

**ORGANIZATION AND  
MANAGEMENT MODEL PURSUANT  
TO LEGISLATIVE DECREE NO. 231/01**

**OF**

**ECO-WAY S.P.A.**

Approved by the Board of Directors on 27-01-2015

## **GENERAL PART**

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### TABLE OF CONTENTS

<b>1. LEGISLATIVE DECREE NO. 231 OF 8 JUNE 2001, ON ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES, CORPORATIONS AND ASSOCIATIONS WITH OR WITHOUT LEGAL STATUS.....</b>	<b>5</b>
1.1 Administrative Liability of Entities .....	5
1.2 Individuals Subject to Legislative Decree No. 231 of 2001 .....	5
1.3 Predicate Offenses .....	6
1.4 Penalties Laid Down in the Decree .....	7
1.5 Attempted Crimes .....	11
1.6 Reference Guidelines .....	13
<b>2. THE CURRENT MODEL ....</b>	<b>15</b>
2.1 Eco-Way S.p.A. ....	15
2.2 Adoption of the Model within the Group .....	15
2.3 The Current Model .....	15
2.3.1 Purpose of the Model .....	15
2.3.2 Preparation of the Model .....	16
2.3.3 Concept of Acceptable Risk .....	16
2.3.4 Structure of the Model and Predicate Offenses Relevant for Its Preparation .....	17
2.3.5 Adoption of the Model.....	18
2.4 Documents Associated with the Model.....	18
2.5 Management of Financial Resources .....	19
2.6 Dissemination of the Model.....	19
2.6.1 Recipients.....	19
2.6.2 Staff Training and Education .....	19
2.6.3 Disclosure to Third Parties and Dissemination of the Model .....	20
<b>3. COMPONENTS OF THE GOVERNANCE MODEL AND GENERAL ORGANIZATIONAL STRUCTURE OF ECO-WAY S.P.A. ....</b>	<b>20</b>
3.1 The Company's Governance Model .....	21
3.2 System of Preventive Controls of Eco-Way S.p.A.....	21
3.3 General Control Principles in all Areas at Risk .....	22

<b>4. SUPERVISORY BODY .....</b>	<b>23</b>
4.1 Characteristics of the Supervisory Body .....	23
4.2 Setting up of the Supervisory Body.....	24
4.3 Term of Office.....	24
4.4 Ineligibility, Forfeiture and Removal of SB Members.....	24
4.5 Duties and Powers of the Supervisory Body.....	25
4.6 Resources of the Supervisory Body.....	26
4.7 Information Flow of the Supervisory Body.....	26
4.7.1 Reporting Requirements to the Supervisory Body .....	26
4.7.2 Reporting Requirements of the Supervisory Body .....	27
4.7.3 Intercompany Information Flow .....	28
 <b>5. SYSTEM OF PENALTIES FOR NON-COMPLIANCE WITH THIS MODEL AND WITH THE RULES AND PROVISIONS REFERRED TO HEREIN .....</b>	 <b>29</b>
5.1 General Principles .....	29
5.2 Definition of “Violation” for the Operation of this System of Penalties .....	29
5.3 Penalties on Employed Workers.....	30
5.3.1 Employed Personnel not in a Managerial Position.....	30
5.3.2 Managers .....	30
5.4 Directors.....	30
5.5 Statutory Auditors .....	31
5.6 Third Parties: Contractors, Agents and External Consultants .....	31
5.7 Register .....	31

# 1. LEGISLATIVE DECREE NO. 231 OF 8 JUNE 2001, ON ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES, CORPORATIONS AND ASSOCIATIONS WITH OR WITHOUT LEGAL STATUS

## 1.1 Administrative Liability of Entities

Legislative Decree No. 231 of 8 June 2001, transposing Delegated Law No. 300 of 29 September 2000, governs the “*administrative liability of legal persons, corporations and associations with or without legal status*” in Italy (hereinafter, for the sake of brevity, “**Legislative Decree No. 231 of 2001**” or the “**Decree**”), which is part of a broad legislative process to combat corruption and adapts the Italian legislation on the liability of legal persons to certain International Conventions previously signed by Italy.

Legislative Decree No. 231 of 2001, therefore, lays down rules for administrative liability (substantially equivalent to criminal liability), to be borne by Entities<sup>1</sup>, in addition to the liability of the natural person (as further detailed below) who actually committed the offense. The law aims to involve Entities, in the punishment of the offense, in whose interest or for whose benefit the same has been committed. Administrative liability only exists for the offenses listed statutorily in the same Legislative Decree No. 231 of 2001.

Article 4 of the Decree also specifies that in certain cases and under the conditions laid down in Articles 7, 8, 9 and 10 of the Italian Criminal Code, Entities whose head offices are located on Italian State territory will be administratively liable for any offense committed abroad by natural persons (“Individuals” as identified below) unless the State of the place where the offense has been committed takes legal action against such Entities.

## 1.2 Individuals Subject to Legislative Decree No. 231 of 2001

The individuals who, by committing an offense in the interest or for the benefit of an Entity, can cause the same to become liable are listed below:

- (i) natural persons holding senior positions (representation, administration or management of the Entity or of any of its organizational units provided with financial and functional autonomy or individuals exercising management and control in fact: hereinafter, for the sake of brevity, “**Top Executives**”),
- (ii) natural persons subject to management or supervision by a Top Executive (hereinafter referred to as “**Subordinates**”).

In this regard, it should be noted that it is not necessary for Subordinates to have a subordinate employment relationship with the Entity, since this notion also includes “*workers who, although not ‘employees’ of the entity, have a relationship with it such as to suggest that there is a duty of supervision on the part of*”

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<sup>1</sup> Article 1 of Legislative Decree No. 231 of 2001 delimited the scope of the recipients of these rules to “*entities provided with legal status, corporations and associations with or without legal status*”. In light of this, the legislation applies in relation to:

- Private entities, i.e. bodies with legal status and associations “with or without” legal status;
- Public entities, i.e. public bodies, but without public powers (referred to as “business public entities”);
- Mixed public/private entities (referred to as “mixed-ownership companies”).

The following are excluded from the list of recipients: the State, local public authorities (Regional Authorities, Provincial Authorities, Municipalities and Mountain Communities), non-economic public entities and, in general, all institutions that perform functions of constitutional importance (Italian Chamber of Deputies), Senate, Constitutional Court, the Secretariat General of the President of the Italian Republic, Higher Judicial Court, etc.), as well as sole proprietorships.

*the top executives of such entity: consider, for example, agents, partners in joint venture operations, the so-called para-subordinates in general, distributors, suppliers, consultants, contractors*<sup>2</sup>.

In fact, according to the prevailing guidelines of legal theory, any situations in which a task is entrusted to external collaborators who are required to perform it under the management or control of Top Executives becomes relevant for the purposes of the Entity's administrative liability.

It is also appropriate to reiterate that an Entity will not, by express statutory provision (Article 5, paragraph 2, of the Decree) be liable if the aforementioned individuals have acted in their exclusive interest or in that of third parties. In any case, their conduct must be attributable to the "organic" relationship under which the acts of the natural person can be attributed to the Entity.

