

# **AUTOMHA SPA**

## **MODEL OF ORGANISATION, MANAGEMENT AND CONTROL – LEGISLATIVE DECREE 231/01**

### **GENERAL PART**

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## 1 LEGISLATIVE DECREE NO 231 OF 8 JUNE 2001

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### 1.1 THE ADMINISTRATIVE RESPONSIBILITY OF LEGAL PERSONS

Legislative Decree no. 231 of 8 June 2001, implementing Delegated law no. 300 of 29 September 2000, introduced in Italy the “*Regulations on the administrative liability of legal persons, companies and associations, including those without legal personality*” (hereinafter, for the sake of brevity, also referred to as “**Legislative Decree no. 231 of 2001**” or the “**Decree**”), which is part of a wide-ranging legislative process to combat corruption and brings Italian legislation on the liability of legal persons into line with a number of international conventions previously signed by Italy.

Legislative Decree no. 231 of 2001 therefore establishes a system of administrative liability for legal persons<sup>1</sup> (hereinafter referred to as “**Entities**”), which is in addition to the liability of the natural person (better identified below) who is the material author of the offence and which aims to involve, in the punishment of the offence, the Entities in whose interest or to whose advantage the offense was committed.

This administrative liability exists only for the offences listed exhaustively in the same Legislative Decree no. 231 of 2001.

Article 4 of the Decree also specifies that in the cases and under the conditions laid down in Articles 7, 8, 9 and 10 of the Criminal Code, the administrative liability of Entities having their head office in the territory of the State for offences committed abroad by natural persons (as described in paragraph 1.2 below) subsists, provided that the State of the place where the criminal act was committed does not take action against such Entities.

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<sup>1</sup> Article 1 of Legislative Decree no. 231 of 2001 limited the scope of the persons covered by the legislation to “*bodies having legal personality, companies and associations, including those without legal personality*”. In the light of this, the legislation applies to:

- entities with private subjectivity, i.e. entities having legal personality and associations “even without” legal personality;
- entities with public subjectivity, i.e. entities with public subjectivity but without public powers (so-called “economic public entities”);
- entities with mixed public/private entities (so-called “mixed companies”).

The following are excluded from the list of addressees: the State, public territorial bodies (Regions, Provinces, Municipalities and Mountain Communities), non-economic public bodies and, in general, all bodies performing functions of constitutional importance (Chamber of Deputies, Senate of the Republic, Constitutional Court, General Secretariat of the Presidency of the Republic, C.S.M., etc.).

## 1.2 PERSONS SUBJECT TO LEGISLATIVE DECREE NO. 231 OF 2001

The persons who, by committing an offence in the interest or to the advantage of the Entity, may give rise to its liability are listed below:

- (i) natural persons in top positions (representation, administration or management of the Entity or one of its organisational units with financial and functional autonomy or persons who exercise de facto management and control: hereinafter, for the sake of brevity, the “**Company officers**”),
- (ii) natural persons managed or supervised by one of the Key Personnel (hereinafter referred to, for brevity, as the “**Subordinates**”).

In this regard, it should be noted that it is not necessary for subordinates to have a subordinate working relationship with the Entity, since this notion also includes “*those employees who, although not being <employees> of the Entity, have a relationship with it such as to lead to the assumption of a supervisory obligation on the part of the top management of the Entity itself: this applies, for example, to agents, partners in joint-ventures operations, so-called para-subordinates in general, distributors, suppliers, consultants and collaborators*”<sup>2</sup>.

In fact, according to the prevailing doctrine, situations in which a particular task is entrusted to external collaborators, who are required to perform it under the direction or control of Company Officers, are relevant for the purposes of the entity’s administrative liability.

It should however be reiterated that the Entity shall not be liable, by express legislative provision (Article 5 (2) of the Decree), if the above-mentioned persons have acted exclusively in their own interest or in the interest of third parties. In any case, their conduct must be referable to that “organic” relationship for which the acts of the natural person can be imputed to the Entity.

## 1.3 PREDICATE OFFENCES

For the list of predicate offences, please refer to the “List of Predicate Offences 231” attached to this Model, which aims to illustrate all the offences covered by Legislative Decree no. 231 of 8 June 2001, as amended at the date of the approval of this document.

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<sup>2</sup> Circular Assonime, dated 19 November 2002, no. 68.

#### 1.4 SANCTIONS PROVIDED FOR IN THE DECREE

Legislative Decree No. 231 of 2001 provides for the following types of sanctions applicable to entities covered by the legislation:

- (a) administrative pecuniary sanctions;
- (b) disqualifying sanctions;
- (c) confiscation of the price or profit of the offence;
- (d) publication of the judgement.

**(a) The administrative pecuniary sanction**, governed by Articles 10 et seq. of the Decree, constitutes the “basic” sanction of necessary application, for the payment of which the Entity is liable with its assets or with the common fund.

The legislator has adopted an innovative criterion for the commensuration of the penalty, attributing to the Judge the obligation to proceed to two different and successive operations of appreciation. This entails a greater adjustment of the penalty to the seriousness of the offence and to the economic conditions of the Entity.

The first assessment requires the court to determine the number of shares (in any event not less than one hundred and not more than one thousand) taking into account:

- the seriousness of the act;
- the degree of responsibility of the institution;
- of the activity carried out to eliminate or mitigate the consequences of the act and to prevent further offences from being committed.

During the second assessment, the Judge determines, within the minimum and maximum values predetermined in relation to the offences sanctioned, the value of each share, from a minimum of Euro 258,23 to a maximum of Euro 1.549,37. This amount is fixed “*on the basis of the economic and financial conditions of the body in order to ensure the effectiveness of the sanction*” (Articles 10 and 11 (2) of Legislative Decree no. 231 of 2001).

