

ORGANISATIONAL, MANAGEMENT AND CONTROL MODEL

PURSUANT TO LEGISLATIVE DECREE NO. 231 OF 8 JUNE 2001

General Section

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Internal Document

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General Section

I. Purpose and principles of law

I.1 Legislative Decree No. 231 of 8 June 2001

Legislative Decree No. 231 of 8 June 2001 (hereinafter also “Decree 231” or “LD 231/2001”) concerns the “*Provisions governing the administrative liability of legal entities, companies and associations including those that are unincorporated*”. Decree 231 draws its origination from a string of International Conventions to which Italy was signatory and namely:

- Protocol on the Interpretation, by way of preliminary rulings, by the EC Court of Justice of said Convention (signed in Brussels on 29 November 1996);
- Convention on the Protection of the Financial Interests of the European Community (signed in Brussels on 26 July 1995) and related First Protocol thereof (ratified in Dublin on 27 September 1996);
- Convention on the Fight against Corruption involving Officials of the EC or Officials of Member States (ratified in Brussels on 26 May 1997);
- OECD Convention on the Fight against Corruption involving Foreign Public Officials in International Business Transactions (ratified in Paris on 17 December 1997).

Decree 231 introduced into the Italian legal system the principle of administrative liability to be imposed on legal entities in addition to the individual who physically committed the unlawful acts, with the aim of involving, in punishment of the offences, the entities in whose interest or to whose benefit such acts were committed, i.e.:

- a) individuals vested with powers of representation, administration or management of the Entity or of other organisational unit or individuals exercising *de facto* management and control (so-called “*Individuals in Top Positions*”);
- b) individuals subject to the authority or control of one of the persons referred to in point a) above (so-called “*Individuals under the Command of Others*”)¹.

For the circumstances identified explicitly in the law, the traditional liability of the perpetrator of a crime (“criminal liability is personal” and only natural persons can be criminally liable under Italian law pursuant to s.s.27.1 of the Italian Constitution) and other forms of liability resulting therefrom has been widened to encompass a liability of the entity, which triggers punitive measures that vary depending upon the individual held responsible. The unlawful act, where the circumstances set out in the law are present, has two basic consequences, that of

¹ Entity is not answerable if the persons referred to above in point a) and point b) acted in their own exclusive interest or in the interest of third parties.

the crime attributable to the individual perpetrator (punished under the criminal code) and that of the administrative offence attributable to the entity (punished with administrative sanctions).

With regard to the NATURE OF ADMINISTRATIVE LIABILITY under Decree 231, the Decree sets forth, despite its *administrative liability* title, diverse provisions endowing the entire legislative *corpus* with a new system of corporate liability for administrative offences. In fact, for the first time, Decree 231 introduced into Italian legislation the concept of administrative liability of an entity if the *crimes* listed in the Decree have been committed in the interest or for the benefit of the entity by persons in top positions or by persons subordinate thereto within the entity (s.6), insofar as perpetration of the crime was made possible by non-observance of the obligations of management or oversight (s.7). The liability of the entity pursuant to Decree 231 is not a replacement or an exclusion of the liability for individuals who have committed materially the crimes and it is autonomous from the latter; the entity is liable even if the perpetrator has not been identified and remains liable even if the perpetrator's offence has been extinguished for reasons other than by amnesty. Additionally, further emphasizing the criminal law connotation is the system of sanctions, represented by administrative pecuniary sanctions and, not least, interdiction sanctions that may include debarment of exercising an activity. However, the law includes the possibility for the entity to be "exonerated" from liability or cases of reduction of a punitive sanction if, prior to court hearing, the entity has recompensed and eliminated the harmful or dangerous consequences of the crime and has adopted and made operative an organisational model (s.6) capable of preventing crimes of the same sort as the one committed.

Decree 231 is divided into four Chapters:

- Chapter I identifies the administrative liability of the entity and unfolds, in turn, into three Sections:
 - Section I - General Principles (s.1 through s.4) and Criteria of Attribution of Administrative Liability (s.5 through s.8);
 - Section II – Sanctions in General and Criteria of Proportioning a Pecuniary Sanction (s.9 through s.22);
 - Section II – Administrative Liability for Crimes Foreseen by the Criminal Code (s.23 through s.26);
- Chapter II – Property Liability and Events Changing the Structure of the Entity (s.27 through s.33);
- Chapter III - Procedural Provisions Applicable (s.34 through s.82);
- Chapter IV - Orders of Implementation and Coordination (s.83 through s.85).

Decree 231 delimits the provisions foreseen therein to APPLICABLE SUBJECTS, i.e.: “*entities, companies and associations, including those without legal entity status*”. In consequence, these are:

- subjects possessing a legal status pursuant to civil law, such as associations, foundations and other institutions of a private nature recognised by the State;
- companies with legal entity status insofar as registered in the Register of Companies;
- entities not personified, not financially and functionally autonomous, albeit considered to be legal entities.

Conversely, the provisions of administrative liability dependent on a crime do not apply to the State, to territorial public agencies (Regions, Districts, Municipalities and alpine Communities); to non-economic public agencies and, in general, to all the government agencies carrying out functions of constitutional importance (Chamber of Deputies, Senate of the Republic, Constitutional Court, the Ministry of Justice and LENC).

Decree 231, borrowed from that legal system the Italian GENERAL PRINCIPLE OF LEGALITY (Section 2) in its various components: *legal reserve*, *specific identification* (or determination of circumstance), *non-retroactivity* and *inadmissibility of analogy*:

- the principle of *legal reserve* forbids the formulation of the administrative liability of the entity in the absence of a specific legislative provision;
- the principle of *specific identification* (or determination of circumstance) requires that cases of administrative liability and the resultant sanctions be determined specifically so as to exclude arbitrary interpretations;
- the principle of *non-retroactivity* of the legislation on administrative liability requires that the law under which a sanction is imposed must have entered into operation prior to the unlawful act or offence being committed.
- the principle of *inadmissibility of analogy*, in circumstances where a specific situation is not regulated by a legislative provision, prevents recourse to legislative provisions regulating similar or analogous circumstances.

The TERRITORIAL SPHERE of application of Decree 231 is dealt with in s.4, whereby the entity may be held liable in Italy for offences committed outside the country (if contemplated in the relative legislation on administrative liability) whenever: the offence is committed outside the country (s.7 Criminal Code); the political offence is committed outside the country (s.8 Criminal Code); the offence is committed outside the country by a citizen tied functionally to the entity (s.9 Criminal Code), or the offence is committed outside the country by a foreign citizen tied functionally to the entity (s.10 Criminal Code), the entity has its principal place of business in the territory of the Italian State territory (as identified under civil law in respect of legal persons and legal entities) shall respond also in relation to crimes committed abroad, provided that the State in which the crime was committed does not take action against them.

S.5 of Decree 231 identifies the OBJECTIVE CONDITIONS FOR ATTRIBUTION of the administrative liability for an offence. Set forth therein are the three conditions that must be satisfied for the offence to be attributed to the entity:

- the offence must have been committed in the interest or to the benefit of the entity;
- the culprits must be physical persons holding senior executive or subordinate positions;
- the culprits must not have acted exclusively in their own interest or in that of third parties.

S.6 and s.7 identify the SUBJECTIVE CONDITIONS FOR ATTRIBUTION, in that, for the purpose of establishing the administrative liability for an offence, the mere attribution of the offence to the entity in objective terms is not sufficient inasmuch judgement as to the reprehensibility of the entity must be determined.

The parameters of liability of the entity differ depending on whether the alleged crime was committed by persons in a top position or by persons subject to the authority and control thereof. s.6 sets out the profiles of liability of the entity in cases where the crime has been committed by persons in a top position, as identified in s.s.5.1a. However, the entity is not answerable if it proves that:

- management has adopted and effectively implemented, prior to the offence being committed, models of organisation and of management suitable to prevent crimes of the same sort as the one committed;
- the task of overseeing the functioning, monitoring and update of the organisational models has been assigned to an oversight body (i.e., the “oversight board”) of the entity vested with autonomous powers of initiatives and control;
- the persons were able to commit the offence by eluding fraudulently the models of organization, management and control;
- monitoring by the oversight board within the entity was neither omitted nor inadequate.

In the case foreseen in s.s.5.1b (crime or offence committed by persons subject to the authority and control of others), s.7 sets out on a general basis that the entity is liable if perpetration of the crime or offence was made possible by said persons’ failure to observe their obligations of management and oversight. In any case, failure to observe the obligations of management and oversight is excluded if, prior to perpetration of the crime or offence, the entity adopted and effectively implemented a model capable of preventing crimes or offences of the type that occurred.

Section III of Chapter I of Decree 231 sets out on a peremptory basis the list of crimes or offences which, if committed by persons in a top position or by persons subject to the authority and control thereof, could give rise to the administrative liability of the entity.

Over the passage of time, the list of crimes or offences has gradually grown longer (originally limited to those set forth in s.24 and s.25) primarily by way of attendant consequence of implementing the content of the international Conventions to which Italy has adhered and which also provide for forms of corporate administrative liability for collective entities.

Provided for in the original text of s.24, are the following crimes and offences against the Public Administration:

- Embezzlement to the Detriment of the State (s.s.316-bis Criminal Code);
- Undue Receipt of Grants, Loans and other Funds from the State (s.s.316-ter Criminal Code);
- Fraud to the Detriment of the State or Other Public Entity (s.640, s.s.2.1, Criminal Code);
- Aggravated Fraud to Obtain Public Grants (s.s.640-bis Criminal Code);
- Computer Fraud to the Detriment of the State or Other Public Entity (s.s.640-ter Criminal Code).

The term *Public Administration* means public institutes, public officials and public servants (State, Ministries, Regions, Districts, Municipalities, etc.) and at times non-public entities (Public Service Dealers, Bid-award Administrations, Mixed Companies, etc.) and all the other figures that perform in any way whatsoever the public function in the interest of the collectivity.

The term *public institutes* means, by way of example, the corporations and the administrations of the State, the Region, the Districts, the Municipalities and their consortia and associations, the university institutes, the chamber of commerce, industry, craftsmanship and agriculture, the National, regional and local non-economic public entities, the administrations, the corporations and the entities of the national health service. Also vested with public function are members of the EC Commission, of the European Parliament, of the Court of Justice and of the Court of the EC State Audit.

s.357 of the Criminal Code (CC) defines a *public official* whosoever performs public functions in the legislative, judicial or administrative sector. In this same regard, any and all administrative functions shall be considered to be public if these are governed by public law and administrative act and characterised by the expression and manifestation or, or the exercise, of the will of the Public administration through authorisation powers or certification.

s.358 of the Criminal Code (CC) defines a *person in charge of a public service* for whatever purpose shall be deemed to be in charge of a public service. Public service means “*an activity that is governed in accordance with the same modalities as a public function, albeit without the power*”

vested on the latter, and excluding the performance of simple ordinary tasks and exclusively manual work”.