### 1.3 Predicate Offense

The Decree refers to the following types of offenses (hereinafter, for the sake of brevity, also "Predicate Offenses"):

- (i) offenses against the Public Administration introduced by Articles 24 and 25 of Legislative Decree No. 231 of 2001 as governed by the Decree and, in relation to Article 25, subsequently amended by Law No. 190 of 6 November 2012;
- (ii) computer crimes and unlawful data processing, governed by Article 7 of Law No. 48 of 18 March 2008, which added Article 24-*bis* to Legislative Decree No. 231 of 2001;
- (iii) organized crime, governed by Article 2, paragraph 29, of Law No. 94 of 15 July 2009, which added Article 24-*ter* to Legislative Decree No. 231 of 2001;
- (iv) crimes relating to counterfeiting currency, public credit cards, tax stamps and instruments or signs of recognition, governed by Article 6 of Law No. 406 of 23 November 2001, which added Article 25-*bis* to Legislative Decree No. 231 of 2001, subsequently supplemented by Article 15, paragraph 7, subparagraph a), of Law No. 99 of 23 July 2009;
- (v) crimes against industry and commerce, governed by Article 15, paragraph 7, subparagraph b), of Law No. 99 of 23 July 2009, which added Article 25-*bis.1* to Legislative Decree No. 231 of 2001.
- (vi) corporate offenses, governed by Legislative Decree No. 61 of 11 April 2002, which added Article 25-*ter* to Legislative Decree No. 231 of 2001, subsequently supplemented by Law No. 190 of 6 November 2012;
- (vii) crimes for the purpose of terrorism or subversion of the democratic order, governed by Law No. 7 of 14 January 2003, which added Article 25-*quater* to Legislative Decree No. 231 of 2001;
- (viii) practices of mutilation of female genital organs, governed by Law No. 7 of 9 January 2006, which added Article 25-*quater.1* to Legislative Decree No. 231 of 2001;
- (ix) crimes against the individual personality, governed by Law No. 228 of 11 August 2003, which added Article 25-*quinquies* to Legislative Decree No. 231 of 2001, subsequently supplemented by Legislative Decree No. 39 of 4 March 2014;
- (x) offenses of market abuse, governed by Law No. 62 of 18 April 2005, which added Article 25-*sexies* to Legislative Decree No. 231 of 2001 and, Article 187-*quinquies* "Liability of entities" to the Italian Consolidated Law on Finance;
- (xi) crimes of manslaughter or serious or very serious injuries, committed by violating the rules on the protection of occupational health and safety, governed by Law No. 123 of 3 August

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<sup>2</sup> Thus, the text of Circular No. 68 of Assonime dated 19 November 2002.

2007, which added Article 25-*septies* to Legislative Decree No. 231 of 2001, subsequently amended by Article 300 of Legislative Decree No. 81 of 9 April 2008;

- (xii) crimes of receiving stolen goods, money laundering and use of money, goods or utilities of unlawful origin, governed by Legislative Decree No. 231 of 21 November 2007, which added Article 25-*octies* to Legislative Decree No. 231 of 2001, subsequently supplemented by Law No. 186 of 15 December 2014;
- (xiii) crimes regarding copyright infringement, governed by Article 15, paragraph 7, subparagraph c), of Law No. 99 of 23 July 2009, which added Article 25-*novies* to Legislative Decree No. 231 of 2001;
- (xiv) crime of induction not to make statements or to make false statements to the judicial authority, governed by Article 4 of Law No. 116 of 3 August 2009, which added Article 25-*decies*<sup>3</sup> to Legislative Decree No. 231 of 2001;
- (xv) environmental offenses, governed by Legislative Decree No. 121 of 7 July 2011, which added Article 25-*undecies* to Legislative Decree No. 231 of 2001;
- (xvi) transnational crimes, governed by Law No. 146 of 16 March 2006, “Law ratifying and executing the United Nations Convention against Transnational Organized Crime and Protocols thereto”;
- (xvii) crime of employment of third-country nationals whose residence is irregular, governed by Legislative Decree No. 109 of 16 July 2012, on “*Implementation of Directive 2009/52/EC laying down minimum standards regarding penalties and measures against employers who employ third-country nationals whose residence is irregular*”, which added Article 25-*duodecies* to Legislative Decree No. 231 of 2001.

#### 1.4 Penalties Laid Down in the Decree

Legislative Decree No. 231 of 2001 provides for the following types of penalties to be imposed on Entities that are subject to the legislation:

- (a) administrative penalties in cash;
- (b) disqualification penalties;
- (c) confiscation of the price or profit of the offense;
- (d) publication of the decision.

**(a) Administrative penalties in cash**, governed by Articles 10 et seq. of the Decree, constitute the “basic” penalty to be imposed mandatorily, for whose payment the Entity is liable with its assets or common fund.

The penalty in cash is imposed by “quotas” computed by the Judge in a number not less than one hundred and not more than one thousand<sup>4</sup> (according to the seriousness of the fact, degree of liability of the Entity, activities carried out to eliminate or mitigate the consequences of the fact and prevent the commission of additional offenses).

The value of each quota goes from a minimum amount of € 258.00 to a maximum amount of € 1,549.00<sup>5</sup>. This amount was set “*on the basis of the economic and financial conditions of the entity in order to*

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<sup>3</sup> Originally 25-*novies* and then newly numbered under Legislative Decree No. 121/2011.

<sup>4</sup> With reference to market abuse offenses, the second paragraph of Article 25-*sexies* of Legislative Decree No. 231 of 2001 provides that: “*If, following the commission of the offenses referred to in paragraph 1, the product or profit earned by the entity is of a significant amount, the penalty shall be increased by up to ten times such product or profit*”.

<sup>5</sup> Value originally in Italian Lire and respectively equal to ITL 500,000, as minimum value, and up to ITL 3,000,000, as maximum value.

ensure the effectiveness of the penalty” (Articles 10 and 11, paragraph 2, Legislative Decree No. 231 of 2001).

As stated in point 5.1 of the Report on the Decree, “*With regard to the methods for assessing the economic and financial conditions of the entity, the judge may peruse the financial statements or other documents as may be suitable for gaining a picture of such conditions. In some cases, proof could also be gained by taking into consideration the entity’s size and its position on the market. [...] The judge shall, with the aid of consultants, study the business reality of the company, wherefrom he shall also draw information on the entity’s economic, financial and equity strength*”.

Article 12 of Legislative Decree No. 231 of 2001, provides for a number of cases in which penalties in cash may be reduced. These are schematically summarized in the following table, with information on the reduction and conditions for applying such reduction.

Reduction	Conditions
1/2 (cannot however be higher than €103,291,006 <sup>6</sup> )	<ul style="list-style-type: none"> <li>The offender has committed the fact in his/her prevailing interest or in the interest of third parties <i>and</i> the Entity has obtained no advantage or obtained a minimal advantage;</li> </ul> <p><i>or</i></p> <ul style="list-style-type: none"> <li>the pecuniary damage caused is negligible.</li> </ul>
from 1/3 to 1/2	<p>[<u>Before</u> the opening statement in a first instance trial]</p> <ul style="list-style-type: none"> <li>The Entity has fully compensated the damage and eliminated the harmful or dangerous consequences of the offense or has in any case effectively taken steps in such direction;</li> </ul> <p><i>or</i></p> <ul style="list-style-type: none"> <li>an organizational model for preventing offenses of the same type as those committed has been implemented and made operational.</li> </ul>
from 1/2 to 2/3	<p>[<u>Before</u> the opening statement in a first instance trial]</p> <ul style="list-style-type: none"> <li>The Entity has fully compensated the damage and eliminated the harmful or dangerous consequences of the offense or has in any case effectively taken steps in such direction;</li> </ul> <p><i>and</i></p> <ul style="list-style-type: none"> <li>an organizational model for preventing offenses of the same type as those committed has been implemented and made operational.</li> </ul>

**(b) Disqualification penalties** are provided for by the Decree and only apply in relation to offenses for which they are expressly provided for by the Decree and in particular, only for some cases of the following types of offenses:

1. offenses against the Public Administration (Articles 24 and 25 of the Decree);
2. computer crimes and unlawful data processing (Article 24-*bis* of the Decree);
3. organized crimes (Article 24-*ter* of the Decree);

<sup>6</sup> Value originally in Italian Lire and equal to ITL 200 million.