**(b) The following prohibitory sanctions** are provided for in the Decree and apply only in relation to the offences for which they are expressly provided for:

- disqualification from carrying on business activities;
- suspension or revocation of authorisations, licences or concessions functional to the commission of the offence;
- prohibition on contracting with the Public Administration, except in order to obtain the performance of a public service;
- exclusion from benefits, financing, contributions and subsidies, and/or revocation of those already granted;

- ban on advertising goods or services.

In order for prohibitory sanctions to be imposed, at least one of the conditions set out in Article 13 of Legislative Decree no. 231 of 2001 must be satisfied, namely:

- “the entity has derived a significant profit from the offence and the offence was committed by persons in a senior position or by persons subject to the direction of others when, in this case, the commission of the offence was determined or facilitated by serious organisational deficiencies”,

or

- “in case of repetition of offences”<sup>3</sup>.

**(c)** Pursuant to Article 19 of Legislative Decree no. 231 of 2001, the conviction shall always entail the **confiscation** – also for equivalent value – **of the price** (money or other economic benefit given or promised to induce or determine another person to commit the offence) **or profit** (immediate economic benefit derived) **of the offence**, except for the part that can be returned to the damaged party and without prejudice to the rights acquired by third parties in good faith.

**(d)** The **publication of the conviction** in one or more newspapers, either in excerpt or in full, may be ordered by the Judge, together with the posting in the municipality where the Entity has its head office, when a disqualification sanction is applied. Publication is carried out by the Clerk of the competent Judge and at the expense of the Entity.

## **1.5 ATTEMPTED CRIMES**

In cases of attempted commission of the offences covered by the Decree, financial penalties (in terms of amount) and prohibitory penalties (in terms of time) are reduced by between a third and a half, while penalties may not be imposed in cases where the Entity voluntarily prevents the action from being carried out or the event from taking place (Article 26 of the Decree).

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<sup>3</sup> Pursuant to Article 20 of Legislative Decree no. 231 of 2001, “a repetition occurs when an entity, which has already been definitively convicted at least once for a criminal offence, commits another offence within five years of the final conviction”.

## 1.6 EXEMPT CONDUCT

Articles 6 and 7 of Legislative Decree no. 231 of 2001 provide for specific forms of exemption from administrative liability for the Entity in respect of offences committed in the interest or to the advantage of the Entity by both Company Officers and Subordinates (as defined in paragraph 1.2 above).

In particular, in the case of offences committed by Company Officers, Article 6 of the Decree provides for exemption from administrative liability, if the Entity proves that:

- the management body has adopted and effectively implemented, prior to the commission of the offence, an organisation and management model capable of preventing offences of the kind committed (hereafter, for the sake of brevity, also referred to as the “Model”);
- the task of supervising the operation of and compliance with the Model as well as of updating it has been entrusted to a body of the Entity (hereinafter, for the sake of brevity, the “Supervisory Body” or the “SB”), endowed with autonomous powers of initiative and control;
- the persons who committed the offence acted by fraudulently evading the Model;
- there was no omitted or insufficient supervision by the Supervisory Board.

As regards Subordinates, Article 7 of the Decree provides for exemption from liability if the Entity has adopted and effectively implemented, before the offence was committed, a Model capable of preventing offences of the kind committed.

The exemption from liability of the entity is not however determined by the mere adoption of the Model, but by its effective implementation to be achieved through the implementation of all the protocols and controls necessary to limit risk of commission of the offences that the Company intends to avoid. In particular, with reference to the characteristics of the Model, Article 6 (2) of the Decree expressly provides that it must have the following characteristics :

- identification of the activities within the scope of which there is a possibility of offences being committed;
- provision of specific protocols aimed at planning the formation and implementation of the Entity’s decisions in relation to the offences to be prevented;
- identification of the methods ;
- provision of information obligations towards the Supervisory Board;
- introduction of a disciplinary system capable of sanctioning failure to comply with the measures indicated in the Model.



## 1.7 THE GUIDELINES

On the express indication of the legislator, the models may be adopted on the basis of codes of conduct drawn up by representative trade associations which have been communicated to the Ministry of Justice which, in agreement with the competent Ministries, may, within 30 days, make observations on the suitability of the models to prevent offences.

The “Guidelines for the construction of organisation, management and control models *pursuant* to Legislative Decree no. 231 of 2001”, approved by Confindustria on 7 March 2002 and subsequently updated (hereinafter, for brevity, referred to as the “**Guidelines**”), were used to prepare this Model.

In this sense, the operational steps for the implementation of a risk management system can be outlined according to the following basic points:

- inventory of the company’s area of activity, by identifying the areas potentially affected by risk, i.e. the company areas/sectors in which it is theoretically possible that the prejudicial events provided for by Legislative Decree 231/01 may occur (the so-called “map of company areas at risk”);
- analysis of potential risks, which must take into account the possible ways in which offences may be committed and the history of the entity, by means of a “documented map of the potential ways in which offences may be committed”;
- evaluation/construction/adaptation of the system of preventive controls, in order to prevent the commission of offences pursuant to Legislative Decree 231/01 through a documented description of the system of preventive controls put in place, with details of the individual components of the system, as well as any necessary adjustments..

The most relevant components of the preventive control system proposed by the Confindustria Guidelines are, as regards the prevention of intentional offences:

- the Code of Ethics;
- the organisational system;
- manual and computerised procedures;
- powers of authorisation and signature;
- the control and management system;
- communication to and training of staff.


With reference to negligent offences (occupational health and safety offences and – although subsequent to the issuance of the Guidelines – most environmental offences), the most relevant components identified by Confindustria are:

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- the Code of Ethics (or Code of Conduct) with reference to the offences considered;
- the organisational structure,
- education and training,
- communication and involvement,
- operational management,
- the security monitoring system.

