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**Chimec S.p.A.**

**Organisation, management and control Model  
pursuant to Legislative Decree 231/2001**

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**1. – Offences against industry and trade: general characteristics**

This Special Section concerns offences that are committed with criminal intent and are punishable therefore only if the intentional element is featured.

## **2. – Offences referred to in article 25-*bis* 1 of Legislative Decree 231/2001**

### **2.1. – Disruption of the freedom of industry and trade (article 513 of the Criminal Code)**

Unless the fact constitutes a more serious offence, this provision applies to “*whosoever uses violent or fraudulent means in order to prevent or disrupt the performance of industrial or trading activities*”.

The legal interest protected by this provision is the smooth and ordinary performance of industrial and trading activities and, like all the other cases provided in this Special Section, the national interest represented by an ordered economy.

The offence is deemed to have been committed when the free and undisturbed performance of a business activity is effectively – or even potentially – is endangered or jeopardised by violence or threats or the fraudulent actions committed by the perpetrator.

Regarding the subjective element, these offences are clearly intentional in nature, as a result of which the perpetrator must (i) consciously commit the offence, and (ii) intentionally pursue and achieve his or her purpose (specific intention) of disrupting or preventing industrial or trading activities, or attempting to impair the freedom of conducting a business.

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### **2.2. – Illegal competition entailing the use of threats or violence (article 513-*bis* of the Criminal Code)**

This offence sanctions whosoever “*while performing any kind of business activity, competes with the use of violence or threats*”.

The penalty shall be increased in the event that the competition concerns activities that are entirely, partially or in any other way funded by the State or other public entities.

The punishable offence refers to the commission of actions of illegal competition, featuring the use of violence or threats, by persons engaged in business activities.

Therefore, this offence is a so-called “proper” offence, because it requires the perpetrator to be so-called “qualified” party, i.e. a party that carries out any kind of business activity, even in a solely *de facto* capacity.

“Illegal competition” means any conduct capable of limiting the free self-determination of the victim in the performance of his or her business activities, by means of actions aimed at discouraging fair competition.

Finally, also in relation to this criminal offence, the perpetrator must be conscious of all the elements of the fact and intentionally direct his or her conduct towards the achievement of the purpose (specific intention of committing the offence) of eliminating or discouraging any competition.

### **2.3. – Fraud against national industry (article 514 of the Criminal Code)**

This offence sanctions whosoever “*by selling or otherwise circulating – on the domestic or foreign markets – industrial products with counterfeited or altered brand names, trademarks or other distinctive marks, damages the national industry*”.

The penalty is increased if the trademarks or other distinctive marks are protected under domestic law or international conventions on the protection of industrial property.

The offence is also deemed to have been committed if any industrial products bearing counterfeited distinctive marks are sold or otherwise circulated and distributed on the domestic or international markets.

This is classified as an “offence of damage”, because placing on the market goods bearing counterfeited marks or other labels clearly damages the national industry.

### **2.4. – Fraud in trade (article 515 of the Criminal Code)**

This offence sanctions whosoever “*when carrying out a business activity, or in business premises open to the public, delivers to the buyer one type of goods instead of another, or a type of goods that differs by origin, provenance, quality or quantity from the goods originally declared or agreed*”.

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The penalty is increased in the case of precious goods.

Once again, the legal interest protected herein is the national economic system (from any disruptions in trade arising from the commission of the offence). This ensures that the offence differs from offences against property (fraud first and foremost).

Generally speaking, the provision applies to any conduct consisting in the delivery of different types of goods compared to those agreed to or declared.

Regarding the perpetrator of the offence, not just the owner of the business is liable, in this respect, but any other person or acts in the name and on behalf of the said owner (collaborators, employees, agents, etc.) as well.

The offence is committed when a specific type of goods is delivered to the buyer instead of the goods agreed to, regardless of whether the said goods are harmful or counterfeited.

### **2.5. – Sale of industrial products with misleading trademarks (article 517 of the Criminal Code)**

Unless the fact constitutes a more serious offence, under other legal provisions, this offence sanctions whosoever “*sells or otherwise circulates intellectual property or industrial products bearing domestic or*

*foreign brand names, trademarks or distinctive signs such as to mislead buyers with regard to the origin, provenance or quality of the work or product?*

The conduct here concerns the distribution on the market of intellectual property works or industrial goods bearing counterfeited distinctive marks capable of misleading buyers into purchasing them.

The expression “*otherwise circulates*” refers to any type of conduct such as to make available to the public goods with misleading distinctive marks.