4. offenses of counterfeiting currency, public credit cards, tax stamps and instruments or signs of recognition (Article 25-*bis* of the Decree);
5. crimes against industry and commerce (Article 25-*bis.1* of the Decree);
6. offenses for the purposes of terrorism and subversion of the democratic order (Article 25-*quater* of the Decree);
7. offense of mutilation of female genital organs (Article 25-*quater.1* of the Decree);
8. crimes against the individual personality (Article 25-*quinquies* of the Decree);
9. manslaughter and serious or very serious injuries committed in violation of the rules on the protection of occupational health and safety (Article 25-*septies* of the Decree);
10. receiving, laundering and using money, goods or utilities of unlawful origin (Article 25-*octies* of the Decree);
11. crimes regarding copyright infringement (Article 25-*novies* of the Decree);
12. environmental offenses (Article 25-*undecies* of the Decree);
13. employment of third-country nationals whose residence is irregular (Article 25-*duodecies* of the Decree).

More specifically, disqualification penalties are as follows:

- disqualification from carrying out the company's business activity;
- suspension or revocation of authorizations, licenses or concessions functional to the commission of the offense;
- ban on contracting with the Public Administration, except for obtaining the provision of a public service;
- exclusion from facilitations, financing, contributions and subsidies, and/or revocation of any of the above if already granted;
- ban on advertising for goods or services.

For the disqualification penalties to be imposed, at least one of the conditions referred to in Article 13 of Legislative Decree No. 231 of 2001 should be met, namely:

- *“the entity has earned a significant profit from the offense which has been committed by individuals in senior positions or individuals under the supervision of others when, in this case, the commission of the offense has been determined or facilitated by serious organizational shortcomings”*; or
- *“in case of repeated offenses”*<sup>7</sup>.

Furthermore, disqualification penalties can also be requested by the Public Prosecutor and imposed on the Entity by the Judge as a precautionary measure, when:

- there are serious indications to believe that the Entity is liable for an administrative offense as a result of a crime;
- there is well-founded and specific evidence that suggests that there is a concrete danger that offenses of the same kind as those for which the Entity is being prosecuted could be committed;
- the Entity has earned a significant profit.

In any case, the disqualification penalties will not be imposed when the offense has been committed in the prevailing interest of the offender or of a third party and the Entity has obtained a minimal advantage or no advantage, or the pecuniary damage caused is negligible.

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<sup>7</sup> Pursuant to Article 20 of Legislative Decree No. 231 of 2001, *“an offense shall be deemed as a repeated offense when the entity, already convicted by final decision at least once for an offense resulting from a crime, commits another one within five years following the final judgement”*.

The imposition of disqualification penalties will also be excluded in case the Entity has put in place the remedial conduct set forth in Article 17 of Legislative Decree No. 231 of 2001 and, more precisely, when the following conditions are met:

- *“the entity has fully compensated the damage and eliminated the harmful or dangerous consequences of the offense or has in any case effectively taken steps in such direction”*;
- *“the entity has eliminated the organizational shortcomings that have caused the offense through the adoption and implementation of organizational models for preventing offenses of the kind that have been committed”*;
- *“the entity has made available the profit earned for the purpose of confiscation”*.

Disqualification penalties have a duration of not less than three months and not more than two years and the choice of the measure to be imposed and its duration will be made by the Judge on the basis of previously stated criteria for the imposition of penalties in cash, *“taking into account the suitability of individual penalties for preventing the offenses such as those committed”* (Article 14 of the Decree).

The Legislature has subsequently specified that disqualification from the entity’s business activity will have a residual nature compared to the other disqualification penalties.

**(c)** Pursuant to Article 19 of Legislative Decree No. 231 of 2001, after a sentence of conviction, **confiscation** - even by equivalent amount - of the price (money or other business utilities given or promised to induce or cause another person to commit an offense) or profit (immediate business income) of the offense will always be ordered, except for the portion that can be returned to the damaged party and without prejudice to the rights acquired by third parties in good faith.

**(d) Publication of the judgment** in one or more newspapers, by excerpt or in full, may be ordered by the Judge, together with the posting thereof in the municipality where the Entity has its main office, when a disqualification penalty has been imposed. Publication is performed by the Registry of the competent Court and at the expense of the Entity.

Finally, it is specified that the Judge may also order:

- preventive seizure of property for which confiscation is permitted, in accordance with Article 53 of the Decree, or
- protective seizure of any movable and immovable property of the Entity if there are justified grounds to believe that the guarantees for payment of the penalty in cash, costs of the proceedings or other sums owed to the State Treasury could be lacking or could dissolve, as pursuant to Article 54 of the Decree.

## 1.5 Attempted Crimes

In case of commission of the predicate offenses laid down in the Decree in the form of an attempt, the penalties in cash (in terms of amount) and the disqualification penalties (in terms of time) will be reduced by one-third to half, while the imposition of penalties will be ruled out in case the Entity voluntarily prevents the commission of the act or the occurrence of the event (Article 26 of the Decree).

## Conduct Exempting from administrative liability: characteristics and requirements of the Organization and Management Models

Articles 6 and 1 of Legislative Decree No. 231 of 2001 provide for specific forms of exemption from the Entity's administrative liability for offenses committed in the interest or to the advantage thereof either by Top Executives or Subordinates (as defined in paragraph 1.2 above).

In particular, in case of offenses committed by Top Executives, Article 6 of the Decree provides that the Entity will not be liable if it proves that:

- a) the management team has adopted and effectively implemented, prior to the commission of the act, an organization and management model for preventing crimes of the kind that have occurred (hereinafter, for the sake of brevity, the "**Model**");
- b) the task of monitoring the operation and compliance of the Model, as well as updates thereto, has been entrusted to a body of the Entity (hereinafter, for the sake of brevity, the "**Supervisory Body**" or "**SB**"), provided with independent powers of initiative and control;
- c) the individuals who have committed the offense have acted by fraudulently eluding the Model;
- d) there has been no omission or insufficient supervision by the Supervisory Body.

For the prevention of offenses by "Top Executives", the Model must:

- a) "set out any activities as part of which there is a possibility for crimes to be committed";
- b) "provide for specific protocols aimed at planning the formation and implementation of the Entity's decisions in relation to the offenses to be prevented";
- c) "set out methods to manage financial resources suitable for preventing the commission of such offenses";
- d) "provide for disclosure requirements for the Body appointed to monitor the operation and compliance of the models";
- e) "set up a disciplinary system suitable for punishing non-compliance with the measures set out in the Model".

In case of offenses committed by "individuals subject to the management of other persons and the Entity's organization models", the Entity will be liable if the commission of the offense has been made possible by the latter's non-fulfillment of its management and supervision duties.

In any case, the non-fulfillment of management or supervision duties will be ruled out if the Entity, before the offense has been committed, has adopted and effectively implemented an organization, management and control model suitable for preventing offenses such as those committed.