Thus, a person in charge of a public service who carries out a ‘public function’ with the consent of the Public Administration, independent of a concrete relationship with the State or a public body, is deemed to be a public official. Examples of Employees of the Public Service are employees of the agencies carrying out public services even if having the nature of private or non-public entities.

Law no. 48 of 18 March 2008 introduced s.24-bis of Decree 231, ratifying and implementing the Council of Europe’s Convention on Cybercrime, drawn up in Budapest on 23 November 2001, to accommodate the increase in types of offence generated by the imminent use of information technologies (including IT and ICT systems, as well as third-party programs, information and data) in company operations.

Under this law new types of criminal offences were introduced pertaining to computer crimes and the unlawful processing of data. The new offences provided for therein include:

- unauthorised access to a computer or telecommunications system (s. 615-ter CP);
- unlawful interception, impediment or interruption of computer communications or telecommunications (s.617-quater CC);
- installation of equipment designed to intercept, impede or interrupt telecommunications or computer communications (s.617-quinquies CC);
- damage to computer information, data or computer programmes (s.635-bis CC);
- damage to information, data and computer programmes used by the State or other public body or of public utility (s.635-ter CC);
- damage to computer or telecommunications systems (s.635-quater CC);
- damage to computer or telecommunications systems of public utility (s.635-quinquies CC);
- certain misrepresentations envisaged in Chapter III, Book II of the CC, if regarding a public or private electronic document, this meaning any computer support medium containing data or information having a probative effect or programs specifically intended to process them and having probative value (s.491-bis CC);
- computer fraud by the provider of electronic signature certification services (s.640-quinquies CC).

Article I of the Convention of Budapest defines the concepts of computer system and computer data. Computer system means "any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data.". The concept of computer data is identified referring to use, meaning "any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function".

s.24-ter of Decree 231 was introduced by Italian Law 94 of 15 July 2009 and includes the offences of organised crime as part of the administrative liability of companies, which include the following types of criminal offences:

- criminal association (s.416 CC, with the exception of paragraph VI);
- criminal association to commit the crimes of enslavement and maintenance into slavery; child trafficking, child pornography, and crimes relating to breaches of the provisions on illegal immigration (s.416. 6 CC);
- mafia-type criminal association including foreign association (s. 416 - bis of the CC);
 - mafia-related political election exchange (s. 416-ter CC);
- kidnapping for robbery or extortion (s.630 CC);
- criminal association aimed at the trafficking of drugs and psychotropic substances (s.74 of Italian Presidential Decree 309/90)
- offences relating to the manufacture and trafficking of weapons of war, explosives and illegal weapons (s. 407, paragraph 2, letter a), no. 5, of the Criminal Code);
- offences committed in order to facilitate the activity of the Mafia-type associations including foreign associations provided for in s.416-bis of the CC;
- crimes committed under the conditions of s. 416 bis of the CC.

s.25 as amended by Law no. 190 of 6 November 2012 – has included within criminal offences against the Public Administration (administrative liability of companies) extortion, giving or promising undue benefits and bribery, so-called "proper crimes", since they take place only if the perpetrator is a public official or a person in charge of a public service (extortion no longer applies to the latter). The regulation divides these offences into three categories based on the seriousness of the individual criminal conduct.

The first category includes:

- Bribery to Influence an Official Act (s.318 CC) whether in relation to attempted bribery (s.321 CC) or instigation to bribery (s.s.322.1 and s.s.322.3 CC).

The second category includes:

- Bribery to Induce a Breach of Official Duties (s.319 CC.);
- Bribery in Judicial Proceedings (s.319-ter CC) including Alleged Bribery (s.321 CC) and Inducement to Accept Bribe (s.322.2 and s.322.4 CC).

The third category includes:

- Graft (s.317 CC);
- Bribery to Obtain an Act Contrary to Official Duties (s.319 CC) aggravated by the fact that this caused the entity to obtain a profit meaningful in amount (s.319-bis CC);

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- aggravated bribery in judicial proceedings (s.319-ter, paragraph 2 CC) also including situations concerning the briber;
- undue inducement to give or promise benefits (s.319-quater CC);

s.25-bis of the Decree introduced by Law No. 409 of 23 November 2011 enacting Legislative Decree 350/2001 containing urgent provisions in view of the introduction of the Euro and subsequently amended by Italian Law no. 99 of 23 July 2009 including provisions for the development and internationalisation of companies, as well as energy, covers crimes and offences involving the counterfeiting of money (coins and banknotes), credit instruments and revenue stamps. The crimes and offences set forth therein and relevant for corporate administrative liability purposes are the following:

- Counterfeiting of Money, Spending and Introduction Across the National Territory of Counterfeit Money, with Conspiracy (s.453 CC);
- Alteration of money (s.454 CC);
- Spending and Introduction Across the National Territory of Counterfeit Money, without Conspiracy (s.455 CC);
- Spending of Counterfeit Money Received in Good Faith (s.457 CC);
- Counterfeiting of Revenue Stamps, Introduction Across the National Territory, Acquisition, Keeping or Placement in Circulation of Counterfeit Revenue Stamps (s.459 CC);
- Counterfeiting of Watermarked Paper Used to Produce Public Banknotes, Securities or Revenue Stamps (s.460 CC);
- Production or Keeping of Watermarks or Tools for Counterfeiting Banknotes or Coins, Revenue Stamps or Watermarked Paper (s.461 CC);
- Use of Counterfeit or Adulterated Revenue Stamps (s.464 CC);
- counterfeiting, alteration or use of distinctive signs of know-how or industrial products (s. 473 CC);
- Introduction into the State and sale of products with false markings (s.474 CC).

L.D. 61/2002 covering administrative corporate crimes involving commercial businesses and corporations introduced **s.s.25-ter** into Decree 231 the principle imposing direct administrative liability on entities for corporate crimes committed in their interest or to their advantage by their directors, general managers, executive officers entrusted with the preparation of the company's financial statements and other accounting or financial reporting documents, liquidators or by individuals in subordinate positions and namely every person supervised by or under their surveillance, if perpetration of the corporate offence was made possible due to failure to observe the obligations inherent to their appointment. This liability adds to the liability of individual who has materially committed the crime.

The corporate offences, as envisaged by s.s.25-ter of Decree 231, are the following:

- Fraudulent Corporate Disclosures or Reporting (s.2621 Italian Civil Code);
- Fraudulent Corporate Disclosures or Reporting to the Detriment of the Company, Shareholders or Creditors (s.2622.1 and s.2622.3 Italian Civil Code);
- Obstruction of Audits (s.2625.2 Italian Civil Code);
- Wrongful Return of Contributions (s.2626 Italian Civil Code);
- Unlawful Sharing of Profits or Reserves (s.2627 Italian Civil Code);
- Unlawful Transactions Involving Shares or Share Units of the Entity or of the Parent Company (s.2628 Italian Civil Code);
- Transactions Prejudicial to Creditors (s.2629 Italian Civil Code);
- Failure to Report Conflicts of Interest (s.2629-bis Italian Civil Code);
- Fictitious Capital Formation (s.2632 Italian Civil Code);
- Wrongful Allocation of Company Assets by Liquidators (s.2633 Italian Civil Code);
- Corruzione tra private (art. 2635 c.c.)
- Unlawful Influence Over Shareholders' Meetings (s.2636 Italian Civil Code);
- Market Rigging (s.2637 Italian Civil Code);
- Obstructing Performance of Oversight Regulatory Authority Functions (s.2638 Italian Civil Code).

s.s.25-quater of Decree 231, introduced by Law No. 7 of 14 January 2003, containing the “*Ratification and execution of the international Convention for the Suppression of the Financing of Terrorism*”, signed in New York on 9 December 1999, renders the entity punishable, as and when cause subsists, when crimes or offences are committed, in the interest or to the benefit of the entity, for the purposes of terrorism and subversion of the democratic order.

Compared with the other provisions, characterising **s.s.25-quater** is the fact that no peremptory and end-to-end list of crimes or offences is provided.

The crimes or offences are committed whenever the entity or one of its organisational structures is used solely or predominantly for the scope of enabling or facilitating the perpetration of terroristic acts (including therein recruitment, training or propaganda for the purposes of terrorism) or subversion of the democratic order. In particular, mention is made, among the other things, to the following crimes or offences: Criminal Association for the Purposes of Terrorism and Subversion of the Democratic Order (s.270-bis CC); Assistance to Persons Associated with Terrorism (s.s.270-ter CC); Recruitment for the Purposes of Terrorism, including International Terrorism (s.s.270-quater CC); Training for the Purposes of Terrorism, including International Terrorism (s.s.270-quinquies CC), and; Conduct having the Purpose of Terrorism (s.s.270-sexies CC).

Section 8 of Law No. 7 enacted on 9 January 2001, containing “*Measures Needed to Prevent, Oppose and End Female Genital Mutilation (FGM) Practices that are Fundamental Human Rights Violations with Lack of Informed Consent and Health Risks for Women and Girls*”, introduced **s.s.25-quarter.1** into Decree 231. **S.s.25-quarter.1** broadens the sphere of crimes or offences against the life and safety of individuals to encompass FGM Practices defined as all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons (such as clitoridectomy, excision and infibulation). For the purposes of the foregoing, taken into account should be the so-called “structural criterion” – to be read in conjunction with the mechanisms for crimes charged against entity pursuant to s.5 of Decree 231 – which sets out that the administrative liability of the entity arises in the event that the FGM practices took place at the premises from which the entity conducts its operations or were made using the human or material structures made available at the entity.

As introduced by Section 5 of Law No. 228 of 11 August 2003, **s.s.25-quinquies** of Decree 231 sets out measures against trafficking-in-persons. Besides introducing in the list of crimes and offences only those relating to trafficking-in-persons, the legislation broadened the term of imprisonment envisaged for the crimes covered by Section I, Chapter III, Title XII of the Criminal Code, i.e. “*Crimes and Offences against Individuals*”.

