

COMPLIANCE PROGRAM

UNDER LEGISLATIVE DECREE NO. 231-2001*¹

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¹ “Compliance Program” translates *Modello di Organizzazione, Gestione, e Controllo*, the wording used in the Italian legislation. A literal translation of that wording, *Organisation, Management, and Control Model*, does not immediately convey the underlying sense to English readers. For that reason “Compliance Program”, found in more recent translations, has been preferred.

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1) GENERAL SECTION

Legislative Decree 231/2001

The administrative liability of entities, legal persons, companies, and associations

Under Legislative Decree no. 231 of 8th June 2001, "*Provisions governing the administrative liability of legal persons, companies, and associations, including those without legal personality in accordance with article 11, Law no. 300, of 29th September 2000*", for the first time in Italian law an entity could be found liable in criminal proceedings, and this was in addition to the criminal liability of the natural person that had materially perpetrated the unlawful act.

The aim of widening liability in this way was that the punishment of such offences should extend to the assets of the entities and, ultimately, to the economic interest of their members. The members, before the above Decree became law, suffered no consequences for crimes that benefited the entity and were committed by its administrators and/or employees. Given the principle that criminal liability is unique to individuals, they were left unscathed by the resulting sanctions, barring any damages for loss, if and to whatever extent damages were recoverable. As for any consequences in criminal law, only articles 196 and 197 of the Italian Criminal Code provided for (as they still do) an obligation in civil law to pay any fines imposed, but only if the material perpetrator of the offence was bankrupt. Accordingly, this innovation in the law is no small matter in that neither the entity nor the members of the companies or associations can argue they have no involvement in criminal proceedings for crimes committed to the benefit or in the interest of the entity. Clearly, the effect of this on those persons (members, associates, etc.) who take part in the economic affairs of the body, is to ensure their interest in the due and lawful nature of its actions vis-à-vis the community at large.

Regarding the types of criminal conduct to be regulated, the Decree, as most recently amended, refers solely to a number of offences, and these may be summarised coherently as below.

Offences involving dealings with government agencies (article 24, Legislative Decree 231/2001)

IT offences and the illegal use of data (article 24 bis, Legislative Decree 231/2001) [article added by article 7, Law no. 48, of 18th March 2008]

Organised crime offences (article 24 ter, Legislative Decree 231/2001) [article added by Law no. 94 of 15.7.2009]

Offences involving dealings with government agencies (article 25, Legislative Decree 231/2001)

Offences involving forgery of money, of public credit cards, of revenue stamps, and of trade marks and distinguishing marks (article 25-bis, Legislative Decree 231/2001) [article added by article 6, Law no. 350 of 25th September 2001, and amended by Law no. 99 of 23.7.2009]

Offences against industry and trade (article 25 bis. 1, Legislative Decree 231/2001) [article added by article 15, Law no. 99 of 23.7.2009]

Corporate offences (article 25-ter, Legislative Decree 231/2001) [article added by article 3, Legislative Decree no. 61 of 11th April 2002]

False corporate reporting (article 2621 of the Italian Civil Code)

Offences committed for the purposes of terrorism and the subversion of the democratic order, as in the Italian Criminal Code and in specific laws (article 25 quater, Legislative Decree 231/2001) [article added by article 3, Law no. 7 of 14th January 2003]

Practices of mutilation of female genital organs (article 25 quater 1, Legislative Decree 231/2001) [article added by article 8, Law no. 7 of 9th January 2006]

Offences against the person (article 25quinquies, Legislative Decree 231/2001) [article added by article 5, Law no. 228 of 11/08/2003]

Market abuse (article 25 sexies, Legislative Decree 231/2001) [article added by article 9, Law no. 62 of

18th April 2005]

Transnational crime (articles 3 and 10, Law no. 146 of 16th March 2006)

Inducing others not to make statements or to make false statements to the judicial authorities (article 25 decies, Legislative Decree 231/2001) [article added by Law no. 116 of 3.8.2009, as substituted by paragraph 1, article 2, Legislative Decree no. 121 of 7th July 2011]

Offences against the environment (article 25 undecies Legislative Decree 231/2001) [article added by Legislative Decree no. 121 of 7.7.2011]

Offences relating to the employment of non-EU citizens unlawfully staying in the country (article 25 duodecies Legislative Decree 231/2001) [article added by Legislative Decree no. 109 of 16th July 2012]

After the Decree entered into force a number of offences were added and it may reasonably be assumed that further additions will be included in the future.

