection principles referred to in Article 15 of the Health and Safety Decree (general measures for the protection of employees' health and safety);
- during the design phase, evaluate the Safety and Coordination Plan and the Works Dossier;
- before assigning the works and, when necessary, he/she appoints a Project Coordinator having verified possession of the requirements indicated in Article 98 of the Health and Safety Decree. Such appointment will be made official through a written notice;
- verifies that the Project Coordinator has fulfilled all obligations;
- before assigning the works and when necessary, appoints a Works Coordinator. Such appointment will be made official through a written notice;
- informs contractors, executing companies and freelancers about the name of the Project Coordinator and of the Works Coordinator.
- verify that the executing firms, contractors and freelancers are technically and professionally suitable for the work to be awarded, also by means of their chamber of commerce registration and of their tax compliance certificate in addition to a self-certification stating possession of the requirements indicated in attachment XVII of the Health and Safety Decree.

The Client is relieved from the responsibilities linked to the fulfillment of his obligations insofar as these are covered by the appointment of the Works Manager (provided that a capable and competent person is appointed).

In any case, the appointment of the Project Coordinator and of the Works Coordinator does not relieve the Client (or the Works Manager) from responsibilities linked to verifying the

fulfillment of obligations under article 91, paragraph 1, 92, paragraph 1 points a), b), c), d) and e) of the Health and Safety Decree.

### **Works Manager**

It is the person who can receive the assignment from the Client/Employer to carry out the duties he was assigned on the basis of Italian Legislative Decree no. 81/2008 and subsequent changes and integrations thereto. within TERNA; duties entrusted to the Works Manager should be divided in: duties for works in the planning phase; duties for works in the assignment phase; duties for works in the execution phase.

### **Project Coordinator**

The Project Coordinator, must possess the professional requirements established by the Health and Safety Decree and must carry out the following, among other things:

- during the designing phase of the works and in any event before the call to submit bids, draws up the Safety and Coordination Plan;
- prepares the Works Dossier containing useful information regarding the prevention and protection of risks to which Employees are exposed.

### **Works Coordinator**

Among other things, the Works Coordinator:

- by means of appropriate coordination and control action, verifies the executing firms and freelancers' application of the procedures that concern them included in the Safety and Coordination Plan, if any, and the correct application of the relative work procedures;
- verifies that the Operational Safety Plan is appropriate, ensuring that it is consistent and additional to the Safety Coordination Plan; modifies the Safety and Coordination Plan and the Works Dossier according to the progress of the works and any variations that have taken place, considering the suggestions that the executing firms

make to improve safety on Site; and verifies that the executing firms adjust their own Operational Safety Plans accordingly, if necessary;

- through the Employers, including freelancers, shall organize cooperation and coordination of the activities and the exchange of information among these parties;
- verifies the implementation of the provisions of the agreements between employers and labor in order to achieve coordination among Prevention and Protection Service Managers (RLS) that is necessary in order to improve safety on Site;
- reports to the Client and to the Works Manager, if appointed, following written notice to the companies and freelancers involved, any non-fulfillment of the obligations for freelancers, employers of executing companies and relative Managers as per Articles 94, 95, 96 and 97, paragraph 1 of the Health and Safety Decree, as well as the provisions of the Safety and Coordination Plan , if any,; the Works Coordinator also proposes the suspension of building activity removing from building sites the executing companies or freelancers and terminating del contracts and informing the VB through the Safety Manager. In the event the Client or the Works Manager do not undertake measures, the Works Coordinator informs about such non-compliance the Local Health Unit and the competent Labor office;
- in the event of serious and immediate danger that he ascertains directly, suspends individual work processes until he has verified that the necessary action has been taken by the companies involved;
- reports to the Prevention and Protection Service Manager (RSPP) responsible for the area if there are any criticalities in the implementation of the recovery actions established by the Client. The Safety Unit notifies such criticalities to the VB.

## **Employees**

All employees must take care of their own health and safety and that of the other persons in the workplace that may be affected by their actions or omissions, according to the training, instruction and equipment provided.

Specifically, Employees must:

- comply with the arrangements and the instructions given by the Employer, Managers and Officers in charge with regard to collective and individual protection;
- make correct use of machinery, equipment, machine tools, hazardous substances and preparations, means of transport and other work equipment and safety equipment;
- make proper use of the protection equipment provided for them;
- immediately report to their Employer, Manager or Officer in Charge regarding malfunctions in the means and equipment specified in previous sections and regarding any other dangerous situation that may come to their notice, taking steps directly, in urgent cases and within the context of their responsibilities and capabilities, to eliminate or mitigate these malfunctions or dangers, as well as notifying the Employees' Health and Safety Representative (RLS);
- not remove or make changes to safety, warning or control equipment without authority to do so;
- not carry out operations or action on their own initiative for which they are not competent, or that may jeopardize their own safety or that of other employees;
- attend training or instruction courses arranged by their Employer;
- undergo the established medical examinations;
- together with the Employer, Managers and Officers in charge, contribute to the fulfillment of all the obligations issued by the competent authorities or in any way necessary to protect Employees' health and safety while work is carried out.

Employees in firms that perform activities for TERNAL PLUS as contractors or sub-contractors must be provided with and show a specific identification badge.

### **Designers, Manufacturers, Suppliers and Installers**

Designers of premises, workplaces and plants shall comply with the general prevention principles with regard to occupational health and safety when they make their design and technical decisions and must also use machinery and protection equipment that meet the essential safety requirements provided by current laws and regulations.

Manufacturers and Suppliers must sell, hire out and allow the use of equipment, plants and personal protection equipment that meet current occupational health and safety laws and regulations and product approval regulations.

Installers and those assembling plants, work equipment or other technical means shall, within the context of their responsibilities, be in compliance with occupational health and safety laws and with the instructions given by the manufacturers involved.

## **G.4.4.2 Information, training, education**

### **Information**

The information that TERNAL PLUS addresses to Company Representatives must be easily understandable and must allow these persons to acquire the necessary knowledge of:

- a) the consequences of not carrying out their activities in compliance with the health and safety system adopted by TERNAL PLUS;
- b) the role of each of these persons, and their responsibility for acting in compliance with the corporate policy, the procedures set out in paragraphs G.4.1 and G.3 and all other requirements linked to the health and safety system adopted by TERNAL PLUS and the principles set out in this Special Section as applicable to them.



c) Furthermore, TERNA PLUS, considering the different roles, responsibilities and capabilities of each Company Representative, and the risks to which each is exposed, provides appropriate information to the Employees regarding the following issues:

- specific corporate risks, their consequences and the prevention and protection measures adopted, in addition to the consequences that failure to comply with these measures may cause, also in compliance with Italian Legislative Decree no. 231/2001;
- first aid, fire-fighting and workplace evacuation procedures;
- Safety, Prevention and Protection Service: the names of the Safety, Prevention and Protection Manager (RSPP), the Members (ASPP) and the Appointed Doctor.

Employees' Health and Safety Representatives (RLS) are consulted promptly and timely regarding safety activity which requires the update of the Risk Assessment Document (DVR).

All the information activities described above are recorded in documents, including special reports.

### **Education and training**

TERNA PLUS provides appropriate occupational safety training to all Employees according to the provisions of the Health and Safety Decree that are easily understandable and allow Employees to acquire the necessary knowledge and skills.

To this purpose, it should be pointed out that:

- the Prevention and Protection Service Manager (RSPP), along with the Appointed Doctor and the Employees' Health and Safety Representative (RLS), [draws up the training plan;](#)

- additional activities in the plan must be carried out when technological innovations, new equipment or the necessity of introducing new work procedures arise
- ;
- training given must provide for questionnaires to assess the learning outcome;
- training must be appropriate to the risks linked to the duties actually assigned to each Employee;
- each Employee must undergo all the training activities that are legally mandatory, such as:
  - the use of work equipment;
  - the use of personal protection equipment;
  - the manual handling of loads;
  - the use of computer terminals;
 and all other subjects that are considered necessary at any time for the company to attain its occupational health and safety objectives.
- Employees that change duties and those transferred must be given special prior and/or additional training if necessary for their new position;
- those in charge of specific duties in emergencies (e.g. fire prevention, evacuation and first aid) must be provided with specific training;
- each Manager and each Officer in Charge receives from the Employer appropriate and specific training and a periodic update relating to their duties regarding occupational health and safety. The contents of such training activity are as follows:
  - a) main persons involved and relative obligations;
  - b) defining and identifying risk factors;
  - c) risk assessment;
  - d) Identifying technical, organizational and procedural measures for prevention and protection.

- periodical emergency drills must be carried out and these must be recorded (e.g. through a report of the drill after it has taken place stating the method with which it was carried out and the outcome);
- newly hired staff that have no previous professional/occupational experience or are not sufficiently qualified, may not be asked to carry out activities autonomously, if these activities are considered as involving a greater risk of accident, but only after they have acquired a level of professionalism that enables them to do so after appropriate training given for not less than three months after their engagement; longer periods may be necessary for the acquisition of special qualifications.

All the above training activities must be recorded in documents, also including reports, and they must be repeated periodically when necessary.

#### **G.4.4.3 Communication, information flow and collaboration**

TERNA PLUS makes arrangements to ensure that information is appropriately circulated and shared among all Employees in order to enhance the effectiveness of the organizational system adopted to manage safety, and therefore also of the system for the prevention of occupational accidents.

TERNA PLUS adopts an internal communication system that includes two different types of information flow:

##### a) bottom-up

TERNA PLUS ensures a bottom-up information flow by providing all Employees with the option of submitting observations, suggestions and improvement requirements to their line managers in connection with the management of safety in the workplace;

##### b) top-down

The purpose of top-down information flow is to spread knowledge of the system TERN PLUS adopts for the management of occupational safety among all its Employees.

In this regard, TERN PLUS provides its Company Representatives with adequate and constant information on:

- new risks to Employees' health and safety;
- changes to the organizational structure adopted by TERN PLUS to manage its Employees' health and safety;
- the contents of the corporate procedures adopted for the management of Employees' health and safety;
- all other aspects connected with Employees' health and safety.

#### **G.4.4.4 Documentation**

In order to contribute to the implementation and constant monitoring of the system adopted to protect occupational health and safety, TERN PLUS ensures that the following documents are properly kept and updated:

- the health record, which is opened, kept up to date and stored by the Appointed Doctor;
- the accident register, one for each Province;
- the register of exposed Employees, to be kept in the event of exposure to carcinogenic agents or mutagenic substances;
- the Risk Assessment Document (DVR), specifying the methodology adopted in assessing risks and the contents of the plan for maintaining and improving measures;
- contract documentation: the Safety and Coordination Plan; the Works Folder; coordination reports concerning the verification of the executing companies' application of the provisions of the Safety and Coordination Plans; Operational Safety Plans.

TERN PLUS is also called upon to ensure:

- that the Manager and Members of the Prevention and Protection Service (RSPP and ASPP), the Appointed Doctor, those in charge of implementing emergency and first aid measures are formally appointed;
- that visits to the workplaces made by the Appointed Doctor and possibly by the Prevention and Protection Service Manager (RSPP) are recorded in documents;
- that documents regarding laws, regulations and accident prevention rules pertinent to the company's activities are kept;
- that documents regarding corporate regulations and agreements are kept;
- that handbooks and instructions for the use of machinery, equipment and personal protection equipment supplied by the manufacturers are kept;
- that all procedures adopted by TERNA PLUS for the management of occupational health and safety are kept;
- that all the documents concerning the activities referred to in paragraph G.4.4.2 (Information, training and education) are kept by the Prevention and Protection Service Manager (RSPP) and made available to the Vigilance Body.

TERNA PLUS carries out constant monitoring of the corporate procedures of which examples are given in paragraph G.3 above, ensuring that they are modified and reviewed particularly when an accident or an emergency has taken place, taking into account, among other points, reports from Employees when the information flow described in paragraph G.4.4.3 is activated.

#### **G.4.4.5 Monitoring and review**

##### **Monitoring**

TERNA PLUS by means of the activity of the Parent Company, by virtue of the applicable agreements, has a monitoring plan

for the system adopted for the management of occupational health and safety in order to ensure its efficiency.

For this purpose, TERNA PLUS:

- ensures that the preventive and protective measures adopted for the occupational health and safety management system are constantly monitored;
- ensures that there is constant monitoring of the adequacy and functionality of the occupational health and safety management system in attaining the objectives set and its correct application;
- carries out a detailed analysis of every work accident that takes place in order to find whether there any shortcomings in the occupational health and safety management system and establish any corrective action that needs to be taken.

If monitoring regards aspects that require specific expertise, TERNA PLUS arranges for it to be carried out by external resources.

TERNA PLUS ensures that any corrective action is promptly implemented in compliance with the specific procedure that TERNA PLUS adopted.

## **Review**

At the end of the monitoring activity, TERNA PLUS' occupational health and safety management system is reviewed at least once a year by the Parent Company, approved by the Management System Department, in order to verify that it is properly implemented and that it ensures the attainment of the objectives that have been set.

Reviews of the system may be determined, as examples and not limited to this, by:

- results of internal and external verification;
- the status of the corrective and preventive action undertaken;

- the action to take as a result of previous reviews;
  - changes in external situations including advances in legal requirements and other requirements with regard to the environment, occupational safety and health protection;
  - important circumstances emerging during the periodical meetings held in compliance with Article 35 of the Health and Safety Decree.
- The outcome of the review activity, with a view to the constant improvement of the occupational health and safety system adopted by TERNAL PLUS, may give rise to variations in:
- policies and objective planning as referred to in paragraphs G.4.1 and G.4.3 above;
  - the organizational structure adopted by TERNAL PLUS with regard to health and safety;
  - any other important element in the occupational health and safety management system.
- The work done during the review and its outcome must be recorded in the form of a document.

#### **G.4.5 Tender contracts**

The following principles must be applied to works, services and supply contracts.

