

**Chimec S.p.A.**

**Organisation, Management and Control Model**  
**pursuant to Legislative Decree 231/2001**

**GENERAL SECTION**

## **Glossary**

### **Introduction**

#### **1. – Legislative Decree 231/2001. The responsibilities of entities for the commission of unlawful administrative acts**

- 1.1. – Nature of the responsibility and scope of application
- 1.2. – The functions of the organisation, management and control Model
- 1.3. – The penalties applicable to the Company for unlawful administrative acts
- 1.4. – The "Guidelines of Confindustria"

#### **2. – Chimec S.p.A.**

- 2.1. – Outline of the Company
- 2.2. – Chimec's decision

#### **3. – The process for adopting the Model. Preliminary approach**

- 3.1. – Analysis of the documents and preliminary identification of the areas potentially at risk (*as is analysis*)
- 3.2. – Preparation of the survey sheets
- 3.3. – Completion of the risk assessment analysis and identification of the criticalities (*gap analysis*)

2

#### **4. – Chimec's organisation, management and control Model**

- 4.1. – The purpose of the Model
- 4.2. – The nature of the Model and its relations with the Code of Conduct.
- 4.3. – The structure of the Model. General Section: the identification of the significant offences and the Special Sections
- 4.4. – Recipients of the Model
  - 4.4.1. – Dissemination of the Model
  - 4.4.2. – Training and information activities
- 4.5. – Adoption, amendment and integration of the Model

#### **5. - Supervisory Body**

- 5.1. – Establishing the Supervisory Body
- 5.2. – Appointment and termination of membership of the SB. Grounds for ineligibility or forfeiture
- 5.3. – Functions and powers of the SB
- 5.4. – Information flows to the SB
  - 5.4.1- - Reporting violations of the Model in the light of the whistleblowing legislation.
- 5.5. – Reporting by the SB

5.6. – Procedure for filing the information received and documents collected

**6. – Disciplinary penalties and other measures to be adopted in the event of violation of the Model and Code of Conduct**

6.1. – Functions of the disciplinary system

6.2. – Violation of the Model and related penalties

6.2.1. – Types of penalties applicable to employees

6.2.2. – Penalties applicable to managers

6.2.3. – Penalties applicable to Directors or Statutory Auditors

6.2.4. – Penalties applicable to collaborators involved in the Sensitive Processes, external consultants, agents, suppliers and contractors

**7. – Updating and adapting of the Model**

7.1. Inspections and controls

7.2. Updates and adjustments

7.3. First application of the Model

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## Glossary

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The following definitions refer to the Model as a whole:

**Senior Executives:** are the representatives or managers of an entity, or one of its units, with independent financial and functional decision-making powers, or the managers or supervisors thereof.

**Risk Areas:** are the fields of operation of the Company that are most susceptible to the commission of Offences.

**As is analysis:** a set of documents and information that useful for defining the activities carried out by the Company and its organisation, preliminary to the adoption of the Model.

**Biomass:** the biodegradable fraction of any products, waste and residues of biological origin originating from agriculture (and including vegetable and animal substances), forestry and related industries, including fishing and aquaculture, as well as the biodegradable fraction of industrial and urban waste.

**Chimec and/or the Company:** Chimec S.p.A.

**CCNL:** the nationwide Collective Labour Agreements applied by the Company.

**Code of Conduct:** a document, which is an integral part of the Model, setting out the ethical principles and the rights, duties and responsibilities characterising the Company's mission and general activities and operations.

**External Collaborators:** all the external collaborators of the Company, i.e. its Consultants, Partners and Suppliers.

**Consultants:** the persons acting in the name and/or on behalf of the Company, under any form of professional services contract or arrangement.

**Proxy:** a document whereby a person is granted functions, duties, tasks or powers to act within the Company's organisation.

**Recipients:** all the bodies/persons to whom the Model is addressed and includes all the governance bodies and their members, the employees and the Suppliers, Agents, external Consultants, Contractors, Collaborators (under any form of agreement or arrangement, such as project workers, interns, staff supplied by temporary work agencies), and the members of the Supervisory Board, to the extent that they do not belong to the above mentioned categories.

**Employees:** the persons hired by the Company under a contract of employment and including its managers.

**Decree:** Legislative Decree 231/2001, as amended and supplemented.

**Entity or Entities:** any entity with legal personality or company or partnership, including partnerships without legal personality.

**Suppliers:** the suppliers of non-professional goods or services to the Company.

**Gap analysis:** an analysis of the gap existing between the current state of the internal control system, with regard to each sensitive process, and the optimum state as set out in the Decree, the Confindustria Guidelines and the best practices in the industry.

**Guidelines:** the Guidelines adopted by Confindustria for preparing the organisation, management and control models, pursuant to article 6(3) of Legislative Decree 231/2001.

**Model or Models:** the organisation, management and control model or models referred to in Legislative Decree 231/2001.

**Governance Bodies:** the Board of Directors, the Board of Statutory Auditors and their members.

**Supervisory Board and/or Supervisory Body (SB):** the internal control body responsible for supervising the application and implementation of and compliance with the Model and its updates.

**Partner:** the parties to any contract or other form of arrangement entered into and concluded by the Company (temporary groupings of undertakings, joint ventures, consortiums, licensing agreements, agency agreements, partnership agreements in general), if required to collaborate with the Company in the Risk Areas. 5

**Process owner:** the party or person executing each relevant activity in the Company's production process.

**Sensitive Process:** the set of activities and operations organised by the Company for the purpose of achieving a specific purpose or managing a certain corporate sector and potentially at risk of the commission of one or more of the offences referred to in the Decree, as listed in the Special Sections of the Model, and generically and comprehensively indicated as "Risk Areas".

**Offences:** the offences referred to in Legislative Decree 231/2001, with regard to the administrative responsibilities of entities.

**Internal Control Official:** an employee of the Company designated by the Chief Executive Officer, or any other delegated manager, who is responsible – individually or jointly with others – for the operations carried out in the Risk Areas.

**Risk assessment:** an assessment of the functions and activities, carried out by the Company, which are potentially exposed to the risk of committing the Offences referred to in the Decree.

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## **Introduction**

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This management and control Model, prepared in accordance with Legislative Decree 231/2001, comprises a General and various Special Sections.

The General Section illustrates the contents of the Decree, describes the organisation and operations of **Chimec S.p.A.**, outlines the structure and characteristics of the Model, provides a description of the functions, tasks and powers of the Supervisory Body, and illustrates the Company's disciplinary system.

The Special Sections identify the types of significant offences, in relation to the various specific fields in which Chimec operates, susceptible to the commission of the offences referred to in the Decree, and describe the behaviour, protocols and controls required and implemented by the Company, for the purpose of preventing the commission of the said offences.

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## **1. – Legislative Decree 231/2001. The responsibilities of entities for the commission of unlawful administrative acts**

### **1.1. – Nature of the responsibility and scope of application**

Legislative Decree 231/2001 has introduced into the Italian legal system the concept of the “*administrative*” responsibility of corporations, and business entities in general, associated with the criminal liability incurred as a result of the commission of certain offences by individuals, as the direct recipients of the criminal norms and sanctions. The Decree has ensured that the Italian legal systems complies with the Community requirements.

The Decree governs the responsibilities of entities (defined as "*corporate entities and companies and associations including those which are not bodies corporate*", article 1, paragraph 2) with regard to unlawful administrative acts relating to offences, with the exclusion of certain bodies and entities<sup>1</sup>.

Regarding the geographical application of the Decree, article 4 provides that, in the event of offences committed abroad, the entities having their principal place of business in Italy shall be held accountable by the Italian Judicial Authorities, unless legal proceedings are initiated by the Authorities of the country in which the offence was committed<sup>2</sup>.

The list of offences for which an entity may be held responsible – originally limited to those referred to in article 24, covering relations with the public administration – has been gradually extended, after 2001, by legislative measures that have broadened the scope of the law, and the responsibility of entities, to include a much larger number of criminal offences. 7

### **1.2. – The functions of the organisation, management and control Model**

The "core" of the Decree consists of articles 5 and 6, which, combined with the following two articles, outline the criteria for determining liability.

Article 5 provides that a body is liable for offences committed in its interest or to its advantage by two groups of persons: senior executives (i.e. persons serving as representatives of the company or

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1 Cf., article 1, paragraph 3: "*They do not apply to the State, to territorial public bodies, to other non-economic public bodies or to bodies performing constitutionally significant functions.*"

2 Cf., article 4: "*1. In those cases contemplated by articles 7, 8, 9 and 10 of the criminal procedure code and subject to the conditions contained therein, bodies having their main place of business within the state are also liable in respect of offences committed abroad, provided that prosecution is not brought by the State in the place where the act is committed.*

*2. Where the law provides that the guilty party is punishable subject to a request being made by the Minister of Justice, prosecution is only brought against the body if the request is also made against the latter.*"

who hold administrative or senior executive positions within the body or an autonomous organisational unit thereof, article 5, paragraph 1 letter a)<sup>3</sup>; or by persons under the direction or supervision of the above (article 5, paragraph 1 letter b)<sup>4</sup>.

Therefore, where there is a certain type of relationship (as a representative, in the former case, or in a subordinated capacity, in the latter case) between the perpetrator of the offence referred to in the Decree, through which an interest or advantage may accrue to the entity itself, the latter shall be held accountable under the Decree.

Articles 6 and 7 of Decree also contemplate a sort of exoneration from accountability of the entity if it can prove – in the criminal proceedings initiated in connection with any of the offences for which charges have been brought – that it had effectively adopted and put into place an organisation, management and control model and measures suited to preventing the commission of the criminal offences.