As to who or what is subject to its regulation, the Decree lists “*entities that have legal personality, companies that have legal personality and companies and associations even if without legal personality*” (paragraph 2, article 1). The description is completed in a negative sense by an indication of the entities to which the law does not apply, namely “*the State, public territorial bodies, as well as bodies performing functions of constitutional importance*” (paragraph 3, article 1). As is clear, the range affected by the Decree is very broad and the dividing line, especially for entities operating in the public sector, is not always easily identifiable. On the other hand, there can be no doubt as to its applicability to Fondazione Novae Terrae, which has legal personality (see decision by the Milan Prefect's Office on 19.12.2006). The point should be made that this new liability arises only when certain types of offence are committed by persons associated in various ways with the entity and only where the unlawful conduct was *in the interest* of the entity or was *to its benefit*. This means not merely where the unlawful action secures an advantage, economic or otherwise, for the entity, but also when, even in the absence of any concrete advantage, the motivation for the unlawful conduct is in the interest of the entity.

1.2 The adoption of the “Compliance Program” as a possible exempting factor in administrative liability

However, article 6 of Legislative Decree no. 231/2001 provides entities that are facing criminal proceedings for one of the relevant offences with a sort of “exemption” from their liability if they can demonstrate that they have adopted and effectively implemented an organisational, management, and control system (sometimes termed a “model” and designated in this text as a “Compliance Program”) for preventing the criminal offences in question from being committed.

The point should be made that under the Decree the adoption of a compliance program is optional, it is not mandatory.

Accordingly, the entity must demonstrate that:

- its management has adopted and effectively implemented, prior to the commission of the offence, compliance programs for preventing offences of the type that have taken place;
- the task of supervising the workings and adherence to the compliance program and to ensure their updating is entrusted to a body of the entity that has independent powers of initiative and control;
- the offence has been committed through persons fraudulently circumventing the compliance program;
- there has not been a failure in vigilance, or insufficient vigilance, by the Surveillance Committee referred to in *point 2*).

Regarding the breadth of the powers delegated and the risk of offences being committed, the compliance programs indicated under letter a) must fulfil the need to:

- pinpoint the activities in relation to which crimes may be committed;
- provide specific protocols for planning the making and implementation of decisions by the entity regarding the crimes to be prevented;
- determine ways of managing financial resources that will prevent the crimes from being committed;
- impose duties of disclosure to the body charged with surveillance over the workings of, and

adherence to, the compliance programs;

bring in a disciplinary system for sanctioning non-observance of the measures indicated in the compliance program.

In entities that are small the tasks in point 2) , paragraph 1, can be carried out directly by the management body.

THE ADOPTION OF THE 231 COMPLIANCE PROGRAM BY FONDAZIONE NOVAE TERRAE

Fondazione Novae Terrae: nature and aims

Article 2 of the by-laws of Fondazione Novae Terrae lays down that “*The aims of the Fondazione are as follows:*

- *promoting closer cultural understanding and examination of the matter of human rights from a legal, philosophic, anthropological, political, and economic standpoint, taking account both of the various national Legal Systems – thereby encouraging a comparison between them (including with regard to issues concerning relations with Islam) and an analysis of the case law of their Constitutional Courts – and of national and international institutions, focusing especially on the process of European integration and on its legal, economic, and cultural implications and effects;*
- *protecting and developing human rights;*
- *study, research, discussion, editorial presentation, in as far laws allow, training, and keeping culturally attuned with regard to national and international policy and to social problems as they relate to human rights”*

Fondazione Novae Terrae 231 Compliance Program: its goals

Fondazione Novae Terrae pursues the aims stated in its By-laws and in so doing it receives contributions from persons/entities offering funding and it maintains relations on both a national and international level with persons/entities that are active in the sphere of human rights and, in particular, regarding the right to life, to a family, to religious liberty, and to education.