The list subsequent to the amendments under Legislative Decree no. 39 of 4 March 2014, comprises:

- Placing or Holding a Person In Conditions of Slavery or Servitude (s.600 CC);
- Child Prostitution (s.s.600-bis CC);
- Child Pornography (s.s.600-ter CC);
- Possession of Pornographic Material (s.s.600-quarter CC);
- Virtual Pornography (s.s.600-quarter CC);
- Tourism for the Purpose of Exploiting Child Prostitution (s.s.600-quinquies CC);
- Trafficking-In-Persons (s.601 CC);
- Buying and Selling of Slaves (s.602 CC)
- Solicitation of minors (s.609-undecies CC);

Introduced into Decree 231 by s.s.9.3 of Law No. 62 enacted on 18 April 2005, **s.s.25-sexies** envisages an administrative liability of the entity in the case of the perpetration or attempted perpetration of crimes or offences involving:

- Insider Trading (s.184 and s.s.187-bis Financial Market Act);
- Market Manipulation (s.185 and s.s.187-ter Financial Market Act).

Implementation into the Italian legal system of the EC Community Directive 2003/6/CE of the European Parliament and of the European Council dated 28 January 2003, addressing the abuse of sensitive or privileged information and market manipulation, and of the enabling European Commission Directives 2003/124/CE, 2003/125/CE and 2004/72/CE, represented the cue to revisit the panorama of financial market-related administrative infringements.

Repression of market abuse is based on a “*dual track*” system, i.e.: the penal sanction pursuant to s.184 and s.85 of the Financial Market Act and the administrative sanction pursuant to s.s.187-bis and s.s.187-ter of the Financial Market Act.

s.s.25-septies was introduced by s.9 of Law No. 123 enacted on 3 August 2007, as subsequently amended by s.30 of LD No. 81 of 9 April 2008, (“Implementation of s.1 of Law No. 123 enacted on 3 August 2007 addressing industrial health and safety” or, more simply, the “Industrial Health & Safety Act” or the “IH&S”). The new provision provides for three separate types of administrative infringements applicable to the entity, each one of which punished diversely, depending upon aggravating circumstances, i.e.:

- Involuntary Manslaughter (s.589 CC committed in violation of s.s.55.2 of the legislative decree implementing the delegation pursuant to Law No. 123 of 3 August 2007);
- Involuntary Manslaughter (s.589 CC committed in violation of industrial health and safety legal and regulatory requirements);
- culpable personal injury, serious or very serious, committed in violation of industrial health and safety legal and regulatory requirements (s.s.590.3 CC).

As opposed to the other crimes identified in Decree 231, which are malicious in nature and, as such, effectuated voluntarily by the culprit), the crimes or offences considered in s.s.25-septies are, conversely, without malice. In connection thereto, a criminal crime is without malice, or without any deliberation, when the event, which may be involuntary, was caused by negligence or imprudence or inexperience, or non-compliance with laws, regulations, rules or standards.

s.10 of **Law No. 146 of 16 March 2006** (“*Ratification and Execution of the Convention and of the Protocols of the United Nations against transnational organised crime, adopted by the General Assembly on 15 November 2000 and on 31 May 2001*”) extended the administrative liability of entities to encompass the so-called “transnational crimes or offences”. Submitting such crimes or offences to Decree 231 rulings was effectuated by introducing an article of law in the Decree’s text but, as mentioned earlier, by way of attendant consequence of the ratification of the Convention.

Pursuant to s.3 of Law 146/2006, “transnational crime” is defined as an offence punishable by imprisonment for four years or more whenever involving an “organised criminal group”. Hence, an offence is transnational in nature if:

- it is committed in more than one State; or
- it is committed in one State but a substantial part of its preparation, planning, management or control takes place in another State; or
- albeit committed in one State but involving an organised criminal group that engages in criminal activities in more than one State; or
- it is committed in one State but having substantial effects in another State.

The Transnational Crimes covered by Law 146/2006 and encompassed within the sphere of liability pursuant to L.D. 231/2001 are the following:

- Racketeering (s.416 CC);
- Mafia-type Racketeering (s.s.416-bis CC);
- Racketeering for the Purpose of Smuggling Foreign Processed Tobacco (s.s.291-quater of Italian Presidential Decree (D.P.R.) No. 43 of 23 January 1973, Customs & Excise Act);
- Racketeering for the purpose of Trafficking in Narcotics or Psychotropic Substances (s.74 of Italian Presidential Decree (D.P.R.) No. 309 of 9 October 1990, Drugs Act);
- Violation of Provisions Against Illegal Immigration (s.12, subsections 3, 3-bis, 3-ter and 5, of L.D. No. 286 of 25 July 1998, Immigration Act, as subsequently amended);
- Inducement Not to Make Statements or To Make False Statements before Judicial Authorities (s.s.377-bis CC);
- Assisting an Offender(s.378 CC).

s.25-octies of Decree 231 (Handling of Stolen Goods, Money Laundering, and Utilization of Funds, Assets or Other Resources of Unlawful Origin and *autoriciclaggio*) was introduced by s.63 of L.D. No. 23 of 21 November 2007 ("Implementation of EC Directive 2005/60/CE concerning the prevention of the use of the financial system for the purposes of money laundering and terrorist financing and, not least, implementation of EC Directive 2006/70/CE introducing related enabling measures"), and subsequently amended by Law no. 186 of 15 December 2014.

The criminal crimes addressed in s.s.25-octies of Decree 231 are:

- Handling of Stolen Goods (s.648 CC);
- Money Laundering (s.s.648-bis CC);
- Utilization of Funds, Assets or Other Resources of Unlawful Origin (s.s.648-ter CC).
- Self-laundering (s.s. 648-ter I CC)

The entity is answerable for such crimes if it derives an interest or a benefit therefrom. Given that the crimes or offences pursuant to s.648, s.s.648-bis s.s.648-ter and 648-ter I of the Criminal Code can be committed by "anyone", the interest or the benefit for the entity,

therefore, must be assessed in relation to the connection between the indicted conduct and the activity exercised by that entity.

The purpose of including s.s.25-octies in the list of crimes subject to application of Decree 231 is to protect the financial system from being used to recycle money or other funds of unlawful origin or for the purposes of financing terrorism.

The anti-money laundering laws and regulations, and more particularly s.s.648-bis of the Criminal Code, strike against the reinvestment in any form of unlawful profits, whatever being the malicious crime from the unlawful funds derive, putting them back in circulation once "laundered", so that the unlawful origin cannot be identified. S.s.648-ter of the Criminal Code, conversely, unfolds into the use of funds of unlawful origin in financial or economic activities.

The regulations on preventing money laundering activities, in particular s. 648-bis of the CC, cover any form of reinvestment of illegal profits, no matter what the intentional offence from which the illegal capital originates, by putting them back into circulation as "purified" in order to prevent the illegal origin from being identified. S.648-ter of the CC consists instead in using capital of illegal origin in business or financial activities.

With reference to copyright infringement, Law no. 99 of 23 July 2009 entitled "Provisions for the development and internationalisation of companies and energy" introduced s.25-novies to Decree 231. The offences included therein and relevant to the administrative liability of companies are provided for in s.171.l. a-bis, and paragraph 3, 171-bis, 171-ter, 171-septies and 171-octies of Law no. 633 of 22 April 1941 concerning the protection of copyright and other rights connected with its exercise.

s.4 of Law no.116 of 3 August 2009 entitled "Ratification and execution of the Convention of the United Nations Organisation against Corruption, adopted by the UN General Assembly on 31 October 2003 with Resolution no. 58/4 signed by Italy on 9 December 2003, and rules of domestic compliance and amendments to the criminal code and to the code of criminal procedure", provides for the offence concerning inducement not to provide statements or to provide untruthful statements to the judicial authorities, regulated in terms of administrative liability of entities through s.25-decies of Decree 231.

s.25-undecies of Legislative Decree 231/01 (environmental offences) was introduced by s.2 of Legislative Decree no. 121 of 7 July 2011 ("Implementation of Directive 2008/99/EC on the criminal protection of the environment, and Directive 2009/123/EC that amends Directive 2005/35/EC regarding pollution caused by ships and the introduction of sanctions for violations, which extends the administrative liability of entities to some offences committed in violation of the environmental protection rules") and contemplates the following offences:

- a) killing, destruction, catching, taking, possession of specimens of protected wild fauna and flora species (s.727-bis CC);
- b) damage to habitat (s.733-bis CC),
- c) criminal offences pursuant to s.137 of Law no.152 of 3 April 2006 concerning discharges of waste water;
- d) criminal offences pursuant to s.256 of Law no.152 of 3 April 2006 concerning unauthorised waste management activities,
- e) criminal offences pursuant to s.257 of Italian Law no. 152 of 3 April 2006 concerning the reclamation of sites;
- f) criminal offences pursuant to s.258 of Italian Law no.152 of 3 April 2006 concerning the violation of reporting obligations, record keeping and required forms;
- g) criminal offences pursuant to s.259 and s.260 of Law no. 152 of 3 April 2006 concerning illegal trafficking of waste;
- h) criminal offences pursuant to s.260-bis of Law no. 152 of 3 April 2006 concerning waste traceability;
- i) criminal offences pursuant to s.279 of Italian Law no. 152 of 3 April 2006 concerning environmental permits;
- j) criminal offences pursuant to s.1, 2, 3-bis and 6 of Law no.150 of 7 February 1992 concerning international trade of endangered animal and vegetable species, and to the sale and possession of live specimens of mammals and reptiles that may constitute a danger for public health and safety;
- k) criminal offences pursuant to s.3 of Law no. 549 of 23 December 1993 concerning the production, consumption, import, export, possession and sale of substances harmful to the ozone;
- l) criminal offences pursuant to s.8 and 9 of Law no. 202 of 6 November 2007 concerning pollution caused by ships.

s.25-duodecies of Italian Legislative Decree 231/01 (employment of illegally staying third-country nationals) was introduced with Article 2 of Italian Legislative Decree no. 109 of 16 July 2012 and came into effect on 9 August 2012.

The offence under this article is governed by s.22.12 bis of Legislative Decree No. 286 of 25 July 1998 which states that any employer who employs a foreign worker without a residence permit as required by this article, or whose permit has expired and for which an application has not been submitted for its renewal, revocation or cancellation within the time limits laid down by law, is subject to a term of imprisonment ranging between six months and three years, plus a €5,000 fine for each worker employed.

The first paragraph of s.23 of Decree 231 provides for a specific type of criminal offence, punishing anyone who infringes the duties or bans inherent to such sanctions or measures, in

carrying out the activity of the entity which has been subjected to a penalty or to a provisional restrictive measure.

This offence is linked to a separate administrative offence of entities, punishable in accordance with the second and third paragraph of said s.23.