The entity's responsibility in the case of offences committed by a senior executive, as provided in article 5, paragraph 1 letter a), is presumed because the senior executive expresses the "policy" of the company.

The legislators, therefore, have introduced a "paradigm" of culpability for the top management of a company, with "negative" feature, i.e. by reversing the legal burden of proof onto the entity itself. 8

In particular, article 6 provides that the entity is not accountable if it can prove that:

- a) the senior executive organ adopted and efficiently enacted, prior to commission of the act, organisational and management models which are capable of preventing offences of the type occurring;
- b) the task of overseeing such operations, compliance with the models and seeing to updating of same has been delegated to an organisation within the body vested with powers to act on its own initiative and conduct monitoring;
- c) the persons committed the offence by fraudulently circumventing the organisational and management models;

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3 Cf., article 5, paragraph 1: "*A body is liable for offences committed in its interest or to its advantage:*

*a) by persons serving as representatives, or holding administrative or senior executive positions within the body or an organisation unit of same, and being financially and functionally independent, as well as by persons actually exercising management and control of same."*

4 Cf. article 5, paragraph 1, letter "b) *The body cannot be held liable if the persons indicated in paragraph 1 act solely in their own interest or in the interest of others."*



- d) there has been no omission or insufficient oversight on the part of the organisation referred to in subparagraph b).

Article 6 continues by identifying the minimum characteristics an organisation and management model must possess in order to be judged suitable and effective.

A model, in fact, must comply with the following requirements:

- a) identify the activities in relation to which offences may be committed;
- b) provide for specific direct protocols and schedule training and implementation of decisions by the body regarding offences to be prevented;
- c) identify procedures for managing financial resources which are fit to prevent the commission of offences;
- d) provide for obligations to disclose information to the organisation tasked with overseeing the working of and compliance with the models;
- e) introduce a new disciplinary system to punish noncompliance with the measures set out in the model.

In order to meet these requirements, a company adopt organisation and management models *“on the basis of codes of conduct drawn up by the associations representing the bodies”*<sup>5</sup> deemed suitable by the Ministry of Justice. <sup>9</sup>

In accordance with this provision, in preparing this Model Chimec has also taken into account the guidelines laid down by Confindustria, in March 2002 (supplemented and revised in March 2008 and March 2014), interpreting them as indications that can be used as a blueprint and adapted to the specific conditions, circumstances and characteristics of the Company itself, based on its size and the types of operations it performs.

Article 7 governs the exemption from accountability of entities where the offences are committed by persons subject to the direction or supervision of others (article 5, paragraph 1 letter b); in these cases, the imputation of liability is much simpler. In fact, the entity is accountable where and if the commission of an offence is the result of the failure to fulfil its control and supervisory obligations with regard to any subordinate persons.

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<sup>5</sup> Cf., article 6, paragraph 3: *“The organisation and management models may be adopted, by guaranteeing that the requirements set out in paragraph 2 are met, on the basis of codes of conduct drawn up by the associations representing the bodies, notified to the Ministry of Justice which, in concert with the competent ministries, may, within thirty days, draw up observations on the suitability of models designed to prevent offences.”*

However, if the entity has implemented and effectively enacted the organisation and control models, then it cannot be held accountable. Therefore, there is no reversal of the onus probandi here, in this case, it is up to the prosecution to prove and effectively demonstrate the company's failure to adopt suitable oversight measures.

The organisation and management model adopted by the Company must provide for suitable systems for recording the said activities. It must provide for suitable measures, in relation to the nature and size of its organisation, ensuring the performance of its operations in accordance with the applicable law.<sup>6</sup>

The Decree considers a Model to be effectively implemented if a suitable oversight system has been implemented and put into place, for the purpose of controlling its application, and if this system and the related measures are kept efficient over time, together with a disciplinary system that can suitably address, by means of adequate sanctions and penalties, the failure to adopt and abide by the behaviour and conduct set out in the Model<sup>7</sup>.

Article 8 addresses certain cases in which an entity remains accountable even though the relevant legal proceedings cannot take place, thus affirming the principle of the separation of the entity's responsibility, where:

10

- a) the perpetrator of the offence has not been identified or is not prosecutable;
- b) the offence is extinguished for a reason other than an amnesty.

Therefore, the entity is also liable even if the identity of the perpetrator cannot be established, or he/she cannot be prosecuted, or if the offence is extinguished for any reason (other than an amnesty).

If, during the preliminary investigation, the perpetrator of an offence cannot be identified, the Public Prosecutor shall move to dismiss the case. However, no specific individual can be identified as

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<sup>6</sup> Cf., article 7, paragraph 3: "*Regarding the type and size of the organisation and the type of activity performed, the model provides for measures to ensure performance of the activity in compliance with the law and to discover and promptly eliminate risk situations*".

<sup>7</sup> The exonerating effectiveness of the Model must be assessed on the basis of two elements: the suitability of the measures adopted for preventing the commission of offences and, if an offence is found to have been committed, the determination that it was the result of fraudulent conduct, or intentionally aimed at flouting the rules of conduct required by the Model. With regard to this point, a decision by the Court of Milan issued on 17 November 2009 states the following: "*if the unlawful conduct for which charges have been brought are not the result of a suitable organisation model, but are due to fraudulent conduct by the senior management of the company, which contrasts with the internal rules and provisions of the duly adopted organisation model, the company shall not be held liable under article 6 of Legislative Decree 231/2001*".

the perpetrator of an offence that has clearly been committed, the entity shall in any case be held liable<sup>8</sup>.

Despite this principle of separation, an amnesty is the only case in which the entity's liability is extinguished. The effect of the amnesty for the entity shall remain even if the accused – a legal person – decides to waive its application. Moreover, the legislators have also provided for the possibility, by an entity, to waive such an act of clemency if it is interested in obtaining an outright acquittal<sup>9</sup>.

### **1.3. – The penalties applicable to the Company for unlawful administrative acts**

Part II of Chapter I of the Decree regulates the penalty system applicable to the entity for unlawful administrative acts relating to offences.

The system provides for the application of fines and disqualification, to which we must also add seizure and the publication of the decision<sup>10</sup>.

**Fines** are applied according to a “quota” system and are an unfailing consequence of the unlawful acts; therefore, they apply each time an entity is found liable for one of the unlawful acts referred to in the Decree.

According to article 11, when determining a fine, the judge should make two separate assessments. First of all, he or she must determine the **number of quotas** based on the conventional indices of severity of the unlawful acts:

11

- the severity of the act;
- the degree of liability of the entity;
- the activities performed to eliminate or mitigate the consequences of the act and prevent the commission of further unlawful acts.

Therefore, the judge must determine the **monetary value of each quota** taking into account the entity's financial conditions and equity, in order to ensure the effectiveness of the penalty.

The total amount of the fine to be applied to the entity is calculated by multiplying the number of quotas by the monetary value of each quota, as determined by the judge.

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8 Cf., article 8 paragraph 2: "*Unless the law provides otherwise, no prosecution is brought against the body when an amnesty is granted for an offence which provides for liability of same and when the criminal defendant waives its claim to application of such amnesty.*"

9 Cf., article 8 paragraph 3: "*The entity may waive its claim to the amnesty.*"

10 Cf., art 9, paragraph 1: "*Penalties for unlawful administrative acts relating to offences are: a) fines; b) disqualification; c) seizure; d) publication of the decision.*"

Article 12<sup>11</sup> provides for the cases where the fine may be reduced, in the presence of irrelevant acts or acts committed mainly in the interests of the perpetrator or of a third party, or of remedial actions by the entity, including, inter alia, the adoption – after the commission of the relevant offence – of an organisational model suited to preventing the further repetition of the same offences<sup>12</sup>.

Under the Decree, **disqualification** may seriously affect the activities and operations of the entity and even lead to its paralysis, in the more serious cases. Disqualification is generally applied concomitantly with the administrative fines, but only in the case of the offences explicitly referred to in the Decree, to this effect, and, in any case, only if any of the following circumstances apply:

- the entity has obtained **significant profit**<sup>13</sup> and the offence was committed by senior executives, or by persons reporting to others, where the offence was determined or facilitated by severe organisational shortcomings (article 13, paragraph 1, letter a);
- in the event of repeated<sup>14</sup> unlawful acts (article 13, paragraph 1, letter b).

Pursuant to article 9, paragraph 2, disqualification includes:

- a) disqualification from exercising the activity;

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11 Cf. article 12, paragraph 1 "The fine is reduced by half and in no case may be greater than 200 million lire if: a) the perpetrator of the offence committed it primarily in his or her own interest or in the interest of third parties and the body obtained no advantage or obtained no minimum advantage; b) the financial damage caused is particularly slight".

Cf., article 12, paragraph 2. "The penalty is reduced by between one third and one half if, prior to the commencement of court of first instance proceedings: a) the body provided full compensation for the loss or damage and eliminated all harmful or hazardous consequences of the offence or otherwise if it took effective action to that end; b) an organisation model is adopted and is implemented which is able to prevent offences of the type occurring".

Cf., article 12, paragraphs 3 and 4. "In cases where both conditions provided for in the subparagraphs of the previous paragraph are met, the fine is reduced by between one half and two thirds. 4. In no cases may fines be lower than 20 million lire".

12 It should be noted how a fine can be reduced, but no reductions are admitted here (article 10, paragraph 4 of the Decree). This prohibition is aimed at ensuring the effectiveness of the fine.

13 Lacking any established parameters, legal doctrine and case law make reference to factual empirical parameters, whereby the requirement of "significant profit" may be inferred from both the actual amount of the profit and also from the nature and operating revenues of the company, i.e. by establishing a ratio of the profit obtained, in the form of kickbacks, to the actual contracts secured by the company, and, finally, from the actual size of the company and the extent of its income from public procurement.