Adopting the above compliance program – over and above the rules of the Decree, according to which the compliance program is optional and not mandatory – may provide a valid tool for raising awareness among all who act in the name and on behalf of Fondazione Novae Terrae, so that in undertaking their activities, their conduct is proper and straightforward and such as to avert the risk of the offences in the Decree being committed.

The function of the Compliance Program

The aim of the compliance program is to put together a proper system of procedures and control activity - that may even be carried out pre-emptively (*ex ante* monitoring) - for preventing the various types of criminal offence in the Decree from being committed.

In particular, by identifying the “areas of activity at risk” and applying procedures to them, the compliance program seeks to:

instil an awareness in all who, in the name and on behalf of Fondazione Novae Terrae, are engaged in the “areas of activity at risk” that if they breach the provisions of the Compliance Program they may commit an act that is punishable, criminally and administratively, not just with regard to themselves but also with regard to the Fondazione;

emphasize that such unlawful conduct is severely condemned by Fondazione Novae Terrae because (even if Fondazione Novae Terrae was to all appearances in a position to benefit from it), they breach not just statutory provisions but also the ethical and social principles that Fondazione Novae Terrae adheres to in carrying out its mission;

enable Fondazione Novae Terrae, through monitoring the “areas of activity at risk”, to take timely action to prevent or combat the criminal acts in question.

Other than those already mentioned, the key points of the compliance program are:

promoting an awareness among all employee and non-employee personnel of the rules of conduct and established procedures and making that information widely available to them;

taking a detailed inventory of what are the “areas of activity at risk” for Fondazione Novae Terrae, meaning the activities where the likelihood of the offences being committed is highest;

assigning the Surveillance Committee specific tasks for supervising the efficacy and proper functioning of the compliance program;

checking and documenting the operations at risk;

observing the principle of the separation of functions;

defining authorisation powers that match the responsibilities assigned;
checking the “business” conduct of the operating structure of the Fondazione, as well as the working order of the compliance program, with consequent periodic updating (*ex post* monitoring).

Structure of the Compliance Program: General Section and Special Section dealing with the different types of offence

This compliance program comprises a “General Section” and a “Special Section”. The General Section lays down the general principles of conduct to be adhered to and sets out the general structure of the compliance program. It explains its function of the compliance program, its aims, how it works, and identifies the powers and duties of the surveillance body as well as introducing the disciplinary arrangements for sanctioning disregard of the compliance program rules.

The Special Section describes the conduct constituting the offences, identifies the activities of Fondazione Novae Terrae in relation to which the offences may be committed, and governs the rules and preventive measures that are to be observed in undertaking those activities and are intended to ensure that the conduct is lawful.

It is left to the Fondazione Novae Terrae Management Board to supplement this compliance program at a later stage – through the adoption of a resolution - with additional special sections relating to the types of offence that, following other legislation, are included in or in some way connected with the sphere of application of the Decree.

THE SURVEILLANCE COMMITTEE

Surveillance Committee: make-up and appointment

Under point b), article 6 of the Decree the grant of exemption from administrative liability is made conditional on there being a body of the entity with independent powers of initiative and control that is entrusted with the task of overseeing the operation and observance of the compliance program, as well as of ensuring it is updated. Pursuant to that provision, the Fondazione appoints the Surveillance Committee, having regard for the requisites of :

good reputation, autonomy and independence, meaning authoritativeness and independence of judgement and of powers of initiative and control

professionalism, meaning a set of skills suited to the purpose,

continuity of action, meaning constant activity.

The Surveillance Committee must have a proper level of professionalism and experience in management or legal matters.

The Surveillance Committee remains in office for 3 years and may be reappointed for a further three-year term subject to the agreement of the appointees and of the Management Board.

Cessation of the appointment has effect from the time when a new surveillance committee is appointed.

Where an inability to act for more than three months occurs or is foreseen, the Surveillance Committee, once it is apprised of the reason for the inability, shall notify its non-availability to the Foundation, which shall replace it without delay.

The Surveillance Committee, in carrying out its appointment as fully defined in the compliance program, has independent powers of initiative and control.