1.2 Sanctions

As governed by s.9 through s.23 of Decree 231, the sanctions for administrative liability dependant on a crime or offence (the crimes or offences envisaged are set forth in point 1.1) are the following:

- **pecuniary sanctions** (s.10 through s.12): these are applicable in all instances of administrative infringements and are penalising and not indemnifying in nature. Answerable to obligation to pay the pecuniary sanctions is the entity, and only the entity, using its own funds or using mutual funds. The sanction is applied in “quotas” and is determined by the judge “in the range from 100 to 1000” (in relation to the gravity of the offence, to the degree of liability of the entity and to the actions taken by the entity to eliminate or attenuate the consequences of the offence and to prevent the perpetration of further unlawful acts; the value assigned to each and every quota ranges from a minimum Euro 258,23 to a maximum of Euro 1,549.37. This value is set by the judge taking into account the economic and financial condition of the entity; the amount of the pecuniary sanction, therefore, is determined multiplying the first factor (number of quotas) by the second (amount of the quota);
- **interdictory sanctions** (s.13 through s.17): these are applicable only in crimes or offences for which they are specifically indicated in that legislation and are (s.s.9.2):
 - debarment from exercising the entity’s activity;
 - suspension or revocation of permits, licences or concessions functional to the perpetration of the unlawful act;
 - ban on entering into contracts with the Public Administration, other than to obtain a public service; the ban may be limited also to certain types of contracts or to certain administrations;
 - exclusion from facilities, funding, grants or subsidies and/or revocation of those that may have been previously awarded;
 - ban on publicising goods or services.

The interdictory sanctions have the characteristic of restricting or affecting the business activity, and in the most serious instances can lead to paralysing the entity (debarment from exercising the entity’s activity); these also have the purpose of preventing conduct associated with the perpetration of offences. Indeed, s.45 of Decree 231 provides for application of one

of the interdictory sanctions foreseen in s.s.9.2 by way of precautionary measure when there is strong evidence to consider that the entity is liable for an administrative infringement dependent on a crime and there are specific elements indicating the tangible danger that infringements of the same sort as the one for which proceedings have been taken could be committed. The sanctions are imposed in the instances specifically foreseen by Decree 231 when one or more of the conditions set forth below are satisfied:

- i. the entity has derived from the offence a profit of meaningful amount and the offence was perpetrated by individuals in senior executive positions or by individuals under the authority and control of others and when, in this case, the perpetration of the offence was determined or facilitated by organisational, management and control serious shortcomings;
- ii. reiteration of offence.

The interdictory sanctions have a duration of three months or less and not more than two years; by way of departure from the timeline, the interdictory sanctions may be applied on a definite basis, in the most serious instances foreseen in s.6 of Decree 231;

- **confiscation** (s.19): in the sentence of conviction of the entity, confiscation of the price or the profit of the crime is always ordered or, where this is not feasible, confiscation of sums of money, goods or other utilities of equivalent value to the price or to the profit (gain in money or goods) of the crime can be made (except for the part that can be returned to the injured party); the rights acquired in good faith by third parties are held harmless. The underlying purpose is to prevent the entity from behaving unlawfully for “lucre” purposes; having regard to the meaning of “profit”, given the significant impact that the confiscation can have on the assets of the entity, doctrine and case law have expressed diverse and oscillating pronouncements in respect of the novelty of the “confiscation/sanction” aspect foreseen by Decree 231. S.53 of Decree 231 provides for precautionary seizure of the entity’s assets constituting the price or the profit of the offence in the presence of the conditions of law; insofar as applicable, the precautionary seizure procedure foreseen by s.321 *et seq.* of the Criminal Procedure Code is applied;
- **publication of the sentence** (s.18): publication of the sentence of conviction may be ordered when an interdictory sanction is applied to the entity; the sentence is published once, and only once, either in the form of an excerpt or in full, in one or more newspapers elected by the judge in the sentence, or by being affixed in the municipality where the entity’s registered office is based. Publication of the sentence is effectuated by the court clerk’s office of the judge and is at the expense of the entity; the underlying purpose is to make known to the general public the sentence of conviction.

1.3 Precautionary Measures

Decree 231 provides for the possibility to apply to the entity the interdictory sanctions foreseen under s.s.9.2, also by way of precautionary measure.

The precautionary measures respond to a pre-trial precautionary requirement, insofar as applicable in the course of the proceedings and hence to the indictee or the accused, as yet pending sentence of conviction. For this reason, the precautionary measures can be put in place, upon request from the Public Prosecutor, in the presence of certain conditions.

s.45 sets out the assumptions for the application of the precautionary measures conditioning thereto recourse to serious suspicions of guilt on the liability of the entity thereby following faithfully the provision set forth in s.s.273.1 CPC. Pre-conviction assessment of suspicions of guilt referable to the applicability of the precautionary measures pursuant to s.45 must take into account:

- the complex nature of the administrative infringement ascribable to the entity;
- the relationship between the crime and alleged;
- the subsistence of an interest or of a benefit for the entity.

s.45 also sets out that the Judge shall verify whether there is any risk that infringements of the same sort as the one for which proceedings are being taken could be committed. This involves a second moment of assessment in which the Judge, based on the briefing submitted to be him by the Public Prosecutor, formulates a *periculum in libertate prognosis* (or, as better specified in relation to the entity, *periculum in negozio*) based on well-founded and specific elements indicating such risk to be material.

Having regard to the criteria underlying the choice of measures (s.46), the legislator has used the principles of:

- proportionality to ensure that the sanction to be imposed fits the seriousness of the crime;
- adequacy in relation to the material precautionary requirements;
- gradualism, so that the measure adopted is always the less vexatious among those sufficient to satisfy the precautionary requirements of the material case.

The application procedure for the precautionary measures is crafted around the one outlined by the Criminal Procedure Code, albeit with certain departures. The competent Judge who draws up the measure, upon request by the Public Prosecutor, is the Judge for Preliminary Investigation. The writ of application is that foreseen by s.292 CPC., as referred to explicitly in s.45 of Decree 231.

Having received the Public Prosecutor's request, the Judge sets an *ad hoc* chamber hearing to discuss the application of the measure; other than the Public Prosecutor, also attending the hearing will be the entity and its defence counsel, who, prior to the hearing, can examine the Public Prosecutor's request and the elements on which such request is based.

1.4 Models of organisation, management and control exonerating from administrative liability

S.6 and s.7 of Decree 231 provide for specific forms of exoneration from the administrative liability of entities.

In particular, s.6 "*Persons in a Top Position and Entity's models of organisation, management and control*" sets out that the entity is not liable if it proves that:

- company management adopted and effectively implemented, prior to perpetration of the offence, models of organisation, management and control capable of preventing crimes or offences of the same sort as the one committed;
- the duty of monitoring and supervising the effective functioning and compliance with the models, including the related update thereof, has been assigned to a function within the entity (Oversight Board) having autonomous power of initiative and control;
- the persons who committed the offence acted fraudulently to elude the organisational, Management & Control Models adopted by the entity;
- there has been no omission or inadequacy of oversight by the Oversight Board.

S.7 "*Persons subject to the authority of others and Entity's models of organisation, management and control*" sets out that in the event of offences committed by persons subject to the authority of others pursuant to s.s.5.1b) of Decree 213, the entity is liable if the perpetration of the offence was

made possible by failure of the latter to perform the duty of management and control.

In any case, failure to perform the duty of management and control is excluded if the entity, prior to perpetration of the offence, has adopted and effectively implemented an organisational, Management & Control Model capable of preventing offences of the same sort as the one committed (s.s.7.2).

1.5 Requisites of an Organisational, Management & Control Model

As set forth in s.s.6.2 of Decree 231, the models of organisation, management and control must have the capability to:

- a) identify the activities within which the offences may be committed;

- b) deliver organisational, management and control (OMC) protocols aimed at programming the preparation and implementation of the decisions taken by the entity in relation to offences to be prevented;
- c) identify financial resource management procedures capable of preventing the perpetration of offences;
- d) meet reporting and disclosure obligations in respect of the function entrusted with overseeing the functioning of and compliance with the models;
- e) introduce a disciplinary system capable of punishing failure to comply with the measures specified in the model.

s.s. 7.3 and s.s.7.4 of Decree 231 set out that:

- taking into account the business activity conducted and, not least, the nature and dimensions of the organisation, the model must provide for measures having the capability to ensure that the activity is conducted in accordance with the requirements of law and that any area At-Risk is identified and eliminated promptly;
- periodic verification and changes in the model whenever material violations of regulations are discovered or whenever meaningful changes have occurred in the organisation or in business activities; also meaningful, the introduction of an appropriate disciplinary system.

Decree 231 provides for the possibility of Organisational, Management & Control Models being adopted on the basis of the codes of conduct issued by trade unions and communicated to the Ministry of Justice pursuant to s.s.6.3 of Decree 231. The Decree also sets out that the oversight function in small-sized entities may be carried out directly by management.

1.5.1 The Confindustria Guidelines

Confindustria was the first trade association to first produce a guidance document addressing the construction of organisational, Management & Control Models pursuant to Decree 213/2001 (hereinafter the “Guidelines”)², as issued in March 2002 and subsequently amended in part and updated firstly in May 2004, successively, in March 2008 and finally in July 2014 (hereinafter also “Guidelines”).

The Confindustria Guidelines constitute, therefore, the inevitable starting point for the proper construction of an Organisational, Management & Control Model.

² All the versions of the Confindustria Guidelines were deemed to be fit and adequate by the Ministry of Justice.

According to these Guidelines, the operational steps required to obtain a risk management system can be summarised in the following fundamental points:

- **identification of the areas of activity within the entity**, by identifying the areas of activity potentially exposed to risk, i.e. the areas or sectors of the entity in which theoretically the undesirable events set out in Decree 231 could take place (so-called “Mapping of At-Risk Areas”);
- **analysis of potential risks**, by looking at the possible ways in which the offences could be committed and at the entity’s history, using a “documented map of the potential ways in which the offences could be committed”;
- **assessment/construction/fine-tuning of the system of preventive controls**, in order to prevent perpetration of the offences pursuant to Decree 231/2001 through the documented description of the system of preventive controls installed, with detail of the individual components of the system and, not least, of any fine-tuning that might be necessary.

The more significant components (the so-called “protocols”) of a system of preventive control identified by Confindustria with regard to criminal acts are the following:

- Code of Ethics (or Code of Best Practices) with reference to the offences considered;
- organisational systems;
- manual and computer-based systems;
- powers of authorisation and signature;
- management control systems;
- staff communication and formation.