## **2.6. – Manufacturing and trading goods by usurping industrial property rights (article 517-ter of the Criminal Code)**

Without prejudice to articles 473 and 474, whosoever, being in a position to know that certain goods are protected by industrial property rights, nevertheless manufactures or makes use – for manufacturing purposes – of objects and other goods produced by usurping the said industrial property rights, or in breach thereof, shall be liable – if reported to the competent authorities by the victim of the offence – to a prison sentence of up to 2 years and a fine of up to 20,000 euros.

The same penalties apply to whosoever introduces into Italy, possesses for sale directly to consumers, or otherwise circulates the goods referred to in paragraph 1 for the purpose of making a profit.

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The provisions referred to in articles 474-*bis*, 474-*ter*, second paragraph, and 517-*bis*, second paragraph, shall apply.

The offences envisaged in paragraphs 1 and 2 are liable for punishment provided that the provisions contained in the domestic regulations, Community regulations and international conventions on the protection of intellectual or industrial property rights have been complied with.

The conduct here concerns the manufacturing of products and goods that are covered by industrial property rights, or the violation thereof, based on the requirement that the perpetrator is aware of the said exclusive rights.

The provision also applies to the use of the said goods or their production within the framework of an industrial process.

Regarding the commission of the offence, it obviously needs to be committed while the exclusive industrial property rights in question are valid and effective.

If, for any reason, the relevant rights are no longer effective, no charges may be brought against the perpetrator.

**2.7. – Penalties applicable to the offences referred to in article 25-*bis* 1 of the Decree**

If the Entity is found liable for any of the offences covered by this Special Section, the following penalties shall apply to the Company:

- a) for the offences referred to in articles 513, 515, 517, 517-*ter* of the Criminal Code, a fine of up to 500 quotas;
- b) for the offences referred to in articles 513-*bis* and 514 of the Criminal Code, a fine of up to 800 quotas.

If the Company is found guilty for the offences in letter b) above, the disqualification penalty referred to in article 9, paragraph 2, of the Decree<sup>1</sup> shall apply.

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<sup>1</sup> Reference should be made to paragraph 1.3 of the General Section of the Model, dedicated to disqualification penalties applicable to the Entity as a result of the determination of the offence.

### **3. – Risk areas**

Taking into account Chimec's operations, the following risk areas have been identified:

- the procurement management and/or raw materials reception areas;
- the procedures for concluding contracts with clients for the procurement of goods and services, including the management of relations during the performance of the said contracts;
- the activities relating to “technical literature” (so-called labels) for the goods produced by Chimec;
- the management of outgoing products, leaving the plants based on the orders placed by the clients;
- the product transfer procedures, also through representatives or intermediaries, in connection with promotional activities or acknowledgements of a non-remunerative nature, also in the form of gifts for employees.

The areas specified above are relevant also if the relevant activities are carried out, in whole or in part, by individuals or corporations in the name and on behalf of Chimec, also based on proxies or powers or attorney or under contracts and other arrangements, of which the SB must be promptly informed.

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#### **4. – General rules of conduct and implementation**

The rules of conduct apply to all the Recipients of the Model and, in particular to all those who operate in the risk areas defined above.

The Board of Directors of Chimec, together with the SB, shall be responsible for the circulation and implementation of the said systems.

The Recipients are expected to know and abide by the rules set out herein, as well as the:

- Code of Conduct;
- disciplinary system;
- the procedures adopted by Chimec relating to the reception and/or procurement of raw materials;
- the protocols provided for the fulfilment of contractual relations with suppliers, including the supplier selection protocols;
- the procedures adopted by the Company in connection with the transfer of its products;
- the labelling rules applicable to Chimec products to be placed on the market;
- the procedures adopted for the management of all products leaving the plant for

delivery to clients.

The Recipients and all external collaborators – duly informed by means of dedicated contractual clauses – are prohibited from adopting any kind of conduct capable of fostering the commission of cybercrime offences.

It is also forbidden to:

- select suppliers in violation of the protocols adopted by the Company and, generally speaking, ignoring the principles of maximum objectivity and transparency;
- accept raw materials and/or products that do not conform to the legal and Chimec requirements, with regard to quality and compliance with industrial property rights;
- alter or tamper with, in any way, the labels containing the composition, active ingredients and origin of the products marketed or used by the Company at its plants or its clients' premises;
- ignore the internal rules and regulations adopted by the Company in relation to the performance of activities in the risk areas above;
- allow any products that do not conform to the protocols adopted by the Company to leave its premises;

- adopt any behaviour such as to disrupt fair competition with the Chimec competitors.

The Board of Directors may provide for other measures aimed at protecting the identified risk areas, in addition to the obligations and requirements mentioned above.