14 Article 20 "Offences are repeated when the body, which has already been convicted, such decision being final, at least once for an unlawful act relating to an offence, commits another one in the five-year period subsequent to final conviction."

- b) suspension or cancellation of authorisations, licences or concessions serving to commit the unlawful act;
- c) prohibition on entering into contracts with the public administration, unless done so in order to obtain a public service;
- d) exclusion from benefits, loans, contributions or subsidies and possible cancellation of those already granted;
- e) prohibition on publicising goods or services.

The judge's discretionary powers are limited to the choice of the type of disqualification to be applied and the relevant duration (which can vary between three months and two years, according to article 13, paragraph 2, based on the criteria set out for establishing the proportionality of the fines); he or she, in fact, is obliged to apply a penalty in the face of the above mentioned conditions.

Regarding the choice of the type of disqualification, article 14 provides that this shall depend on the specific activities to which the unlawful act by the entity refers.

The application of this type of penalty – disqualification – may also lead to the entity putting its operations on hold or closing down, which can have serious repercussions on the general public, as well as on the employees of the entity or the economic fabric of a local community<sup>15</sup>.

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Therefore, if the conditions exist for applying a certain penalty leading to the suspension of the entity's operations, pursuant to article 15, the judge – when at least one of the conditions below is met – allows the entity to continue operating by appointing a temporary receiver, for a period equal to the duration of the disqualification. The conditions set out in article 15 include:

- the entity performs a public service or an essential public service interruption of which may cause serious harm to the community (article 15, paragraph 1, letter a);
- interruption to the entity's activity may cause serious repercussions to levels of employment, taking into consideration the size and economic conditions of the territory in which it is situated (article 15, paragraph 1 letter b).

Article 16 of the Decree provides that – albeit in certain limited cases – the disqualification of an entity may be final (therefore, over and above the maximum duration of 2 years), if any of the following events occur, which were obviously deemed particularly serious by the legislators:

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<sup>15</sup> The relazione ministeriale al Decree precisa che *“Si tratta infatti di sanzioni particolarmente invasive e temute che, proprio per questo, la legge delega impone di applicare solo nei casi più gravi”*.

- 1) if the body has obtained significant profits from the offence and if the body has already been sentenced, at least three times in the last seven years, to temporary disqualification from carrying on the activity;
- 2) when the same penalty has already been imposed at list three times in the last seven years from entering into contracts with the public administration;
- 3) if the body or an organisational unit of same is used on an ongoing basis solely, or primarily to allow or to facilitate the commission of offences for which it may be found liable, the body is again disqualified from carrying on the activity, such decision being final.

Disqualification shall not apply if the circumstances shown in article 12, paragraph 1 are met (the perpetrator of the offence committed it primarily in his or her own interest or in in the interest of third parties and the body obtained no advantage or obtained no minimum advantage and the financial damage caused is particularly slight.).

Furthermore, pursuant to article 17, disqualification shall not apply if – prior to the commencement of court of first instance proceedings – the following conditions are met:

- the body has provided full compensation for the loss or damage and eliminated all harmful or hazardous consequences of the offence or otherwise if it has taken effective action to that end;
- the body has eliminated the organisational shortcomings giving rise to the offence by adopting and implementing organisational models capable of preventing offences of the type previously occurring;
- the body has made the profits obtained available for confiscation.

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Besides the above mentioned penalties, article 18 of the Decree<sup>16</sup> also provides for the **publication of the court decision**, which may be required by the judge in addition to the disqualification, if he or she believes that it would be useful to suppress the unlawful act and prevent the future commission of other unlawful acts of the same type.

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<sup>16</sup> Cf., article 18: "1. The judge may order that the conviction be published when the body is disqualified. 2. The decision is published only once, either in abridged form or in its entirety, in one or more newspapers indicated by the judge in the judgement in addition to being posted in the municipality where the body has its main offices. 3. The decision is published, by the clerk of court's office, and costs are paid by the body".

Article 19<sup>17</sup> provides for a further mandatory penalty applied in the judge's decisions: the **confiscation of the price of or profit from the offence** except for the part that can be returned or restored to the damaged party. The purpose of this penalty is to compensate the violated economic balance.

When a company is liable in relation to a plurality of offences committed in a single action or failure to act, or otherwise committed during performance of the same activity and prior to judgement being handed down even if such judgement is not final, the entity may benefit from the cumulation of the fines referred to in article 21 of the Decree, whereby the entity shall be required to pay the fine contemplated for the most serious unlawful act, increased up to three times. As a consequence of such increase, in no case may the amount of the fine be greater than the total of the penalties applicable for each unlawful act.

Regarding disqualification, also in the case of a plurality of offences, only the penalty provided for the most serious unlawful act shall be applied.

Administrative penalties are time-barred five years after the date on which the offence is committed, without prejudice to any interruptions of the statute of limitations, after which a new 5-year period shall run.

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The failure to comply with the disqualification measures (even if interim measures have been imposed) is considered an offence and whosoever breaches obligations or prohibitions pertaining to such penalties or measures, is punishable with imprisonment for between six months and three years.

In the event of the failure to comply with the disqualification measures, severe administrative penalties shall apply to the entity in the interest or to the advantage of which the offence has been committed.

#### **1.4. – The "Guidelines of Confindustria"**

In order to assist entities in preparing the various organisation, management and control Models, article 6, paragraph 3, of the Decree provides that the trade organisations may exercise a guiding role by preparing specific codes of conduct.

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<sup>17</sup> Cf. article 19: "*1. When convicted, the proceeds and profits of the offence are always confiscated from the body, save for a portion which may be returned to an injured party. This is without prejudice to rights acquired by third parties in good faith. 2. When it is not possible to effect confiscation in accordance with paragraph 1, sums of money, assets or other valuable interests equivalent to the proceeds or the profits of the offence may be confiscated*".

Therefore, a team of experts of Confindustria has developed the “*Guidelines for preparing the organisation, management and control models pursuant to Legislative Decree 231/2001*”, taking into account the variety of the member companies, in terms of their size and of the specificities of their operations. The guidelines have been updated and revised over the years, the latest edition having been issued on 31 March 2014<sup>18</sup>.

The guidelines, therefore, constitute a methodological support tool, with regard to the following:

- a) identification of risks:** by mapping the “*risk areas*” based on an analysis of the business sectors and processes in which the unlawful acts referred to in the Decree may be committed;
- b) designing the control system:** for the purpose of setting up a preventive control system, in the form of an organisational Model that provides for the adoption of specific protocols for mitigating the highlighted risks as far as possible.

Confindustria has included among the tools required for managing risks the adoption of an Code of Conduct and of an internal penalty system, acting as a deterrent and providing for the application of disciplinary sanctions in the case of the failure to comply with and abide by the measures set out in the Model,<sup>19</sup> the tools required to implement adequate controls identify the criteria for selecting a Supervisory Body (SB) within the company, whose task it is to oversee the effectiveness, adequacy, application of and compliance with the Model, and its implementation. The Model also specifies the key tasks and duties of the SB, to ensure the effective and ongoing operation of the Model. 16

This Model has been prepared taking into account the requirements of the Decree and the guidelines developed by Confindustria.

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<sup>18</sup> The updates were required to adapt the guidelines to the changes in legislation following the introduction in the Decree of further offences, originally not included in the list of offences for which the entity is potentially liable and accountable (such as, for example, offences against the individual, insider trading and market manipulation, the so-called Market Abuse offences, cross-border offences, manslaughter and serious bodily injuries or grievous bodily harm, committed by violating the health and safety at work regulations, as well as the offences of handling stolen goods, money laundering and the use of money, goods or benefits of unlawful origin).

<sup>19</sup> This disciplinary penalty is applied for the violation of the company’s internal regulations and not for the commission of any ensuing offences.



## **2. – Chimec S.p.A.**

### **2.1. – Outline of the Company**

Chimec is a joint stock company, whose core business consists in the production of chemical substances to be used in the gas and oil industries, refineries, oil plants, steelworks and pharmaceutical industry.

Specifically, the Company's production process features the following macro-areas:

- processing of industrial wastewater, oil and gas fields;
- oil refining and petrochemical operations;
- decontamination of industrial plants;
- production of additives for fuels and combustible substances;
- production of colourings and denaturants for oil products.

The Company has a plant at Santa Palomba, Pomezia (Rome, Italy), where it carried out its core activities.

Instead, the sales organisation of Chimec is supported by five departments for development and marketing, which operate based on the final use of the relevant product, as follows:

- Process Development and Marketing Department;
- Oilfields Development and Marketing Department;
- Fuel Additives Development and Marketing Department;
- Water Development and Marketing Department;
- Deko Development and Marketing Department.

17

This organisation has been prepared by the Company for a twofold purpose: optimising the industrial processes and ensuring that all operations are executed without damaging the environment.

### **2.2. – Chimec's decision**

Although it is not required by law, the Company has nevertheless decided to adopt its own organisation, management and control Model consistently with the provisions laid down by the Decree, to ensure a shared ethical conduct within the Company and pursue the principles of lawfulness, legitimacy, correctness and transparency in all its activities.

Furthermore, the decision to adopt an organisation, management and control Model is consistent with the need felt by Chimec to pursue its mission in strict compliance with the objective of creating value for its shareholders and strengthening its domestic and international competences in all its business sectors.