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

- verifiability, documentability, coherence and consistency of each operation/transaction/action;
- application of the principle of segregation of duties, whereby no one can autonomously manage an entire process and be the recipient of unlimited powers, though the clear definition and dissemination of authorisation and signature powers in line with the organisational responsibilities assigned;
- documentation of controls, including supervision.

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## 2 THE MODEL

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### 2.1 AUTOMHA SpA

AUTOMHA SpA was founded in the province of Bergamo at the end of the 1990s on the initiative of Franco Togni, initially with the idea of an “automated warehouse”. Which then evolved into the current “fully automated warehouse”.

Today Automha provides turnkey automated logistics solutions for a variety of sectors.

The company’s international profile is demonstrated by the presence of non-commercial facilities in the Americas, Spain, North Africa and the Far East through subsidiaries and associates.

### 2.2 MANAGEMENT AND ADOPTION OF THE MODEL WITHIN THE AUTOMHA GROUP

In compliance with the autonomy granted to each company belonging to the Group, AUTOMHA communicates to the other companies the adoption of its own Model and the updates carried out.

In accordance with the principles of autonomy and responsibility of each Group company, AUTOMHA:

- defines the principles of corporate governance and control to be implemented in the Group in the form and manner deemed appropriate by the Company;
- requires all Group companies to acknowledge and adopt the Group’s Code of Ethics;
- encourages the adoption of governance and control models consistent with the principles underlying this Model.

### 2.3 ADOPTION OF THE MODEL IN AUTOMHA SpA

#### 2.3.1 THE AIMS OF THE MODEL

The Model, prepared by the Company on the basis of the identification of the areas of possible risk in the company’s activities, within the possibility of offences being committed is deemed to be the highest, aims to:

- set up a prevention and control system aimed at reducing the risk of commission of offences related to the company’s activities;
- make all those who work in the name and on behalf of AUTOMHA, and in particular those engaged in the “areas of activity at risk”, aware of the possibility of incurring, in case of violation of the provisions contained therein, an offence liable to penal

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and administrative sanctions, not only against themselves but also against the company;

- inform all those who work with the Company that violation of the provisions contained in the Model will result in the application of appropriate sanctions or termination of the contractual relationship;
- confirm that AUTOMHA SpA does not tolerate unlawful conduct of any kind and regardless of any purpose and that, in any case, such conduct (even if the Company was apparently in a position to benefit from it) is in any case contrary to the principles that inspire the business activity of the Company.

**2.3.2 THE CONSTRUCTION OF THE MODEL**

On the basis also of the indications contained in the reference Guidelines, the construction of the Model (and the subsequent drafting of this document) was divided into the phrases described below:

- preliminary examination of the company context by analysing the relevant company documentation and carrying out interviews with AUTOMHA managers who are informed about its structure and activities, in order to define the organisation and the activities carried out by the various organisational units/company functions, as well as the company processes into which the activities are divided and their concrete and effective implementation;
- identification of the areas of activity and of the corporate processes “at risk” of offences being committed, carried out on the basis of the above-mentioned preliminary examination of the corporate context (hereinafter, for the sake of brevity, referred to cumulatively as the “Offence Risk Areas”
- hypothetical definition of the main possible ways in which the alleged offences may be committed within the individual areas at risk of offence;
- detection and identification of the entity’s control system aimed at preventing the commission of the predicate offences.

**2.3.3 THE STRUCTURE OF THE MODEL AND THE ALLEGED OFFENCES RELEVANT TO ITS CONSTRUCTION**

The Company intended to draw up a Model that would take into account its own peculiar corporate .

In particular, AUTOMHA’s Model consists of, in addition to this “General Part”:

- by several “Special Sections” in relation to the “predicate” offence categories concerned;

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- control protocols governing the identified “sensitive” processes.
- by a “List of predicate offences”;
- by the existing system of “Powers of Attorney”.

The “**General Section**” explains the contents and assumptions of Decree 231, as well as the function of the Company’s Model and summarises its components.

The “**List of alleged offences**” contains an analytical list of all the offences contemplated by Decree 231 (including also those considered not relevant for the Company), together with the relevant sanctions; the document is updated at the date of approval of this Model.

With reference to the **Special Sections** relating to the sensitive processes identified, appropriate rules of conduct are identified in order to prevent the commission of the offences referred to in the Decree that can potentially be committed on the basis of the organisational structure and the corporate activities carried out.

In particular, for each Special Section the following are indicated:

- the main offences that may in abstract terms be committed in the areas in question;
- the areas at risk of offences and the relevant sensitive activities;
- the main corporate Functions and Organisational Units operating within each risk area;

In the **Control Protocols** they are declined:

- the main controls in place in individual areas at risk of offence;
- the principles of conduct and controls to be observed in order to reduce the risk of offences being committed.

The AUTOMHA Model includes the following **Special Parts**:

- Special Section A “Crimes in relations against the P.A.”;
- Special Section B “Corporate crimes”;
- Special Section C “Crimes against industry and commerce”
- Special Section D “Organised crime offences, inducing people not to make statement or to make false statements to the Judicial Authorities”;
- Special Section E “Crimes of employment of illegally staying third country national”;
- Special Section F “Crimes of receiving stolen goods, money laundering, use of money or utilities of unlawful origin and selflaundering”;
- Special Section G “Crimes related to protection of health and safety at the workplace”;
- Special Section H “Environmental crimes”;
- Special Section I “Computer crimes”;
- Special Section L “Tax offences”.

This approach has been defined taking into account the current structure of the Company, the activities currently carried out, as well as the nature of the offences identified as relevant to it.

The Company undertakes to carry out continuous monitoring of its activities both in relation to the aforementioned offences and in relation to the regulatory expansion to which Decree 231 may be subject.

If the relevance of one or more of the above-mentioned offences, or of any new offences that the Legislator may deem to be included in the scope of Decree 231, should emerge, the Company shall consider without delay taking the appropriate initiatives to supplement this Model with new Special Parts.