The components of the system of control must be integrated organically in an architecture that follows certain fundamental principles:

- verifiability, documentability, consistency and appropriateness of each and every operation/transaction/action;
- application of the principle of segregation of duties, according to which no one person may manage and operate autonomously an entire process or hold unlimited powers, through the clear definition and communication of the powers of authorisation and signature bestowed on a basis consistent with assigned responsibilities in the management organisation;
- documentation of controls, including supervisory controls.

The system of control must also provide for the adoption of peerless ethical standards pertinent to the types of offence contemplated in Decree 231, and that these can be documented in a code of ethics or in a code of best practices.

An adequate and appropriate system of disciplinary sanctions must be established in relation to violation of the standards of ethics/best practice and, more generally, of the protocols issued by the entity.

The preparation of this Model was inspired by and based upon the updated Guidelines issued by Confindustria.

1.5.2 Criminal liability within groups of companies

Decree 231 does not expressly deal with aspects related to the liability of an individual company within a group of companies, despite the fact that groups are a common organisational arrangement.

In view of the fact that the group cannot be considered the target for the attribution of liability for crimes and cannot be classified among the parties indicated in s.1 of Legislative Decree 231/2001, it is important to reflect on the implementation of organisation models in regards to criminal offences committed by companies belonging to a similar corporate group.

As highlighted in the latest version of the Guidelines, the holding / parent can be considered liable for crimes committed within a subsidiary's activities when:

- it is committed by an individual of its subsidiary, only if the holding company itself has received a direct or indirect benefit.;
- natural persons, linked in a functional way to the holding (or subsidiary), have taken part in the predicate offence, through a causally relevant contribution (Cassazione V section, judgement no. 24583 of 2011), proved in a concrete and specific way. For example, it could be found that:
 - the crime is the consequence of the illegal instructions issued by the top individuals of the holding company;
 - top management of the holding company and of the subsidiary are the same people (so-called "interlocking directorates"): the risk of liability extending to the group increases because the companies could be considered separate entities only in a formal perspective.

Therefore, the Company must not only have an effective and efficient organisational model but ensure that it is consistent with holding's control protocols and that there is an adequate exchange of information between the respective Oversight Boards.

2. Governance Model and Organisational Structure of Italdesign-Giugiaro S.p.A.

2.1 Italdesign-Giugiaro S.p.A.

Italdesign-Giugiaro S.p.A. (hereinafter also the “**Company**”) is an Italian company and member of the multinational group Volkswagen/Audi (hereinafter also the “**Group**”). The Group, headquartered at Wolfsburg (Germany), is a leading global carmaker, with European carmaker leadership.

The company started off as a service centre for the automotive industry, and has now expanded its range of services to include the production of new vehicles and industrial objects, as well as the stylistic research and design, validation and prototyping.

The Company also operates through its subsidiaries Italdesign Giugiaro Barcelona (Spain) and Italdesign Giugiaro Deutschland (Germany), both of which are subject to foreign law.

The first company is engaged in automotive style and design activities mainly for the SEAT brand and Industrial Design.

The second company is engaged in the development and execution of orders entrusted to Italdesign by the parent company and consists of an operational office located in Ingolstadt. This office acts as the base for the Italdesign staff and as the reference point for AUDI. There is also an office in Wolfsburg that provides support to VOLKSWAGEN.

2.2 The Italdesign-Giugiaro system of governance

Italdesign-Giugiaro S.p.A.’s governance model and, in general, its entire organisational structure is entirely designed to assure for the Company the realisation of its strategies and the achievement of the goals and objectives defined by the Group in compliance with the relevant national and international regulations.

The structure of Italdesign-Giugiaro S.p.A., in fact, was created bearing in mind the need to give the Company such an organisation as to assure the maximum operational efficiency and effectiveness in compliance with the long-standing principles pursued by the entire group: transparency, legality and sustainability.

Given the peculiarity of its organisational structure and business activities, the Company gave preference to the so-called “*traditional system*”, which provides for the presence of a Board of Directors with administrative functions, a Board of Statutory Auditors with functions of supervision over the administration, and an Auditing Firm performing the independent legal audit of the accounts. All three of these are appointed by the shareholders.

The Company’s system of corporate governance, therefore, is now configured as follows:

A) Shareholders' Meetings:

The role of the Shareholders' Meeting is to pass resolution, by way of ordinary or extraordinary resolution, on the matters which the Law or the Company's By-Laws assigns to its competence.

B) Board of Directors:

The Board of Directors has the widest powers of ordinary and extraordinary administration and, more precisely, has all the means for initiating and attaining the Company's objects, except those reserved explicitly by Law or by the Company's By-Laws to the shareholders. In consequence, the Board of Directors is vested, among the other things, with the power to define the Company's strategic policies and to assess whether and to what extent the Company has an effective organisational and management structure in place.

The Board of Directors may comprise, as set forth in the Company's By-Laws, by 3 (three) to 11 (eleven) members, who need not to be shareholders, elected by the meeting of shareholders, which establishes the number of Board members to be set. These remain in office for three years and are re-electable.

C) Board of Statutory Auditors:

The Board of Statutory Auditors comprises 3 (three) standing auditors and 2 (two) alternate auditors. All the members of the Board of Statutory Auditors remain in office for three years.

Assigned to the Board of Statutory Auditors is the oversight duty to monitor:

- compliance with the law and with the Company's articles of association;
- compliance with the best practice principles of administration and corporate governance;
- the adequacy of the Company's organisational structure, its System of Internal Control and its management accounting system, also with regard to the reliability of the latter to portray accurately the Company's state of affairs at any point of time.

D) Independent Auditors:

The meeting of shareholders of Italdesign-Giugiaro S.p.A. has assigned to an Auditing Firm, registered in the Special Register of Auditors, the engagement to examine and audit the Company's accounts.

3. Organisational, Management & Control Model adopted by Italdesign-Giugiaro S.p.A.

3.1 Purpose of the Italdesign-Giugiaro Organisational, Management & Control Model

The Italdesign-Giugiaro Organisational, Management & Control Model (hereinafter also the "Model") has been defined prepared updated taking into particular account the interaction between the System of Internal Control and the business processes in place vis-à-vis Decree 231 provisions and rulings. The current version of the Model is the result of the updates made in 2014 to reflect not only the changes in regulations since the first version, but also the organizational and operational changes to the business.

To that end, Italdesign carried out a series of preliminary activities divided into different stages and all aimed at updating the prevention and risk management system, in line with the provisions of the Decree and the aforementioned Guidelines issued by Confindustria.

This Model perfects and integrates the Company's aggregate of rules of conduct, principles, policy and procedures, as well as all the organisational tools and internal controls extant, by introducing requirements that have the specific objective of preventing the perpetration of the crimes or offences contemplated in Decree 231.

Such objective is attained through identification of the sensitive areas (At-Risk Areas), the construction of an organic and structured system of procedures and the adoption of an adequate System of Internal Control. Hence, the Model aims to:

- raise the awareness of all those who cooperate or work in the name of and on behalf of Italdesign-Giugiaro S.p.A. that the perpetration of an offence (whether attempted or otherwise) - even if committed to the benefit or in the interest of the Company – represents a violation of the Model and of the principles and provisions set forth therein and constitutes an unlawful act punishable by sanctions, whether penal or administrative, imposable not only in respect of the author of the crime or offence but also in respect of the Company;
- identify any conduct not in line with the Company's principles of best practice, insofar as contrary not only to the law but also to the provisions of law, norms and code of conduct to which the Company intends to aspire and adhere in the pursuance of its business activity;
- monitor the sectors of activity and the related risks of crimes or offences, defining timely step-actions to prevent and impede the perpetration of such crimes or offences.

In order to define the Model and prevent the perpetration of the crimes and offences contemplated in Decree 231, the following activities have been put in place:

- drafting of the Code of Ethics³ containing the ethical standards of Italdesign-Giugiaro S.p.A., which forms a substantial and integral part of the Organisational, Management & Control Model;
- identification of the areas potentially at the risk of perpetration of offences pursuant to Decree 231, by means of in-depth analysis of the activities performed, the procedures and controls in place, practices and formal authorisation levels;
- identification of the Oversight Board, to which the duties of overseeing the proper and effective functioning of the Model have been assigned and upon which such powers as may be necessary to ensure its full and efficacious operation, whether in terms of autonomy or resources made available, have been vested;
- definition of reporting and data flows to and from the Oversight Board;
- definition and adoption, in response to the requirements of Decree 231, of an *ad hoc* disciplinary system becoming applicable in the event of violations of the Model;
- definition and start-up of activities aimed at raising the bar of circulation, communication, awareness and knowledge, whether at all levels throughout the Company and with those who act in the name and on the behalf of the Company, on the rules of conduct required by the Model and on the internal processes and procedures put in place to govern, prevent and control the areas of activity at risk and, not least, on compliance therewith.

3.2 Structure of Italdesign-Giugiaro Organisational, Management & Control Model

As integrated therein, the Model includes the principles and norms contained in the Code of Ethics, as well as the set of processes, rules, procedures and systems of control already in place within the Company.

In particular, for the purposes of this Organisational, Management & Control Model, cited explicitly are all the best practice tools already in place within Italdesign-Giugiaro S.p.A., including therein all the procedures and norms concerning best practices that have been adopted by way of implementing and complying with UNI EN ISO 9001:2008 standards and, moreover, with the principles of best practice set by the Group to which the Company forms part. Those tools form a substantial and integral part of this Model.

This Model is represented by:

- a “General Section”;
- plus “Special Sections”.

³ See “Exhibit B”.

The “General Section”, after illustrating the content and underlying principles of Decree 231 and, not least, the function of the Italdesign-Giugiaro Model, sets out that the following form an integral part of the system of internal control:

- the **Oversight Body**, assigned to which is the duty to oversee the functioning of and compliance with the Model;
- the **Code of Ethics**, which constitutes the basis of the Company’s System of Control;
- the **organisational structure**, as finalised to attribute responsibility in a manner consistent with the powers and functions vested, in accordance with the segregation of duty principle, and contemplating appropriate principles of control;
- the **system of powers (powers of attorney and delegated powers)**, assigned on a basis consistent with the responsibilities established in the organisational and management structure, with appropriate spend authorisation limits;
- the **directives, policies and procedures (manual and computer-based)**, designed to regulate operations and the related controls, ensure the segregation of functions and duties of persons performing key activities in at-risk areas and, not least, safeguard the principles of transparency, verifiability and relevance to the activity being performed;
- the **system of management control**, having the capability to place promptly in evidence the existence or onset of any critical and/or unusual situation, accomplished through the monitoring appropriate indicators for the individual types of risk identified;
- the **disciplinary system**, in respect of violation of the rules and regulations of the Code of Ethics and/or in violation of in-house rules and regulations;
- **staff communication and formation to raise awareness on all aspects of the Model.**

The “Special Sections”⁴ relate to the types of crime or offence deemed to be theoretically more relevant for the Company. The prime objective of each of the Special Sections is to underline the obligation for the addresses identified to adopt rules of conduct for the prevention of the crimes or offences contemplated in Decree 231 and identified as theoretically relevant based on the organisational structure and the business activity conducted; for the offences not expressly covered in the individual special sections, the general rules of the Company act as a preventive system designed to prevent such offences, and in particular those contained in the Code of Ethics, for which there is no offence provided for or referred to in Decree 231 or covered under the Organisation Model, the rules referred to therein or annexed thereto.