The Employer, in the event works, services and supplies are granted to a contracting company or to freelancers within its organization or Production Unit, pursuant to company procedures, and if he possesses the legal availability of the places in which the contract is executed or the freelance job, must:

- with the support of the Issuing Offices concerned, verify that contracting firms or freelancers are technically and professionally suitable to the works be contracted out to them;
- Provide contractors with detailed information regarding the specific risks existing in the environment in which they are to work and regarding the prevention and emergency measures adopted with regard to their particular activities;
- cooperate in the implementation of the measures to prevent and protect from work-related risks that affect the work to be done under the contract;
- coordinate the risks to which Employees are exposed and to protect them from these risks by means of a constant exchange of information with the Employers of the contracting firms, also in order to eliminate the risks arising from interference between the work done by individual firms involved in completing the work as a whole.

The Employer/Client promotes the cooperation and coordination mentioned above by preparing an Interference Risk Assessment Document (DUVRI) that sets out the measures adopted to remove interference, or, if this is not possible, to reduce it to a minimum. This document must be annexed to the works or services contract during the award process. It may, if necessary, be updated with the progress of works, services and supplies. The obligation of drafting said



document does not apply in the event of contracts regarding intellectual services, simple supplies of materials or equipment or for works or services whose duration does not exceed two days, if they do not involve risks linked to the presence of carcinogenic or biological elements, explosives or particular risks as listed in attachment XI of the Health and Safety Decree.

In supply contracts (Article 1559 of the Italian Civil Code), works contracts (Article 1655 of the Italian Civil Code) and sub-contracts (Article 1656 of the Italian Civil Code), indication must be given of the costs of the measures adopted to eliminate or, if this is not possible, reduce to the minimum the risks of occupational health and safety linked to interference in work processes. These costs cannot be reduced. At their request, the Employees' Health and Safety Representative (RLS) and the trade unions may consult these data if they ask to do so.

For contracts subject to the provisions of the Procurement Code, TERNA PLUS fulfills the following requirements, among others:

- in compliance with the provisions of Article 38 (*General Requirements*) of the Procurement Code and consistently with the provisions in TERNA PLUS' procurement procedures, the company does not enter into negotiations with economic operators that have committed serious and duly ascertained infringements of safety legislation and all other obligations arising from working relationships, as emerging from the data held by the Observatory;
- in preparing for tenders and evaluating anomalies in bids in the procedures for the award of public works, services and supply contracts, TERNA PLUS must verify that the amount is adequate to and sufficient for the cost of the work and the cost of safety, which must be specifically stated and must be realistic with respect to the extent and characteristics of the works, services or supplies.

## **G.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's duties in relation to compliance with the Model regarding Crimes under Article 25 - *septies* of the Decree are the following:

- carry out periodical checks on compliance with this Special Section and regularly monitoring their effectiveness in preventing the commissioning of Crimes under Article 25 - *septies* of the Decree. In this regard, the Vigilance Body, which may also be aided by the collaboration of technical consultants competent in such matters, will periodically analyze the operation of the prevention system adopted in this Special Section, and should significant violations of provisions on occupational health and safety be discovered, or changes in the organization and activities following scientific and technological advances, will propose improvements or changes to the competent TERNA PLUS' officers;
- propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- examining any reports of alleged violations of the Model and carrying out any investigation deemed necessary or appropriate on the basis of the information received.

TERNA PLUS guarantees establishing procedural information flows between the VB and the directors of the competent Departments, or other Company Representatives as necessary, each time the VB deems it appropriate.

The information to the VB shall be given timely should violations to specific procedural rules be detected as indicated

in Chapter G.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all company's relevant sites for carrying out its duties.

Finally, with specific reference to the management of health and safety for Employees operating in other countries, the Environmental Safety and Security Unit of the Parent Company:

- shall, on a six-monthly basis, send the Communications regarding "International Business Trips" in the relevant period to the email address of the Technical Secretariat (which shall promptly inform the competent VB);
- shall, on a yearly basis and to the same email address, submit the summary of international business trips.



**SPECIAL SECTION "H"**

**COMPUTER CRIMES AND ILLEGAL DATA PROCESSING  
CRIMES RELATED TO THE INFRINGEMENT OF COPYRIGHT**

CEO Approval Luigi Michi
04 December 2017

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## DEFINITIONS

With the exception of the new definitions included in this Special Section "H", the definitions of the General Section remain valid.

**Machine Administrator (AdM):** assignee of a Computer Workstation with Local Administration Permissions.

**Database Administrators, Network and Security Administrators and Program Administrators:** such persons not system administrators but have advanced access permissions in relation to the activities carried out. Such persons are therefore equal to Machine Administrators in terms of data protection risks.

**Application Owner:** a company figure with extensive decision-making responsibilities on an application, usually the Process Owner or his/her delegate.

**System Administrator (AdS):** a professional person responsible for the technical management and maintenance of a processing system and its components. In the capacity of Machine Administrators of all Workstations, the System Administrator may come into contact with personal and/or confidential information.

The System Administrator has advanced access permissions to computer resources as he/she must be able to ensure continuous service and be able to carry out administrative or systems operator activities (e.g. administrators of networks, operating systems, databases, applications, access permissions, etc.) necessary for the management of an infrastructure supported by an application or service (system profile) or the management of the application (application profile). The professional figures to whom these administrative rights are granted are formally charged by the company in writing and are also reported to the internal Information Security Team.

**Credentials:** the identifying data of a user or an account (generally the UserID and Password).

**Computer Data:** any representation of facts, information or concepts in a form suitable for processing in a computer system,

including a program suitable for causing a computer system to perform a function.

**Crimes related to the Infringement of Copyright:** the crimes pursuant to Article 25-*nonies* of the Decree.

**Computer Crimes:** the crimes pursuant to Article 24-*bis* of the Decree.

**Electronic Document(s):** the electronic representation of acts, facts or legally relevant data.

**Electronic Signature:** the whole of the electronic data attached or connected by logical association to other electronic data, utilized as a method for digital authentication.

**Copyright Law:** Law No. 633 dated April 22, 1941 on Copyright.

**Password:** a sequence of alphanumeric or special characters necessary to authenticate to a computer system or application.

**Peer to Peer:** a mechanism for sharing digital content over a network of personal computers, normally used to share files containing audio, video, data and software.

**Security Plan:** a document which defines a set of coordinated activities to be undertaken to implement the security policy of the system.

**Workstation:** a computer terminal that can be fixed or mobile and that is capable of handling business information.

**Information Security:** the set of organizational, operational and technological measures aimed at protecting the information processing carried out through electronic means.

**Information Systems:** the network and the set of corporate systems, databases and applications.

**Spamming:** the act of sending numerous unsolicited messages, usually implemented using electronic mail.

**Virus:** a program created for the purpose of sabotage or vandalism, which may degrade the performance of computer resources, destroy stored data as well as spread via removable media or communication networks.



## **H.1 COMPUTER CRIMES AND ILLEGAL DATA PROCESSING (Article 24-*bis* of the Decree) AND INFRINGEMENT OF COPYRIGHT (Article 25-*nonies* of the Decree)**

Below is a brief description of the crimes that are contained in this Special Section “H”, pursuant to Article 24-*bis* and Article 25-*nonies* of the Decree. In this regard, it should be noted that although the two types of crimes protect different legal interests, it was decided to prepare a single Special Section for the following reasons:

- both cases require the proper use of computer resources;
- because of this, at-risk areas partly overlap;
- in both cases, the procedural rules are intended to raise the awareness of the Recipients about the multiple consequences of improper use of computer resources

### **H.1.1 TYPES OF COMPUTER CRIMES AND ILLEGAL DATA PROCESSING (Article 24-*bis* of the Decree)**

- ***Electronic Document Forgery (Article 491-*bis* of the Italian Criminal Code)***

The rule provides that all crimes relating to the falsification of documents as provided for by the Italian Criminal Code (see Chapter III, Title VII, Book II), including ideological and material misrepresentation, both in official and private documents, are punishable even if such conduct does not involve a paper document but an official or private Electronic Document of evidential value (as an electronic representation of acts, facts or legally relevant data).

In particular, it should be noted that “material falsehood” occurs when a document is created or signed by a person other than the intended sender or signer, with some differences between the alleged author and the real author of the document (forgery) that is when the document is counterfeited (thus altered) through additions or deletions to the original document.

Ideological falsehood occurs, contrarily, when the document is not truthful, i.e. when it is not counterfeited or altered but contains untrue statements.

In the case of ideological falsehood, thus, it is the author of the

document who states untruthful facts.

Therefore, Electronic Documents are granted the same legal value as traditional paper documents to all intents and purposes.

By way of example, the crime of Electronic Document Forgery is committed when a person falsifies business records that are part of an electronic information flow or when a person alters information that is stored on his/her system and that has evidential value for the purpose of eliminating data that are deemed "sensitive" in view of a possible inspection.

- ***Unauthorized access to an information or telecommunication system (Article 615-ter of the Italian Criminal Code)***

This crime is committed when a person gains unauthorized access to an information or telecommunication system protected by security measures.

In this regard, it should be noted that legislators intended to punish the unauthorized access to an information or telecommunication system tout court, and thus even when, for example, such access does not cause proper data corruption: for example, a situation where a person, who has gained illegal access to a computer system, prints the contents of a document that was stored in the database of someone else's personal computer, while not removing any files, but merely copying information (unauthorized copy access), or simply displaying and reading information (unauthorized read-only access).

This type of crime is also committed when a person, while having gained authorized access to the system, remains in it against the will of its owner, and, according to prevailing case law, when the person has used the system to pursue a purpose other than the authorized one.

The crime could therefore theoretically occur in a situation where a person gains illegal access to a computer system owned by a third party (outsider hacking) to acquire someone else's confidential business information, or where a person gains illegal

access to corporate information to which he would not have legitimate access in view of the completion of further activities in the interest of the company.

- ***Unauthorized possession and distribution of computer or telecommunication systems' access codes (Article 615-quater of the Italian Criminal Code)***

This crime is committed when, in order to obtain a profit for himself/herself or for another or to cause damage to others, a person illegally gets hold of, reproduces, propagates, transmits or delivers codes, passwords or other means for the access to an information or telecommunication system protected by security measures, or otherwise provides information or instructions for the above purpose.

Article 615-*quater* of the Italian Criminal Code, therefore, punishes the acts committed by a person in connection with the illegal access in so far as they are aimed at getting hold for himself/herself or for another person of the means to circumvent the protective barriers of an information system.

The devices which can allow unauthorized access to an information system comprise, for example, codes, passwords or other means (such as badges or smart cards).

This type of crime is committed whether the person, who is in lawful possession of the above mentioned devices (for example a system operator), transmits them to a third party without authorization, or whether the person gets hold of one of these devices unlawfully.

Moreover, Article 615-*quater* of the Italian Criminal Code punishes whoever provides instructions or directions that are suitable for recreating the access code or circumventing the security measures of a system.

An employee of a company (A) may be guilty of this crime if he/she transmits to a third party (B) the Password to access the electronic mailbox of a coworker (C) with the purpose of allowing B to check on the activities carried out by C when this may result in a specific benefit or interest to the company.

- ***Distribution of electronic equipment, devices or computer programs aimed at damaging or interrupting a computer or telecommunication system's operation (Article 615-quinquies of the Italian Criminal Code)***

The crime is committed when a person, in order to illegally damage an information or telecommunication system and the information, data or programs contained therein, and cause the partial or total interruption or alteration of the system's operation, gets hold of, transmits, produces, reproduces, imports, disseminates, communicates, delivers or otherwise provides any third party with computer equipment, devices or programs.

This crime is committed, for example, when an employee, in order to destroy documents that are deemed "sensitive" with regard to ongoing criminal proceedings against the company, gets hold of a Virus suitable for damaging or interrupting the operation of that company's computer system.

- ***Wiretapping, blocking or illegally interrupting computer or information technology communications (Article 617-*quater* of the Italian Criminal Code)***

This crime is committed when a person fraudulently intercepts the transmissions of a computer or telecommunication system or between multiple systems, or prevents or interrupts such transmissions and when a person publicly discloses the partial or total contents of communications through any information means.

Interception techniques make it possible, during the transmission of data, to acquire the contents of communications between information systems or change their destination: the purpose of the illegal act is typically to violate the confidentiality of messages, compromise their integrity, delay them or prevent them from reaching their destination.

This crime is committed when, for example, in order to obtain an advantage for a company, an employee prevents specific communications from taking place through an information system so that a competing company is unable to transmit data relative to and/or an offer in a bid.

- ***Installation of devices aimed at intercepting, blocking or interrupting computer or information technologies communications (Article 617-quinquies of the Italian Criminal Code)***

This type of crime is committed when a person, except for the cases permitted by law, installs devices suitable for wiretapping, preventing or interrupting the transmissions of an information or telecommunication system, or between multiple systems.

The conduct prohibited by Article 617-quinquies of the Italian Criminal Code is therefore the mere act of installing this type of devices, regardless of whether or not they are used, provided they have the potential to cause damage.

The crime is committed, for example, to the advantage of the company, when an employee makes a fraudulent access to the office of a potentially competing commercial counterpart for the purpose of installing devices suitable for wiretapping the transmissions of computer and information technologies systems that are relevant to a future business negotiation.

- ***Damaging computer information, data and programs (Article 635-bis of the Italian Criminal Code)***

This crime is committed when a person destroys, deteriorates, deletes, alters or suppresses information, data or computer programs of others.

The damaging may be committed to the advantage of the company where, for example, the deletion or alteration of a file or a newly purchased computer program may be carried out to eliminate the proof of debt by a supplier of a company or to challenge the proper performance of obligations by the same supplier or in the event that "incriminating" corporate data is damaged.