#### **2.3.4 ADOPTION OF THE MODEL**

The Board of Directors of AUTOMHA SpA is entrusted with the adoption of this Model, by means of a specific resolution.

The same administrative body is also entrusted with the task of supplementing this Model with further Special Parts relating to other types of predicate offences newly introduced in Legislative Decree no. 231 of 2001, as well as making any amendments and adjustments in relation to regulatory, organisational and business changes.

### **2.4 DISSEMINATION OF THE MODEL**

#### **2.4.1 TARGET AUDIENCE**

This Model takes into account the entrepreneurial reality of AUTOMHA and represents a valuable tool for awareness and information of the Senior Management and Subordinates (hereinafter, for brevity, the “**Recipients**”).


The Model has been defined so that the Recipients, in the performance of their activities, behave in a correct and transparent manner in a line with the ethical and social values that inspire the Company in the pursuit of its corporate purpose and which in any case are such as to prevent the risk of commission of the offences provided for in the Decree.

In any case, the competent corporate functions and organisational units ensure the implementation in the Company’s procedures of the principles and rules of conduct contained in the AUTOMHA Model and in the Groups Code of Ethics.

#### **2.4.2 TRAINING AND INFORMATION OF STAFF**

It is AUTOMHA’s objective to ensure that the recipients have a correct knowledge of the contents of the Decree and the obligations arising from it.

For the purposes of the effective implementation of this Model, training and information to the Recipients is managed by the Human Resources function, in close coordination

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with the Supervisory Board and with the heads of the corporate functions and Organisational Units from time to time involved in the application of the Model.

In order to ensure the effective dissemination of the Model and the information of the staff with reference to the contents of the Decree and the obligations arising from its implementation, a specific section of the corporate *intranet* (in which all the documents making up the Model are present and available) dedicated to the subject and updated, from time to time, by the relevant internal function has been set up.

### **3 ELEMENTS OF AUTOMHAS GOVERNANCE MODEL AND GENERAL ORGANISATIONAL STRUCTURE**

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#### **3.1 AUTOMHAS INTERNAL CONTROL SYSTEM**

AUTOMHA has adopted the following general instruments (hereinafter cumulatively “Procedures”), aimed at planning the formation and implementation of decisions (also in relation to the offences to be prevented):

- The Groups Code of Ethics, containing the ethical principles that inspire the Group and AUTOMHA SpA itself;
- the system of delegated and proxy powers ;
- the documentation and provisions concerning the company’s hierarchical and functional structure (organisation chart and function chart);
- directives, procedures, including procedures relating to the administrative, accounting and reporting system, and operating instructions;
- corporate communications and circulars addressed to staff;
- compulsory, appropriate and differentiated training of all staff;
- the system of sanctions laid down in the CCNLs;
- Integrated Quality, Environment and Safety Management System, compliant with UNI EN ISO 9001:2015, UNI EN ISO 14001:2015, OHSAS 18001:2007 now migrated to ISO 45001;
- the body of national laws and regulations when applicable .

#### **3.2 GENERAL PRINCIPLES OF CONTROL IN ALL AREAS AT RISK OF OFFENCE**

In addition to the general principles of conduct and specific preventive controls referred to in each Special Section of this Model, the Company has implemented specific general controls applicable in all areas at risk of offence.

These are, specifically, the following:

- **Transparency:** every operation/transaction/action must be justifiable, verifiable, consistent and congruent;
- **Segregation of duties/powers:** no one can independently manage an entire process and be given unlimited powers; authorisation and signature powers must be defined in a manner consistent with the organisational responsibilities assigned;
- **Adequacy of internal rules:** the set of company rules must be consistent with the operations carried out and the level of organisational complexity and such as to ensure the controls necessary to prevent the commission of the offences provided for in the Decree;



- **Traceability/Documentability:** each operation/transaction/action, as well as the related verification and control activity must be documented and the documentation must be properly archived.

With specific reference to outsourced activities, it is provided that:

- they are regulated in specific contracts which, where possible, provide for specific service levels ;
- specific controls, including authorisations, are carried out on the inputs provided and outputs received;
- monitoring of the activities carried out by the outsourcer is carried out in accordance with contractual provisions.

## 4 THE SUPERVISORY BODY

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### 4.1 CHARACTERISTICS OF THE SUPERVISORY BOARD

According to the provisions of Legislative Decree no. 231 of 2001 (Articles 6 and 7), as well as the indications contained in the Confindustria Guidelines, the characteristics of the Supervisory Board, responsible for monitoring the adequacy and effective implementation of the Model, must be:

- autonomy and independence;
- professionalism;
- continuity of action.

#### 4.1.1 AUTONOMY AND INDEPENDENCE

The requirements of autonomy and independence are fundamental so that the Supervisory Board (hereinafter “SB”) is not directly involved in the management activities that are the subject of its control activities and, therefore, is not subject to conditioning or interference by the management body.

These requirements are pursued by guaranteeing the highest possible hierarchical reporting to the Supervisory Board and by providing for reporting to the company’s highest operational management, i.e. to the Board of Directors as a whole.


For the purposes of independence, it is also essential that the Supervisory Board is not assigned operational tasks, which would compromise its objectivity of judgement with regard to checks on conduct and on the effectiveness of the Model.

The members of the Supervisory Board must be chosen from persons who do not hold operational roles within the company.

The Supervisory Board must be independent of hierarchical relationships with the heads of the sectors of activity subject to control.

The members of the Supervisory Board shall not, in order to guarantee their *super partes* position:

- entertain, directly or indirectly, economic relations with the Company, of such a significance as to affect their autonomy of judgement (in this respect, the assessment of the mere employment relationship in the hypothesis of an internal member is excluded);
- own, directly or indirectly, shareholdings of such size as to enable them to exercise control or significant influence over the Company;

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- being close relatives of Directors of the Company or of persons in the situations indicated in the preceding points.