The Company has, therefore, decided to launch a project aimed at identifying its organisational, management and control tools, and adapting to the requirements set out in the Decree, convinced as it is that the Model is both an invaluable tool for raising the awareness of all those who operate on behalf of Chimec, encouraging them to adopt a consistent and proper conduct in the performance of their activities, and an essential means of preventing the risk of committing the offences contemplated by the Decree.

### **3. – The process for adopting the Model. Preliminary approach**

As anticipated, pursuant to article 7 of the Decree, *“noncompliance with the directive or oversight requirements is ruled out if the body, prior to commission of the offence, adopted and efficiently implemented an organisational, management and control model which is capable of preventing offences of the type occurring. Regarding the type and size of the organisation and the type of activity performed, the model provides for measures to ensure performance of the activity in compliance with the law and to discover and promptly eliminate risk situations?”*.

In order to prepare and implement the Model, the Company has set up a project team – coordinated by a manager – with the task of identifying the stages, procedures, timelines, resources and persons to involve in the relevant activities.

18

The project for adopting the Model entailed a preliminary stage consisting in an accurate analysis of the current conditions of the Company.

#### **3.1. – Analysis of the documents and preliminary identification of the areas potentially at risk (*as is analysis*)**

In this state, we collected the documents and information for the macro-definition of the activities carried out by the Company and its organisation.

By way of example only, the information primarily concerned:

- the economic sectors and context in which Chimec operates;
- the core business procedures;
- the type of relations and activities (e.g. sales, financial, regulatory control, representation, collective bargaining, etc.) with private third parties and public administrations;
- any cases of irregularities – whether real or alleged – occurring in the past;
- the internal regulatory framework (e.g. delegated functions, decision-making processes, operational procedures);

- the documents relating to service orders, internal communications and other forms of documentary evidence for achieving a better understanding of the Company's operations and its organisation;
- contractual relations with other companies.

The documents – in electronic format and/or hard copies – relating to Chimec and the output of the project have been archived and made available in a dedicated file that can be consulted by the Project Manager and the future members of the SB.

Based on an analysis of the documents, we have identified – in a preliminary capacity – the sensitive processes and the company functions/organisation areas involved, as well as the extent and nature of the involvement.

Regarding these assessments, we have also identified the key officers involved in connection with each sensitive process, for the subsequent investigation phase.

### **3.2. – Preparation of the survey sheets**

Following the first desk-based analysis, interviews have been carried out with the key officers involved, as previously identified, for the purpose of grasping the salient aspects of the role/function and of the related processes, or the processes (or related stages) in which the organisation function/area/position is involved. 19

Regarding each function/area/position, we have investigated the following elements, in particular:

- internal organisation;
- degree of financial autonomy;
- key activities carried out by the function, or for which the function is responsible;
- level of so-called “proceduralisation” of the activities and existence of guidelines with regard to the relevant conduct;
- training activities and required information;
- oversight activities regarding the function's activities;
- data/information communication procedure, between the area concerned and the top management;
- handling of relations with external parties.

Instead, having regard to each individual process, the following aspects in particular have been surveyed:

- the person performing each significant activity in the process and the person who qualifies as the so-called “process owner”;
- the input information with regard to the process and the party(ies) providing the information;
- the significant and relevant decisions that may/must be taken along the process and how they are recorded and documented;
- the output information of the process;
- the management of the archives of the documents produced;
- the person authorised to sign any formal documents produced in connection with the process;
- the manner of execution of the internal, systematic and/or occasional controls, required in connection with the process;
- the person carrying out the oversight activities and how the said activities are recorded and documents;
- the results of any occasional or institutional inspections carried out by public officials or third parties;
- the most significant (economic, quantitative, strategic) indicators for establishing the level of relevance of each process and their quantification (in terms of value, numerosity or recurrence).

20

### **3.3. – Completion of the risk assessment analysis and identification of the criticalities (*gap analysis*)**

Based on the reprocessing of the survey sheets and comparisons with the single process owners, to determine any integrations/clarifications, the risk assessment analysis launched in the previous stages is then completed, for the purpose of:

- assessing the company functions/activities that are potentially exposed to the offence risks as referred to in the Decree;
- express an assessment of the organisation and control system as a whole.

The risk assessment analysis and evaluation is focused on the definition of specific cases of offences that can be associated – potentially at least – with each organisation area/ambit, for the major ones of which several possible ways in which the offences may be committed have also been assumed (albeit by way of example only).

Secondly, we have analysed the internal control system for each sensitive process, comparing it with the optimum control and oversight system that can be inferred from the Decree, the Confindustria guidelines and the best practices in the industry (the so-called “gap analysis”).

In particular, we have investigated the forecasting, effective application and adequacy of the following types of controls, with regard to:

- powers and responsibilities;
- organisation;
- information systems and procedures;
- other controls.

Therefore, we have then moved on to identifying the solutions for overcoming and resolving the criticalities observed, assessing and then sharing the improvement and corrective measures needed to reasonably minimise the gaps found, based on a cost-benefit analysis taking into account the organisational and other costs for closing the gaps and the relevant benefits, in the light of the actual consistency of the risk of committing the related offences. 21

These activities were guided by three goals in particular:

- minimising the possibility of committing the offences referred to in the Decree;
- maintaining a streamlined process, or ensuring a proper balance between the controls carried out, the linearity of the decision-making process and the workload;
- documenting and, therefore, ensuring the possibility of controlling all the activities carried out in connection with the Decree.

For each criticality observed, we have identified:

- an action plan (i.e. the necessary measures for minimising or closing the gap);
- the person in charge of implementing the necessary actions;
- the timeframe within which the action plan must be completed / the progress of the actions already under way.

#### **4. – Chimec’s organisation, management and control Model**

##### **4.1. – The purpose of the Model**

The Model is a specific risk management tool, with regard to the commission of certain offences, and has the fundamental aim of implementing an organic set of organisational control and oversight requirements and measures for reducing the risk of commission of the offences contemplated by the Decree.

The organisational system represented by the management and control model has the objective of preventing and sanctioning any behaviour that, in itself, could lead to the commission of any of the offences referred to in the Decree.

Therefore, the aim of the Model is to:

- set up an adequate prevention and control system for minimising the risk of commission of certain offences within the Company, in connection with the performance of its activities and operations;
- inform, in a complete, exhaustive and ongoing manner, the employees and any other party operating on behalf of Chimec, and anyhow involved in the risk areas within the company, that the violation of the provisions set out in the Model can determine the application of a penalty to either themselves or the Entity (consistently with the administrative responsibilities set out in the Decree);
- affirm that Chimec does not tolerate any unlawful acts, of any kind, sort or nature, regardless of the reasons for which they are performed or carried out (and even if, apparently, they bring an advantage or benefit to the Company) because they contrast with the ethical principles upheld by the Company itself and which it intends to respect and abide by;
- effectively censure the behaviour and conduct adopted in violation of the Model, through the application of disciplinary and/or contractual penalties.

22

Regarding the implementation of the Model, we have provided for a structured and organic system of protocols and related control activities, aimed at:

- identifying the risk areas within Chimec’s organisation (and related processes);
- regulating the internal procedures and activities for minimising the risk and preventing the commission of the offences referred to in the Decree. This regulation integrates with the adoption of the Code of Conduct, which expresses the commitments and

ethical responsibilities in the management of the company's business operations and industrial activities;

- creating a system of proxies and powers of attorney for signing corporate documents, capable of ensuring a clear and transparent representation of the decision-making process and related responsibilities;
- adopting formalised procedures, aimed at regulating the operational procedures and controls within the risk areas;
- specifically and punctually defining the functions and responsibilities assigned to each organisational unit of Chimec, indicating the delegations of powers for internal matters (proxies) and the powers of attorney for representing the company externally, such as to ensure an adequate separation of all responsibilities and competences;
- identifying the management and control processes regarding the financial resources in the risk areas;
- assigning to the SB the task of overseeing the operation of and compliance with the Model and proposing any updates, if necessary.

23

#### **4.2. - The nature of the Model and its relations with the Code of Conduct**

Chimec has adopted the so-called Code of Conduct, a document that has been disseminated within the organisation and sent to all the stakeholders and other persons linked in any way to the Company, containing a formalised illustration and description of the ethical principles, the rights, the duties and the responsibilities characterising the existence and inspiring the operation of the Company.

The Code of Conduct inspires all the Company's activities and operations – none excepted – and the principles set out therein represent an ethical basis of the procedures and protocols set out in this Model, of which it is an integral part.

The organisation and control Model set out in the Decree is aimed at laying down the rules of conduct and the necessary information for preventing the commission of certain offences and regulating the management procedures of this event; the Code of Conduct is a formalised version of the ethical principles on which the activities and operations of the Company and its employees are based.

An internal disciplinary system has been set up to address any violations of both the Code of Conduct and the procedures set out herein.

#### **4.3. - The structure of the Model. General Section: the identification of the significant offences and the Special Sections**

The Model consists, first and foremost, of this General Section, which illustrates and described the normative and regulatory principles that have inspired its adoption, the methods used in its preparation, the bodies responsible for its implementation and disciplinary systems capable of guaranteeing compliance with its provisions.

A detailed analysis of each of the relevant offences and of the Company's risk areas can be found in the various Special Sections, each one of which is dedicated to a type/group of offence set out in the Decree.

The single Special Sections may also refer to the internal procedures of Chimec, which have been examined and implemented in connection with the preparation and approval of the Model and which, therefore, are deemed suitable to ensure the pursuit of the purpose and ends contemplated in the Decree.