- ***Damaging electronic information, data and programs used by the Government or any other public organization or public service (Article 635-ter of the Italian Criminal Code)***

This crime occurs when a person commits an act intended to destroy, deteriorate, cancel, delete, alter, or suppress computer information, data or programs used by the Government or any other public organization, or pertaining to them, or otherwise of public service.

This crime differs from the previous one since in this case the damage is perpetrated against the property of the Government or other public organization or public service; it follows that the crime occurs even when data, information or programs are privately owned but are intended to satisfy the public interest. This crime could be committed in the interest of a company, when, for example, an employee destroys electronic documents of evidential value regarding ongoing criminal proceedings against that same company that are filed with public authorities (such as the police).

- ***Damaging computer or telecommunication systems (Article 635-quater of the Italian Criminal Code)***

This crime occurs when a person, by committing the crimes pursuant to Article 635-*bis* of the Italian Criminal Code, or by introducing or transmitting data, information or programs, destroys, damages, renders useless, totally or partially, computer or telecommunication systems of others or severely hinders their normal operation.

Therefore, the crime of damaging computer systems and not the crime of damaging data pursuant to Article 635-*bis* of the Italian Criminal Code is committed when the alteration of data,

information or programs renders useless or severely hinders the normal operation of a system.

- ***Damaging computer or telecommunication systems of public service (Article 635-quinquies of the Italian Criminal Code)***

This crime is committed when the conduct pursuant to the above mentioned art 635-quater of the Italian Criminal Code is intended to destroy, damage, render useless, totally or partially, computer or telecommunication systems of public service or to severely hinder their operation.

With regard to the crime of damaging computer or telecommunication systems of public service, unlike the crime of damaging data, information and programs of public service pursuant to Article 635-ter of the Italian Criminal Code, the relevant circumstances are that firstly the whole system is damaged and secondly that the system is for public service, regardless of whether the system is privately or publicly owned.

- ***Computer crime by the certifier of a digital signature (Article 640-quinquies of the Italian Criminal Code)***

This crime is committed when a person providing Digital Signature certifying services, in order to obtain for himself/herself or others an undue profit or to cause damage to others, infringes the obligations provided by law relating to the issuance of qualified certificates.

This crime is therefore a so-called proper crime because it can only be committed by a person who can issue qualified certificates, or rather, by certifiers of qualified Digital Signatures.

\*\*\*\*\*

It should be noted, however, that the occurrence of any of the above mentioned computer crimes is relevant, for the purposes of the Decree, only in the event that the conduct, regardless of the nature of the data, information, programs, computer or telecommunication systems -whether they are corporate or not- is to the advantage of TERNA PLUS.

Therefore, in the description of the single crimes, as well as in the following description of the Crimes relating to the Infringement of Copyright, such relevant aspect was taken into account for the preparation of the proposed case studies.

With reference to the commission of Computer Crimes, a pecuniary sanction ranging between 100 and 500 shares (considering that the value of each share is determined on the basis of the financial and property situation of the Corporation, between a minimum of € 258 and a maximum of € 1549 and that they can range between a minimum of approximately € 26,000 and a maximum of € 800,000) and a disqualifying measure may be imposed on the Corporation depending on the type of crime committed.

#### **H.1.2 TYPES OF COMPUTER CRIMES AND INFRINGEMENT OF COPYRIGHT (Article 25-*nonies* of the Decree)**

Article 25-*nonies* provides for a number of crimes pursuant to the Copyright Law (and, in particular, to Articles 171, 171-*bis*, 171-*ter*, 171-*septies* and 171-*octies*) such as, for example, the import, distribution, sale or possession for commercial or business purposes of programs contained on a medium not bearing the SIAE stamp; the reproduction or reuse of database contents; the illegal duplication, reproduction, transmission or public dissemination of intellectual works for television or cinema; the introduction of an intellectual work protected, in part or totally, by copyright, into a telecommunication network system through any type of connection.

A preliminary analysis showed the immediate inapplicability to TERNA PLUS and to the other Group Companies of cases under



articles 171-*ter*, 171-*septies* and 171-*octies* of the Copyright Law.

The following is therefore a brief description of the two types of crimes under art 25-*nonies* of the Decree that are considered *prima facie* relevant to the Company, provided for by articles 171 paragraph 1, subparagraph a *bis* and paragraph 3, and Article 171-*bis* of the Copyright Law.

- **Crimes connected to copyright protection and other rights connected to its exercise (Article 171 paragraph 1, subparagraph a *bis* and paragraph 3 of the Copyright Law)**

In relation to the crimes pursuant to Article 171, the Decree exclusively takes into consideration two instances, namely:

(i) the act of making available to the public, by introducing into a telecommunication network system, through connections of all kinds, an intellectual work that is partially or totally protected; (ii) the act of making available to the public, by introducing into a telecommunication network system and through connections of all kinds, an intellectual work not intended to be used for advertisement, or through the usurpation of authorship, or the distortion, mutilation, or other modification of the work itself that would be prejudicial to the honor or reputation of the author.

In the first case, it is the author's financial interest in the work that is protected; the author's earning expectation would in fact be compromised in the event that his/her work is freely distributed over the network; and, in the second case, the protected legal right is clearly not the author's earning expectation but his/her honor and reputation.

Such a crime could be committed in TERNA PLUS' interest or in the interest of another Group company if, for example, the content of a work protected by copyright is loaded into TERNA PLUS' website or into the website of another Group Company.

- **Copyright protection and other rights connected to its exercise (Article 171 *bis* of the Copyright Law)**

Said provision is designed to protect the proper use of software and databases.

With regard to software, a crime is committed in the case of unlawful duplication or import, distribution, sale and possession for commercial or business purposes and rental of "pirated" programs.

This crime is committed when, in order to obtain a profit, a person unlawfully duplicates computer programs, or for the same purpose, imports, distributes, sells or holds for commercial or business purposes or rents programs contained on media not bearing the SIAE stamp.

The act is punished even when the conduct relates to any means where the sole intended purpose is to enable or facilitate the unauthorized removal or circumvention of any technical device which may have been applied to protect a computer program.

The second paragraph punishes anyone who, in order to obtain a profit, reproduces on media not bearing the SIAE stamp, transfers onto another medium, distributes, communicates, presents or shows to the public the contents of a database or extracts or reuses a database or distributes, sells or rents a database.

At the subjective level, the crime is committed even when there is a will to achieve a benefit, therefore also when there are acts that are not prompted by the specific purpose of obtaining a purely economic gain (such as the assumption of obtaining an advantage).

Such crime could be committed in the interest of the company when, for example, in order to save the cost associated with licensing for the use of an original software, non-original programs are used for business purposes.

\*\*\*\*\*

With reference to the commission of the Crime of Copyright Infringement, a pecuniary sanction of up to 500 shares (therefore up to approximately €800,000) and a disqualifying penalty may be imposed on the Corporation, such as the

prohibition of exercising activities or the suspension or revocation of authorizations, licenses or permits that may be used to commit the offense, for a period not to exceed one year.

## **H.2 AT-RISK AREAS**

With regard to the crimes and criminal conduct set out above, the areas deemed more specifically at risk are:

a. With specific reference to computer crimes:

1. management of corporate Information Systems to ensure their operation and maintenance, the evolution of the technological and applicative IT platform as well as Information Security;
2. management of electronic information flow with the public administration;
3. provision of IT services and any other external resource whose contract includes the use of a computer license and/or a computer service (for example, cloud services including software as a service - SaaS) and/or requires interaction with a company computer system by departments that do not have full responsibility for IT matters;

b. With specific reference to crimes in infringement of copyright:

1. management of content on websites relative to TERNA PLUS and social media profiles, as well as the management and organization of events.

All At-Risk Areas as indicated above take on importance - as a caution - also if the activities that form their objective are carried out by the Parent Companies or by another Group Company - fully or partly - in the name of and/or on behalf of the Company, by virtue of the agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Companies shall implement the reporting activity according to the terms indicated in the General Section and in the individual Special Sections.

The Companies shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the model adopted.

TERNA PLUS' CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **H.3 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

The Objective of this Special Section is that the Recipients - to the extent to which they may be involved in operating in At-Risk Areas and considering that each of these persons has a different position and various obligations towards TERNA PLUS and the other Group Companies – should comply abide by rules of conduct that comply with those established in the document, in order to prevent and avoid the occurrence of Computer Crimes and those of Infringement of Copyright.

In particular, the function of this Special Section is to:

- a) provide a list of the general rules as well as the specific procedural rules which the Recipients must comply with for the correct application of the Model;
- b) provide the Vigilance Body, as well as the directors of company departments called to cooperate with the Body, the operational principles and tools for carrying out the necessary checks, monitoring and verifications entrusted to them.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity - will generally be expected to be familiar with, and comply with, all the procedural rules adopted by the Parent Company and transposed by the Company as well as any procedures provided for by TERNA PLUS contained, for example, in the following documents:

- 1. the Code of Ethics;
- 2. the company organization chart and patterns;
- 3. Guideline LG018 on the Information Security Policy - Strategic Policies and their relative applications:
  - IS Glossary (R00LG018)
  - Acceptable use of computer resources (R01LG018)
  - Launch of the Information Security Framework (R02LG018)
  - Creation and maintenance of the Security Posture of the Information Security Framework (R03LG018)
  - Logical access control of computer resources (R04LG018)

- Network and communications security (R05LG018)
- Physical and environmental security of computer systems (R06LG018)
- The security of information in the employees' life-cycle and in relations with third parties (R07LG018)
- Security of IT assets (R08LG018)
- Security Incident Management (R09LG018)
- 4. Operational instructions regarding the methods of Cataloging Types of Information (IO510SA);
- 5. Definition of Information Security Assessment activities (IO515SA);
- 6. Internal memorandum that maps the roles and company representatives assigned Responsibilities and duties in the Group for Information Security (NI067SA);
- 7. Regulation on the roles, responsibilities and principles of the Chief Risk Officer of the TERNAL Group (LG044);
- 8. Guideline that regulates the methods and authorization procedure to be followed for the provision of IT services (LG027);
- 9. Operational instructions that describe the methods of purchasing professional IT services through the use of the Framework Agreements and Closed Contracts, aimed at developing software applications, progressive maintenance and performance (IO110RE);
- 10. Guideline that defines the criteria for the assignment and management of IT and company communication resources (LG015);
- 11. Operational instructions that describe the management (creation, modification, periodic review and override) of access credentials for services, applications, databases and operating systems (IO317SI);
- 12. Operational instructions regarding License Management (IO309SI);
- 13. Operational instructions on the management of

Backup and Restore procedures and removable devices (IO326SI);

14. Internal memorandum that identifies ICT Management Representatives (NI-ICT);
15. Manual on the management of Incident, Change, and Problem Solving in requests for activities and maintenance at workstations and the management of related infrastructure (IO311PM);
16. Operating instructions on "Access Control – access modes for corporate offices" (IO410SA);
17. Operating instructions that define the management obligations of System Administrators (IO513SA);
18. Operating instructions on Internet browsing and email security (IO414SA);
19. Guideline on the use of Social Media by Terna Group Personnel (LG045);
20. Guideline on the appointment of consultancy roles and duties for the provision of professional services to third parties (LG025);
21. Guideline on entrustment to the appointed economic operator (LG030).

#### **H.4 SPECIFIC PROCEDURAL RULES**



In order to ensure adequate compliance within each At-Risk Area, the following rules are laid down which must be respected by TERNA PLUS, Company Representatives and other subjects who may be authorized to access these areas, it being understood that the implementation rules are included in the corporate policy and procedures as well as in the organizational documents which are referred to, by way of example, in the previous paragraph H.3.

In particular, the following activities are prohibited:

- 1) connect to the Group's information systems, personal computers, peripherals and other equipment or install any software without prior permission of the designated company subject in charge;
- 2) install any software product in violation of the license agreements and, in general, in violation of all copyright laws and regulations;
- 3) change the software and/or hardware configuration of fixed or mobile workstations with the exception of cases provided for by a corporate rule or upon proper authorization;
- 4) purchase, hold or use software and/or hardware tools - except for duly authorized cases where such software and/or hardware is used to monitor the company's information systems for security purposes - which could be used improperly to evaluate or compromise the security of computer or telecommunication systems (systems to detect Credentials, identify vulnerabilities, decrypt encrypted files, wiretap traffic, etc.);
- 5) obtain Credentials to access company information and telecommunication systems as well as those of customers or any third party, according to methods or procedures other than those authorized for such purposes by TERNA PLUS;
- 6) disclose, sell or share one's own Credentials with TERNA PLUS' employees or external staff and with the employees of external staff of other Group Companies to access the company network and systems or those of customers or any third party;

- 7) illegally access the information system of others - that is used by other Employees or any third party - or access it to tamper with or alter any data contained therein;
- 8) tamper with, remove or destroy company information or that of customers or any third party, including archives, data and programs;
- 9) exploit any vulnerabilities or inadequacies in the security measures of company computer or telecommunication systems or those of any third party, to gain access to information and resources other than the ones which one is authorized to access, even if such intrusions do not cause damage to data, programs or systems;
- 10) acquire and/or use products that are protected by copyright in violation of contract guarantees provided for the intellectual property rights of others;
- 11) illegally access the Company's website in order to illegally tamper with or alter any data contained therein or enter multimedia data or content (images, infographics, videos, etc.) in violation of copyright laws and applicable company procedures;
- 12) share with unauthorized TERNA PLUS' employees or external staff, information regarding the controls implemented on the company information systems and how they are used;
- 13) hide, render anonymous, or substitute one's own identity and send e-mails reporting false information or intentionally send e-mails containing Viruses or other programs that can damage or wiretap data;
- 14) Spamming as well as any action in response to it;
- 15) send through a company computer system any altered or forged information or data.