#### **4.1.2 PROFESSIONALISM**

The Supervisory Board must have technical and professional skills appropriate to the functions it is called upon to perform. These characteristics, together with independence, guarantee objectivity of judgement.

As referred to in the Confindustria guidelines, this refers, inter alia, to:

- risk analysis and assessment techniques ;
- measures for their containment (organisational procedures, mechanisms for counteracting tasks, etc.);
- *flow charting* of procedures and processes to identify weak points;
- interview techniques and questionnaire design;
- methodologies for fraud detection;


The Supervisory Board must have:

- powers of inspection to ascertain how such an offence could have occurred and who committed it;
- expertise, in order to adopt – at the time of the design of the Model and subsequent amendments – the most appropriate measures to prevent, with reasonable certainty, the commission of the offences in question or, again, to verify that everyday conduct actually complies with those codified;
- legal expertise: Legislative Decree no. 231 of 2001 is a criminal law and since the Supervisory Board's activity is aimed at preventing the commission of offences, knowledge of the structure and methods of commission of offences is therefore essential.

#### **4.1.3 CONTINUITY OF ACTION**

The Supervisory Board must continuously carry out the activities necessary for the supervision of the Model with adequate commitment and with the necessary powers of investigation.

In order to ensure that the requirements described above are met, it is advisable for such persons to possess, in addition to the professional skills described above, the

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formal subjective requirements that further guarantee the autonomy and independence required by the task (e.g. honourableness, absence of conflicts of interest and family relations with corporate bodies and top management, etc.).

#### **4.2 IDENTIFICATION OF THE SUPERVISORY BOARD**

On the basis of these expected characteristics, the Board of Directors of AUTOMHA has appointed, as the Supervisory Board of the Company, a collegial body identifying the appropriate configuration to ensure the autonomy of the control initiative from any form of interference and/or conditioning by any component of the organisation, while ensuring sufficient continuity of action and, overall, allowing to meet the requirement of professionalism in relation to the different categories of offences assumed.

Taking into account the peculiarities of the powers of the Supervisory Board and the specific professional content required in the performance of supervisory and control tasks, the Supervisory Board of AUTOMHA may in any case avail itself, under its direct supervision and responsibility, of other internal functions or external collaborators that, from time to time, become necessary in view of the specificity of the tasks entrusted.

#### **4.3 DURATION OF ASSIGNMENT AND CAUSES OF TERMINATION**

The Supervisory Board remains in office for the duration indicated in the deed of appointment and may be renewed.

The termination of the Supervisory Board's appointment may occur for one of the following reasons:

- expiry of the assignment ;
- reasoned revocation of the Body by the Board of Directors;
- resignation of the member, formalised by a specific written communication sent to the Board of Directors;
- occurrence of one of the grounds for disqualification set out in the following paragraph.

The revocation of the Supervisory Board may only be ordered for just cause, and this shall include, by way of example, the following cases:

- the case in which a breach of the confidentiality obligations imposed on the Supervisory Board is detected;
- gross negligence in the performance of the duties connected with the assignment;

**GENERAL PART**

- the possible involvement of the Company in proceedings, criminal or civil, which are connected with an omitted or insufficient supervision, even if culpable
- if the member is convicted, by a final judgement, of one of the offences included in the list of predicate offences 231.

Revocation is ordered by resolution of the Board of Directors.

**4.3.1 CASES OF INELIGIBILITY AND DISQUALIFICATION**

The following constitute grounds for ineligibility and/or disqualification of individual members of the Supervisory Board:

- a) disqualification, incapacitation, bankruptcy or, in any case, a criminal conviction, even if not final, for one of the offences provided for in the Decree or, in any case, to a punishment entailing disqualification, even temporary, from public offices or the inability to exercise executive offices;
- b) the existence of relationships of kinship, marriage or affinity up to the fourth degree with members of the Board of Directors or Board of Statutory Auditors of the Company, or with external auditors ;
- c) the existence of financial relations between the member and the Company such as to compromise the member's independence.

If, during the term of office, a cause for disqualification should arise, the member of the Supervisory Board shall immediately inform the Board of Directors.

In the event of expiry, revocation or renunciation, the Board of Directors shall immediately appoint a new member of the Supervisory Board, while the outgoing member shall remain in office until he is replaced.

**4.4 FUNCTIONS, TASKS AND POWERS OF THE SUPERVISORY BOARD**

In accordance with the indications provided by the Decree and the Guidelines, the following functions are assigned to the Supervisory Board:

- supervision of the effectiveness of the Model, which takes the form of verifying the consistency between the concrete ;
- examination of the adequacy of the Model, i.e. its actual capacity to prevent, in principle, unwanted conduct;
- analysis of the maintenance of the soundness and functionality of the Model over time;

**GENERAL PART**

- taking care of the necessary dynamic updating of the Model, through the formulation of specific suggestions, in the event that the analyses carried out make it necessary to make corrections and adjustments;
- follow-up, i.e. verification of the implementation and actual functionality of the proposed solutions.

In order to carry out the above functions and tasks, the Supervisory Board is granted the following powers:

- access to company documentation of any kind;
- faculty to avail itself of the support of the various corporate structures and bodies that may be interested, or in any case involved, in control activities;
- conferring specific consultancy and assistance tasks on professionals, including those from outside the Company (in any case in compliance with the procedure laid down).

In order to ensure the full performance of the tasks assigned, the Board of Directors allocates the appropriate resources to the Supervisory Board for the purpose of carrying out the task assigned, on the proposal of the Supervisory Board itself and on the assent of the Board of Auditors.