In the case of offenses committed by "subordinates", the model must, "*in relation to the nature and size of the organization, as well as to the type of business activity carried out*", provide for "*measures suitable for ensuring the performance of its business activity in compliance with the law and finding and promptly eliminating risk situations*".

With reference to its effective implementation, the following is set forth:

- a) "*regular checks and any modification thereof when significant violations of the provisions are found or when changes in the organization or in the business activity occur*",
- b) the setting up of "*a disciplinary system capable of punishing failure to comply with the measures set out in the model*".

Furthermore, with regard to the offenses relating to occupational health and safety contemplated by Article 25-*septies* of the Decree, Article 30 of Legislative Decree No. 81/01 (*Consolidated Law on*

*occupational health and safety*) establishes that an organization and management model suitable for providing exempting effectiveness from the administrative liability of legal entities, corporations and associations with or without legal status, as pursuant to Legislative Decree No. 231 of 8 June 2001, must be adopted and effectively implemented by ensuring a corporate system for the fulfillment of all legal obligations relating to:

- i. compliance with the technical-structural legal standards relating to equipment, plants, workplaces, chemical, physical and biological agents;
- ii. risk assessment and activities for the preparation of the resulting prevention and protection measures;
- iii. activities of an organizational nature, such as emergencies, first aid, procurement management, regular safety meetings, consultations with workers' safety representatives;
- iv. health surveillance activities;
- v. information and training activities for workers;
- vi. supervisory activities with reference to workers' compliance with workplace safety procedures and instructions;
- vii. acquisition of statutory documentation and certifications;
- viii. regular checks on the adoption and effectiveness of the procedures adopted.

The model must provide for suitable systems for the recording of the successful completion of the activities mentioned above and must in any case provide for, as required by the nature and size of the organization and type of activity carried out, a functional structure ensuring the technical skills and powers necessary for risk verification, assessment, management and control, as well as a disciplinary system suitable for punishing any failure to comply with the measures set out in the model.

The organization and management model must also provide for a suitable control system on the implementation thereof and on the maintenance over time of the conditions of suitability of the measures adopted. The review and possible modification of the model must be adopted when significant violations of the rules are found in relation to the prevention of accidents and health in the workplace, or in the event of changes in the organization and business activity depending on scientific and technological progress.

Upon first adoption, the corporate organization models drawn up in compliance with the UNI-INAIL guidelines for occupational health and safety management systems (*sistema di gestione della salute e sicurezza sul lavoro, SGSL*) dated 28 September 2001 or the British Standard OHSAS 18001: 2007 are presumed to comply with the requirements set out in the corresponding sections. For the same purposes, additional organization and business management models may be set forth by the Permanent Consultative Commission established at the Ministry of Labor.

## **1.6 Reference Guidelines**

On the express instructions of the delegated Legislature, the Models can be adopted on the basis of codes of conduct drawn up by representative business associations that have been notified to the Ministry of Justice, which, in agreement with the competent Ministries, may formulate observations on the models' suitability for the prevention of offenses within 30 days.

The preparation of this Model took inspiration from the Guidelines for the construction of organization, management and control models pursuant to Legislative Decree No. 231 of 2001, approved by Confindustria on 7 March 2002 and subsequently updated in March 2014<sup>8</sup> (hereinafter, for the sake of brevity, jointly referred to as “**Guidelines**”).

The path suggested by the Guidelines for drawing up the Model can be summarized according to the following fundamental topics:

- finding of areas at risk, aimed at verifying in which areas/company sectors the commission of offenses may occur;
- preparation of a control system capable of reducing risks through the adoption of specific protocols. The coordinated set of organizational structures, activities and operating rules being applied - on the recommendation of top executives - by the management team and by the consultants, aimed at providing reasonable assurance regarding the achievement of the objectives falling within a good internal control system will stand as an aid in support thereof.

The most important components of the preventive control system set out by the Confindustria Guidelines, as regards the prevention of intentional offenses, are as follows:

- Code of Ethics;
- organizational system;
- manual and IT procedures;
- authorizations and signing powers;
- integrated control system;
- staff training and education.

With reference to intentional offenses (offenses relating to occupational health and safety and most environmental offenses), the most important components set out by Confindustria are as follows:

- Code of Ethics (or conduct) with reference to the offenses considered;
  - organizational structure,
  - training and coaching,
  - communication and involvement,
  - operational management,
  - monitoring system.
- 
- drawing up of an adequate system of penalties for violations of rules and protocols provided for by the Model;
  - setting up of a Supervisory Body whose main requirements are:
    - autonomy and independence,
    - professionalism,
  - continuity of action: obligation, on the part of the corporate departments, and particularly those found to be “at risk of committing an offense”, to provide reports to the Supervisory

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<sup>8</sup>Approved by the (Italian) Ministry of Justice in July 2014.

Body on a structured basis (regular reporting in implementation of the same Model) and to report anomalies or atypical issues found within the information available.

## **2. THE CURRENT MODEL**

### **2.1 Eco-Way S.p.A.**

Eco-Way S.p.A. (hereinafter, for the sake of brevity, “**Eco-Way**” or the “**Company**”), is a company that operates in the area of purchases, sales and trading, including on behalf of third parties, of electric power, natural gas, raw materials, as well as certificates, rights and/or securities provided for and regulated by the energy sector, such as greenhouse gas emission allowances, emission credits and other rights associated with the obligations governed by Directive 2003/87/CE and subsequent rules issued at national and Community level, energy efficiency certificates, green certificates and RECS certificates. The Company therefore operates in the electricity market and in all other markets, including foreign markets, where the reference assets for the aforementioned activities are being traded.

In this regard, it should be noted that the Company has recently decided to operate in the power gas and commodity markets and that the operational trading department is being structured, as well as the processes supporting such activities.

### **2.2 Adoption of the Model within the Group**

This Model has been drawn up taking inspiration from the principles contained in the Guidelines and in the Model of the Parent Company Breg S.r.l., respecting the independence granted to each company belonging to the Group.

The Company will inform the Parent Company of the adoption of the Model and of the subsequent amendments thereto that it deems appropriate to make.

In line with the principles of independence and responsibility specific to each company of the Group, the Company will:

- establish its own Supervisory Body;
- define the relationships for engaging and collaborating with the Parent Company’s Supervisory Body;
- ensure compliance with the obligations of loyalty and confidentiality when engaging and collaborating with the Supervisory Body of the Company and that of the Parent Company.

### **2.3 The Current Model**

#### **2.3.1 Purpose of the Model**

The Model prepared by the Company, based on finding which risk areas that are part of the Company’s business should be considered to be subject to a higher possibility of committing offenses, aims to:

- set up a prevention and control system aimed at reducing the risk of committing offenses related to the Company’s activities;
- raise the awareness of all those who work in the name and on behalf of the Company, and in particular those engaged in “areas at risk”, that they could, in case of violation of the

provisions contained therein, incur an unlawful act that may be subject to penalties, on a criminal and administrative level, not only in their own regard but also in regard of the Company;

- inform all those who work with the Company that the violation of the provisions contained in the Model will result in the imposition of appropriate penalties or termination of the contractual relationship;
- confirm that the Company will not tolerate an unlawful conduct regardless of its purpose and that, in any case, such conduct (including if the Company is apparently in the condition of taking advantage of the same) is in any case contrary to the principles which the Company's entrepreneurial activities take inspiration from.