TERNA PLUS, in turn, shall undertake the following tasks:

- 1) adequately inform Employees and *interns* and other individuals – such as External Contractors – who may be authorized to use the Information Systems of the importance of the following:

- ensure the confidentiality of their Credentials and not disclose the same to third parties;
  - properly use software and databases;
  - not enter data, images or other material protected by copyright without the prior permission of one's supervisors according to the instructions contained in the company policy;
- 2) provide recurrent training for Employees in compliance with their duties and, to a lesser extent, for *interns* and other individuals - such as External Contractors - who may be authorized to use the Information Systems, in order to raise their awareness of the risks posed by the improper use of corporate computer resources;
  - 3) define what is considered acceptable conduct for the proper use of software and databases in the Code of Ethics and Information Security policy;
  - 4) have Employees as well as *interns* and other individuals - such as External Contractors - who may be authorized to use the Information Systems, sign a specific document in which they commit to the proper use and protection of corporate computer resources;
  - 5) inform Employees as well as *interns* and other individuals - such as External Contractors - who may be authorized to use the Information Systems, of the need to never leave their systems unattended and to lock them using their access codes, should they leave their Workstation;
  - 6) set up their Workstations in a way that after a given period of time of inactivity, the computers will automatically lock;
  - 7) protect, as far as possible, every corporate computer system to prevent the illegal installation of hardware that can wiretap, prevent or halt communications relating to an information or telecommunication system, or between multiple systems;
  - 8) provide information systems with the appropriate anti-virus and firewall software to ensure that, where possible, they cannot be disabled;

- 9) prevent the installation and use of software that is not approved by the group and that is unrelated to the professional activities carried out for the company;
- 10) inform users of computer systems that the software they use to carry out their activities is protected by copyright and as such it is forbidden to duplicate, distribute, sell or hold it for commercial and/or business purposes;
- 11) limit access to particularly sensitive Internet sites and areas as they can distribute and disseminate Viruses that can damage or destroy information systems or data contained therein and, in any case, implement - in the presence of union agreements - devices that are responsible for detecting possible abnormal Internet access sessions, by identifying the "index anomaly" and exchanging information with the appropriate departments in the event that such anomalies are detected;
- 12) prevent the installation and use on TERNA PLUS' information systems of Peer to Peer software through which it is possible to share any type of files (such as videos, documents, songs, Viruses, etc.) on the Internet network, without any control by TERNA PLUS;
- 13) if wireless connections are used for the connection to the Internet, protect them by establishing an access key to prevent any third party outside of TERNA PLUS from illegally logging onto the Internet through its routers and carrying out any illegal activities for which the Employees may be blamed;
- 14) provide an authentication procedure through the use of Credentials matching a limited profile of the system resource management, specific for each Employee, *intern* and other persons – such as External Contractors – who may be authorized to use the Information Systems;
- 15) limit access to the company computer system from the outside, by adopting and maintaining different authentication systems or others in addition to the ones that are in place for the internal access of Employees, *interns* and other persons – such as External Contractors – who may be authorized to use Information Systems;

- 16) immediately cancel the accounts of system administrators at the end of their contract relationship;
- 17) provide, in the contract relationship with Suppliers of software services and databases developed in connection with specific business needs, indemnity clauses designed to hold TERNA PLUS free and unharmed against any liabilities in case of acts that are committed by the Suppliers themselves and that may violate any intellectual property right of a third party. Include in these contracts, the signing of specific documents that bind them to the correct use and protection of corporate information resources which they may use.

With specific reference to the At-Risk areas referred to in Chapter H.2, section 4), the Company has regulated purchasing requests of external resources whose contract includes the use of IT services (such as cloud services including "software as a service - SaaS") by departments that do not have full responsibility for IT matters. In particular, LG025 and LG030 provide for the inclusion of a "flag" that the applicant must check if the requested service provides for an interaction or incorporates an IT service with the consequent sending of an authorization request to the ICT and Company Protection Departments. This provision ensures departmental segregation and a correct authorization and purchasing procedure for external resources.

## **H.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's duties in relation to compliance with the Model regarding the crimes pursuant to Article 24 *-bis* and 25-*nonies* of the Decree are as follows:

- carry out periodic controls on compliance with this Special Section, and periodically verify the effectiveness of such controls in preventing the commission of the crimes provided for in Article 24 *bis* and 25-*nonies* of the Decree. In order to fulfill these obligations, the Vigilance Body, making use, if necessary, of the collaboration of expert advisors competent in these matters, will conduct periodic analyses of the system of prevention adopted in this Special Section and will suggest any action necessary to make improvements or changes to the competent offices of TERNA PLUS if significant violations of rules related to Cyber Crimes and/or Crimes of Infringement

of Copyright come to light, or when there are transformations in corporate organization and activities as a result of scientific and technological advances;

- propose standardized instructions, or collaborate in their preparation, with regard to the rules of conduct to respect in At-Risk Areas as defined in this Special Section. These instructions should be in writing and saved on hard copy and on computer file;
- examining any reports of alleged violations of the Model and carrying out any investigation deemed necessary or appropriate on the basis of the information received.

TERNA PLUS guarantees the implementation of data stream procedures between the VB and the directors of the relevant Departments, the 231 Representatives or other Company Representatives who may in any case be contacted by the VB whenever it deems appropriate.

The information to the VB shall be given timely should violations to specific procedural rules be detected as indicated in Chapter H.4 of this Special Section, or procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all company's relevant sites for carrying out its duties.



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T E R N A G R O U P

**SPECIAL SECTION "I"**

**ORGANIZED CRIME OFFENSES**

CEO Approval Luigi Michi
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December 04, 2017
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## **DEFINITIONS**

With the exception of the new definitions included in this Special Section "I", the definitions of the General Section remain valid.

### **I.1 ORGANIZED CRIME OFFENSES (art. 24-ter of the Legislative Decree)**

Law no. 94, dated July 15, 2009, containing provisions on public security, introduced Article 24-ter into the Legislative Decree (hereinafter "Organized Crime Offenses").

The above-mentioned Article expanded the list of the predicate crimes, adding the following:

- Article 416 of the Italian Criminal Code ("criminal conspiracy");
- Article 416-bis of the Italian Criminal Code ("mafia conspiracy");
- Article 416-ter of the Italian Criminal Code ("mafia related political election exchange");
- Article 630 of the Italian Criminal Code ("kidnapping for purposes of robbery or extortion");
- Article 74 of Presidential Decree no. 309/1990 ("criminal conspiracy for illegal trafficking of narcotics and psychotropic substances");
- Article 407, paragraph 2, point a) no. 5 of the Italian Criminal Code. (crimes of illegal manufacture, introduction into the Country, sale, transfer, illegal possession and shelter in a public place or open to the public of war weapons or warlike arms, explosives and illegal arms).

A preliminary analysis showed the immediate inapplicability to the Company of the cases under Articles 416-ter of the Italian Criminal Code, Article 74 of Presidential Decree no. 309/90 and Article 407, paragraph 2, sub-paragraph a), no. 5 of the Italian Criminal Code.

Instead, it is appropriate to consider the crime of kidnapping for the purpose of extortion under Article 630 of the Italian Criminal Code, applicable in the abstract to TERNA PLUS, as complicit in the crime of fraud.

The following, therefore, is a brief description of the two types of crimes under art 24-ter of the Decree that are considered *prima facie* relevant to TERNA, provided for by articles 416 and 416 bis of the Criminal Code.

- ***Criminal Conspiracy (Article 416 of the Italian Criminal Code)***

The crime punished under Article 416 of the Italian Criminal Code occurs when three or more persons form a continuing criminal conspiracy for the purpose of committing an indefinite number of offenses, provide the necessary means to implement their criminal scheme, are fully aware of being part of an unlawful association, and are ready to carry out their criminal plan.

In brief, the crime of Conspiracy is characterized by the following three basic elements:

- 1) an association that tends to be permanent and is bound to last even beyond the commission of specifically planned crimes;
- 2) the indefiniteness of the criminal plans;
- 3) the existence of a structural organization, even if it is minimal but suitable for achieving the criminal objectives pursued.

In particular, those who promote, establish and manage the association shall be liable, for that only, in addition to those who coordinate the association's collective activity due to their higher position or hierarchical level, and are defined "bosses" in the legislative text.

The sole participation in the association is punished with a lesser penalty.

Finally, the rule is intended to suppress the conspiracy aimed at committing any of the crimes referred to in articles 600 (Reducing to slavery or enslaving), 601 (Slave trade) and 602 (Purchase and disposal of slaves) of the Criminal Code, as well as in art. 12, paragraph 3-*bis*, of the Combined text of measures governing immigration and norms on the condition of foreign citizens pursuant to Italian Legislative Decree No. 286 dated July 25, 1998 (Provisions against illegal immigration).

- ***Mafia Conspiracy, including foreign mafia conspiracy (Article 416-bis of the Italian Criminal Code)***

This Article punishes anyone who is part of a Mafia conspiracy consisting of three or more people.

Conspiracy is of a Mafia type when its members use the power of intimidation which arises from the bonds of membership, and use the system of subordination and the code of silence that arises from this in order to commit crimes or to obtain, directly or indirectly, control over economic activities, concessions, authorizations, tenders and public services or to gain unfair profit or advantages for the organization itself or for others, or to prevent or obstruct the free exercise of the right to vote, or to procure votes for itself or others during elections.

Penalties are more severe:

- for those who promote, manage, and organize such a conspiracy;
- if the conspiracy is armed. The conspiracy is considered armed when its members have access to arms or explosive materials, even if concealed or stored, for the purposes of furthering the aims of the conspiracy;
- when the economic activities which the conspirators intend to take up or maintain control of are financed, totally or partially, with the price, the product or the profit of the crimes.

The provisions set forth in this article are also applicable to the Camorra and any other conspiracy, whatever their names, including foreign associations, that make use of the power of intimidation deriving from the bonds of membership to pursue goals typical of a Mafia-type conspiracy.

For the purposes of this Section, it should be noted that with regard to the crime pursuant to Article 416-*bis* of the Italian Criminal Code, the so-called crime of “external” conspiracy is committed when a person who, even if not a member of the unlawful association, provides a concrete, specific, conscious and voluntary, continuing or occasional contribution, provided that it has a significant relevance for the maintenance or strengthening of the association and is aware that his/her contribution is useful for carrying out, even if partially, the conspiracy’s criminal plan.

\*\*\*\*\*

Both crimes described above occur even if “transnational” in nature, in compliance with Article 10 of Law No. 146 of March 16, 2006, which ratified and implemented the United Nations Convention and Protocols against Transnational Organized Crime.

In this regard, it should be emphasized that, pursuant to Article 3 of the above-mentioned law, the crime is considered “transnational” when it is punished by imprisonment for a period of not less than four years, when it involves an organized criminal group, and:

- it is committed in more than one State;
- or it is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- or it is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State;
- or it is committed in one State but has substantial effects on another State.

Finally, of the transnational crimes pursuant to Law no. 146 of 2006, the crime of aiding and abetting established by Article 378 of the Italian Criminal Code is given particular relevance.

Pursuant to Article 378 of the Italian Criminal Code, persons who, after an offense punishable by life imprisonment or confinement has been committed and asides from cases of complicity in the same, help such persons to avoid investigation by Italian or international authorities, are punishable by up to four years’ imprisonment.

A pecuniary penalty of a maximum of 500 shares is applied to the organization.

In particular, the company may be held responsible not only for acts of omission but also activities consistent with aiding and abetting (for example, the payment of a ransom to a criminal organization that has kidnapped an employee).

\*\*\*\*\*

As is apparent from the description of the above-mentioned crimes, the associated crime mechanism may result in other crimes being committed upstream which – although they may not be [expressly provided for by the Decree – could cause the Organization to be held administratively liable](#). The types of offenses specifically provided for in the Decree have been analyzed and detailed in the relevant Special Sections (to which reference should be made), irrespective of whether or not such offenses are crimes of conspiracy. Conversely, the Company has decided to give relevance and importance to two types of corporate crimes not provided for directly in the Decree but which, by virtue of the acts that are punished by law, are potentially applicable in relation to acts of conspiracy.

### **Fiscal crimes**

Fiscal crimes provided for by Legislative Decree No. 74/2000 containing the “new rules on crimes relating to income tax and value added tax, pursuant to art. 9 of Law No. 205 of June 25, 1999”,

are specified in Special Section “F” in relation to Money Laundering and Self-Laundering Crimes, which should be consulted in its entirety. Moreover, the execution of these fiscal crimes may be precursory in nature:

- first and foremost, to the organized crime offenses included in this Special Section;
- secondly, to the self-laundering provided for in Special Section “F”, when the money or other benefits resulting from the fiscal crimes is subsequently used, substituted and/or transferred in economic, financial, entrepreneurial or speculative activities.

- ***Trading in illicit influence (Article 346-bis of the Italian Criminal Code)***

The crime of trading in illicit influence was established with the intention of punishing all conduct leading to the committing of the actual crime of corruption that consists of the conduct of anyone who:

1. by exploiting existing relationships with a public official or person

in charge of a public service, to unduly secure the obtainment or promise for them or for others of money or other financial benefit as the price of their illegal mediation with the public official or person in charge of a public service; or

2. by exploiting the above-mentioned relations, unduly secures the obtainment or promise for them or for others of money or other financial benefit to remunerate the public official or person in charge of a public service.

The legislation also attaches significance to conduct by those who unduly give or promise money or other financial benefits.

In both cases intermediation must be carried out in relation to the performance of an act contrary to the official duties or the failure to perform or delay in performing an official act by the public official or the person in charge of a public service.

Also in consideration of the precursory nature of this offense with respect to the Crimes of corruption established in Article 25 of the Decree, even though this crime is not included in the list of Predicate Crimes, TERNA PLUS, in the belief that a policy of zero tolerance towards corruption is an essential prerequisite for the proper conduct of its business, has decided to include this crime in this Model.