## **4.5 INFORMATION FLOWS TO THE SUPERVISORY BOARD**

### **4.5.1 INFORMATION OBLIGATIONS TOWARDS THE SUPERVISORY BOARD**

In order to facilitate the supervisory activity on the effectiveness of the Model, the Supervisory Board must be informed, by means of special reports from the Recipients, about events that could result in AUTOMHA's liability under Legislative Decree no. 231 of 2001.

The obligation to provide information on any conduct contrary to the provisions contained in the Model is part of the employee's broader duty of diligence and obligation of loyalty.

As far as consultants or external collaborators are concerned, there is a contractual obligation to inform them immediately if they receive, directly or indirectly, from an employee/representative of the company, a request for conduct that could lead to a violation of the Model.

Therefore, all company staff, both senior and subordinate persons, as well as external recipients of this document, are obliged to communicate directly with the Supervisory Board to report cases of commission of offences, circumstances of unlawful conduct relevant to the Decree and based on precise and concordant facts, any violations of the

Model, as well as any episodes of deviation from the principles of conduct laid down in the Model and in the Code of Ethics, of which they have become aware by virtue of their functions, through several alternative channels of communication suitable for guaranteeing, by computerized means, the confidentiality of the identity of the reporting party as provided for in art. 6, paragraph 2 bis, letter b) of the Decree.

#### **4.5.2 CONTENTS OF ALERTS**

For the purposes of the above, the whistleblower is required to provide all the elements known to him, which are useful to verify, with due verification, the facts reported. In particular, the report must contain the following essential elements:

- **Subject matter:** a clear description of the facts to be reported is required, with an indication (if known) of the circumstances of time and place in which the facts were committed/permitted.
- **Reported person:** the reporting person must provide details or other elements (such as the company function/role) enabling the alleged perpetrator of the unlawful conduct to be easily identified.

In addition, the reporter may indicate the following further elements:

- his personal details if he does not wish to avail himself of the option to keep his identity confidential;
- an indication of any other persons who may report on the facts narrated;

Reports, even when anonymous, must always have a content that is relevant under the Decree. Anonymity may in no way be used as a means of giving vent to disagreements or disputes between employees. It is also prohibited:

- the use of insulting expressions;
- the submission of reports for purely defamatory or libellous purposes;
- the submission of reports that relate exclusively to aspects of private life, without any direct or indirect connection with the company's activities..

Such reports will be considered even more serious when referring to sexual, religious, political and philosophical habits and orientations.

In a nutshell, each report must have as its sole purpose the protection of the integrity of the Company or the prevention and/or repression of unlawful conduct as defined in the Model.

#### **4.5.3 COMMUNICATION CHANNELS**

The following channels of communication with the Supervisory Board, also in compliance with the “Whistleblowing” legislation, guarantee confidentiality and protection of the reporter from any retaliation.

The Company also monitors the career development of any whistleblowing to ensure that they are not subjected to discriminatory treatment, and imposes disciplinary sanctions based on the seriousness of the facts, and in any case in the light of the criteria laid down in the Model, on whistleblowers who, with malice or gross negligence, report facts that later prove to unfounded.

The following channels are provided:

**Mailbox:**

[odv231@automha.it](mailto:odv231@automha.it)

**Ordinary mail:**

Supervisory Board of AUTOMHA SpA - Via Emilia, 23 - Azzano San Paolo (BG)

The SB adopts appropriate measures to ensure the confidentiality of the identity of those who transmit information to the Body. However, behaviour aimed exclusively at slowing down the activity of the SB must be appropriately sanctioned.

This Company guarantees whistleblowers in good faith against any form of retaliation, discrimination or penalisation and, in any case, the confidentiality of the whistleblower’s identity is ensured, without prejudice to legal obligations and the protection of the rights of the Company or of persons wrongly or in bad faith accused.

For the above purposes, the Supervisory Board collects and stores the reports received in a special archive (computerised and/or on paper) to which only the members of the Board have access.

The Supervisory Board assesses, at its discretion and under its responsibility, the reports received and the cases in which it is necessary to take action. Decisions on the outcome of the assessment must be justified in writing.

All information considered relevant to the supervisory activity must also be transmitted to the SB, keeping the relevant documentation available for any inspection activity of the Body..

Information flows to the SB can be divided into general information and specific mandatory information.

In the first case, the following requirements apply:




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- The recipients are required to report to the Supervisory Board any information relating to the commission, or reasonable belief of commission, of offences or practices not in line with the procedures and rules of conduct issued or to be issued by AUTOMHA;
- Third parties are required to report, directly to the Supervisory Board, on the commission , or reasonable belief that crimes have been committed, within the limits and according to the procedures laid down in the contract.

In addition to the reports of general violations described above, it is mandatory to promptly transmit **information** to the Supervisory Board concerning:

- measures and/or news coming from the judicial police, or any other authority, concerning the carrying out of investigations involving AUTOMHA as the members of the corporate bodies;
- any reports prepared by heads of other bodies (e.g. the Board of Statutory Auditors) as part of their control activities and from which facts, acts, events or omissions could emerge that are critical with regard to compliance with Legislative Decree no. 231 of 2001;
- news relating to disciplinary proceedings and any sanctions imposed or orders to dismiss such proceedings with the relevant reasons, if they are related to the commission of offences or violation of the rules of conduct or procedures of the Model ;
- internal reports/communications showing liability for the offences referred to in Legislative Decree no.231 of 2001;
- organisational changes;
- updates of the procedural system;
- updates of the system of delegations and powers;
- particularly significant operations carried out within the areas at risk of offence;
- changes in the areas at risk of offences or potentially at risk;
- any communications from the Board of Statutory Auditors concerning aspects that may indicate shortcoming in the system of internal controls, reprehensible facts, observations on the Company's financial statements;
- the declaration of truthfulness and completeness of the information contained in corporate communications;
- if requested, a copy of the minutes of meeting of the Board of Directors and the Board of Auditors.

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Further indications related to information obligations may be provided for in the Special Parts of this Model as well as in corporate directives and procedures. The above list of information is intended as an illustrative and not exhaustive set.