### 2.3.2 Preparation of the Model

On the basis of the instructions contained in the reference Guidelines, the preparation of the Model (and subsequent drafting of this document) was divided into the phases described below:

- (i) preliminary examination of the business environment by analyzing the relevant corporate documents and conducting interviews with the Company's managers informed about the structure and activities thereof, in order to set out the organization and activities performed by the various organizational units/company departments, as well as the business processes into which the activities are divided and their actual and effective implementation;
- (ii) finding of the activity areas and business processes "at risk" of committing offenses, performed on the basis of the aforementioned preliminary examination of the company environment (hereinafter, for the sake of brevity, jointly referred to as "**Areas at Risk**");
- (iii) setting out, by way of hypothesis, of the main ways in which the Predicate Offenses may be committed within individual Areas at Risk;
- (iv) detection, assessment and adjustment of the entity's control system aimed at preventing the commission of the Predicate Offenses.

### 2.3.3 Concept of Acceptable Risk

In the preparation of an organization and management Model, such as the one under consideration, the concept of acceptable risk cannot be ignored. It is, in fact, essential to establish a threshold, for the purpose of compliance with the provisions governed by Legislative Decree No. 231 of 2001, which makes it possible to limit the quantity and quality of the prevention tools that must be adopted in order to prevent the commission of an offense. With specific reference to the penalty mechanism laid down by the Decree, the threshold of acceptability is represented by the effective implementation of a suitable preventive system that cannot be circumvented if not intentionally, that is, for the purpose of excluding the entity's administrative liability, the individuals who have committed the offense have acted by fraudulently eluding the Model and the controls adopted by the Company.

The conceptual threshold of acceptability, for the exemption purposes of Decree No. 231, should be modulated differently in relation to crimes of manslaughter and negligent personal injury committed in violation of the rules on occupational health and safety, as well as environmental offenses punishable due to fault. In such cases, the acceptable risk threshold is represented by "holding a conduct in violation of the organizational injury-prevention model (and, in the case of health and safety offenses, of the underlying mandatory obligations required by injury-prevention

regulations), in spite of the Supervisory Body's timely compliance with supervisory obligations under the Decree No. 231<sup>9</sup>.

#### 2.3.4 Structure of the Model and Predicate Offenses Relevant for Its Preparation

The Company intends to prepare a Model that takes into account its particular business reality in keeping with its governance system and is capable of developing the existing controls and bodies.

Therefore, the Model represents a consistent set of principles, rules and provisions that:

- affect the Company's internal operation and the way the same relates to the external environment;
- regulate the diligent management of a control system in regard of Areas at Risk, aimed at preventing the commission, or the attempted commission, of the offenses referred to in the Decree.

In particular, the Company's Model comprises a "**General Part**", which contains the basic principles thereof, and a "**Special Part**", in turn divided into Sections in relation to the various categories of offenses governed by Legislative Decree No. 231 of 2001.

For each category of predicate offenses, the Special Part contains a brief description of the offenses that may be the source of administrative liability for the Company, information on the Areas at Risk detected and a description of the main rules of conduct implemented by the Company, which the Model Recipients (as defined below) must abide by in order to prevent the commission of such offenses.

Also in consideration of the number of offenses that currently constitute a prerequisite for the administrative liability of Entities pursuant to the Decree, some of them, although in theory applicable to the Company, were not considered relevant for the purpose of the preparation of this Model, as it was considered that the risk relating to the commission of such offenses was merely theoretical and not to be assumed in practical terms. In particular, after a careful evaluation of the activities carried out in practice by the Company as well as its history, the following offenses were considered marginally relevant or irrelevant:

- counterfeiting of currency, public credit cards, tax stamps and instruments or signs of recognition;
- computer crimes and unlawful data processing;
- crimes against the individual personality;
- mutilation practices of female genital organs;
- crimes against industry and commerce;
- crimes related to copyright infringement;
- environmental crimes;
- employment of third-country nationals whose residence is irregular.

In any case, the ethical principles on which the Company's Model is based and its governance structure are in general aimed at also preventing any offenses that, due to their irrelevance, are not governed in the Special Part of this Model.

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<sup>9</sup> See Guidelines for the preparation of organization, management and control Models pursuant to Legislative Decree No. 231 of 2001, updated in March 2014 and approved by the (Italian) Ministry of Justice in July 2014.



The Company will carry out ongoing monitoring activities on such categories of offenses in order to evaluate the possible future relevance thereof and the need to update the Special Part of this Model over time, as a result of organizational, regulatory or business changes.

#### 2.3.5 Adoption of the Model

The adoption of this Model will, in compliance with the provisions of the Decree, be entrusted to the competence of the governing body (i.e. the Board of Directors), which will also be assigned the task of supplementing this Model if need be.

### 2.4 Documents Associated with the Model

The system of preventive controls underpinning the Model comprises:

- Code of Ethics of the Breg Group, which the Company has adopted and which governs all of the Company's rights, duties and responsibilities towards the Model recipients (hereinafter, for the sake of brevity, the "**Code of Ethics**");
- disciplinary system and related penalty mechanism to be imposed in case of violation of the Model (hereinafter, for the sake of brevity, the "**System of Penalties**");
- delegated powers and authorities, as well as all the documents prepared for the purpose of describing and assigning responsibilities and/or duties to those who within the Entity work in Areas at Risk (i.e. organization charts, service orders, job descriptions, job specifications, function charts, etc.);
- system of internal procedures, protocols and controls whose purpose is to ensure an adequate transparency and knowledge of the decision-making and financial processes, as well as of any conduct that must be held by any Model recipients operating in the Areas at Risk.  
(Hereinafter, for the sake of brevity, the system of delegated powers and authorities, internal procedures, protocols and controls mentioned above will be jointly referred to as "**Procedures**").

It follows that the term "Model" should be construed as not only referring to this document, but also to any additional documents and Procedures in place and/or which will be subsequently adopted according to the provisions laid down therein and which will pursue the purposes specified therein.

### 2.5 Management of Financial Resources

Without prejudice to the content of paragraph 2.4 above, taking into account that, pursuant to Article 6, subparagraph c), of Legislative Decree No. 231 of 2001, setting out methods for the management of financial resources suitable for preventing the commission of offenses is also a requirement of the Model, the Company has adopted specific protocols containing the principles to be followed and conduct to be held in the context of the management of such resources.

### 2.6 Dissemination of the Model

#### 2.6.1 Recipients

This Model takes into account the Company's specific entrepreneurial reality and represents a valid tool for raising the awareness of, and educating, Top Executives and Subordinates (hereinafter, for the sake of brevity, the "**Recipients**").

The foregoing is for the purpose of causing the Recipients, in the performance of their activities, to hold a correct and transparent conduct that is in line with the ethical and social values that the Company takes inspiration from in pursuing its corporate purpose and in any case is such as to prevent the risk of committing the offenses governed by the Decree.

In any case, the competent corporate departments will ensure the transposition, in the Company's Procedures, of the principles and rules of conduct contained in the Company's Model and Code of Ethics.

#### 2.6.2 Staff Training and Education

The Company aims to ensure that the Recipients are properly aware of the contents of the Decree and obligations arising therefrom.

For the purposes of the effective implementation of this Model, the training and education of Recipients will be managed by an Eco-Way Director with specific powers on HR matters in close coordination with the Supervisory Body and with the heads of the other company departments involved in applying the Model from time to time.