\*\*\*\*\*

Penalties that can be applied to the Corporation should an Organized Crime be committed, can be of a pecuniary nature, from 400 to 1000 shares (therefore, considering that the value of each share can be determined on the basis of the Corporation's economic and financial position, they may range between €258 and €1,549 – between around €103,000 to around €1,550,000) or they can be disqualifying measures for at least one year.



## **I.2 AT-RISK AREAS**

In relation to the crimes and criminal conduct illustrated above, the areas deemed more specifically at risk are, also with regard to the activities carried out by TERNAL PLUS in the name and/or on behalf of the Parent Company and other Group companies based on agreements and vice versa, the following:

1. selection of suppliers based on the construction, management and maintenance of electricity lines and substations, as well as other system components, in particular with regard to the contracting and subcontracting construction of civil works and the supply of goods and services that are essential to said works;
2. investment activity and joint venture agreements or other types of partnerships with counterparts inside and outside Italy;
3. in relation to fiscal crimes referred to in Special Section "F", the compilation and keeping of tax records; the preparation of tax returns and related activities, as well as the management of accounting records and compliance within the Group;
4. management of relations with parties performing brokerage activities on behalf of representatives of the Public Administration.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group - fully or partly - in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

TERNA PLUS's CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **I.3 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section defines the conduct to which TERNA PLUS Recipients must adhere.

The objective of this Special Section is that said Recipients comply – insofar as they are involved in the activities falling into At-Risk Areas and in consideration of different positions and different obligations that each of them has vis-à-vis TERNA PLUS – with the rules of conduct set out therein in order to prevent and avoid Organized Crime Offenses from occurring.

In particular, the function of this Special Section is to provide:

- a) a list of the general rules and specific procedural rules which the Recipients must comply with for the correct application of the Model;
- b) the Vigilance Body, as well as the directors of company departments called to cooperate with the Body, the operational principles and tools for carrying out the necessary checks, monitoring and verifications entrusted to them.

In performing their respective activities/functions, in addition to the rules of this Model, Company Representatives should generally be aware of and respect - with reference to their respective activities - all the procedural rules adopted by the Parent Company and transposed by the Company, as well as any procedures provided for by TERNA PLUS and, contained, for example, in the following documents:

- 1. the company organization chart and organizational procedures;
- 2. procedures for the selection of personnel including, but not limited to, the "Personnel Recruitment and Selection" procedure;
- 3. the rules, procedures and operational instructions adopted by TERNA, where directly applicable to TERNA PLUS, concerning the qualification and selection of Suppliers, among which, by way of an example:

- Terna's Regulations for the qualification of companies;
  - Monitoring of qualified companies;
  - Terna's Regulations on procurement;
  - Transparency in the procurement process;
4. any other internal regulation concerning the selection and verification of contractual counterparties (of the Parent Company), inter-institutional cooperation agreements aimed at preventing the risk of criminal infiltration in works contracted out for the management of the infrastructures connected with the National Transmission Grid and relative corporate implementation procedures (i.e., Memorandum of Understanding with the Guardia di Finanza and operating instructions aimed at defining dedicated information flows);
  5. 262 Control Model and operating and accounting procedures adopted by the Parent Company;
  6. Regulations of the Manager in Charge of Preparing the Company's Accounting Statements, in relation to fiscal crimes referred to in Special Section "F";
  7. the Code of Ethics;
  8. the guidelines relating to the assignment of consulting and professional services to third parties;
  9. the guidelines for the organization of the Group's events;
  10. the guidelines and operating instructions concerning the policy and management of corporate giving requests.

#### **I.4 SPECIFIC PROCEDURAL RULES**

In order to ensure adequate controls in relation to each At-Risk Area, the following rules must be complied with by TERNA PLUS, the Company Representatives and by any other subject who may be authorized to operate in these areas, in addition to the procedures set out in the policies, corporate procedures and organizational documents that are mentioned, by way of example, in paragraph I.3 above.

The Company, also in relation to activities delegated to the Parent Company by virtue of agreements, as far as it is concerned, undertakes to:

A) constantly use criteria in the selection of personnel ensuring that the selection is carried out in a transparent manner, according to the following criteria:

- professional skills that are adequate for the positions or duties to be assigned;
- equal treatment;
- reliability versus the risk of criminal infiltration.

In this regard, the Company ensures that the following documents are produced by each Employee before being hired:

- criminal record;
- a certificate of pending proceedings, no more than three months old.

B) ensure that personnel are informed about the specific risks of criminal infiltration through the dissemination of information on the forms of crimes in the area collected using:

- periodic reports, where available, published by the competent public authorities;
- surveys by labor institutes;
- ISTAT statistics;

- criminology studies by qualified experts;
- documents by Chambers of Commerce, business associations and trade unions, anti-racket associations and any other public entity that performs similar functions in the different territorial areas;
- information received and/or obtained from public authorities and/or qualified persons.

C) the Company undertakes to ensure the effectiveness of intercompany cooperation agreements signed with, among others, the Guardia di Finanza, through:

- the provision of an adequate information flow between representatives of the concerned Departments, coordinated by the Company Security Services Department;
- the correct transmission of data required by public authorities, also by foreseeing appropriate contract consequences towards contractors in case of breach of the obligation of information disclosure on their part, also with reference to the activities carried out by subcontractors.

D) provide full cooperation in implementing agreements for preventing criminal infiltration, as established by specific laws or imposed by the competent Authorities.

E) With respect to the activities to be carried out for Company Representatives, the Company undertakes to ensure the organization of training courses on the risk of criminal infiltration in the different territorial areas and the importance of acting within the law as a fundamental principle of professional ethics and a prerequisite for the Group's sound economic growth.

F) In the selection and subsequent management of its contractual relationship with Suppliers, the Company undertakes to effectively implement corporate procedures aimed at ensuring that: the selection process complies with the criteria of transparency, equal access, professionalism, reliability and cost effectiveness, it being understood that legal prerequisites will prevail over any other;

-the Vendor lists drafted on the basis of qualification procedures for Suppliers who conduct their activities within qualified sectors are subject to constant monitoring and control activities, in order to verify that they continue to meet the admission requirements;

- the procurement process is constantly regulated by the principle of segregation of duties even where recourse is made to a simplified award procedure.

G) The Company undertakes to regularly evaluate, by means of the competent Departments, the adequacy of the existing qualification divisions, to determine any additions with respect to activities which, because of the geographical area in which they must be carried out, or other circumstances reflecting a higher risk of criminal infiltration, require a more thorough monitoring of the Suppliers that are to be selected.

H) In managing relations ruled by the Procurement Code, in order to ensure traceability of financial flows and, consequently, to prevent criminal infiltration from occurring, in contracts signed with its contractors, TERNA PLUS includes – under penalty of being null and void - a clause that binds contractors to comply with the provisions regarding the traceability of financial flows, with the obligation, among others, to:

- use one or more bank accounts or postal accounts dedicated to, also non-exclusively, the relative public order, whose specific information shall be disclosed within seven days from their opening, if new, or from the first time they are used, if already existing, together with the information of the persons allowed to access them;
- carry out any financial transaction relating to the above-mentioned public order using such dedicated accounts and exclusively through a bank or postal transfer, or through other methods of payments or of money collection capable of allowing full traceability of these transactions, under penalty of contract termination;
- according to the terms provided for by the payment method used (for example, in the reason for payment), indicate the Tender Identification Code (CIG) and the Single Project Code (CUP), where applicable;
- make on these dedicated accounts all payments intended for Suppliers regarding such contract, even if the amount paid does not totally concern the contract; the payments shall also be made through a bank or postal transfer, or through other means capable of allowing full traceability of the transactions.

I) Moreover, TERNA PLUS:

- obliges contractors to have their subcontractors or sub-suppliers sign (according to the definition pursuant to Article 118 paragraph 11 of the Procurement), under penalty of the contract being null and void, a specific clause with which they

undertake to comply with the same traceability obligations of the financial flows mentioned above;

- obliges contractors and through them, their sub-suppliers and subcontractors, to inform TERNA PLUS and the competent Prefecture-Territorial Government Office of any non-fulfilment by its counterparts of the obligations of financial traceability;

establishes that non-compliance by the contractor with traceability obligations and, other obligations pursuant to this chapter, represents a case for terminating the contract according to Article 1456 of the Italian Civil Code.

H) With respect to the conduct to be held towards Partners, including foreign ones, reference should be made to the procedural rules included in the Special Section "F" of this Model.

I) in order to prevent criminal infiltration in the conduct of business, Company Representatives - each for his/her own activities - are expected to meet the following requirements:

- Company Representatives must not yield to any unlawful demands and must notify any such demands to their direct supervisor; the latter, in turn must report the case to the Company Security Department as well as to Police Authorities, filing legal proceedings as necessary;

- Company Representatives must immediately notify Police Authorities in case of attacks against corporate assets or suffered threats, providing all necessary information on each single prejudicial act as well as any information on relevant, also previous, circumstances and filing legal proceedings, if necessary.

- managers, on the basis of rules established by company management, must ensure that adequate supervision is carried out in the territorial structures, such as to allow access to company areas only to authorized persons or vehicles;

- managers, also by virtue of any reports received, must evaluate, in consultation with the Security and Services Department, the opportunity to activate appropriate information and CCTV systems to ensure recording of all access to company areas, always respecting privacy laws.

Company Representatives must report to the Vigilance Body, even through their chain of command, any information that may indicate the potential for criminal infiltration in the activities of the company and, in this regard, the Company undertakes to ensure confidentiality to those who comply with these reporting



requirements or who file legal proceedings and to fully support them also by providing legal assistance, if necessary.

\*\*\*\*\*

N) For the prevention of fiscal crimes see the rules set out in Special Section "F" and, in particular:

- ✓ the specific procedural rules of Special Section "F";
- ✓ the procedural rules included in the Special Section "B" of this Model.

\*\*\*\*\*

O) For the prevention of the crime of trading in illicit influence see the principles set out in Special Section A and, in particular:

- ✓ the prohibition against paying fees, or providing services, to Consultants and Partners that are not justified with reference to the duty they have to perform and to common local practices;
- ✓ the associated obligations of specifying the duties in writing, indicating the compensation agreed.

and Special Section B, in relation to the crime of corruption between individuals and regarding the giving or gifts and donations to third parties.

## **I.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's duties in relation to compliance with the Model regarding the crimes included in this Special Section are as follows:

- carrying out periodic controls on compliance with this Special Section, and periodically verify the effectiveness of such controls in preventing the commission of the crimes provided for herein. In order to fulfil these obligations, the VB –with the cooperation of competent technical experts in the field, if necessary - will conduct periodic analyses of the functionality of the system of prevention adopted in this Special Section and will suggest any action necessary to make improvements or changes to TERNAL PLUS's competent offices if any significant violations of the rules on Organized Crime Offenses and any further offenses covered in this Special Section come to light;
- assisting, if requested, to propose standardized instructions regarding the rules of conduct to observe within the At-Risk Areas defined in this Special Section. These instructions should be in writing and saved on hardcopy and on computer file;
- examining any reports of alleged violations of the Model and carrying out any investigation deemed necessary or appropriate on the basis of the information received.

TERNAL PLUS guarantees the implementation of data stream procedures between the VB and the directors of the competent Departments, the 231 Representatives or other Company Representatives as necessary, each time the VB deems it appropriate.

The information shall be given without delay to the VB should violations to specific procedural rules be detected as indicated in Chapter I.4 of this Special Section, or significant violations to procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.





**SPECIAL SECTION "L"**

**ENVIRONMENTAL CRIMES**

CEO Approval Luigi Michi
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December 04, 2017
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## DEFINITIONS

With the exception of the new definitions included in this Special Section "L", the definitions of the General Section remain valid:

**Reclamation:** the set of measures to eliminate sources of pollution and pollutants or reduce concentrations of the same present in the ground, subsoil and groundwater to a level less than or equal to the values of risk threshold concentrations (RTC).

**Environmental Code:** Italian Legislative Decree no. 152 dated April 3, 2006 entitled "Environmental Legislation", and subsequent modifications and integrations.

**Waste trader:** any company which acts as a commissioning entity for the purpose of purchasing and subsequently selling Waste, including traders who do not take physical possession of the Waste.

**EWC:** Waste identification code according to the European Waste Catalogue pursuant to the Directive of the Ministry of the Environment of April 9, 2002, as amended and supplemented.

**CTC:** contamination threshold concentrations.

**RTC:** risk threshold concentrations.

**Temporary Storage:** grouping of Waste carried out, prior to collection, in the place where they are produced, in accordance with the quantitative or time limits provided for by applicable legislation, also according to the type of Waste to be stored.

**Waste Holder:** the waste producer or the natural or legal person in possession of the same.

**Landfill site:** area dedicated to the disposal of Waste via storage on or in the ground, including the area inside the place of production of the Waste dedicated to disposal of the same by the producer of the same, as well as any area where the Waste is subject to temporary storage for more than a year. Excluded from this definition are facilities where Waste is unloaded in

order to be prepared for subsequent transport to a recovery, treatment or disposal facility and storage of Waste awaiting recovery or treatment for a period of less than three years as a general rule, or storage of Waste awaiting disposal for a period of less than one year (definition referred to in Article 2, paragraph 1, point g) of Italian Legislative Decree no. 36 of January 13, 2003 concerning "*Implementation of Directive 1999/31/EC on landfill waste*" recalled by Article 182 of the Environmental Code).

**Waste Management:** collection, transport, recovery and disposal of Waste, including monitoring of such operations and interventions subsequent to closure of disposal sites, as well as operations carried out as a Trader or Broker.

**Broker:** any company carrying out recovery or disposal of Waste on behalf of third parties, including brokers who do not acquire physical possession of the Waste.

**Waste Mixing:** combination of Waste such as to make subsequent separation or differentiation extremely difficult, if not impossible.

**Waste Producer:** anyone whose activities produce Waste (original waste producer) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of said Waste (new waster producer).