Based on an analysis of Chimec, it is deemed highly unlikely that some of the offences referred to in the Decree may be committed within the Company. Therefore, we have decided to exclude from the risk assessment and, therefore, from the discipline of the Model, the following offences: the offence of counterfeiting currency *pursuant to* article 25-*bis* of the Decree; the offences of terrorism or subversion of democracy *pursuant to* article 25-*quater*; practices such as the mutilation of female genital organs *pursuant to* article 25-*quater.1*; the offences against individuals (slavery, people trafficking, the purchase or disposal of slaves, pornography and child prostitution) *pursuant to* article 25-*quinquies*; the offences of criminal organisation for the purpose of trafficking narcotic drugs or psychotropic substances *pursuant to* D.P.R. 309/90; and the so-called market abuse offences (insider trading or market manipulation) referred to in article 25-*sexies*. 24

Instead, the offences that could possibly interfere with the Company's operations, in consideration of the business context in which it operates, are as follows:

- offences against the public administration, referred to in articles 24 and 25 of the Decree;
- cybercrime, referred to in article 24-*bis*;
- organised crime, referred to in article 24-*ter*;
- offences against industry and trade, referred to in article 25-*bis.1*;
- corporate offences, referred to in article 25-*ter*;
- offences against health and safety at work, referred to in article 25-*septies*;



- receiving stolen goods, money laundering and the use of money, goods and other benefits of unlawful origin and self-money laundering, referred to in article 25-*octies*;
- copyright infringements, referred to in article 25-*novies*;
- incitement to not testify or to bear false testimony before the judicial authorities, referred to in article 25-*decies*;
- the environmental offences referred to in article 25-*undecies*;
- the recruitment and employment of illegal aliens, referred to in article 25-*duodecies*.

Each special sections exclusively examines the offences for which – in theory at least – there is a risk of responsibility by the Company, with the exclusion of any cases which are not deemed of critical importance.

#### **4.4. – Recipients of the Model**

The recipients of the contents and principles of this Model are the Company's governance bodies, the members thereof, its employees, external consultants, suppliers, contractors and other collaborators, as well as the members of the Supervisory Body, who do not belong to the preceding categories.

25

The Model is disseminated to the above recipients so that they may acquaint themselves with and abide by its provisions.

Chimec distances itself from any behaviour that is in contrast with the law or the provisions of the Model, regardless of the interests that such behaviour intends to attain.

##### **4.4.1. – Dissemination of the Model**

The Company, in order to ensure the effectiveness of the Model, intends to promote the dissemination of its contents and principals among its employees, as well as any other parties who, although not formally identifiable as employees nevertheless work with Chimec for the attainment of its objectives, under specific contractual arrangements.

The comprehensive and accurate knowledge of the procedures, ethical rules and control systems by the current and future human resources, is of primary importance and shall be implemented through communication and training activities tailored to the single Recipients, based on the position, duties, tasks and roles, in connection with the sensitive activities.

These activities shall be inspired by the principles of completeness, clarity, accessibility and continuity, with a view to fostering full compliance with the Company's provisions and with the ethical rules that should always inspire the persons and parties concerned, at all times.

#### **4.4.2. – Training and information activities**

To ensure the effective knowledge of the Model, the Board of Directors formally notifies all the various Recipients of its adoption, also identifying the best procedures through which the information can be disseminated, for example information technology (intranet) or the delivery of a manual or other suitable document or by making available the documents at the office of the relevant function manager.

After the approval of the Model, the other employees (and all newly hired employees, as well as any temporary workers employed through temporary work agencies), shall be required to sign a statement whereby they declare that they have viewed the Model and undertake to comply with and abide by its provisions, and another specific statement regarding the acceptance and observance of the Code of Conduct, subject to the warning that any violations of the provisions contained in the two documents shall be entail disciplinary penalties. 26

The content shall also be included in the letter of engagement or contract entailing the establishment of a form of partnership and consultancy, as well as in the contracts entered into with suppliers and contractors.

The members of the Board of Directors, at the acceptance of their appointment, shall declare and sign a similar statement, undertaking to observe and collaborate in the application of the Model and the Code of Conduct.

This document, and the key references contained herein, shall be notified to each Manager who, in relation to the specific fiduciary relationship and management autonomy recognised to his or her role, shall be required to proactively collaborate in the proper and concrete implementation thereof.

We also believe that all the suppliers of Chimec must sign a declaration to the effect that they do not have a criminal record and are not involved in legal proceedings in relation to the offences referred to in Legislative Decree 231/2001.

If the Model is revised or updated, the Company shall promptly notify all the Recipients, to this effect, in the manner deemed most suitable to ensure the observance thereof.

Furthermore, the Model may also be made available and disseminated through any channels, by any means or procedures deemed most expedient by the Board of Directors (the Internet, hard copies made available at each plan, bulletin boards, intranet, communication by email).

Chimec shall provide for the organisation of training events, for the purpose of disseminating and fostering the comprehension of the rules of conduct adopted in connection with the implementation of the key principles inspiring this document and the principles set out in the Code of Conduct.

The training activities shall also be tailored according to the role and function of the Recipients, the existence of any risks in the areas in which they work, whether or not they have been granted representation powers of the Company.

The notification and training of the Recipients is aimed at providing an exhaustive overall picture of the new regulations regarding administrative responsibility, as well as the contents of and the principles inspiring the Model.

We shall organise training sessions for the employees, tailored to the areas in which they work.

The training activities shall be mandatory and, in fact, penalties shall apply, as provided by the disciplinary system, in the event of an unjustified absence.

27

All the training activities shall be recorded (by signing declarations and statements and other official documents of attendance by the participants, compiling questionnaires or even certifying the attendance of the Recipients by means of attendance certificates).

Any staff hired after the approval and adoption of the Model shall receive an information kit, including a copy of the Model, a copy of the Code of Conduct, the Collective Labour Agreement and/or a training course.

Finally, the planning of the training programmes shall provide for periodical refresher courses.

#### **4.5. – Adoption, amendment and integration of the Model**

The Decree provides for the adoption of the organisation, management and control Model by the *senior executive body* (article 6), leaving the definition of the body responsible for this task to each entity.

For Chimec, the senior executive body responsible for adopting the Model is the Board of Directors of the Company.

Any amendments to and integration of the management and control Model shall be the responsibility of the BoD, acting on the indications of the SB, according to the procedures set out in paragraph 7 below.

## **5. - Supervisory Body**

### **5.1. – Establishing the Supervisory Body**

The Decree provides for the establishment of an independent body with the sole task of overseeing the operation of and compliance with the Model and provide for its updating (article 6 paragraph 1, letter b): the Supervisory Body (SB).

*“The Supervisory Body, in order to comply with its expectations, must be an independent body, with powers of initiative and control. It is obvious, in fact, that – if the efficiency and functionality of the Supervisory Body is to be ensured and maintained – it must not have operational powers, as a result of which it would participate in the running of the Entity, which could jeopardise its impartiality when it needs to carry out the necessary oversight activities. Therefore, it must be a supervisory body whose membership does not belong to and is not part of a company’s governance bodies, and may consist of external collaborators possessing the necessary and requisite qualifications of professionalism, enabling it to effectively perform its autonomous powers of initiative and control”.*

28

Although the applicable regulations provide, rather generically, that the SB is an internal organisation of the Entity, leaving the latter responsible for choosing its membership, whether of a collegial nature (a board) or made up of a single person, the Confindustria Guidelines and the most recent case law indicate a board as the best type of body suited to a medium-to-large company, while reserving the possibility of a single-member body to smaller entities: *“unquestionably, in the case of medium-to-large corporations, the best solution is a board, and another characteristic of this body – in these cases – must be its continuity of action, i.e. it must ensure an exclusive commitment to the oversight activities, with regards to the implementation of the Model.”*

Therefore, the Board of Directors of Chimec – in the light of all that has been said above – has decided to appoint a collegial body to act as the Supervisory Body, within the framework of this Model.

As already mentioned above, the Decree requires that the company *“shall be supported and assisted by a body that must be established internally”*.

The Confindustria Guidelines indicate the key requirements that the Supervisory Body must possess, as follows: (a) autonomy and independence, (b) professionalism, and (c) continuity of action.

(a) Autonomy and independence

The SB reports directly and exclusively to the Board of Directors and – in order to ensure its full autonomy and independence, with regard to the performance of its functions – there must be no hierarchical bonds or ties between the Body and the Company’s governance. According to the Confindustria Guidelines, *“The position of the SB within the entity must ensure and guarantee full autonomy of initiative and control from any form of interference and/or conditioning by any other part or body of the entity (the governance body first and foremost). These requirements seem to be ensured by the introduction of the Body itself as a staff unit in the highest possible hierarchical position, providing for it to report exclusively to the highest management body, i.e. the Board of Directors as a whole.”* Therefore, only the BoD has the authority to scrutinise the activities carried out by the SB, as the body responsible for the operation and effectiveness of the Model.

The Guidelines also provide that the SB must be given no tasks such as to involve it in the Entity’s operational decision-making process, thereby undermining its objectivity of judgement.

29

(b) Professionalism

The Confindustria Guidelines define professionalism as the possession, by the SB, of a *set of tools and techniques* enabling it to effectively perform its duties.

Specifically, statistical and risk assessment competences are required, on top of business management, accounting and legal knowledge.

The SB must also be familiar with the environmental protection regulations set out in Legislative Decree 152/2006.

This latter requirement is absolutely necessary, also considering the specific field in which Chimec operates.

(c) Continuity of action

According to the Guidelines, the effective and continuous implementation of so complex a system as the Model outlined above, especially in medium-to-large entities, requires a dedicated body engaged on a full-time basis in supervising the Model, without operational duties involving it in decision-making processes with economic and financial effects.