⁴ See “Exhibit C”.

In particular, indicated for each of the Special Sections are:

- the at-risk areas and the related sensitive activities;
- for each of the at-risk areas, the business functions that operate in that area;
- the main crimes and offences that could be theoretically committed in those areas;
- the main controls in place in the individual areas at risk of a crime or offence;
- the best practice principles to be followed in order to mitigate the risk of a crime or offence being perpetrated;
- the obligations of the Oversight Board in the performance of its duties.

The Model adopted by the Company is constituted by the following Special Sections:

- Special Section I: Crimes Against the Public Administration;
- Special Section II: Corporate Crimes;
- Special Section III: Forgery of Money (coins and banknotes), Public Credit Instruments, Revenue Stamps & Distinguishing Marks or Logos; Crimes against Industry and Trade;
- Special Section IV: Cybercrimes & Illicit Data Processing;
- Special Section V: Crimes in Violation of Workplace Health & Safety Protection;
- Special Section VI: Crimes Committed for the Purposes of Terrorism and Subversion of the Democratic Order; Crimes Aimed at Receiving Stolen Goods, Money Laundering or Investing Illicitly Derived Money, Assets or Gains;
- Special Section VII: Environmental Crimes.
- Special Section VIII: Bribery between private individuals

The Italdesign-Giugiaro Organisational, Management & Control Model has been adopted by the Company's Board of Directors, which has responsibility for changes to and integration of the Model. Accordingly, through formal decision with resolution, the Board of Directors may, at any time whatever, change the Model – in whole or in part – so as to adapt it to provisions of new legislation or to changes in the structure of the Company.

3.3 Preparatory activities for construction of the Model

Italdesign-Giugiaro determined as essential and in line with its own corporate policy to adopt an Organisational, Management & Control Model pursuant to Decree 231 in order that all those who work within the Company observe, in carrying out their activities and services, such standards of conduct as to avoid the risk of perpetration of the crimes or offences contemplated in Decree 231.

In constructing its Model, the Company based itself, in addition to the provisions of Decree 231, on the Confindustria Guidelines, prepared on the basis of the observations made by the

Ministry of Justice, which contain specific and material indications as to the adoption and implementation of the models of organisation, management and control.

The Company's Organisational, Management & Control Model has been approved and adopted by the Board of Directors of Italdesign-Giugiaro, which, in application of s.s.6.1a) of Decree 231, nominated the Oversight Board, entrusted with overseeing the functioning of and compliance with the Model, as required by Decree 231.

The activities of risk assessment performed included both analysis of the documentation available within the Company and discussion with in-charge officers of the Company.

3.3.1 Mapping of at-risk areas

Identification of the at-risk areas was fundamental for the construction of the Italdesign-Giugiaro Model.

The activity was performed taking into consideration and analysing the context of the Company, whether in terms of its organisational structure or its operations, in order to determine in which areas/sectors of activity and in what ways negative consequences could arise from the crimes or offences contemplated in Decree 231.

In particular, from the analysis of the Company's organisational structure and operations, it was possible to possible:

- a) identify the types of crimes or offences theoretically applicable and relevant for the Company;
- b) identify the at-risk areas in which theoretically the crimes or offences contemplated by Decree 231 could be committed (or attempted), either autonomously or in concert with third parties.

By way of attendant consequence thereof, a complete list of the **at-risk areas** was also prepared, showing separately, for crimes or offences against the Public Administration (Special Section I) and for crimes of private to private corruption bribery between private individuals (Special Section VIII), the following:

- *areas at direct risk*, i.e. those business processes in which the risk of perpetration of the crimes or offences indicated by Decree 231 was held to be theoretically possible and theoretically traceable to the activities performed by the Company;
- *"instrumental" areas*, i.e. those processes involved in the management of the financial and/or other resources needed to support the perpetration of crimes or offences in the areas "at risk" of crimes or offences.

Identified on a detailed basis in each of the at-risk areas were the “*sensitive activities*”, i.e. those activities in which – directly or indirectly – the potential risk of perpetration of crimes or offences is connected, as well as the related business functions involved.

Having regard to the crime or offence typologies, the mapping of sensitive areas and of processes at risk of perpetration of the crimes or offences contemplated in Decree 231 and the controls provided for in the processes at risk, reference should be made to the Special Sections of the Model.

4. The Oversight Board

4.1 Composition of the Oversight Board and appointment

The Company elected for a multi-bodied composition of the Oversight Board, taking into account the scope and purpose pursued by the law and the dimensions and organisation of the Company.

The Board of Directors determines the number of members, the term of office, the authority and the powers, the responsibilities and the duties of the Oversight Board on the basis set forth below and, not least defines the eligibility requisites for the members thereof.

The Company's Oversight Board (hereinafter also the "OB") is a collective body, comprising 3 (three) members.

The Oversight Board is appointed by the Board of Directors and remains in office for 3 (three) years or for the shorter period of time fixed when appointed. The Board of Directors has the authority to establish that the Oversight Board remains in office up to expiration of the mandate of the Board of Directors that appointed it, without prejudice to renewal of the appointment.

As and when the Oversight Board is appointed, the Board of Directors establishes the fee due to the members of the Oversight Board.

The administrative body, during preparation of the budget, approves an adequate allocation of financial resources, as proposed by the Oversight Board, of which the Oversight Board may make use for any purpose that may be deemed necessary to ensure that the duties are properly performed (e.g. expert consultants, transfers, etc.).

4.2 Oversight Board internal regulations

The OB will set forth internal regulations governing the operating procedures by which it will function, including therein all that concerns the relative organisational system and related functioning thereof.

In particular, governed within the framework of the OB internal regulations are the aspects related to the internal functioning and organisation of the Oversight Board (e.g. calling meetings and board resolutions, taking minutes of meetings, etc.), auditing and supervisory activities and the management of flows to and from the OB.

4.3 Cessation of office

Cessation of office due to term of office takes effect from the moment in which the Oversight Board is re-established. Cessation of office may also take place by virtue of waiver, death, revocation or forfeiture.

The members of the Oversight Board who step down from the appointment must give notice thereof in writing to the Board of Directors and to said Oversight Board and Board of Statutory Auditors so that these can be timely replaced.

The members of the Oversight Board fall from office due to supervening ineligibility (for example, interdiction, inability, bankruptcy, condemned to a punishment entailing interdiction from public office or where judged guilty of the crimes or offences contemplated in Decree 231 and, in general, in cases of incapacity and incompatibility, loss of requisites, etc.).

The members of the Oversight Board may be revoked for just cause by the Board of Directors, informing the Board of Statutory Auditors. By way of example, a just cause crystallises in the case of: non-compliance with the obligations envisaged in respect of each member of the Oversight Board; unjustified non-attendance to three or more meetings of the Oversight Board; the existence of a conflict of interest; the impossibility to effectuate the activity of a member of the Oversight Committee, etc. A member of the Oversight Board may be revoked from office upon request to the Board of Directors by the said Oversight Board, which must explain why the request was made.

In cases of waiver, death, revocation or forfeiture, the Board of Directors shall provide for replacement of the member of the Oversight Board no longer in office, informing the Board of Statutory Auditors. The members thus appointed remain in office for the Oversight Board's residual term of office.

4.4 Requisites for the Oversight Board

In application of s.s.6.1 of Decree 231, the Oversight Board is entrusted with the duty to oversee the functioning of and the compliance with the Organisational, Management & Control Model and to ensure the related update thereof. The Oversight Board is vested with autonomous power of initiative and control.

In particular, the Italdesign-Giugiaro Oversight Board responds, as established in Decree 231 and foreseen in the Confindustria Guidelines, to the requisites of:

- **autonomy and independence**, insofar as:
 - the activities of control put in place by the OB are not subject to any form of interference and/or pressure by individuals within the Company;

- it reports directly to top management, i.e. to the Board of Directors, with the possibility to refer directly to the Stakeholders or to the Statutory Auditors;
- it is neither entrusted with operational duties nor partakes in decisions and operational activities in order not to bias its opinion;
- it is endowed with adequate financial resources as may be deemed to be necessary to ensure that its activities are properly performed;
- the internal regulations of the Oversight Board are defined and adopted by the said Board;
- **professional expertise**, insofar as the professional expertise extant within the Oversight Board enables it to rely upon an abundance of competences, whether in terms of inspections and analysis of the system of control or judicial expertise, particularly with regard to criminal law; to that end, the Oversight Board also has the authority to avail itself of the business functions and human resources and, not least, of external consultants;
- **continuation of action**, insofar as the Oversight Board represents an *ad hoc* organisation dedicated exclusively to oversight of the Model, i.e. supervising the effectiveness of the Model and ensuring that conduct observed within the Company complies with the Model;
- **honourableness and absence of conflicts of interest**, having the same meaning and significance as the terms used in the Law with regard to the directors and members of the Board of Statutory Auditors.

4.5 Functions, activities and powers of the Oversight Board

In application of s.s.6.1 of Decree 231, the Oversight Board is entrusted with the duty to oversee the functioning of and the compliance with the Organisational, Management & Control Model and to ensure the related update thereof.