There is a specific procedure “Information flows to the Supervisory Board” with details of the items to be sent, the timing and the exhaustive set.

The Company adopts specific dedicated information channels (*mail boxes created ad hoc*) in order to ensure the confidentiality referred to above and facilitate the flow of reports and information to the Body.

The SB assesses the reports received with confidentiality and responsibility. To this end, it may hear the author of the report and/or the person responsible for the alleged violation, explaining in writing the reason for any independent decision not to proceed. In any case, bona fide whistleblowers shall be protected from any form of retaliation or penalisation and shall be assured of the utmost confidentiality, without prejudice to legal obligations and the need to protect the Company or persons wrongly accused or accused in bad faith.

Regular and timely reporting of communication may be subject to verification activities by the Body.

All information, notifications and reports provided for in the Model are kept by the Supervisory Board in a special computer and/or paper database.

***Additional channels identified and implemented in compliance with the provisions of Article 6, 2 bis lett. d) of Decree (Whistleblowing). Processing of reports***

AUTOMHA SpA, in order to ensure responsible management of communications and in line with requirements, has implemented a *whistleblowing system*.

Therefore, pursuant to Law, 30/11/2017 No. 179 (“*Provisions for the protection of authors of reports of crimes or irregularities of which they have become aware in the context of a public or private employment relationship*”) has established a dedicated reporting channel:

[whistleblowing-automha@pec.it](mailto:whistleblowing-automha@pec.it)

that:

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1. ensures the confidentiality of the identity of the whistleblower in the handling of the report;
2. guarantees the confidentiality of the reported person's identity in the handling of the report throughout the procedure until the report is closed.
3. prohibits any act of retaliation or discrimination, direct or indirect, against the whistleblower for reasons directly or indirectly linked to the report;
4. has provided in the disciplinary system for sanctions against those who violate whistleblower protection measures, as well as those who make reports that turn out to be unfounded with malice or gross negligence.

Moreover, any discriminatory or retaliatory measure taken against the whistleblower may be reported to the National Labour Inspectorate and any dismissal or change of job or any other retaliatory or discriminatory measure taken against the whistleblower shall be null and void.

**4.5.4 INFORMATION OBLIGATIONS OF THE SUPERVISORY BOARD (REPORTING)**

Given that the responsibility for adopting and effectively implementing the Model remains with the Company's Board of Directors, the Supervisory Board reports on the implementation of the Model and the occurrence of any critical issues.

In particular, the Supervisory Board is responsible to the Board of Directors for:

- communicate, at the beginning of each financial year, the plan of the activities it intends to carry out in order to fulfil the tasks assigned;
- report regularly on the progress of the programme together with any changes made to it;
- promptly communicate any issues related to the activities, where relevant;
- report, at least annually, on the implementation of the Model.

The Supervisory Board will be required to periodically report not only to the Board of Directors but also to the Board of Auditors on its activities.

The Board may request to be convened by the above/mentioned bodies to report on the functioning of the Model or on specific situations. Minutes must be taken of the meetings with the corporate bodies to which the SB reports. A copy of these minutes shall be kept by the SB and the bodies involved from time to time.

Without prejudice to the above, the Supervisory Board may also, by assessing the individual circumstances:

**GENERAL PART**

- (i) communicate the results of its investigations to the heads of the functions and/or processes, if the activities lead to aspects requiring improvement. In this case, it will be necessary for the Supervisory Board to obtain from the persons in charge of the processes a plan of actions, with the relative timing for the implementation of activities susceptible to improvement, as well as the result of such implementation;
- (ii) report to the Board of Directors and the Board of Statutory Auditors any behaviour /actions that are not in line with the Model in order to:
  - a) acquire from the Board of Directors all the elements for making any communications to the structures in charge of assessing and applying disciplinary sanctions;
  - b) give indications for the removal of deficiencies in order to avoid a recurrence.

Finally, the Body is obliged to immediately inform the Board of Auditors if the violation concerns members of the Board of Directors.

## **5 SYSTEM OF SANCTIONS FOR NON-COMPLIANCE WITH THIS MODEL AND THE PROVISIONS REFERRED TO THEREIN**

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### **5.1 GENERAL PRINCIPLES**

AUTOMHA resolves to set up an adequate system of sanctions for the violation of the rules contained in the Model and in the related control protocols/procedures.

In this respect, in fact, Article 6(2) of the Decree provides that the organisational and management models must “*introduce a disciplinary system capable of sanctioning failure to comply with the measures indicated in the model*”.

The application of disciplinary sanctions is irrespective of the outcome of any criminal proceedings, since the rules of conduct imposed by the Model and the Procedures are assumed by the Company in full autonomy and independently of all type of offence under Legislative Decree no. 231 of 2001 that the violations in question may give rise to.

More specifically, failure to comply with the rules contained in the Model and in the Procedures damages, in itself, the relationship of trust existing with the Company and entails disciplinary action regardless of whether criminal proceedings are instituted in cases where the violation constitutes an offence; this is also in compliance with the principles of promptness and immediacy of the disciplinary proceedings and of the imposition of sanctions, in accordance with the laws in force.

## **5.2 DEFINITION OF “VIOLATION” FOR THE PURPOSES OF THE OPERATION OF THIS SANCTIONS SYSTEM**

By way of example only, constitutes a “**violation**” of this Model and the related Procedures:

- the implementation of actions or behaviours that constitute any of the offences covered by the Decree;
- the implementation of actions or behaviours which do not comply with the law and with the provisions contained in the Model itself and in the relevant procedures, which entail a situation of mere risk of committing one of the offences covered by Legislative Decree no. 231 of 2001;
- the omission of actions or behaviours prescribed in the Model and in the relevant procedures involving a situation of mere risk of committing one of the offences covered by Legislative Decree no. 231 of 2001.