## **5.2. – Appointment and termination of membership of the SB. Grounds for ineligibility or forfeiture**

The Supervisory Body of Chimec is appointed by the Board of Directors. The appointment of the members of the SB is perfected with a declaration of acceptance – by the designated members – by signing the extract of the Directors’ resolution appointing them, or included directly in the minutes of the Directors’ meeting at which they are appointed.

The membership of the SB is established by resolution of the BoD, also taking into account the requirements of good repute, integrity, respectability and professionalism, as mentioned above.

The term of office of the members of the SB is three years.

The Board of Directors also determine the remuneration of the members of the SB, obviously by means of a formal resolution. The said remuneration shall remain unchanged throughout their term of office.

As already mentioned above, the members of the Supervisory Body must possess the following requirements: good repute, integrity, respectability and professionalism, and must not be ineligible or incompatible with the position, for the following reasons:

- grounds for ineligibility or forfeiture applicable to directors of companies, pursuant to article 2382 of the Italian Civil Code<sup>20</sup>;
- conviction, also by a court of first instance, or enforcement of judgement on request (so-called “plea-bargaining”), in Italy or abroad, for the offences referred to in the Decree;
- relationship of marriage or kinship, up to the fourth degree, with the members of the BoA, the senior executives, the statutory or other auditors of Chimec;
- a conflict of interest, potential or otherwise, with the Company, such as to jeopardise the independence required of the role and tasks of the Supervisory Body.

When accepting his or her appointment, a designated member of the SB must explicitly declare and represent that none of the above mentioned grounds for ineligibility or forfeiture apply to him or her.

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<sup>20</sup> Cf., article 2382 of the Italian Civil Code: *“interdicted and banned persons, disqualified persons, bankrupt persons or those persons who have been sentenced to a penalty entailing a ban, even temporary, from public office or the inability to exercise managerial functions cannot be appointed as directors, and if appointed, forfeit their office”*.

If a just cause arises, the BoD may withdraw the appointment of one or more of the members of the SB, providing for their replacement in the shortest possible time.

Following are several “just causes” for the withdrawal of the appointment of a member of the Supervisory Body, which are given by way of example only:

- the loss of the personal requirements of good repute, integrity, respectability and professionalism, which the person obviously possessed at the time of his or her appointment;
- misrepresentation, with regard to the absence of grounds for ineligibility or forfeiture described above;
- occurrence of grounds for ineligibility;
- severe negligence in the fulfilment of the tasks related to the position such as (given by way of example only): the failure to prepare the half-yearly information report or the annual summary report to the Board of Directors and the Board of Statutory Auditors on the activities carried out; the failure to prepare a plan of action; the failed or inadequate performance of its supervisory activities – in accordance with article 6, paragraph 1, letter d), of the Decree; the assignment, within the Company’s organisation, of operational functions and responsibilities that are incompatible with the requirements of “autonomy and independence” and “continuity of action” of the Supervisory Body; any violations of the confidentiality provisions; the failure to attend the meetings of the SB for three times in a row;
- the intervening need to reorganise the Company.
- the violation, when managing “whistleblowing reports”, of the measures put into place to protect the whistleblower (see paragraph 5.4.1).

31

### **5.3. – Functions and powers of the SB**

The key functions of the SB are to:

- monitor the effectiveness and adequacy of the Model to prevent the commission of the offences contemplated by the Decree;
- supervise the compliance, implementation and effectiveness of the Model by the Recipients;
- assess the adequacy of the disciplinary system set out in the Model;
- assess the expediency of amending/updating the Model, in connection with any changed circumstances at the Company or changes to the legal reference framework;

- promptly report to the management any detected violations of the Model, to enable the adoption of the necessary measures.

The specific tasks of the SB are to:

1. plan and implement the necessary activity control procedures, for the twofold aim of continuously mapping the activities potentially affected by the offences and checking the actions and operations carried out within the relevant areas (the so-called “Risk Areas”);
2. access, on a regular basis, the archives of the functions involved in the Risk Areas and the relevant IT support procedures, for the purpose of checking – on a sample basis – that the procedures laid down for the said areas have been complied with;
3. in order to facilitate the functions in (1) and (2) above, coordinate with the other Company functions, which must keep the SB constantly informed, by means of reports and ad hoc meetings on the development of activities in the Risk Areas;
4. perform internal investigations and inspections for determining any alleged violations of this Model, and of the established procedures, or, generally speaking, any situations or circumstances involving the risk of commission of the offences referred to in Legislative Decree 231/2001;
5. collect, process and store the information relating to the implementation of and compliance with the Model, and to check the presence, keeping and effectiveness of the relevant documents and records required by the Special Sections of the Model relating to the various types of offences;
6. monitor the proceedings for the application of penalties to any employees or of any measures to external parties;
7. update the list of information the SB is required to transmit, or make available, to the other Company functions;
8. with the support of the corporate functions involved, periodically check the adequacy and conformity with the applicable provisions of the proxies and powers of attorney granted in connection with the Model;
9. sponsor initiatives and projects for disseminating the Model among the employees. In particular, the SB shall coordinate with the managers to define the employee training programmes and the content of the periodical notices to be sent to the employees, to raise their awareness and improve their basic knowledge of Legislative Decree



231/2001, including the preparation of the organisational documents containing the instruction, clarifications or updates for the operation of the Model;

10. check compliance with the Decree of the Special Sections of the Model relating to the various types of offences (adoption of standard clauses, performance of procedures, etc.);
11. where the SB observes the need to adjust the Model to any changed circumstances of the Company, or the external context, or changes to the relevant legislation, propose the updating of the Model to the Board of Directors;
12. coordinate and cooperate with the parties responsible for implementing the health and safety at work regulations, to ensure that the control system contemplated by the Decree is fully integrated with the control system put into place in connection with the special health and safety regulations;
13. control the operations carried out by the governance bodies and the management, by checking the minutes of the Directors' meetings, or through immediate reporting to the SB of the corporate operations involving the risk areas.

To enable the SB to perform the functions above, the BoD shall vest it with the power to:

33

- issue service instructions and orders for regulating its own activities;
- access any significant Company document for the performance of its functions under the Decree;
- issue general and specific instructions to the corporate divisions, including the management, for the purpose of obtaining any information it deems necessary to fulfil its duties, so as to ensure the timely detection of any violations of the Model;
- carry out periodical inspections – on the basis of a dedicated plan of action – or unplanned spot checks, if deemed necessary for the fulfilment of its duties;
- spend the money allotted under an annual budget by the BoD, sufficient to ensure its financial independence and enable it to effectively fulfil its duties.

For the fulfilment of its duties, the SB may, from time to time, request the support of collaborators from any Company functions, as needed, in connection with the performance of any specific duties and/or the assistance of external consultants.

The collaborators of the SB, acting on its indications, may individually or collectively, as a team, perform the supervisory activities deemed necessary to ensure the implementation of and compliance with the Model.

The members of a Company function, when operating as the collaborators of the SB and, therefore, engaged in the performance of any operations assigned to them in this capacity, shall be exempted from performing their ordinary duties and shall report exclusively to the SB, both hierarchically and functionally.

The SB shall draft its own Regulation, for the purpose of organising its functions and activities, such as, for example, the frequency of any inspections, its decision-making process, the procedure for calling its meetings and taking minutes thereat, the resolution of any conflicts of interest, the procedure for amending/reviewing the Regulation, the relevant reporting procedures, both by and to the SB, in accordance with the Model.

Furthermore, the Regulation must also provide for specific meetings and exchanges of opinions and information, in particular with:

- the board of statutory auditors;
- the key players within the internal control system;
- the key players within the health and safety at work management system;
- the key players in terms of information flows to the SB, as provided in the following paragraph.

34

The SB shall regulate the procedures and timelines for organising the said meetings, identifying the persons to be involved each time and the relevant agenda.

The SB shall also prepare a Plan of Action setting out the activities it intends to carry out for the fulfilment of its duties, which must be notified to the Board of Directors.

#### **5.4. – Information flows to the SB**

With a view to facilitating its supervisory activities, relating to the effectiveness and efficacy of the Model, the SB shall receive the following types of information:

- *reports* relating to any – alleged or actual – violations of the Model (hereinafter the "Reports");

- any *information* that is useful or necessary for the fulfilment of the supervisory functions assigned to the SB (hereinafter classified as General Information and Information on Sensitive Operations).

As specified above, the SB is allowed to access any type of information deemed useful for the fulfilment of its duties. This entails that the SB is under the obligation to keep the information received strictly confidential.

The Recipients must promptly report any cases of violation, including alleged violations, of the Model to the SB.

The Reports must be sufficiently accurate and detailed and relate to a specific event or area; they may concern any part of the Company of significance for the implementation of the Decree and the Model.

If the alleged or actual violations concern the health and safety at work organisation, Reports may be made to the SB also by the Workers' Health and Safety Representative, if the said position is not held by one of the Recipients of the Model.

On receiving a Report relating to health and safety violations of the Model, the SB shall make sure that the reporting party has also previously or contextually informed the so-called "Employer" and the Prevention and Protection Service Officer. If the reporting party has failed to do so, the SB itself shall provide.