The main procedures for training/education activities, also necessary for the purpose of compliance with the provisions contained in the Decree, will regard the specific disclosure to be given at the time of recruitment and additional activities deemed necessary to ensure the correct adoption of the provisions set forth in the Decree. In particular, the following will be carried out:

- initial communication.

In this regard, the adoption of this Model will be communicated to all the resources in the Company. The Code of Ethics and the Model will be made available to new hires and employees. The same will also be required to sign a form whereby they acknowledge that the Model is available in company network folders and undertake to comply with the contents of the aforementioned legislation. Moreover, the Top Executives and/or Subordinates operating in Areas at Risk will be given a disclosure as to the Section/s in the Special Part which concern/s their reference Areas;

- specific training activities.

"Ongoing" training activities will both be developed through IT tools and procedures (updating emails, self-assessment tools), and through regular training and updating meetings and seminars. Such activity will be differentiated in content and mode of delivery, depending on the qualification of the Recipients, level of risk of the area in which they operate, and whether or not they perform the corporate representation function.

In order to ensure the effective dissemination of the Model and education of personnel with reference to the contents of the Decree and the obligations arising from the implementation thereof, a specific folder will be created on the company's server (containing all the documents that make up the Model) devoted to the subject and updated, from time to time, by the internal reference department in coordination with, or on the instructions of, the Supervisory Body.

### 2.6.3 Disclosure to Third Parties and Dissemination of the Model

The Company will also provide for the dissemination of the Model to persons who entertain relations of collaboration with the Company without being subordinated, consultancy relations, agency relations, commercial representation relations and other relations which may result in a professional service, not subordinated, either on an ongoing or on an occasional basis (including entities acting on behalf of suppliers and partners, also in the form of a temporary association of enterprises) (hereinafter, for the sake of brevity, referred to as “**Third parties**”).

In particular, the company departments from time to time involved will provide the appropriate information to Third Parties in general and any service companies with which they engage with regard to the Company’s adoption of the Model pursuant to Legislative Decree No. 231 of 2001. The Company will also invite Third Parties to view the content of the Code of Ethics and of the General Part of the Model on its Internet site.

Under the respective contractual instruments, specific clauses will be included for the purpose of informing such Third Parties of the Company’s adoption of the Model, wherein the same will declare to have read and to be aware of the consequences arising from failure to comply with the precepts contained in the General Part of the Model and in the Code of Ethics, and they will undertake not to commit, and ensure that their top executives or subordinates refrain from committing, any of the Predicate Offenses.

## **3. COMPONENTS OF THE GOVERNANCE MODEL AND GENERAL ORGANIZATIONAL STRUCTURE OF ECO-WAY S.P.A.**

### **3.1 The Company’s Governance Model**

The Company is a joint-stock corporation managed by a Board of Directors comprising two members, as decided by the General Meeting of Shareholders.

The Board of Directors is responsible for overseeing the Company’s strategy. The Board of Directors may delegate all powers that may be delegated by law to the Chairman, Deputy Chairman, Managing Directors and one or more Board Directors.

The Board of Statutory Auditors is a body having a control function and is responsible for supervising the system of internal controls.

The Company has also appointed an audit firm as independent control body responsible for auditing its accounting records.

Within the limits of their powers, the Chairman, Deputy Chairman and Managing Directors may also issue special powers of attorney for categories of acts of ordinary administration, as well as for certain acts of extraordinary administration.

The Chairman, Deputy Chairman and Managing Directors, if appointed, are separately responsible for representing the Company before third parties and in court, with the authority to bring legal actions, lawsuits and make statements and file administrative applications and judicial petitions in any degree of judgment, including for revocation or Court of Cassation judgments.

The Board of Directors will, through the Chairman or its Directors, promptly report, or report at least on a quarterly basis, to the Board of Statutory Auditors on the activities carried out and the most significant economic, financial and equity transactions carried out by the Company or the Company's subsidiaries, including atypical or unusual transactions or transactions with related parties; in particular, it will report on transactions in which the Directors may have an interest, on their own account or on behalf of third parties, or which are influenced by the entity carrying out management and coordination activities.

### **3.2 System of Preventive Controls of Eco-Way S.p.A.**

The Company has adopted the following general instruments aimed at planning its decision-making process and implementation (including in relation to the offenses to be prevented):

- ethical principles from which the Company draws inspiration, also on the basis of the provisions of the Code of Ethics;
- system of delegated powers and authorities;
- documentation and provisions concerning the corporate and organizational hierarchical-functional structure;
- internal control system, and thus structure of corporate procedures;
- procedures relating to the administrative, accounting and reporting system;
- communications to staff;
- mandatory, adequate and differentiated staff training;
- system of penalties relating to the Model;
- domestic and foreign rules and regulatory framework, where applicable;
- Bylaws.

### **3.3 General Control Principles in All Areas at Risk**

In addition to the specific controls described in each Section of the Special Part of this Model, the Company has implemented specific general controls applicable to all Areas at Risk.

More specifically, they are as follows:

- **Transparency/traceability:** each operation/transaction/action must be justifiable, verifiable, consistent and at fair market value;
- **Separation of responsibilities:** no one can independently manage an entire process and be provided with unlimited powers; authorization and signature powers must be defined in a manner consistent with the assigned organizational responsibilities;
- **Adequacy of internal rules:** the set of corporate rules must be consistent with the operations performed and level of organizational complexity and must ensure the necessary controls to prevent the commission of the offenses set out in the Decree;
- **Documentation of the controls:** The control system must provide for a reporting system suitable for documenting the performance and outcome of controls, including supervisory controls. Such documentation must be properly archived.

## 4. SUPERVISORY BODY

### 4.1 Characteristics of the Supervisory Body

According to the provisions of Legislative Decree No. 231 of 2001 (Articles 6 and 7), as well as the instructions contained in the Confindustria Guidelines, the characteristics of the Supervisory body that may ensure an effective and efficient implementation of the Model are the following:

- (a) autonomy and independence;
- (b) professionalism;
- (c) continuity of action.

#### Autonomy and independence

The requirements of autonomy and independence are essential for preventing the SB from being directly involved in the management activities that constitute the object of its control activity and, therefore, suffering influence or interference from the management body.

These requirements may be satisfied by guaranteeing the highest possible hierarchical position to the Supervisory Body, and requiring a reporting activity to the Company's top operational management body, i.e. the Board of Directors as a whole. For the purposes of independence, it is also essential for the SB not to be assigned operational tasks, which would compromise its objective judgment with reference to audits of the conducts referred to in, and effectiveness of, the Model.

#### Professionalism

The SB must possess technical-professional skills appropriate to the function it is called upon to perform. These characteristics, together with independence, will ensure its objective judgment<sup>10</sup>.

#### Continuity of action

The Supervisory Body must:

- carry out the activities necessary for the supervision of the Model on an ongoing basis, with adequate commitment and with the necessary investigation powers;
- be a body that refers to the Company, so as to guarantee the necessary continuity in the supervisory activity.

To ensure that the requirements described above are actually satisfied, it is appropriate that such individuals, in addition to the professional skills described above, also meet the formal subjective requirements that further guarantee the autonomy and independence required by the task (e.g. integrity, no conflicts of interest and no kinship relations with members of the corporate bodies and top executives, etc.).