## **5.3 SANCTIONS**

### **5.3.1 NON-MANAGEMENT STAFF**

Conduct by employees in breach of rules contained in this Model and in company procedures is defined as a *disciplinary offence*.

With reference to the type of sanctions that may be imposed on the said employees, they fall within those provided for in the relevant National Collective Agreement, in compliance with the procedures provided for in Article 7 of Law no. 300 of 1970 (hereinafter, for sake of brevity, the “**Workers’ Statute**”) and any special regulations applicable.

Violation by employees, pursuant to paragraph 5.2 above, of this Model may give rise, depending on the seriousness of the violation itself, to the following measures, which are established in application of the principles of proportionality, as well as of the criteria of correlation between offence and sanction and, in any case, in compliance with the form and methods provided for by the legislation in force:

- verbal warning;
- written warning;
- a fine not exceeding three hours’ pay;
- suspension from work and pay for up to three days;
- dismissal for misconduct pursuant to Article 25 of the aforementioned C.C.N.L.;

AUTOMHA SpA reserves the right to request compensation for damages incurred as a result of such conduct, including damages caused by the application by the judge of the measures provided for in Legislative Decree 231/2001.

The disciplinary system is constantly monitored by the Human Resources department.

### **5.3.2 MANAGERS**

In the event of: (a) breach of the Model as defined in paragraph 5.2 above, or (b) adoption, in the performance of activities in the areas at risk of offence, of a conduct that does not comply with the provisions of the Model, by executives, the most appropriate disciplinary measures shall be applied against those responsible in accordance with the provisions of the relevant National Collective Labour Agreement, including, in the most serious cases, dismissal for just cause, in compliance with the procedures laid down in Article 7 of Law 300/1970.

AUTOMHA SpA reserves the right to request compensation for damages incurred as a result of such conduct, including damages caused by the application by the judge of the measures provided for in Legislative Decree 231/2001.

### **5.3.3 ADMINISTRATORS**

In case of violation of the Model as defined in the previous paragraph 5.2. by one or more of the Directors of AUTOMHA SpA, the Supervisory Board will inform without delay the Board of Directors and the Board of Auditors of the Company for the appropriate evaluations and measures.

In the event that one or more of the Directors, alleged perpetrators of the offence from which the administrative liability of the Company may derive, are committed for trial, the Chairman of the Board of Directors of AUTOMHA SpA (or, on his behalf, the other Director) may proceed to convene the Shareholders' Meeting to resolve on the revocation of the mandate.

### **5.3.4 AUDITORS**

In the event of violation of the Model as defined in paragraph 5.2 above, by one or more auditors, the Supervisory Board shall inform the Board of Directors and the Board of Auditors, and at the request of the Chairman of the Board of Directors, the Shareholders' Meeting shall be convened to take the appropriate measures.

AUTOMHA SpA reserves the right to request compensation for damages incurred as a result of such conduct, including damages caused by the application by the judge of the measures provided for in Legislative Decree 231/2001.

### **5.3.5 THIRD PARTIES: COLLABORATORS, AGENTS AND EXTERNAL CONSULTANTS**


In the event of actions or behaviour constituting any of the offences contemplated by the Decree being carried out by collaborators, agents or external consultants or, more generally, by third parties, the Company shall be entitled, depending on the seriousness of the breach, to withdraw from the existing relationship for just cause or to terminate the contract for breach of the above-mentioned persons.

To this end, AUTOMHA SpA has provided for the inclusion of special clauses in the same contracts that provide: (a) the information to third parties of the adoption of the Model and the Code of Ethics by AUTOMHA, which the same declare to have read; (b) the commitment of third parties not to engage in conduct that may lead to a violation of the law or the commission of any of the alleged offences; (c) the right for the Company to terminate the relationship or terminate the contract (with or without the application of penalties), in case of non-compliance with these obligations.

AUTOMHA SpA reserves the right to request compensation for damages incurred as a result of such conduct, including damages caused by the application by the judge of the measures provided for in Legislative Decree 231/2001.

### **5.3.6 MEASURES IN APPLICATION OF THE WHISTLEBLOWING DISCIPLINE**

In accordance with the provisions of Article 2-bis (1)(d) of the Decree, the sanctions referred to in the preceding paragraphs, in compliance with the principles and criteria set out therein, shall be applied to anyone who breaches the measures for the protection of the person making the report, as well as to anyone who makes reports that turn out to be unfounded with malice or serious misconduct. In particular, retaliation against the person making a report in good faith constitutes a serious disciplinary offence which will be sanctioned in accordance with the procedures set out in the preceding paragraphs. The adoption of discriminatory measures against the persons who make the reports can be reported to the National Labour Inspectorate, for the measures of its competence, not only by the reporter, but also by the trade union organization indicated by the same. The retaliatory or discriminatory dismissal of the reporting person is null and void. Also null and void is any change of job under Article 2103 of the Civil Code, as well as any other retaliatory or discriminatory measure taken against the whistleblower. It is the responsibility of the employer, in the event of disputes relating to the imposition of disciplinary sanctions, or to demotions, dismissals, transfers, or subjecting the whistleblower to other organisational measures having direct or indirect negative effects on working conditions, following the submission of the report, to demonstrate that such measures are based on reasons unrelated to the report itself. Any abusive use of the reporting channels is also prohibited, as in any person, including system administrators,

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allowed to access, verify or disseminate the contents of the [whistleblowing-automha@pec.it](mailto:whistleblowing-automha@pec.it) mailbox.

Violation of these prohibitions will result in disciplinary action.

The identity of the whistleblower is not protected in the case of reports that are manifestly unfounded and/or in bad faith, deliberately prearranged with the aim of damaging the whistleblower or the company. In this case too, such conduct constitutes a serious disciplinary violation and is sanctioned in accordance with the procedures set out above.