35

In any case, to facilitate its supervisory activities, the SB must promptly receive any General Information deemed useful, such as the following, given by way of example only:

- any criticalities, anomalies or atypical occurrences found by the corporate functions in the implementation of the Model;
- the measures issued by and, generally speaking, any information received from the law enforcement or other authorities, from which it may be inferred that investigations are under way, also with regard to unknown persons, for the offences referred to in the Decree;
- internal or external notices concerning circumstances anyhow related to the offences referred to in the Decree;
- requests for legal assistance received from any employees, in the event of prosecution for the offences referred to in the Decree;

- internal inquiries or reports revealing responsibilities in connection with the offences referred to in the Decree;
- information regarding disciplinary proceedings for violations of the Model and the Code of Conduct and the relevant penalties applied (including any measures adopted against employees and other persons), or the dismissal of any such proceedings, with the relevant reasons;
- information relating to changes in the Company's organisation;
- any updates to the proxies and powers of attorney granted (also with regard to health and safety at work matters);
- information relating to changes in the key positions regarding health and safety at work matters (such as, for example, changes in the roles, tasks and positions responsible for ensuring the implementation of the health and safety regulations);
- any notices received from the auditing firm and containing elements pointing to shortcomings or failures in the internal control systems, inappropriate conduct, observations on the financial statements of the Company;
- any present or future assignments to the auditing firm, or other related companies, other than the auditing of the financial statements or accounts;
- copy of the minutes of the Directors' and Statutory Auditors' meetings.

36

Such General Information shall be supplied to the SB by the managers of the corporate functions, in accordance with their remit.

The Reports and General Information – without prejudice to the references below to Information by the Process Owners relating to Sensitive Operations – shall be made and provided in writing and emailed via a dedicated address ([odv@chimec.it](mailto:odv@chimec.it)).

In order to facilitate the disclosure to the SB of the largest possible amount of information, Chimec undertakes to protect any reporting person from any form of retaliation, discrimination or penalisation, except as required by the law and to protect the rights of the Company or any persons unjustly accused of intentional or serious negligence.

The SB shall assess the reports it receives with discretion and sense of responsibility, carrying out any inquiries – also interviewing the author of the report and/or the person(s) accused of the alleged violation – and reporting on its activities to the Board of Directors (see the following paragraph in this respect).

Furthermore, to allow the SB to monitor the significant activities carried out in connection with the Sensitive Processes referred to in the Special Section, the members of the BoD, or the managers of the functions, shall be qualified as Process Owners and required to transmit to the SB the Information on the Sensitive Operations performed.

Given the cross-cutting nature of the significant areas, in relation to health and safety at work offences, as better described in the relevant Special Section of the Model, the following corporate positions shall also qualify as Process Owners, as Recipients of the Model, in accordance with article 2 of Legislative Decree 81/2008:

- the Employer;
- the Employer's Delegate;
- the Managers;
- the Prevention and Protection Service Officer;
- the Company Physician.

37

Finally, with regard to significant areas relating to cybercrime, as better specified in the relevant Special Section of the Model, the IT Officer too shall qualify as a Process Owner.

The above mentioned Sensitive Operations shall be identified by outlining the evaluation criteria and parameters defined by the SB, by virtue of the risk assessment activities carried out.

The SB shall adequately inform the BoD on the definition of the said criteria and parameters.

The BoD shall be informed about the Sensitive Operations by the above mentioned officers, through the compilation and transmission (by any means, and providing for proof of sending and clearly specifying the sender) to the SB of a so-called Information Datasheet, which must be periodically updated.

The SB is responsible for notifying the above mentioned Process Owners about the said evaluation criteria and parameters, as well as the operating rules and frequency of transmission of the Information Datasheets.

#### **5.4.1. - Reporting violations of the Model in the light of the whistleblowing legislation.**

Following the approval of draft law no. 3365-B (*“Provisions for protecting public or private-sector employees who report offences or irregularities committed at the workplace”*), on 18 October 2017, the application of the so-called “whistleblowing” provisions regarding the protection of public-sector employees reporting the commission of illegal activities at the workplace has been extended to include the private sector as well, through the introduction, in article 6 of Legislative Decree 231/2001, of paragraphs 2 bis, ter and quarter.

The new provisions cover reporting of the following activities:

- (a) any illegal behaviour, of relevance for the purposes of the said Decree, based on accurate and consistent facts;
- (b) any violations of the entity’s Organisation and Management Model, which the Recipients have become aware of in connection with their functions.

Pursuant to article 6, paragraph 2-bis, letter a), the persons required to transmit the said reports are:

- (i) *“the persons specified in article 5, paragraph 1, letter a)”* of the Decree, i.e. the persons with functions of representation, administration or management within the entity, or any of the entity’s organisational units with financial and functional autonomy, or who are responsible, de facto, for the management and control of the said entity;
- (ii) *“the persons specified in article 5, paragraph 1, letter b)”* of the Decree, i.e. the persons who are subject to the direction or supervision of any of the persons specified in (i) above.

38

The reports may concern any corporate area of relevance for the purposes of the application of the Decree and the applicable Model and shall contain:

- useful information for reconstructing the reported event, with the attachment, where possible, of support documents;
- information that can be used, where possible, to identify the perpetrator of the reported event;
- information relating to the circumstances in which the reported event became known by the whistleblower.

The Decree also defines one or more channels that can ensure *“the confidentiality of the whistleblower’s identity, in connection with the management of the whistleblowing report”* (article 6, paragraph 2 bis,

letter a), as well as “*at least one alternative reporting channel capable of ensuring the confidentiality of the whistleblower’s identity, according to electronic procedures*” (article 6, paragraph 2 bis, letter b).

To this end, the reports must be transmitted in writing, through a dedicated section in the company intranet, and sent to the SB by means of an ad hoc email address (the Company in fact, in addition to the SB’s email address for receiving information flows and information relating to the “231 system”, has also created a dedicated channel for whistleblowing reports).

The SB, recipient and sole keeper of the whistleblowing reports thus received, ensures the confidentiality of the received information and of the whistleblower’s identity, which may be disclosed only at the request of the Judicial Authorities, in connection with any investigations initiated in connection with the report.

The SB assesses the relevance of any incoming reports, for the purposes of Legislative Decree 231/2001, implementing the necessary activities and requesting, if necessary, the collaboration of the competent Company units, notifying the Management Body, by means of a report, in the event any violations of the Model, or of other 231-related provisions, are found.

The outcome of the assessments shall also be notified to the whistleblower, if requested.

The SB shall file and keep a paper and/or electronic copy of the incoming whistleblowing reports for a minimum period of 10 years. <sup>39</sup>

Chimec guarantees the protection of whistleblowers reporting any form of retaliation, discrimination or penalisation, in accordance with article 6, paragraph 2 bis, letter c) of the Decree.

The Company also represents and warrants that it shall not adopta any “*acts of direct or indirect retaliation or discrimination against the whistleblower*” (such as, for example, dismissal, job changes, removals from position, organisational measures with a negative impact on the working conditions) “*for reasons directly or indirectly related to the reporting*”.

### **5.5. – Reporting by the SB**

The SB shall keep the Board of Directors regularly informed, in writing, about the performance of its key oversight tasks and duties, relating to the implementation of the Model, and is also required to report any criticalities observed.

Therefore, the SB shall report to the BoD:

- at the beginning of each financial period, the Plan of Action it intends to implement, in connection with the fulfilment of its duties;
- periodically, at least half-yearly, the progress of the Plan of Action and any changes made, with the relevant reasons;

- any violations to the Model, as timeously as possible, as well as any unlawful and/or illegitimate conduct reported to it by the Recipients, and which the SB deems to be grounded or which it has directly determined;
- at least once a year, a summary report of the activities carried out in the previous twelve months and the outcome thereof, the criticalities observed and any violations of the Model, as well as any proposals for updating the Model.

The BoD and the Board of Statutory Auditors may summon the SB at any time, and the SB itself may call a meeting of the said bodies – through the competent functions or parties – for urgent and particularly serious reasons.

The SB may also notify the results of its assessments to the managers of the functions, if any shortcomings or inappropriate conduct should emerge, with regard to the implementation of the Model.

The SB shall be required to inform both the BoD and the Board of Statutory Auditors if it finds that the top management of the Company is involved in any violations.

#### **5.6. – Procedure for filing the information received and documents collected**

40

The documents produced, received or collected by the SB, and all the documents relating to the updating of the management and control Model of Chimec, shall be filed and stored for a period of ten years in the archive of the SB and managed exclusively by the SB members.

Besides the members of the SB, only the Directors shall have access to the said archive.

### **6. – Disciplinary penalties and other measures to be adopted in the event of violation of the Model and Code of Conduct**

#### **6.1. – Functions of the disciplinary system**

To ensure the effectiveness of the Model, the Decree provides for the introduction of a “*disciplinary system suited to applying penalties in the case of failure to comply with the measures*” provided in the Model and the Code of Conduct, constituting a deterrent to the failure to apply the provisions by both the persons subject to the direction of others and the senior executives of the Company.



The proceedings for applying the penalties are subject to article 7 of Law 300/1970 (the so-called “Workers’ Statute) and the applicable nationwide Collective Labour Agreement (“*Collective Labour Agreement for the chemical, chemical-pharmaceutical, chemical fibre and abrasives, lubricants and LPG production sectors*”).

The HR Division shall be responsible for determining the violations, initiating the disciplinary proceedings and applying the penalties, also acting on the input of the SB.

The SB shall be kept constantly informed about the violations detected and the penalties applied by the HR Division.

Finally, this Model also provides for disciplinary measures for any persons, not necessarily related to the Company, but which are nevertheless considered recipients of the relevant positions.

The application of any penalties shall be unrelated to the initiation and outcome of any criminal proceedings, because the rules of conduct are independently implemented by the Company regardless of any effects the unlawful acts and conduct may have outside the Company itself.

Therefore, based on the prevention approach that inspires the Decree, a punishable conduct is any conduct, regardless of whether or not it is liable to criminal prosecution, which nevertheless damages or weakens the effectiveness of the Model, in terms of its organisation and control functions, thus impairing its regulatory function.