Generally speaking, therefore, the OB is tasked with the following duties:

- **verification and oversight** of the Model, i.e.:
 - verifying the adequacy of the Model, with regard to preventing unlawful acts, placing in evidence any shortcomings;
 - verifying the effectiveness of the Model, i.e. checking whether ongoing best practices match the best practices envisaged formally by the said Model;
 - effectuating analyses in respect of retaining over time the requisites of solidarity and functionality of the Model;
- **update** of the Model, i.e.:

- taking steps to urge the Company to update the Model, proposing, where necessary, to the Board of Directors, the update, in order to enhance the adequacy and effectiveness thereof;
- **communication and training** in respect of the Model, i.e.:
 - promoting and monitoring initiatives ringed around circulating the Model to all the individuals (hereinafter also the “Addressees”) who are required to comply with the related provisions set forth therein;
 - promoting and monitoring initiatives, including therein staff training and communication initiatives, in a design to raise awareness of the Model for all the Addressees;
 - assessing requests for clarification and/or consultancy received from the BUs or corporate resources or from the boards of administration and internal control, whenever associated with and/or connected to the Model;
- **management of data flows** to and from the OB, i.e.:
 - ensuring prompt fulfilment, by the individuals concerned, of all the activities of reporting inherent to compliance with the Model;
 - reviewing and assessing all the data and/or remits received and connected to compliance with the Model, including therein any cases of non-compliance;
 - informing the competent boards or committees, as specified further ahead, about the activity carried out, about factual findings and about programmed activities;
 - reporting to the competent boards or committees, for the appropriate steps and measures to be taken, any violation of the Model and the individuals responsible, proposing the sanction deemed to be more appropriate in the circumstances;
 - in the event of controls and inspections by institutional authorities, including therein the Public Administration, providing the necessary support and information to the inspectors;
- **follow-up**, i.e. verifying the implementation and effective functionality of the solutions proposed.

In order to carry out the duties assigned to it, vested on the OB are all the powers deemed to be necessary to ensure a prompt and efficient oversight of the functioning of and the compliance with the Organisational, Management & Control Model.

The OB, also using the resources to which it has access, has the authority, by way of example, to:

- perform, in addition to all the tests of control and inspections deemed to necessary to carry out properly its duties, surprise tests;

- have unrestricted access to all the functions, records, files and documents of the Company, without any prior consent or authorisation being required, for the purposes of collecting all the information, data or document deemed to be necessary;
- interview, where applicable, the resources who can provide useful information or suggestions with regard to the business activity carried out or with regard to any malfunction or violation of the Model;
- liaise, under its direct oversight and responsibility, with all the structures of the Company or with external consultants;
- make use, whenever deemed to be necessary to carry out properly its duties, of the financial resources set aside by the Board of Directors.

The Oversight Board is required to report the outcome of its assessments and factual findings to the Board of Directors.

In particular, the OB reports any breach of the Model identified with a view to application of the relative sanction and, where the Model presents critical inadequacies, remits proposed changes or integrations.

The Oversight Board shall prepare, for the Board of Directors, a report, on a six-monthly basis at least, containing information about oversight activity performed, the resultant outcome thereof, and the implementation of the Organisational, Management & Control Model within the Company; the report shall be transmitted to the Board of Statutory Auditors.

The activities of the Oversight Board are unchallengeable by any business body, structure or function, without prejudice, however, to the obligation of the Board of Directors to oversee the adequacy of the Oversight Board and the adequacy of its work, inasmuch as the Board of Director is responsible for the functioning and effectiveness of the Model.

In carrying out the oversight functions assigned to it, the Oversight Board may draw upon adequate financial resources and has the authority to liaison – under its direct supervision and responsibility – with the in-house business structures and, as may be deemed to be necessary, with external consultants in observance of the applicable business procedures.

Governance of the OB's internal functioning is entrusted to the Oversight Board, which sets out – in its internal regulations – the aspects relative to the performance of the oversight functions, including therein determination of the tests of control timelines, identification of the analysis procedures and criteria, recording the minutes of the meetings, data flow governance and so forth.

4.6 Data Flows - Obligation to inform the Oversight Board

The OB must be informed promptly by all those within the Company and, not least, by all

those outside the Company required to comply with the Model, any suspected possible breach or violation thereof.

To all events and purposes, communicated on a mandatory basis and immediately to the OB must be information:

A. that might be connected to violations, including potential violations, of the Model, including, but not limited to:

- any order given by a senior officer and deemed to be in contrast with the law, the internal regulations or the Model;
- any request for or offer of money, gifts (meaningful in value) or benefits submitted by, or submitted to, public officials or persons in charge of a public service;
- any meaningful variance from budget or anomalous spend versus actuals emerging from requests for authorisation during Management Control;
- any omissions, negligence or falsification in the keeping of accounts or in preserving the documentation on which the accounting entries are based;
- proceedings and/or notifications by judicial police departments or any other authority, indicating investigations in course for offences, also in regard to unknown persons, touching upon, directly or indirectly, the Company, its employees or members of the corporate boards;
- requests for legal assistance submitted to the Company by employees pursuant to the National Collective Labour Contract (“CCNL”), in the event of the initiation of legal proceedings in regard to the envisaged offences;
- information concerning disciplinary measures taken and the possible sanctions applied or the archival of such proceedings and relative explanations for such decision;
- any whistle blowing, not identified promptly by the competent functions, concerning shortcomings or inadequacies in the workplace, in the workplace equipment and tooling, or in the protection devices made available by the Company, as well as any other industrial health and safety hazard;
- any variance identified in the assessment of offers process vs. business procedures or preset criteria;

B. relative to the Company’s activity, which might assume relevance for the OB in the performance of its duties, including therein, but not limited to:

- reports prepared, as part of their activities, by the Internal In-Charge Officers appointed;
- information relating to organisational changes or changes in ongoing business procedures;
- update of the systems of powers (powers of attorney and delegated powers);

General Section

- any communication from the auditing firm concerning aspects that might indicate a deficiency in internal controls;
- decisions relating to requests for, disbursement and use of public funds;
- summary statements of tenders of bids, public or *quasi*-public, at the National/local level to which the Company partakes;
- periodic reports on industrial health and safety issues and, more pointedly, the minutes of the periodic meeting pursuant to s.35 of L.D. 81/2008, as well as all the data relative to the workplace accidents that took place at the Company's production;
- annual financial statements, accompanied by the related notes thereto, as well as the half-yearly statement of accounts;
- engagements assigned to the auditing firm;
- communications, from the Board of Statutory Auditors and from the auditing firm, related to any critical issue whatever that emerged, whether solved or otherwise.

Staff members and all those operating in the name of and on the behalf of Italdesign-Giugiaro who come into possession of information relating to the perpetration of offences within the Company or the implement of "*practices*" not in line with best practice norms and/or the Code of Ethics, are bound to inform promptly the Oversight Board. The information, whether given in anonymous form or otherwise, and the confidentiality of which is assured, may be e-mailed to: odv@italdesign.it. In connection thereto, assigned to employees, as if any reminder were needed, are the duty of diligence and the obligation of loyalty pursuant to art. 2104 and art. 2105 of the Italian Civil Code and, as such, proper fulfilment of the employee's obligation to inform shall not give rise to the application of disciplinary sanctions.

During the activity of investigation that follows the receipt of any such information, the OB must act in such a way as to assure that the giving the information are not subject to any form of retaliation, discrimination or penalization, and that the confidentiality of their identify is protected (without prejudice to eventual obligations of law that impose otherwise).

The purpose of the information given to the Oversight Board is to facilitate and enhance the activities of programmed controls and do not impose thereon a punctual and systematic verification of all the circumstances represented: accordingly, whether or not step-action should be taken remains at the discretion and responsibility of the Oversight Board.

The activity of reporting will be ringed, more particularly, around:

- the activity, in general, carried out by the OB;
- any critical issues or problems emerging in the course of the oversight activity;

- the corrective measures, necessary or eventual, to be introduced in order to ensure the efficacy and effectiveness of the Model, as well as the implementation status of the corrective actions authorised by the Board of Directors;
- the assessment of “*practices*” not line with the Model;
- the detection of such procedural or organisational deficiencies as to expose the Company to the risk that crimes or offences significant for the purposes of Decree 231 are committed;
- any non-cooperation or poor cooperation by the business functions in the course of their duties of verification and/or investigation;
- in all cases, whatever information as may be deemed to be useful for the purposes of taking measures of urgency by the delegated bodies.

In all cases, the OB may turn to the Board of Directors whenever so deemed to be appropriate for the purposes of accomplishing efficiently and effectively the duties with which it is tasked.

Minutes of the meetings between the Boards must be taken and copies of the minutes must be preserved in the OB offices. Furthermore, in carrying out its tasks, the Oversight Board of Italdesign Giugiaro ensures the appropriate coordination with the Oversight Boards of the Parent Company and other companies in the group through regular meetings and through the sharing documents relating to the oversight activities carried out.

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5. The Code of Ethics

5.1 Relationship between the Organisational, Management & Control Model and the Code of Ethics

An essential element of the system of control is represented by the adoption and implementation of the ethical standards relevant for the purposes of preventing the crimes or offences contemplated in Decree 231. Accordingly, the Company has adopted its own Code of Ethics with reference to the crimes or offences contemplated in Decree 231.

The Model and the Code of Ethics are closely correlated and represent the compendium of the norms adopted by the Company in a declared intent to promote the high standards of integrity, diligence, honesty and transparency standards by Italdesign-Giugiaro and by which it abides in carrying on its business.

The Model responds to the need to prevent, by implementing specific rules, processes and procedures, the perpetration of the crimes or offences foreseen in Decree 231 and, in general, contemplated by the provisions of law.

The Italdesign-Giugiaro Code of Ethics is a touchstone that establishes the way in which the Company works and does business and by which it abides. Acting with integrity underpins all the requirements of this Code of Ethics, which sets out the high ethical standards expected of everyone at Italdesign-Giugiaro to protect its reputation and image in the market. These are our baseline rules for working with others as we drive our business forward, and compliance is mandatory. Set forth therefore in the Code of Ethics, to which for quick reference should be made, are the fundamental ethical standards and best practices safeguarding all the business activities. These form the bedrock serving as a force against the perpetration of unlawful acts – whether contemplated by the Decree or otherwise - or business conduct not in line with the ethical standards to which the Company aspires.

6. Communication/Formation and Dissemination of the Model

6.1 Communication and involvement in respect of the Model and its supporting Protocols

The Company promotes the widest of dissemination, whether inside or outside the structure, of the standards and provisions encompassed within the Model and within its supporting Protocols.

The Model is communicated formally to all the persons in a top position (including the Directors, the Statutory Auditors and the Independent Auditors) and to the staff employees of the Company, whether delivered in full and integral hardcopy version or electronic format or on-screen, and affixed on a notice board accessible to everyone, as required by s.s.7.11) of Law 200/1970, as well as publication on the Company's intranet.

Supporting documental evidence of the related delivery and receipt thereof and the commitment of Addressees to abide by the regulations set forth therein is filed in the Company deeds.

Having regard to third-party Addressees bound to abide by the Model, the said Model has been made available on its General Section on the Company's intranet.