How the Surveillance Committee carries out its action of control, monitoring, and investigation is subject to its own self-regulation.

The activity of the Surveillance Committee must be documented, even in summary form, and the respective documentation must be held in a way that ensures it remains secret.

Functions and powers of the Surveillance Committee

The Fondazione Novae Terrae Surveillance Committee is entrusted on a general level with the task of watching over:

observance of the rules in the compliance program by its addressees as identified in the Special Section;

the true efficiency and effectiveness of the compliance program, seen in relation to the operating structure of the Fondazione, in preventing the offences in the Decree from being committed;

whether it is appropriate to update the compliance program, where a need for change is noted in response to altered conditions.

At a more operational level, Surveillance Committee is entrusted with the tasks of:

- activating control procedures;
- carrying out an examination of the activity of the Fondazione in order to make a detailed inventory of the areas of activity at risk;
- conducting periodic checks targeted at operations or at specific acts that fall within the areas of activity at risk as defined in the individual Special Sections of the compliance program;
- ensuring widespread knowledge and understanding of the compliance program and preparing the internal organisational documentation needed for its operation and containing the instructions, clarification, and/or updates;
- gathering, processing, and holding the key information regarding adherence to the compliance program, as well as updating the information that must, compulsorily, be notified to the Surveillance Committee or held available for it. For this purpose the Surveillance Committee is kept constantly informed about changes in the activity in said areas at risk. In addition, reports by those concerned must be made to the Surveillance Committee regarding any situation as may expose Fondazione Novae Terrae to the risk of crime;
- checking that the documentation stipulated in the special section of the compliance program for the different types of offence is effectively present, is properly kept, and is effective. The Surveillance Committee must be updated on the activity of the Fondazione so that it can carry out controls;
- conducting internal investigations for ascertaining any presumed infringements of the rules of this compliance program;
- checking whether the measures provided in the Special Section of the compliance program for the different offences (adoption of standard clauses, performance of procedures, etc.) are in any case adequate and match the needs of proper adherence to the provisions of the Decree and, where not, updating those measures.

Information to be notified to the officers and bodies of the Fondazione

The Surveillance Committee shall continuously report to the General Manager on the outcome of its activity and on the operation and observance of the compliance program, and may also present an ad hoc annual report to the Management Board.

In particular, the Surveillance Committee reports in connection with:

implementation: reporting continuously to the General Manager, who informs the Management Board as part of the statement he/she makes as to their performance in the discharge of that appointment

updating: reporting to the Management Board, as the competent body for amending and supplementing the compliance program, to which it shall immediately recommend the updates it views as urgent and shall submit annual reports containing other proposed amendments.

breaches:

Forfeiture of office and removal from office

A loss of the requisites for eligibility or a situation giving rise to a conflict of interest shall provide grounds for forfeiture of office and should be verified by the Management Board.

The Surveillance Committee may be removed from office only where it fails to fulfil its appointment or for serious reasons relating to it. The following are recognised as reasons for forfeiture and/or ineligibility of the members of the Surveillance Committee:

- one of the circumstances in article 2382 of the Italian Civil Code;
- situations where the autonomy and independence of an individual member of the Surveillance Committee is seriously compromised;
- the start of investigations against a member of the Surveillance Committee for offences attracting sanctions under Legislative Decree 231/2001;
- a guilty finding (or so-called plea bargaining in accordance with article 444 of the Italian Code of Criminal Procedure), even if not final, for having committed one of the offences attracting sanctions under Legislative Decree 231/2001 or disqualification, even if only interim, from public office or from management functions in bodies corporate.

TRAINING OF PERSONNEL AND STATEMENT OF POLICIES AND PROCEDURES RELATED TO THE COMPLIANCE PROGRAM

Training of personnel

The Surveillance Committee is also charged with notifying the Management Board of the need to update

the compliance program and suggesting when and how amendments and updates are to be adopted. That need shall be decided following:

- findings of ineffectiveness as a result of checks undertaken;
- reorganisation that affects the processes at risk;
- amendment of binding legislation.