All employees are therefore required to comply with the provisions and rules of conduct set out in the Model and the Code of Conduct, pursuant to articles 2104 and 2105 of the Civil Code<sup>21</sup>.

The provisions, the inobservance of which constitutes an unlawful act for disciplinary purposes, are made formally binding on all the recipients by means of the introduction of a specific reference in the employment contracts, internal circular letters, and the introduction of a specific reference in the contract entered into with third parties, in connection with the operations relating to the risk areas.

The provisions relating to disciplinary offences shall be constantly publicised, both inside and outside the Company, through training and information activities, for example, or by posting the regulation in public spaces.

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21 The violation of the obligations referred to in articles 2104 and 2015 of the Italian Civil Code shall authorise the employer to apply its disciplinary powers, pursuant to article 2106 of the Civil Code: “*inobservance of the provisions laid down in the two preceding paragraphs may result in the application of disciplinary sanctions, proportional to the gravity of the violation*”.

The assessment of the adequacy of the disciplinary system, the ongoing monitoring of the proceedings for applying the disciplinary measures to the employees, and the disciplinary activities undertaken with regard to third parties are the responsibility of the SB, which shall report any shortcomings in this respect.

## **6.2. – Violation of the Model and related penalties**

The following constitute disciplinary offences:

- 1) any conduct integrating the offences referred to in the Decree;
- 2) any conduct which, although not constituting an offence within the meaning of the Decree, is nevertheless unequivocally aimed at the commission thereof;
- 3) any conduct that does not conform to the procedures regulated in the Special Sections of the Model and in the Code of Conduct, regardless of whether or not it also constitutes a criminal offence.
- 4) the violation, in the management of “whistleblowing reports” of the measures put into place to protect the whistleblower (see paragraph 5.4.1 above);
- 5) making ungrounded reports, either with wilful intent or as a result of severe negligence, if the competent Authorities determine the whistleblower’s responsibility in making the false report.

42

In order to identify the adequate penalties for each offence, the following elements should be taken into account:

- the presence and gravity of any malicious intent;
- the presence and intensity of negligence, carelessness, incompetence, also with regard to the foreseeability of the event;
- the presence and intensity of the repetition of the conduct;
- the intensity of the danger and/or consequences entailed by the violation for the recipients of the health and safety at work regulations and the Company;
- the duties of the person involved;
- the timeframe and manner of execution of the violation;
- any specific circumstances characterising the commission of the disciplinary offence.

The disciplinary proceedings must ensure the following prerogatives:

- the right to defense based on the principle of “cross-examination”;
- the immediacy and specificity of the charges;
- the proportionality of the penalty;
- the prompt notification of the penalty.

### **6.2.1. – Types of penalties applicable to employees**

The application of any of the following penalties shall be determined based on the gravity of the violation, in the light of the criteria specified in the preceding paragraph and the conduct of the person concerned both before (i.e. repeat violations) and after the event (e.g. reporting of any unlawful conduct to the SB).

The penalties provided for the violation of the Model and the Code of Conduct by the employees of the Company are the following:

- **verbal warning** (in addition to the cases provided by the applicable Collective Labour Agreement), if the employee violates any of the internal procedures provided by the Model (e.g., failure to comply with the required procedures, failure to provide information to the SB, failure to carry out any controls);
- **written warning** (in addition to the cases provided by the applicable Collective Labour Agreement), if the employee repeats any violations of the procedures set out in the Model, or adopts a behaviour that does not conform to the requirements set out in the Model, in the performance of activities in sensitive areas;
- **fine** – not exceeding the equivalent of three hours of pay – (in addition to the cases provided by the applicable Collective Labour Agreement), if the employee, despite having already received a written warning, persists in the violation of the procedures set out in this Model and in the Code of Conduct, or continues to not conform to the requirements set out in the Model, in the performance of activities in sensitive areas;
- **suspension from work and pay** – for a period of no more than three workdays – (in addition to the cases provided by the applicable Collective Labour Agreement), if the employee, in violating the internal procedures set out in this Model or in the Code of Conduct, or by adopting a behaviour that does not conform to the requirements therein, in the performance of activities in the risk areas, or by carrying out any actions contrary to the interests of Chimec, damages the Company or exposes its assets to any dangerous situations;

- **transfer for punishment or dismissal with payment of allowance in lieu of notice and severance indemnity**, if the employee adopts a behaviour, in relation to the performance of activities in the risk areas, that does not conform to the requirements set out in this Model or in the Code of Conduct and which is unequivocally aimed at the commission of a punishable offence, under the Decree, with resulting serious damage to or considerable prejudice for the Company;
- **dismissal without notice and with payment of severance indemnity** (in addition to the cases provided by the applicable Collective Labour Agreement), if the employee adopts a behaviour, in performing the activities in the risk areas, that clearly violates the requirements set out in this Model or in the Code of Conduct, and such as to authorise the Company to implement the measures provided in the Decree, in consideration of the fact that the activities are such as to radically undermine the trust placed by the Company in the employee involved. Generally speaking, this penalty may be applied (in accordance with the applicable Collective Labour Agreement) to any undisciplined or negligent employees, whose actions cause serious moral or material damage to the Company, or who commit criminal offences at work.

44

If the violation is such as to entail the employee's **dismissal**, he or she may be suspended from work, on a precautionary basis, until the actual application of the disciplinary measure, without prejudice to his or her right to remuneration. The application of the penalty shall be motivated and notified in writing. The employee is entitled to present justifications, either verbally or in writing.

Regarding the measures of **verbal warnings or reprimands**, the employee must be given a notice in writing to this effect, with a specific indication of the events and circumstances of the violation (as required by the applicable Collective Labour Agreement).

The measure shall be applied only after eight days from the notification thereof, during which time the employee may present his or her justifications. If the measure is not applied within the next eight-day period, the employee's justifications shall be deemed to have been accepted.

### **6.2.2. – Penalties applicable to managers**

In the event of the violation of any rules of conduct set out in this Model or in the Code of Conduct, the most suitable measures shall be applied to the person involved in accordance with the applicable Collective Labour Agreement and consistently with the gravity of the violation, in the light of the criteria set out in paragraph 6.2 above.

### **6.2.3. – Penalties applicable to Directors or Statutory Auditors**

In the event of the violation of this Model by the members of the Board of Directors of the Company, the SB shall inform the Board of Directors and the Board of Statutory Auditors, who shall then take the necessary measures, including the withdrawal of any powers, consistently with the gravity of the violation, in the light of the criteria set out in paragraph 6.2 above and consistently with the law and the Company's articles of association.

In the event of violation of this Model by the Chief Executive Officer or the entire Board of Directors of the Company, the SB shall inform the Board of Statutory Auditors, which shall then promptly call the General Meeting of Shareholders for adopting the necessary measures, consistently with the the gravity of the violation, in the light of the criteria set out in paragraph 6.2 above and consistently with the law and the Company's articles of association.

In the case of the members of the Board of Directors, the failure to comply with their management and supervisory functions, with regard to the proper and effective implementation of this Model, shall also constitute a punishable violation of this Model and the Code of Conduct.

In the event of the violation of the Model by one or more members of the Board of Statutory Auditors of the Company, the SB shall inform the Board of Directors, which, acting in collaboration with the Board of Statutory Auditors and, if necessary, calling the General Meeting of Shareholders, shall adopt the necessary measures, consistently with the the gravity of the violation, in the light of the criteria set out in paragraph 6.2 above and consistently with the law and the Company's articles of association.

45

### **6.2.4. – Penalties against the collaborators involved in the Sensitive Processes, external consultants, agents, suppliers and contractors**

Any violation by the Collaborators, Agents, external Consultants and Suppliers, as well as the Contractors, may determine – depending on the provisions included in the relevant contracts, letters of engagement, collaboration / agency / distribution / construction / subcontracting / supply / works agreements – the termination of the contract, agreement or other arrangements, without prejudice to the right to any claims for damages, if the violation has entailed damage to the Company, as in the case of the application by the Judge of the measures set out in the Decree.

## **7. – Updating and adapting of the Model**

### **7.1. Inspections and controls**

The SB shall prepare an annual supervisory programme for planning its inspection activities relating to the adequacy of the Model.

The programme shall contain a schedule of the activities to be carried out during the year, also providing for any non-scheduled inspections and controls.

During the inspections and controls, the Supervisory Body is vested with the broadest powers for fulfilling its duties and performing its activities, and may request the assistance of any competent members of the corporate sectors and divisions undergoing the inspection.

Regarding its inspection activities, the SB shall monitor – on a random basis – all the reports receiving during the year, the actions carried out, the events considered to be at risk and the awareness of the employees regarding the entity's responsibilities.

The inspections carried out by the SB, and the outcome thereof, shall be included in periodical reports transmitted to the Board of Directors and also illustrating any proposals for the improvement, implementation and integration of the Model, also taking into account the detected violations of any requirements and any intervening changes in the applicable regulations or the Company's organisation. 46

### **7.2. Updates and adjustments**

The Board of Directors shall resolve with regard to the updating and adjustment of the Model.

Once the changes have been approved, they are notified to the SB to be immediately applied and transmitted to the internal and external recipients of the Company.

### **7.3. First application of the Model**

The Board of Directors of Chimec is responsible for determining the criteria and instructions for the proper implementation and adoption of the Model.

The procedure shall also be assessed in relation to the any risk situations detected, except for the necessary adjustments that may become necessary for ensuring the effectiveness of the Model, in relation to the Company's operations.

The governance bodies may act in partnership with the SB (if already appointed) to determine the reception of the Model, based on a specific programme for each risk area concerned and also taking into account the needs of the relevant sector, based on its activities.