Adoption of the Model is also communicated and disseminated to all the external individuals with whom the Company has business relations, including therein, among the other things, the suppliers, the commercial partners, the team members, the agents, the consultants, etc.

The related delivery and receipt thereof and the commitment of all the individuals, internal or external (the latter to the extent applicable), to abide by the principles set forth in the Code of Ethics and in the Model are represented by specific contract clauses.

The Company will neither initiate nor carry forward any business relation with whoever declines to abide by the standards set forth in the Code of Ethics and in the Organisational, Management and Control Model (the latter limited to eventual aspects, from time to time, applicable).

6.2 Learning and formation in respect of the Model and its supporting Protocols

In addition to the activities associated with informing the Addressees, the OB is tasked with looking after periodic and continuing formation, through promoting and monitoring, by the Company, of the initiatives aimed at raising adequate knowledge and awareness of the Model and its supporting Protocols, for the purposes of enhancing the culture of ethical standards and control within the Company.

In particular, it is envisaged that the standards and principles of the Model and, more particularly, those of the Code of Ethics forming part thereof, are illustrated to the company resources through specific formation activities (e.g. learning courses, seminars, questionnaires, etc.), in respect of which attendance is mandatory and the related modalities of execution are planned by the OB via preparation of specific Formation Programs, approved by the CEO and implemented by the Company.

The courses and the other formation initiatives in respect of the Model's standards and principles must be differentiated based upon the role and the responsibility of the resources concerned, i.e. by envisaging a more intense formation characterised by a more in-depth insight for the individuals qualified under Decree 231 as "atypical" (i.e. individuals in a top position) and, not least, those operating in the qualified, under the Model, as "direct at-risk areas".

In particular, the content of the formation sessions must provide for a section on Decree 231 and on the administrative liability of entities (norm sources, offences, sanctions applicable to physical persons and to entities and exempting) and a specific section on the Organisational, Management & Control Model adopted by the Company (benchmark principles for the adoption of Models of Organisation, Management and Control pursuant to L.D. 231/2001 (General Section and Special Sections of the Model).

Adequate supporting documentary evidence of the rewarding attendance to the learning courses must be kept.

7. Disciplinary System (pursuant to s.s.6.2e) of LD 231/2001

7.1 Purpose of the disciplinary system

It is the Company's firm belief that compliance with the Model is an essential requirement. Accordingly, as required by s.s. 6.2e) of Decree 231, the Company has adopted an appropriate system of sanctions to be applied in the event of non-compliance with the norms and measures adopted and specified in the Model, insofar as violation of those norms and measures, imposed by Italdesign-Giugiaro to prevent the offences envisaged by Decree 231, harms the trust relationship forged with the Company.

The disciplinary sanctions established by the Company pursuant to the Decree are applied regardless of the outcome of any criminal procedures, given that the rules of conduct imposed by the Manual are adopted by Italdesign-Giugiaro in full autonomy, irrespective of the type of offence that may be determined by violations of the Model.

In no case whatever shall any illicit conduct or any conduct in violation of the Model be justified or retained less serious, whether made in the interest or to the benefit of Italdesign-Giugiaro or otherwise. Also sanctioned are attempted offences and, in particular, acts or omissions aimed at infringing unequivocally the rules and regulations established by the Company, regardless of whether offences are actually committed or not and, thus, regardless of the outcome of any criminal proceeding.

7.2 Sanctions applicable to employees

In accordance with applicable legislation, Italdesign-Giugiaro must inform its employees of the provisions, standards, principles and rules specified in the Organisational, Management & Control Model, by means of the learning and formation activities discussed earlier.

Infringement by employees of the provisions, standards, principles and rules specified in the Model prepared by Italdesign-Giugiaro to prevent perpetration of the offences pursuant to Decree 231 represents an unlawful act, punishable under the procedures of arraignment of the infringements and infliction of the resultant sanctions specified in Title XVI of the National Collective Labour Contract (CCNL) for "Metal and Mechanic Industry Workers", in accordance with the section titled "Employee Duties and Disciplinary Norms", and in compliance with the procedures set out in Section 7 of the Workers Statute, as transcribed hereinafter.

The Model's disciplinary system has been configured in full compliance with all the provisions of labour laws and legislation. No modalities or sanctions other than those already codified and specified in the collective labour contracts and in the union agreements are foreseen. The National Collective Labour Contract (CCNL) for "Metal and Mechanic Industry Workers"

indeed provides for a variety of sanctions capable of modulating, based on the severity of the infraction, the sanction to be inflicted. This represents the disciplinary illicit act, relative to the activities identified as at-risk:

- non-compliance with the standards set forth in the Code of Ethics or the adoption of conduct in any case in contrast with the rules of the Code of Ethics;
- non-compliance with the Model's norms, rules and procedures;
- missing, incomplete or untrue documentation or documentation improperly preserved and thereby not assuring the transparency and verifiability of the activity carried out in conformity with the Model's procedure norms;
- violation and elusion of the system of control, accomplished by removing, destroying or altering the documentation envisaged by the procedures referred to above;
- obstructing controls and/or unjustified impediment to access the data or documentation used by the officers in charge of such controls, including therein the Oversight Board.

The aforementioned disciplinary infractions are punishable, depending upon the related severity thereof, by the following:

- verbal admonition;
- admonition in writing;
- fine;
- suspension;
- dismissal.

The sanctions will be inflicted having regard to the severity of the infractions: given the extreme importance of the principles of transparency and verifiability and, not least, of the relevance of the monitoring and control activities, the Company will be inclined to apply the more impactful measures to those infractions which, by virtue of their nature, violate the standards and principles upon which this Organisational, Management & Control Model is based. Likewise, by way of mere example, the management and operation in full autonomy of an entire process that stretches out to encompass both the authorisation phase and the accounting phase, and that triggers (or might trigger) one of the risks contemplated in the special section of this Model, could lead, once the disciplinary procedure has finished, to dismissal of the functions involved.

The type and significance of the sanctions will be applied taking into account the following:

- wilfulness of the conduct or the degree of negligence, imprudence or inexperience having regard also to the predictability of the event;

- worker's conduct as a whole, having particular regard to whether or not this was the first time that disciplinary measures had been taken against the worker, within the limits of law;
- worker's tasks and duties;
- functional position and level of responsibility and autonomy of the persons involved in the facts constituting the default;
- other particular circumstances relative to the disciplinary tort.

The Oversight Body is tasked with verifying and assessing whether the disciplinary system is deemed to be fit pursuant to Decree 231. Also, the Oversight Board must punctually indicate, in its periodic six-monthly report, the areas of this disciplinary system that may be required to be improved or developed, primarily in the light of applicable law developments.

7.3 Sanctions applicable to managerial personnel

Should the Model be violated by managerial personnel, the Company shall inflict the disciplinary measures deemed to be more fit. Additionally, given the deeper fiduciary bonding that, by virtue of the related nature thereof, ties the Company to managerial personnel and, moreover, given the greater experience of the latter, should violations of the provisions of the Model be made by managers, this will result primarily in expulsive measures, insofar as deemed to be more fit.

Violation of the Model may also result in the Company requesting compensation for damages from offender.

7.4 Measures applicable to Board Directors

Upon learning about violation of the Organisational, Management & Control Model's principles, provisions and rules by a member (or members) of the Board of Directors, the Oversight Board shall inform promptly the entire Board of Directors and the Board of Statutory Auditors, so that the appropriate measures can be taken including, for example, calling of the Meeting of Shareholders for the purposes of adopting the measures deemed to be more fit. The Oversight Board, as part of its informing activity, shall not only report on the details regarding the violation but shall also indicate and recommend the appropriate further inquiries to be effectuated and, not least, whenever the violation should be undeniable, the measures deemed to be more fit to be adopted (for example, revocation of the board director involved).

Violation of the Model may also result in the Company requesting compensation for damages from offender.

7.5 Measures applicable to Statutory Auditors

Upon learning about violation of the Organisational, Management & Control Model's principles, provisions and rules by a member (or members) of the Board of Statutory Auditors, the Oversight Board shall inform promptly the entire Board of Directors and the Board of Statutory Auditors, so that the appropriate measures can be taken including, for example, calling of the Meeting of Shareholders for the purposes of adopting the measures deemed to be more fit. The Oversight Board, as part of its informing activity, shall not only report on the details regarding the violation but shall also indicate summarily the appropriate further inquiries to be effectuated and, not least, whenever the violation should be ascertained, the measures deemed to be more fit to be adopted (for example, revocation of the statutory auditor involved).

7.6 Sanctions applicable to team members, agents or external consultants

Upon learning about violation of the Organisational, Management & Control Model's principles, provisions and rules by a team member, agent or external consultant, the Company, based on the severity of the violation: (i) will require formally the offender to comply with the provisions envisaged by law and by the contract, or (ii) will be entitled, dependent upon the diverse contractual typologies, to withdraw from the contract in being due to just cause, i.e. terminate contract by virtue of breach of contract by offender. Violation of the Model may also result in the Company requesting compensation for damages from offender.

8. Updating the Model

The OB is tasked with promoting the necessary and continuing update and alignment of the Model and its supporting Protocols (including therein the Code of Ethics), so that the individuals in charge of the competent business functions insert the appropriate or necessary for the adjustments and corrections.

The Board of Directors is responsible, together with the business functions that be concerned, for the update of the Model and for its adjustment to reflect changes in organisational structures or operating processes, significant violations of the Model, and legislative integrations, based on the level of risk deemed to be acceptable.

The Model's updates and adjustments, including its supporting Protocols, are communicated to the Addressees by means of specific bulletins either e-mailed or published on the Company's internet site or on the intranet and, where deemed to be appropriate, through specifically prepared learning sessions in respect of the more significant updates and adjustments.

EXHIBIT

B) CODE OF ETHICS

REVISION	DATE	LIST OF CHANGES TO THE ORGANISATIONAL MANAGEMENT AND CONTROL MODEL
00	Oct. 10 th 12	First edition
01	Mar. 04 th 15	According to amendments to Legislative Decree no.231 following sections have been updated: General Section – Chap.1 §1.1; 1.5.1; Chap. 2 § 2.1; Chap. 3 §3.1; Chap. 4 § 4.4, 4.6 Special Section 01 Chap. 2; Chap. 4 §4.1; Chap. s §§ 5.1, 5.2; Chap. 6 Special Section 02 Chap. 2; Chap. 4 § 4.2; Chap. 5 §5.1; Chap. 6 Special Section 06 Chap. 2; Chap. 4; Chap.6; Chap. 7 Special Section 07 Chap 5 § 5.1 Special Section 08