**Environmental Crimes:** the environmental crimes pursuant to Article 25-*undecies* of the Decree.

**Waste:** any substance or object which the holder discards or intends or is required to discard.

**Hazardous Waste:** waste which displays one or more of the hazardous properties listed in Annex I of Part IV of the Environmental Code.

**SISTRI:** the waste tracking and traceability system, pursuant to Article 188-*bis* paragraph 2, point a) of the Environmental Code, established in compliance with Article 14-*bis* of the decree law no. 78 of 2009 (converted, with amendments, by Law no. 102 of 2009) and the Decree from the Ministry of the

Environment and the Protection of Land and Sea dated  
December 17, 2009.



### **L.1 TYPES OF ENVIRONMENTAL CRIMES (Article 25-*undecies* of the Decree)**

Italian Legislative Decree no. 121 dated July 7, 2011 entitled "Implementation of Directive 2008/99/EC on the protection of the environment through criminal law as well as of Directive 2009/123/EC which amends Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements" provided, through the inclusion of Article 25-*undecies* into the Decree, for the extension of administrative responsibility of the companies and bodies to a series of environmental crimes.

The above-mentioned Article expanded the list of the predicate crimes, adding the following:

1. the killing, destruction, capture, possession or taking of specimens of protected wild fauna or flora species (Article 727-*bis* of the Criminal Code);
2. the destruction or deterioration of habitats within a protected site (Article 733-*bis* of the Criminal Code);
3. the unlawful dumping of industrial waste water containing substances that are hazardous and/or exceed value limits established by law and/or competent authorities (Article 137, paragraphs 2, 3, and 5 of the Environmental Code), violation of the ban on dumping on the land, in the land and in groundwater (Article 137, paragraph 11 of the Environmental Code) and the unlawful dumping by ships or aircrafts of substances or materials for which an absolute ban on dumping has been imposed (Article 137, paragraph 13 of the Environmental Code);
4. the unauthorized management of waste (Article 256, paragraph 1 point a) of the Environmental Code), the unauthorized creation and management of a landfill site (Article 256, paragraph 3, of the Environmental Code), the mixing of hazardous waste (Article 256, paragraph 5 of the Environmental Code) and the temporary storage of hazardous healthcare waste (Article 256, paragraph 6, first sentence of the Environmental Code);
5. the reclamation of sites (Article 257, paragraphs 1 and 2 of the Environmental Code);
6. falsification of waste analysis certificates (Article 258, paragraph 4 of the Environmental Code);

7. illegal waste trading (Article 259, paragraph 1 of the Environmental Code);
8. organized activities for illegal waste trading (Article 260, paragraph 1 and paragraph 2 of the Environmental Code);
9. false information in the waste traceability system (Article 260-bis, paragraph 6 of the Environmental Code) and waste transportation without appropriate SISTRI documentation or with false or amended SISTRI documentation (Article 260-bis, paragraph 7, second and third sentence and paragraph 8 Environmental Code);
10. the violation of the emission values limits and of the regulations established by legislative provisions or by competent authorities (Article 279, paragraph 5 of the Environmental Code);
11. crimes connected to the international trade of endangered animal and vegetable species, as well as crimes connected to the violation of legislation for trading and holding live specimens of mammals or reptiles which may be dangerous for public health and safety (Article 1, paragraph 1 and 2; Article 2, paragraph 1 and 2; Article 6, paragraph 4 and Article 3-bis, paragraph 1 of Law 150/1992);
12. violation of regulations concerning the production, consumption, import, export, possession and trade of harmful substances (Article 3, paragraph 6 of Law no. 549 dated December 28, 1993 entitled "Stratospheric Ozone and Environmental Protection Measures");
13. reckless or negligent polluting by ships (Article 8, paragraphs 1 and 2; Article 9, paragraphs 1 and 2 of Legislative Decree no. 202/2007).

Subsequently, with Article 8 of law no. 68, dated 05/22/2015, the predicated crimes for which Corporations are administratively liable were included in Article 25-undicies of Decree 231, as well as under Articles 452-bis, 452-quater, 452-quinquies, 452-sexies and 452-octies of the Italian Criminal Code.

Explained hereinafter are the matters under Article 25-undecies as provided for in:

#### **A) THE CRIMINAL CODE**

### ***A.1) Environmental Pollution<sup>1</sup> (Article 452-bis of the Italian Criminal Code)***

This crime is committed when someone unlawfully causes a significant and measurable deterioration or impairment:

- 1) of the water or air, or of extended or significant portions of the soil or subsoil;
- 2) of an ecosystem, biodiversity, also agricultural, or pertaining to flora and fauna.

The offence will be considered more serious when the pollution is created within a protected natural area or one with landscape, environmental, historical, artistic, architectural or archaeological restrictions, or which harms protected animal and plant species.

### ***A.2) Environmental Disaster<sup>2</sup> (Article 452-quater of the Italian Criminal Code)***

This crime is committed when someone, outside of the cases provided for by Article 434 of the Italian Criminal Code, unlawfully causes an environmental disaster which, alternatively, could be constituted by:

- a) an irreversible change in the balance of an ecosystem;
- b) a change in the balance of an ecosystem which would be particularly costly to reverse and likely to entail exceptional measures;
- c) an offence against public safety due to the importance related to the extension of the impairment or its harmful

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<sup>1</sup> The terms used by the legislator, “impairment or deterioration”, “of extended or significant proportions of the soil or subsoil”, may be specified more fully when the verdicts of the Judicial Authority intervene.

<sup>2</sup> The adverb “unlawfully” may be interpreted in two ways and as such may entail the violation of the general rules in force concerning the protection of public health and the environment, excluding any administrative authorizing act connected to the activity that caused the environmental disaster, or intended as directly connected to an administrative act that authorized the specific activity that was carried out and formed the base of the disaster. When we consider the second interpretation, several hypotheses can emerge, namely: lack of any authorization, activities carried out in violation of the authorization and unlawful authorization. It will also be necessary to await the rulings of the criminal courts for this offence, in regard to the interpretation of the terms “balance of the ecosystem”, “costly removal”, “extent of the impairment or its harmful effects”, “number of people injured or exposed to danger”, especially in light of the obligatory nature of criminal law.

effects in terms of the number of people injured or exposed to the hazard.

The offence will be considered more serious when the disaster is created within a protected natural area or one with landscape, environmental, historical, artistic, architectural or archaeological restrictions, or which harms protected animal and plant species.

### ***A.3) Culpable crimes against the environment (Article 452-quinquies of the Italian Criminal Code)***

Article 452-*quinquies* provides for mitigation in sanctions for cases in which:

- any of the acts referred to in Articles 452-*bis* and 452-*quater* is committed culpably;
- the hazard of environmental pollution or an environmental disaster is caused by such acts.

### ***A.4) Trading and discarding highly radioactive material (Article 452-sexies of the Italian Criminal Code)***

This crime is committed when, with the exception of when the act constitutes a more serious offence, someone unlawfully gives, purchases, receives, transports, imports, exports, procures for others, holds, transfers, abandons or unlawfully disposes of highly radioactive material. The offence will be considered more serious if the act causes:

- 1) the risk of impairment or deterioration of the water or air, or of extended or significant portions of the soil or subsoil;
- 2) the risk of impairment or deterioration of an ecosystem, biodiversity, also agricultural, or pertaining to flora and fauna;
- 3) risk to life or people's health.

### ***A.5) Aggravating circumstances (Article 452-octies of the Italian Criminal Code)***

The legislation provides for heavier penalties when:

- a) the conspiracy referred to in Article 416 of the Italian Criminal Code (Criminal Conspiracy) is exclusively or concurrently directed for the purposes of committing any

of the offences provided for by Title VI-*bis* of the Italian Criminal Code;

- b) the conspiracy referred to in Article 416-*bis* of the Italian Criminal Code (Mafia Conspiracy, including foreign Mafia conspiracy) aims to commit any of the offences provided for in Title VI-*bis* of the same code, namely ranging from the purchase to the management or control over economic activities, concessions, authorizations, tenders and public services concerning the environment;
- c) if public officials or persons in charge of public services or person who provide services concerning the environment participate in the conspiracy.

***A.6) The killing, destruction, capture, taking, or possession of specimens of protected wild fauna or flora species (Article 727-bis of the Italian Criminal Code)***

Unless the fact constitutes a more serious crime, Article 727-*bis* of the Criminal Code punishes different types of unlawful conduct regarding protected wild fauna and flora species, i.e.:

- a) except for cases where it is allowed, the killing, capture or possession of specimens belonging to a protected wild fauna species (paragraph 1);
- b) except for cases where it is allowed, the destruction, taking, or possession of specimens belonging to a protected wild flora species (paragraph 2).

The delegated legislator, however, adapting to Community provisions (Article 3, paragraph 1, point f) of Directive no. 2008/99/EC), excludes a crime being committed in cases where the action regards a negligible quantity of said specimens and has a negligent impact on the state of conservation of the species.

For the purposes of applying Article 727-*bis* of the Criminal Code, “protected wild fauna or flora species” means those listed in Annex IV of Directive 92/43/EC and in Annex I of Directive 2009/147/EC (Article 1, paragraph 2, Legislative Decree no. 121/2011).

The reference regards, on the one hand, Directive 92/43/EEC of

the Council, dated May 21, 1992, concerning the conservation of natural and semi-natural habitats and of wild flora and fauna (the "Habitat" Directive) and, on the other hand, Directive 2009/147/EC of the European Parliament and Council of November 30, 2009, concerning the conservation of wild birds (the "Birds" Directive).

**A.7) Destruction or deterioration of habitats<sup>3</sup> within a protected site (Article 733-bis of the Italian Criminal Code)**

Article 733-*bis* of the Criminal Code punishes anyone who, with the exception of the cases allowed, destroys a habitat within a protected site or in any case deteriorates it, thereby compromising its state of conservation.

For the purposes of applying Article 733-*bis* of the Italian Criminal Code, "habitat within a protected site" means any habitat of species for which an area is classified as a special protection area pursuant to Article 4, paragraphs 1 or 2 of Directive 79/409/EEC, or any natural habitat or habitat of species for which a site is designated as a special area of conservation pursuant to Article 4, paragraph 4 of Directive 92/437/EEC.

The delimitation of the objective scope of application of the criminal matters at hand based on governing Italian legislation must be made as per the provisions in the following regulations: a) Ministerial Decree, Ministry of the Environment and Protection of Land and Sea, dated September 3, 2002 "Guidelines for the management of Natura 2000 sites" (Official Gazette no. 224, September 24, 2002); b) Presidential Decree no. 357 dated September 8, 1997 "Regulation implementing Directive 92/43/EEC concerning the conservation of natural and semi-natural habitats and of wild flora and fauna" (Official Gazette no. 248 dated October 23, 1997), as amended by Presidential Decree no. 120, dated March 12, 2003 (Official Gazette no.124 dated May 30, 2003); c) Ministerial Decree, Ministry of the Environment and Protection of Land and Sea dated March 14, 2011 (Official Gazette no. 77, dated April 4,

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<sup>3</sup> In general, the word 'habitat' today is understood as "the ideal environmental conditions for the life of a particular plant or animal".

2011, Ordinary Supplement no. 90) containing the "Fourth updated list of sites of Community importance for the Alpine biogeographical region in Italy, pursuant to Directive 92/43/EEC"; d) Ministerial Decree, Ministry of the Environment and Protection of Land and Sea, dated March 14, 2011 (Official Gazette no. 77 of April 4, 2011, O.S. No. 90) containing the "Fourth updated list of Sites of Community importance for the Mediterranean biogeographical region in Italy pursuant to Directive 92/43/EEC"; e) Ministerial Decree from the Ministry of the Environment and Protection of Land and Sea dated March 14, 2011 (Official Gazette no. 77 dated April 4, 2011, Ordinary Supplement no. 90) containing the "Fourth updated list of sites of Community importance for the continental biogeographical region in Italy, pursuant to Directive 92/43/EEC"; f) Ministerial Decree from the Ministry of the Environment and Protection of Land and Sea dated October 17, 2007 (Official Gazette no. 258 dated November 6, 2007) regarding "Minimum uniform criteria for defining conservation measures related to Special Areas of Conservation (ZSC) and Special Protection Areas (ZPS)", as per the latest amended version of Ministerial Decree from the Ministry of the Environment and Protection of Land and Sea of January 22, 2009 (Official Gazette no. 33 dated February 10, 2009); g) Ministerial Decree from the Ministry of the Environment and Protection of Land and Sea of June 19, 2009 (Official Gazette no. 157 dated July 9, 2009) containing the "List of Special Protection Areas (ZPS) classified pursuant to Directive 79/409/EEC"

**B) Italian Legislative Decree 152/2006  
(Environmental Code)**

**• B.1) Crimes pursuant to Article 137 of the Environmental Code**

For purposes of the Decree, the following conduct is considered significant:

**a) dumping of industrial waste water without authorization or with suspended or revoked authorization**

As per Article 137, paragraphs 2 and 3 of the Environmental Code, any new dumping of industrial waste water containing hazardous substances without respecting the rules in the

authorization or other rules by competent authorities pursuant to Articles 107, paragraph 1, and 108, paragraph 4 of the Environmental Code, will be punished.

Specifically, in relation to the above conduct, "hazardous substances" mean those expressly indicated in Tables 5 and 3/A of Annex 5 to Part Three of the Environmental Code, to which the reader is referred.

**b) dumping of industrial waste water in excess of table limits**

Article 25-*undecies*, paragraph 2, first line of the Decree and 137, paragraph 5 of the Environmental Code provide that penalties be levied against anyone who dumps industrial waste water in excess of limits set by law or by competent authorities, pursuant to Article 107 of the Environmental Code.

It should be specified that said conduct is in exclusive relation to the substances listed in Table 5 of Annex 5 to Part Three of the Environmental Code, and that the limit values referenced by said regulation are indicated in Tables 3 and 4 of Annex 5.