It is also the responsibility of the Surveillance Committee to produce documentation for establishing widespread knowledge of the compliance program and to ensure that there is corresponding training. In step with any gradual amendment of the compliance program, and in any case once yearly, it must see to supplementary training sessions for the personnel and senior management of the Fondazione, so that there is full understanding of the compliance program and its goals.

In carrying out its appointment the Surveillance Committee draws on the organisational units of the Fondazione and on the internal personnel it selects from time to time for best undertaking its activity.

For undertaking the technical operations needed to perform its control function, the Surveillance Committee may draw on the above internal personnel.

Where it sees fit, in order to carry out its tasks of surveillance and updating the compliance program, the Surveillance Committee may, for matters requiring technical and specialist skills, enlist outside advisors that it specifically appoints for the purpose within its annual budgetary limits.

Statement of procedures and policies to outside personnel and partners

Likewise, persons/entities outside of the Fondazione (partners) may be provided with statements concerning the policies and the procedures adopted by Fondazione Novae Terrae on the basis of the existing compliance program, while ad hoc clauses will be included in contracts. In particular, outside advisors must be selected in a transparent manner and only on the strength of their proven and specific skills. Contracts with them must include a declaration in which they specially state that they have not, and are not, involved in legal proceedings relating to the offences covered by Legislative Decree 231/2001.

The contact must include the following clauses:

- a duty to comply with the applicable laws in performing the advisory service contract;
- an obligation to comply with the specific rules of the Ethics and Conduct Code of Fondazione Novae Terrae which must be handed over and countersigned as a token of acceptance by the advisor;
- an express prohibition on giving or promising money or other benefits to current and future suppliers and/or providers of funds of the Fondazione (so-called anti-corruption clause);
- an express reservation by the Fondazione that it shall be free to terminate the contract for breach of the above obligations in accordance with article 1456 of the Italian Civil Code, this without prejudice to damages for loss.

INFORMATION AND THE SURVEILLANCE COMMITTEE

Reports by employees or by others

The Surveillance Committee must be informed, using the documentation stipulated in the Special Section of the compliance program, possibly following procedures to be defined, and shall be the addressee of any information, of whatever type, which may come from third parties, regarding its implementation in the areas of activity at risk.

The above reports may be made in writing (including via e-mail) and/or by contacting the General Manager and/or the Surveillance Committee which shall put them in statement form and file them away, guaranteeing their confidentiality.

Fondazione Novae Terrae protects whoever makes the report from any sort of reprisal or from being penalised in their work, this without prejudice to the protection of the rights of the company and of persons that are accused wrongly or in bad faith.

In carrying out its functions, the Surveillance Committee may issue additional instructions for setting up special channels for communicating with it.

Duties of information regarding official action taken by authorities

The Surveillance Committee must be informed of measures by, and/or news from, the criminal investigation police, or by/from any other authority, that suggest investigations are in course - including in relation to persons unknown - into offences relating to the Decree that may involve the Fondazione. It must also be notified of any other information as may point to circumstances, acts, events or omissions that invite questions concerning compliance with the rules of the Decree.

Sanction Procedure

The procedure is set in motion when a breach, real or presumed, of the procedures and/or rules in the

compliance program is observed or reported.

The stages of the procedure are:

Pre-investigation stage. This stage is directed at ascertaining whether there has been a breach and it is carried out by the Surveillance Committee. If the report/observation proves to be clearly unfounded the Surveillance Committee does not proceed with the matter. Alternatively, the Surveillance Committee sends a written report on its pre-investigation action:

to the General Manager in the case of breaches by employees and non-employee personnel;

to the Management Board in the case of breaches by other members of the Fondazione.

Investigation stage. The aim at this stage is to ascertain what foundation there is to the breach on the basis of the results of the activity of the Surveillance Committee. This stage, taking a maximum time of 30 days, is conducted by:

the General Manager, in the case of breaches by employees and middle managers;

the Management Board in the case of breaches by members of the official bodies of the Fondazione

If the breach proves to be unfounded, the General Manager/Management Board handling the investigation, according to their respective competence, shall close the matter with a reasoned decision that will be held on file at the offices of the Fondazione.