### 4.2 Setting Up of the Supervisory Body

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<sup>10</sup> This, inter alia, refers to: risk analysis and assessment techniques; measures for the containment thereof (organizational procedures, task contrast mechanisms, etc.); flow charting of procedures and processes for identifying weaknesses, interviewing techniques and processing of questionnaires; methods for the detection of fraud; etc. The Supervisory Body must have inspection powers (to ascertain how an offense of the type at issue has been committed and who has committed it); consultancy skills (to adopt the most appropriate measures - at the time of designing the Model and subsequent amendments - to prevent the commission, with reasonable certainty, of such offenses) or, again, to verify on an ongoing basis that day-to-day conducts actually comply with those set forth) and legal competencies. Legislative Decree No. 231 of 2001 sets out criminal rules and, since the purpose of the Supervisory Body's activities is to prevent the occurrence of offenses, knowledge of the structure and manner to commit the offenses is therefore essential (which may be ensured through the use of corporate resources or external consultants).

The Company's Board of Directors, after examining the possible solutions relating to the composition of the SB, appointed a multi-person body as the Company's Supervisory Body comprising 3 (three) members. The following are currently members of the SB:

- (i) Avv. Giancarlo Leineri;
- (ii) Avv. Prof. Sergio Marullo di Condojanni;
- (iii) Dott. Paolo Mordenti.

This configuration ensures the autonomy of its control initiative from any form of interference and/or influence on the part of any members of the organization, at the same time ensuring sufficient continuity of action and, in general, making it possible to satisfy the requirement of professionalism in relation to the various categories of Predicate Offenses.

Once installed, the Supervisory Body will adopt its internal regulations, and will establish and update the plan of activities to be carried out.

#### **4.3 Term of Office**

The Supervisory Body will remain in office for the term specified at the time of appointment and may be renewed.

The removal of the Supervisory Body may be ordered only for just cause, which will be understood as including the following cases:

- violation of the confidentiality obligations to be fulfilled by the SB;
- gross negligence in the performance of duties related to the assignment.

Removal will be ordered by resolution of the Board of Directors after hearing the opinion of the Company's Board of Statutory Auditors.

In the event of expiry, removal or forfeiture, the Board of Directors will appoint the new SB member without delay, while the outgoing member will remain in office until his/her replacement.

#### **4.4 Ineligibility, Forfeiture and Removal of SB Members**

The following constitute grounds for ineligibility, forfeiture and removal of a member of the SB:

- a) disqualification, incapacitation, bankruptcy or, in any case, criminal conviction, including if not in a final judgment, for one of the offenses set forth in the Decree or, otherwise, for a conviction sentence involving disqualification, including temporary disqualification, from public offices or incapacitation to hold management offices;
- b) existence of kinship, conjugal relationship or relations within the fourth degree of kinship with members of the Company's Board of Directors or Board of Statutory Auditors, or with third parties in charge of auditing the Company's accounting records;
- c) existence of other business/equity relations between a SB member and the Company such as to compromise the independence of such member;
- d) forfeiture of integrity requirements (in the case of Statutory Auditors reference should be made to the provisions of Article 2399 of the Italian Civil Code);
- e) conflict of interest.

If grounds for forfeiture arise during the term of office, the Supervisory Body member involved will be required to immediately inform the Board of Directors.

#### 4.5 Duties and Powers of the Supervisory Body

In accordance with the instructions given by the Decree and the Guidelines, the duties of the Supervisory Body will, in general, consist in:

- supervising the effectiveness of the Model, i.e. the consistency of actual conducts with what has been established in the Model;
- examining the adequacy of the Model, i.e. its real - not merely formal - ability to prevent illegal conducts;
- analyzing whether the Model is capable of maintaining the requirements of soundness and operation over time;
- taking care of the necessary updating of the Model in a dynamic sense in the event that the examination thereof makes it necessary to implement corrections and adjustments.

By way of example, these supervisory activities can take the following form:

- regular verification of the map of Areas at Risk and of the adequacy of the checkpoints in order to enable their adaptation to changes in the Company's business activity and/or corporate structure;
- regular checks and inspections, based on the Supervisory body's previously established activity plan, targeted to certain transactions or specific acts carried out within the Areas at Risk;
- collection, processing and storage of information (including the reports referred to in the following paragraph) relevant to compliance with the Model, as well as updating of the list of reports to be mandatorily forwarded to the same SB;
- internal investigations to assess alleged violations of the provisions of this Model as may have been brought to the attention of the SB by specific reports or as may have emerged during its supervisory activity;
- verification that the elements set forth in the Model for the different types of offenses (standard clauses, procedures and related controls, system of delegated powers, etc.) are effectively adopted and implemented and satisfy the requirements of compliance with the Decree, otherwise proceeding to propose corrective actions and updates thereof.

For the performance of the functions and tasks specified above, the SB will be attributed the following powers:

- broad and extensive access to the various corporate documents and, in particular, to those concerning contractual and non-contractual relationships established by the Company with third parties;
- use of the support and cooperation of the various corporate departments and corporate bodies that may be interested in, or otherwise involved in, control activities;
- assignment of specific consultancy and assistance tasks to professionals including outside the Company.

Furthermore, no restrictions must be placed and free access to the documentation must be given in carrying out the above activities.

## 4.6 Resources of the Supervisory Body

The Board of Directors will assign the SB the human and financial resources deemed appropriate for the purpose of carrying out the assigned task. The SB may use corporate departments or external consultants.

## 4.7 Information Flow of the Supervisory Body

### 4.7.1 Reporting Requirements to the Supervisory Body

In order to facilitate the supervisory activity on the effectiveness of the Model, the SB must be informed, by means of appropriate reports by the Recipients (and, where appropriate, by Third Parties) with regard to events that could entail the Company's liability pursuant to Legislative Decree No. 231 of 2001.

The information flow to the SB may be divided into:

- information on alleged/assessed violations of the Model;
- specific information regarding the operation of the Model.

In the former case, the following rules apply:

- Recipients are required to report to the SB any information relating to the commission, or reasonable persuasion as to the commission, of offenses or practices not in line with the procedures and rules of conduct issued;
- Third parties are required to make reports relating to the commission, or reasonable persuasion as to the commission, of offenses within the limits and according to the procedures provided for in the relevant contract.

In addition to reports relating to the alleged/assessed violations described above, the following information must be mandatorily and promptly forwarded to the SB:

- measures and/or information from the judicial police, or any other authority, concerning any investigation involving the Company or members of its corporate bodies;
- any reports that may have been prepared by managers of other control bodies/functions (within the scope of their control activities and wherefrom facts, acts, events or omissions may arise that show critical profiles with respect to compliance with Legislative Decree No. 231 2001 and/or show shortcomings in the system of internal controls, misconduct, remarks on the Company's financial statements, etc.);
- information on disciplinary proceedings, as well as on any penalties imposed or measures for the filing of such proceedings with the relevant reasons, if they are related to the commission of offenses or violation of the rules of conduct or procedural rules of the Model;
- committees of inquiry or internal reports/communications which may reveal liabilities for any offenses pursuant to Legislative Decree No. 231 of 2001;
- organizational and/or business changes;
- updates in the system of delegated powers and authorities.

The Company will adopt specific dedicated information channels, to which only SB members will have access, in order to ensure the confidentiality of the information being reported.

The SB will evaluate the reports received with discretion and responsibility. To this end, it may hear the reporting party and/or person responsible for the alleged violation, giving reasons in writing, in



its minutes, for any independent decision not to commence proceedings. In any case, the reporting parties in good faith must be protected from any form of retaliation or punishment and will be ensured the utmost confidentiality, without prejudice to any legal obligations and the Company's need to protect itself or persons wrongly accused or accused in bad faith.