The criminalization of said conduct is also punished with higher pecuniary penalties if particularly established values for the substances as listed in Table 3/A of Annex 5 to the Environmental Code are exceeded.

**c) violation of the ban on dumping on and in the land and in groundwater**

Article 137, paragraph 11, first sentence, punishes the conduct of anyone who dumps on the land, pursuant to Table 4 of Annex 5, Part Three of the Environmental Code, and does not respect the prohibitions on dumping provided for in Article 103 and 104 of the Environmental Code.

**d) violation of the ban on the dumping of ship and aircraft-source prohibited substances**

Pursuant to Article 137, paragraph 13 of the Environmental Code, the dumping by ships or aircrafts of substances or materials into the sea, for which there is an absolute dumping ban pursuant to the regulations contained in governing international conventions on the matter and ratified in Italy, is punished, unless they are of such quantity that they are



rendered innocuous by biological, chemical and physical processes that naturally occur in the sea and as long as there is pre-authorization by the competent authorities.

- ***B.2) Crimes pursuant to Article 256 of the Environmental Code***

Article 256 of the Environmental Code criminally punishes a plurality of conducts, considered primarily as violations of legislative regulations concerning waste management and which are potentially harmful to the environment.

The unlawful activities under Article 256 of the Environmental Code can fall into the category of “crimes of abstract danger”, for which the legislator presumes that a protected legal asset (i.e. the environment) has been placed in danger, without having to concretely verify the existence of the danger. The simple violation of the regulations concerning Waste Management or the hindrance of controls in place under an administrative procedure, constitute therefore, in and of themselves, punishable crimes.

The following are relevant for the purposes of the Decree:

- a) Unauthorized Waste management pursuant to Article 256, paragraph 1 of the Environmental Code**

The first paragraph of Article 256 of the Environmental Code punishes a plurality of conducts connected to the unauthorized Management of Waste, or the recycling, transport, recovery, disposal, trade and intermediation of Waste of any kind - hazardous and non-hazardous - taking place in the absence of specific authorization, registration or notification provided for in Articles 208 - 216 of the Environmental Code.

Pursuant to Article 193, paragraph 9 of the Environmental Code, “transport” does not include the movement of Waste within a private area.

A Producer could, however, be considered liable, when he/she acts as an accomplice in the crime. This may occur not only in the case he/she knows about the unlawful nature of the waste management being contracted out, but also in the case of violation of specific supervisory obligations on whoever is charged with the collection and disposal of waste products.

It must be kept in mind that all parties involved in waste management activities - including the Producer - must not only respect the legislative regulations concerning their own field of activity, but must also check and ensure that the activities prior to or subsequent to their own have been executed properly. Consequently, the Producer is required to check that the party who is charged with the collection, transport or disposal of waste produced, carries out said activities in a lawful manner. Otherwise, failure to comply with precautionary obligations could be considered as "contributory negligence in an intentional crime".

**b) management of unauthorized landfill sites under Article 256, third paragraph of the Environmental Code**

Paragraph three of the same regulation punishes anyone who creates or manages an unauthorized landfill site, with specific aggravated penalties in the case that the landfill is being used for disposing of Hazardous Waste.

In particular, it must be pointed out that the definition of landfill does not include *"facilities where waste is dumped for preparation for subsequent transport to a recovery, treatment or disposal plant, and the storage of waste pending recovery or treatment for a period of less than three years as a general rule, or the storage of waste pending disposal for a period of less than one year"*.

In order to determine the unlawful conduct of creating and managing an unauthorized landfill site, the following conditions must be present:

- (a) repeated conduct of accumulation of waste in an area, or simply fitting an area by levelling or fencing off the land;
- (b) the degrading of the area itself, consisting in the permanent alteration of the state of the locations, as well as
- (c) the dumping of a substantial amount of waste.

Lastly, to be considered "unauthorized management", once the site has been built, the activity must be autonomous, which implies the establishment of an organization made of machinery and people for the operation of the landfill itself.

**c) Mixing of Hazardous Waste pursuant to Article 256,**

### **paragraph five of the Environmental Code**

Article 256, paragraph five of the Environmental Code punishes unauthorized Mixing of Waste that has different hazardous characteristics, i.e. Hazardous Waste with Non-hazardous Waste.

It must be remembered that Mixing Hazardous Waste - not having the same characteristics of hazardousness with each other or with other waste, substances or materials - is allowed only if expressly authorized pursuant to and within the limits of Article 187 of the Environmental Code. Said conduct is criminal only if carried out in violation of said regulatory measures.

The crime under consideration can be committed by anyone who has access to hazardous and non-hazardous waste.

### **d) the temporary storage of hazardous healthcare waste pursuant to Article 256, paragraph 6, first sentence, of the Environmental Code**

Pursuant to paragraph six of Article 256 of the Environmental Code, infringement of the prohibition of temporary storage of hazardous sanitary waste at the place of production provided for by Article 227 of the Environmental Code can be considered included.

It must be pointed out that a crime is considered as having been committed if the following conditions exist:

a) it is hazardous sanitary waste with infection risk included in the list of examples in Annex 1 to Italian Presidential Decree no. 254 of July 15, 2003, entitled "*Regulation concerning discipline in the management of sanitary waste in accordance with Article 24 of Law no. 179 of July 31, 2002, no. 179*";

b) the time or quantity limits provided for by Article 8 of Italian Presidential Decree 254/2003, which envisages that the temporary storage of hazardous sanitary waste may have a maximum duration of five days from the moment of closure of the container, are violated. Said term can be extended to thirty days for quantities of waste less than 200 liters.

- ***B.3) Crimes pursuant to Article 257 of the Environmental Code***

Article 257 of the Environmental Code, concerning the criminal regulation of site reclamation, provides for two distinct crimes:

- failure to provide for reclamation of polluted sites;
- failure to report the polluting event to the competent authorities in compliance with the procedure indicated in Article 242 of the Environmental Code.

**a) failure to provide for reclamation**

In particular, Article 257 of the Environmental Code punishes first and foremost - with the exception of when the act constitutes a more serious offence - anyone who pollutes the soil, the subsoil, surface waters or groundwater by exceeding the risk concentration threshold, and if they do not provide for reclamation in compliance with the plan approved by the competent authority in the administrative procedure indicated by Articles 242 et seq. of the Environmental Code.

Requirements for determining the existence of the above-mentioned crime are:

- 1) exceeding the risk concentration threshold (CSR);
- 2) failure to provide reclamation in compliance with the project approved by the competent authority in the administrative procedure under Articles 242 et seq.

It is a crime whose perpetration is determined by the occurrence of the criminal event or a purely causal crime, subject to objective conditions of criminal liability, where a) the criminal event is provided for only as a damaging event, such as pollution; b) pollution is defined as exceeding the risk concentration threshold ("CSR"), which is a level of risk higher than the attention levels identified by the contamination concentration threshold ("CSC"), and therefore at levels of acceptability already established by Ministerial Decree no. 471/1999.

Pollution by itself is not punishable, but rather the failure to clean up in compliance with the rules established in the ad hoc plan.

Law no. 68 of May 22, 2015, amended by Article 257 of Legislative Decree 152/2006, replacing paragraph 4 and stating that the compliance of approved projects pursuant to Articles 242 et seq. constitutes a condition for exemption from punishment for environmental violations covered by other laws regulating the same event and for the same polluting conduct referred to in paragraph 1.

The crime is aggravated if pollution is a result of hazardous substances, as provided for in Article 257, paragraph 2 of the Environmental Code.

#### **b) failure to report pursuant to Article 242 of the Environmental Code**

Upon the occurrence of an event that could potentially contaminate a site, the subject responsible for contamination must, within 24 hours of the event, adopt all necessary prevention measures and immediately inform the competent authorities in accordance with the procedures referred to in Article 304, paragraph 2 of the Environmental Code.

- ***B.4) Crime under Article 258, paragraph 4, second line of the Environmental Code - Falsification of waste analysis certificates***

Article 258 paragraph 4, second sentence, of the Environmental Code punishes anyone who when preparing a waste analysis certificate, provides false information concerning the nature, composition and chemical-physical characteristics of the waste, as well as anyone who uses a falsified certificate during transport.

Said crime is included into the framework of obligations provided for by Article 188-*bis* of the Environmental Code concerning the traceability of waste from the time of production to its final destination. In this regard, the legislator has provided that the traceability of waste can take place: (a) joining on a voluntary or mandatory basis - pursuant to Article 188-*ter* of the Environmental Code - the SISTRI system, or (b) fulfilling the obligations to keep registers concerning waste loading and unloading, as well as the identification form pursuant to Articles 190 and 193 of the Environmental Code

It should be specified that the crime under examination refers to all companies and bodies that produce waste which, not having joined the SISTRI system, must maintain the above-mentioned registers and forms.

- ***B.5) Crimes under Article 259 of the Environmental Code - illegal trafficking of waste***

Article 259, paragraph 1 of the Environmental Code, punishes two crimes connected to the trading and the cross-border shipment of waste.

Illegal trading of waste is engagement in the conduct expressly provided for in Article 2 of EEC Regulation no. 259 dated February 1, 1993, i.e. any shipment of waste carried out:

- (a) without having notified and/or without the approval of the competent authorities concerned;
- (b) with the consent of the competent authorities concerned through falsification, misrepresentation or fraud;
- (c) without being specifically specified in the accompanying document;
- (d) in such a way as to lead to disposal or recovery in violation of community or international regulations;

(e) in violation of bans on the import and export of waste provided for in Articles 14, 16, 19 and 21 of the aforementioned Regulation 259/1993.

The crime is being committed also when shipping of waste intended for recovery is made (specifically listed in Annex II of the said Regulation no. 259/1993). Criminal conduct takes place each time the conditions expressly provided for in Article 1, paragraph 3 of the Regulation have been violated (waste must always be directed to authorized facilities, must be able to be checked by competent authorities, etc.).

- ***B.6) Crime under Article 260, first and second paragraph of the Environmental Code – activities organized for the illegal trafficking of waste***

Article 260, paragraph 1 of the Environmental Code punishes anyone who, in an attempt to obtain unjust profit through additional operations and through the setting up of means, as well as continuous organized activities, gives, receives, transports, exports, imports or in any case unlawfully manages huge quantities of waste. The crime is aggravated if the waste is highly radioactive, as provided for by Article 260, paragraph 2 of the Environmental Code

- ***B.7) Crimes under Article 260-bis of the Environmental Code – Waste tracking computer system***

Article 260-bis, paragraph 6 of the Environmental Code punishes anyone who, preparing a waste analysis certificate used within the waste tracking control system, provides false information on the nature, composition and chemical-physical characteristics of waste or anyone who includes a falsified certificate into the data to be provided for purposes of tracking waste.

Also punished, pursuant to Article 260-bis paragraph 7, second and third sentence and paragraph 8, first and second sentence - are transporters that: (a) fail to accompany the transport of hazardous waste with the hard copy of the SISTRI handling sheet and with the copy of the analytical certificate that

identifies the characteristics of the waste; (b) use a waste analysis certificate containing false information concerning the nature, composition and chemical-physical characteristics of the waste transported, and (c) accompany the transport of waste - hazardous and non-hazardous - with a fraudulently altered hard copy of the SISTRI - AREA handling sheet.

These crimes refer to all waste producers and transporters that belong to SISTRI.

- ***B.8) Crimes under Article 279 of the Environmental Code - Emission of polluting gases above allowed limits***

Pursuant to Article 279, paragraph 5 of the Environmental Code, anyone who, in the operation of a factory, violates the emission limit values or the requirements established by the authorization, the Annexes I, II, III or V to section five of the Environmental Code, plans and programs or the regulations referred to in Article 271 of the Environmental Code or provisions otherwise imposed by the competent authority, also causing the air quality limit values required by current legislation to be exceeded, is punished.

- **Crimes under Law no. 549/1993**

Concerning protection of the ozone layer (Law 549/1993), the production, consumption, import, export, sale and possession of harmful substances in accordance with Regulation (EC) no. 3093/94 (the latter repealed and replaced by Regulation (EC) no. 1005/2009) are instead punished.

- **Crimes under Law no. 150/1992**

On matters concerning the protection of wild flora and fauna species through supervising their trade, anyone who engages in, inter alia, the actions indicated hereinafter in violation of the provisions of Regulation no. 338/97 and subsequent implementations and amendments, for specimens belonging to the species listed in Annex A, B and C of the Regulation, shall be punished:



- a) imports, exports or re-exports specimens under any customs procedure without the required certificate or license, or with invalid certificate or license;
- b) fails to comply with the requirements for safety of the specimens, specified in a license or certificate issued in accordance with the Regulation;
- c) uses said specimens in a manner not compliant with the requirements in the authorization or certification measures issued together with the import license or subsequently certified;
- d) transports or allows transit, also on behalf of third parties, of specimens without the prescribed license or certificate;
- e) sells artificially propagated plants contrary to the provisions contained in Article 7 of the regulation;
- f) keeps, uses for profit, buys, sells, displays or holds for sale or for commercial purposes, offers for sale or otherwise sells specimens without the required documentation.

- **Crimes under Law no. 202/2007**

In relation to ship-source pollution, the commander of a ship, as well as members of the crew, the owner, and the shipping company shall be punished if they are responsible for spilling, or causing the spilling, of pollutants into the sea. The crime is aggravated if as a result permanent or particularly serious damage is caused to the water quality, to animal or plant species or to parts of the same.

- **Crimes pursuant to Article 256-*bis* of Legislative Decree 152/2006**

By introducing the new Article 256-*bis* of Legislative Decree 152/2006 "*Illegal burning of waste*", while not expanding the catalogue of predicate crimes, the Legislator has, however, made an explicit reference to the sanction system referred to in Legislative Decree 231/01. This crime is committed when someone sets fire to abandoned waste, namely waste that has been stored in an uncontrolled manner within unauthorized areas.

The connection with the former Legislative Decree 231/01 is made explicit in the second paragraph of Article 256-*bis* of Legislative Decree 152/2006, which states that if a crime is committed by part of an enterprise's activity or, in any case, by

a business, the owner of said enterprise or the head of the business is liable under the independent profile of having failed to supervise the work of the material actors in the crime, which is - nevertheless - connected to the same enterprise or business; the sanctions provided for by Article 9, paragraph 2 of Italian Legislative Decree no. 231 dated June 8, 2001 also apply to the aforementioned enterprise owners or business heads.

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In relation to Environmental Crimes under Article 25-*undecies* of Legislative Decree no. 231/2001, pecuniary penalties are provided for, ranging from a minimum 150 shares to a maximum of 1,000 shares.

Disqualification sanctions are envisaged, pursuant to Article 25-*undecies* of Legislative Decree 231/2001, for crimes provided for in Articles 452-*bis*, 452-*quater*, 452-*quinquies*, 452-*sexies*, 452-*octies* and only for certain types of crime (e.g. discharge of industrial waste water, landfill sites for disposal of hazardous waste, illegal waste trading) and in any case for a period not exceeding one year

An indefinite disqualification is provided for if the corporation has the sole or primary aim of allowing or facilitating the illegal trafficking of waste (Article 260 of the Environmental Code) and for the crime of negligent ship-source polluting (Article 9 of Legislative Decree no. 202/2007).

## **L.2 AT-RISK AREAS**

In relation to the crimes and criminal conduct illustrated above, the areas deemed more specifically at risk are, also with regard to the activities carried out by TERNAL PLUS in the name and/or on behalf of the Parent Company and other Group companies based on agreements and vice versa, the following:

1. management of environmental aspects in relation to connection activities;
2. supply for each environmental activity;
3. waste management;
4. management of environmental authorization procedures;
5. performance of site assessments in relation to environmental matters.

All At-Risk Areas as indicated above take on importance - as a precaution - also if the activities that form their objective are carried out by the Parent Company or by another Company of the Group - fully or partly - in the name of and/or on behalf of the Company, by virtue of service agreements signed or of specific proxies granted.

For the activities carried out in the name of and/or on behalf of the Parent Company, the Company shall implement the reporting activity according to the established procedures.

The Company shall inform the Parent Company of any criticalities deriving from the application of the strategic guidelines that contrast with the Model adopted.

TERNAL PLUS's CEO may add other At-Risk Areas to the ones described above, identifying the relevant profiles and defining the most appropriate actions.

### **L.3 RECIPIENTS OF THIS SPECIAL SECTION: GENERAL CONDUCT AND IMPLEMENTATION RULES**

This Special Section refers to the conduct of the Recipients of the Model.

The objective of this Special Section is that said Recipients comply – insofar as they are involved in the activities falling into At-Risk Areas and in consideration of different positions and different obligations that each of them has vis-à-vis TERNAL PLUS – with the rules of conduct set out therein in order to prevent and avoid Environmental Crimes.

In particular, the function of this Special Section is to:

- a) provide a list of the general rules as well as the specific procedural rules which the Recipients must comply with for the correct application of the Model;
- b) provide the Vigilance Body, as well as the directors of company departments called to cooperate with the Body, the operational principles and tools for carrying out the necessary checks, monitoring and verifications entrusted to them.

In carrying out all activities regarding the management of the company, in addition to the rules in this Model, Company Representatives – with respect to their activity - will generally be expected to be familiar with, and comply with, all the procedural rules adopted by the Parent Company and transposed by the Company as well as any procedures provided for by TERNAL PLUS contained, for example, in the following documents:

1. the company organization chart and organizational procedures;
2. the rules, procedures and operational instructions adopted by TERNAL PLUS concerning the qualification and selection of suppliers, among which, by way of an example:
  - Regulations for the qualification of companies;
  - Monitoring of qualified companies;

- Regulations on procurement;
- Transparency in the procurement process;

3. Integrated management system manual and guidelines, procedures, operational instructions and internal memos adopted by TERNA PLUS in relation to the environmental management system or which can, also indirectly, have repercussions on it (for example, the guidelines "Regulation for the operation of the environmental management system", the "Environmental Policy" guidelines, the "Environmental reporting/claims" operational instructions and the request for information concerning the environment, etc.);
4. Standard UNI EN ISO 14001:2004 ("Environmental Management System") contains the provisions required to ensure an environmental management system aimed at limiting pollution in accordance with legal requirements and in the context of the continuous improvement of environmental performance.
5. Guidelines, procedures and operational instructions relating to Waste Management (e.g. "Waste Management" guideline, "Excavated land and rock management" operational instructions);
6. Cooperation agreements with environmental associations for examining the interaction between high voltage electricity lines and birdlife, the implementation of sustainable development of the NTG and the mitigation of the relative environmental impact (for example, collaboration agreements with the WWF and the LIPU);
7. The Code of Ethics.

In addition to respecting the specific procedural rules under chapter L.4 hereinafter, all Recipients must also respect the conduct rules contained in the above-mentioned organizational documents in order to prevent the commission of the Crimes identified in this Special Section.

#### **L.4 SPECIFIC PROCEDURAL RULES**

In order to ensure the adoption of an effective monitoring system against potential commission of the crimes referred to in Article. 25-*undecies*, TERNA PLUS has decided to adopt this Special Section "L".

In this Special Section, corporate conduct, actions and procedures that are referred to are always understood to be carried out in accordance with UNI EN ISO 14001:2004 standard and the environmental management system adopted by TERNA PLUS and certified by the competent Body.

This standard, the adoption of which does not exempt TERNA PLUS or any Company Representative from respecting the requirements and from fulfilling the obligations provided for by law, identifies the essential requirements for implementing an adequate corporate policy, planning specific objectives for the pursuit of such policy and taking actions – improvement and corrective - to ensure continued compliance with the environmental management system adopted.

Without prejudice to said Special Section referencing the above-mentioned environmental management system, indicated hereinafter are the specific procedural rules to be applied to the Group aimed at preventing the commissioning of Environmental Crimes.

With reference to connection activities in relation to possible impacts on biodiversity, air quality, water quality, the soil, the subsoil, the ecosystem or the flora and fauna, the Company:

- A) prepares a periodical assessment of the environmental impact its activities have and related risks;
- B) finds solutions to minimize any negative effects of its activities on the environment, even in a more stringent manner than provided for by law, while respecting other general interests that TERNA PLUS is called upon to ensure (e.g. safety and continuity of the electricity service, maintenance of efficiency of

the electricity system, its adaptation to the production and consumption needs of the country, parity of access to the grid for industry operators);

- C) adopts a preventive approach, directly listening to the views of the main environmental groups and the needs expressed by local institutions of the area where grid systems are implemented;
- D) with regard to biodiversity, especially of birds, undertakes to adopt the most modern devices to minimize any negative impact of its systems (e.g. use of dissuaders);
- E) paying close attention to negative impact reports of its facilities, being available for assessments and evaluations and, depending on the case, for the experimentation and possible adoption of mitigation measures;
- F) searching and fine-tuning of protection systems consistent with the environment surrounding its plants;
- G) based on scientific programs agreed upon with institutes and associations of proven reliability, allowing the use of its plants for the protection, monitoring and increase of biodiversity, always guaranteeing plant and the electricity service safety;
- H) With specific reference to design activities, ensures that the process is divided into the following phases:
  - providing possible technical solutions and preventative measures aimed at limiting the impact that work sites will have on the surrounding environment in terms of the air-water-soil system;
  - conducting preliminary investigations to ascertain the nature of the site where the work will be carried out and to gather information concerning the presence of any protected habitats;

- verifying all the regulations issued by the authorities who authorized the opening of the work site;
- the inclusion, where applicable, of any supplementary indications designed to respect the environment in the specifications and/or terms of the supply/contract.

I) With regard to the potential damage caused to vegetation by the felling of trees during the creation of a work site, including opening new accesses and roads, the obligation is established of:

- entrusting the assessment stage of the future work site to a professional (an agricultural expert or forest ranger) in order to create a catalogue of the tree species present at the site, in particular differentiating in detail precious plants and/or protected species, in full respect of the law;
- in order to obtain the authorization to carry out the work, notify appropriate local bodies of the type, quantity and quality of the trees present;
- consult the pertinent municipal offices concerning laws and regulations in place for the protection of tree species;
- in the event of accidents during work or events of an atmospheric origin, submit its report to the competent authorities and at the same time carry out the appropriate environmental recovery action.

In relation to emergency management and accidental events, the Company:

- 1) envisages specific procedures for handling events potentially able to contaminate sites or for managing the Reclamation of contaminated sites, which in particular regulate:
  - a) determination of roles and responsibilities, as well as activities and procedures for communicating these events to the competent authorities;
  - b) verification of the proper performance of the activities



envisaged in the Reclamation plan;

c) application for, acquisition and preservation of the certificate of successful Reclamation or of the self-certification for sites of less than 1000 sqm;

d) periodic review and possible revision of such procedure following the occurrence of accidents or emergency situations.

With regard to Waste Management, the Company:

A) works towards managing waste so as to recover, re-use and recycle the materials and guarantee a higher level of protection for human health and the environment. To this end, the company:

- manages waste in compliance with principles of precaution, prevention, sustainability, proportionality, accountability and cooperation for everyone involved in the production, distribution, utilization and consumption of the goods that produced the waste;
- manages waste in compliance with criteria of efficacy, efficiency, inexpensiveness, transparency, technical and financial feasibility, and in respect of environmental requirements;

B) defines the main undertakings to be adopted within the company concerning the management of different types of waste – hazardous and non-hazardous – so as to operate uniformly throughout the national territory;

C) classifies waste produced within the scope of company activities in compliance with current legislation and that established by the competent authorities and to this end informs and provides adequate training to personnel of waste production units based on their respective duties;

D) entrusts collection, transport, recovery and disposal of waste exclusively to authorized companies. In this regard, in particular, the company ensures that:

- in assigning disposal or recovery of waste to authorized companies verifies: (a) the authorization for waste transport (verifying the EWC codes authorized for transport); (b) the authorization for waste storage; (c) the authorization of the recovery and/or disposal facilities; - when transporting the waste to the authorized companies, the following is verified: (a) the validity of the authorization; (b) the authorization for the vehicle transporting waste with relative EWC codes, as well as the type of vehicle and its license plate; (c) the authorization of the competent operational unit for the assignment of this task to third parties, should the shipper be an entity different from the company that was assigned the task; (d) the authorization for any ADR transport;

E) ensures due keeping of documents necessary for Waste Management including the loading and unloading registry which, together with the rejection identification forms, must be compiled correctly and truthfully, refraining from false statements or alteration of documents (e.g. in relation to information on the qualitative or quantitative characteristics of waste). To this end, provides for ad hoc procedures and operational instructions that include:

- instructions for the holding, completion and archiving of the loading and unloading register and identification forms;
- checking that the fourth copy of the identification form has been countersigned and dated;
- periodical checks on the correctness and truthfulness of said documents connected to Waste Management;
- the reporting of any anomalies in the documents following the performance of checks to the competent Departments in order that they adopt any measures deemed necessary;

F) in compliance with the requirements relating to the environment, carefully and duly compiles the Environmental Declaration Form;

G) establishes appropriate monitoring to ensure compliance with the provisions relating to the storage of waste and in particular the procedures and quantitative and time limits in force at any time. To this end, it is necessary to guarantee that:

- Temporary Storage is used for homogeneous categories of waste and in respect of the relative technical provisions, as well as, for Hazardous Waste, in respect of the provisions regulating the storage of the hazardous substances contained in said waste;
- safeguards are adopted – including through the use of ad hoc operating systems - such as to ensure constant monitoring of waste stored and its periodical transfer – to the extent prescribed - to disposal centers;

H) undertakes to ensure that the company procedures related to waste management are subject to constant monitoring by the Competent Company Departments in order to periodically assess the need for updating as a result of regulatory changes on environmental issues;

I) constantly supervises correct Waste Management reporting any irregularities to the Competent Departments (for example of tampering with classification documents, suspicion of abandon of waste by the transporter in abusive dumps, etc.) in order to put in place the consequent administrative and contractual actions, as well as any legal action before the competent authorities.

Finally, with particular reference to the performance of environmental checks at maintenance works, the site manager or other duly appointed person refers all breaches to his/her Manager in order that they may adopt any measures deemed necessary.

## **L.5 INSTRUCTIONS AND INSPECTIONS OF THE VIGILANCE BODY**

The VB's duties in relation to compliance with the Model regarding Environmental Crimes are as follows:

- carrying out periodic controls on compliance with this Special Section, and periodically verify the effectiveness of such controls in preventing the commission of the crimes provided for herein. In order to fulfil these obligations, the VB –with the cooperation of competent technical experts in the field, if necessary - will conduct periodic analyses of the functionality of the system of prevention adopted in this Special Section

and will suggest any action necessary to make improvements or changes to TERN PLUS's competent offices in the event of any significant violations of the rules on Environmental Crimes;

- propose that standardized instructions relating to conduct to be followed in the At-Risk Areas, as identified in this Special Section, are issued and updated. These instructions should be in writing and saved on hardcopy and on computer file;
- examine any reports of alleged violations of this Special Section and conduct all necessary investigations regarding reports received.

TERNA guarantees establishing proceduralised information flows between the VB and the directors of the competent structures, the 231 Representatives or other Company Representatives each time the VB deems it appropriate.

The information shall be given without delay to the VB should violations to specific procedural rules be detected as indicated in Chapter L.4 of this Special Section, or significant violations to procedures, policies and company regulations regarding the above-mentioned At-Risk Areas.

The VB is also assigned the power to access, or request its delegates to access, all the documentation and all relevant corporate sites for carrying out its duties.