#### 4.7.2 Reporting Requirements of the Supervisory Body

Provided that the Company's Board of Directors is responsible for adopting and effectively implementing the Model, the SB will report on the implementation of the Model and on the occurrence of any critical issues.

In particular, the Supervisory Body will be responsible toward the Board of Directors for:

- communicating the plan of the activities, at the beginning of each fiscal year, which it intends to carry out in order to fulfill the assigned tasks. The plan will be approved by the same Board of Directors;
- regularly reporting on the progress of the plan together with any changes made to the same;
- promptly reporting any issues related to its activities, where relevant;
- preparing a report, at least every six months, on the implementation of the Model.

The SB will be required to regularly provide reports regarding its activities to the Board of Statutory Auditors, in addition to the Board of Directors.

The SB may request to be convened by the corporate bodies to report on the operation of the Model or on specific situations. The meetings with corporate bodies to which the SB provides reports must be recorded on minutes. Copies of the minutes will be kept by the SB and by the bodies involved from time to time.

Without prejudice to the above, the Supervisory Body may, assessing individual circumstances, provide reports on:

- (i) the results of its assessments to the heads of departments and/or process managers if their activities reveal issues that may be subject to improvement. In this case, the SB will be required to obtain an action plan from the process managers, including the relevant timetable, for the implementation of the activities that may be subject to improvement, as well as the result of such implementation;
- (ii) any conducts/actions not in line with the Model to the Board of Directors and the Board of Statutory Auditors in order to:
  - a) acquire all the information from the Board of Directors to possibly give notice to the competent departments for the evaluation and imposition of disciplinary penalties;
  - b) give instructions for the removal of any shortcomings in order to avoid the recurrence of the event.

#### 4.7.3 Intercompany Information Flow

Without prejudice to the exclusive competence of each Breg Group company in relation to any corrective actions regarding their Models, the Company's Supervisory Body will inform the Parent Company's Supervisory Body, and the Company's Chairman, with regard to facts found and disciplinary penalties that have given rise to any adjustments to this Model.

Moreover, the Company's Supervisory Body will be required to provide reports when replying to requests from the Supervisory Body of Breg S.r.l., as well as upon the occurrence of any events or circumstances relevant to the activities under the responsibility of the Parent Company's Supervisory Body.

## **5. SYSTEM OF PENALTIES FOR NON-COMPLIANCE WITH THIS MODEL AND WITH THE RULES AND PROVISIONS REFERRED TO HEREIN**

### **5.1 General Principles**

The Company acknowledges and declares that the preparation of an adequate system of penalties for violations of the rules contained in the Model, in the relevant Annexes and in the Procedures is an essential condition for ensuring the effectiveness of the Model itself.

In such regard, Article 6, paragraph 2, subparagraph e), of the Decree provides that organization and management models must *“lay down rules for a disciplinary system suitable for punishing non-compliance with the measures specified in the model”*.

Disciplinary penalties will be imposed regardless of the outcome of any criminal proceedings, since the rules of conduct set forth by the Model and by the Procedures have been undertaken by the Company in full autonomy and independently of the type of offenses referred to in Legislative Decree No. 231 of 2001 that may cause the violations in question.

More precisely, failure to comply with the rules contained in the Model and in the Procedures will in and by itself infringe upon the relationship of trust in place with the Company and will entail disciplinary actions regardless of the possible establishment of a criminal trial in the event that such violation constitutes a crime. This will be in compliance with the principles of timeliness and immediacy of a disciplinary dispute and imposition of penalties, in accordance with the applicable legislation.

### **5.2 Definition of “Violation” for the Operation of the System of Penalties**

For purely general and exemplifying purposes, **“Violation”** of this Model and of the related Procedures means:

- putting in place actions or conducts that do not comply with the law and the provisions contained in the Model itself and in the related Procedures entailing a situation of mere risk of committing any of the offenses contemplated by Legislative Decree No. 231 of 2001;
- omitting the performance of actions or conducts required by the Model and by the related Procedures entailing a situation of mere risk of committing any of the offenses contemplated by Legislative Decree No. 231 of 2001.

### **5.3 Penalties on Employed Workers**

#### **5.3.1 Employed Personnel not in a Managerial Position**

The conduct held by employed workers in violation of the rules contained in this Model and in Company's Procedures are defined as *disciplinary offenses*.

With reference to the type of penalties that may be imposed on such employed workers, the same fall within those provided for by the National Collective Bargaining Agreement for the Trade Sector in compliance with the procedures set forth in Article 7 of Law No. 300 of 1970 (hereinafter, for the sake of brevity, the "**Workers' Statute**") and any applicable special regulations.

Any Violation by employed personnel may, in accordance with paragraph 5.2 of this Model, give rise, according to the severity of the violation, to the following measures, which are established in adoption of the principle of proportionality, as well as of the correlation criteria between infringement and penalty and, in any case, in compliance with the form and procedures laid down in applicable legislation.

The disciplinary system will be constantly monitored by the Supervisory body and by a Director of Eco-Way with delegated powers on HR matters.

#### 5.3.2 Managers

In the event of: (a) a manager's Violation pursuant to paragraph 5.2 above, or (b) adoption, in the performance of activities in Areas at Risk, of any conduct that does not comply with the requirements of the aforementioned documents, those found responsible will be applied the most appropriate disciplinary measures in accordance with the provisions of the National Collective Bargaining Agreement for Managers.

#### **5.4 Directors**

In case of Violation of the rules referred to in paragraph 5.2 above by one or more Company Directors, the Supervisory Body will promptly inform the Company's Board of Directors and the Board of Statutory Auditors for the appropriate evaluations and measures.

In the event that one or more Directors who are the alleged perpetrators of an offense wherefrom the Company's administrative liability may arise have been indicted, the Chairman of the Company's Board of Directors (or, on his/her behalf, another Director) must proceed to call the General Meeting of Shareholders to pass a decision in such regard.

#### **5.5 Statutory Auditors**

In the event of Violation of the rules referred to in paragraph 5.2 above by one or more members of the Board of Statutory Auditors, the Supervisory Body will inform the Board of Directors and the Statutory Auditors and at the request of the Chairman of the Board of Directors the General Meeting of Shareholders may be convened to adopt the appropriate measures.

#### **5.6 Third Parties: Contractors, Agents and External Consultants**

In the event of Violation of the rules referred to in paragraph 5.2 above by contractors, agents or external consultants, or, more generally, by Third Parties, the Company, according to the seriousness of the violation: (i) will remind the interested parties to strictly comply with the provisions set forth therein; or will, (ii) depending on the different types of contract, be entitled to

withdraw from the relationship in place for just cause or terminate the contract for breach by the aforementioned persons.

To this end, the Company has provided for the inclusion of specific clauses in the same contracts providing for: **(a)** the disclosure to Third Parties of the Company's adoption of the Model and Code of Ethics, which the same are required to declare to have viewed with regard to the General Part of the Model and Code of Ethics, undertaking to comply with its content and not to hold any conduct that may cause a violation of the law or the commission of any of the Predicate Offenses; **(b)** the Company's right to withdraw from the relationship or terminate the contract (with or without the imposition of penalties) in the event of non-fulfillment of such obligations.

### **5.7 Register**

The Company will adopt a register in which it must record the names of all those who have committed a Violation pursuant to paragraph 5.2 above. The inclusion in such register may result in the prohibition of establishing new contractual relationships with the interested parties.