Stage for finalising the charge. This may include imposing sanctions having regard for the rules in force (Law 300/70 and the Collective National Labour Contract) in accordance with the Disciplinary Arrangements and the respective competences. It is conducted by:

the General Manager in the case of breaches by employees;

the Management Board in the case of breaches by other member of the Fondazione

Where it is particularly difficult to arrive at a finding concerning the breaches, the length of time of the pre-investigation and the investigation stages may be extended until they are concluded and notification accordingly will be given to the person concerned.

DISCIPLINARY ARRANGEMENTS

General principles

The current disciplinary arrangements have been adopted in accordance with letter e) paragraph 2, articles 6 and letter b), article 4 of Legislative Decree 231/2001.

Accordingly, the disciplinary arrangements set out to sanction a failure in adhering to the rules in the Ethics Code or to the procedures and rules of the Compliance Program adopted by Fondazione Novae Terrae. The disciplinary arrangements are an integral part of the compliance program and, pursuant to article 2106 of the Italian Civil Code, for employee workers they supplement the National Collective Labour Agreement in matters it does not cover, though only with regard to the offences under discussion herein, this without prejudice to the application of the National Collective Labour Agreement in those cases where it is relevant.

The imposition of sanctions for breaches of the rules in the Ethics Code and of the procedures and rules in the compliance program are unaffected by the start or outcome of any criminal proceedings for an offence referred to in Legislative Decree no. 231/2001 (as amended)

Personnel subject to the Disciplinary Arrangements

The current disciplinary arrangements distinguish between the various occupational grades of personnel falling under article 2095 of the Italian Civil Code (employees) and also any self-employed persons and other non-employee personnel that may work for the Fondazione. The arrangements deal with:

persons that exercise the functions of representing, administering, or managing the Fondazione, ("senior management");

persons ("subordinates") that are under the management and supervision of one of the above persons, as well as the persons referred to in Section IV (so-called "outside personnel").

General criteria in imposing sanctions

In individual cases the type and the extent of the sanctions will be applied in proportion to the seriousness of the failings and, in any case, on the basis of the following general criteria:

the subjective element of the conduct (wilful intent, or fault as it relates to recklessness, negligence, or want of skill taking into account whether the event was foreseeable or otherwise);

importance of the obligations breached;

seriousness of the threat created;

the extent of the loss caused to Fondazione Novae Terrae through the application of the sanctions as provided under Legislative Decree 231/01 and subsequent amendments and supplements;
level of hierarchical and/or technical responsibility;
presence of aggravating or mitigating factors with particular regard to earlier work performance and previous disciplinary record in the preceding two-year period;
any sharing of responsibility with other workers that have contributed to bringing about the failing.
If through a single act a number of breaches have been committed, punishable with different sanctions, the most severe sanction shall apply.
Re-offending during the two-year period automatically entails the application of the most severe sanction with respect to the type of offence.
The principles of timeliness and immediacy enjoin that the disciplinary sanction is imposed regardless of the outcome of any criminal proceedings.

Measures for employees

Scope of application

Under the joint effects of letter b), article 5 and of article 7 of Legislative Decree 231/2001, and without prejudice either to prior notice to the worker of the charge against him or to the procedure as in article 7 of Law no. 300 of 20th May 1970 (the so-called "Workers' Statute"), the sanctions in this section apply to employees of the Fondazione with middle-management (*funzionari*) and white-collar-staff status that commit disciplinary offences as a result of:

- a) a failure to adhere to the procedures and rules of the compliance program intended to ensure that activity is carried out in accordance with the law and to promptly detect and eliminate risk situations within the meaning of Legislative Decree 231/2001;
- b) a breach and/or the circumventing of the internal control system carried out by removing, destroying, or tampering with the procedure documentation or by preventing control or access to the information and to the documentation by persons so authorised, including by the Surveillance Committee;
- c) disregard of the rules of the Ethics Code;
- d) disregard of the duty to inform the Surveillance Committee and/or direct superiors in the organisation of a failure to adhere to the procedures and rules of the compliance program;
- e) a failure by senior-level personnel to exercise vigilance over the adherence to the procedures and rules of the compliance program by their subordinates in order to verify their actions in areas at risk of crime and, in any case, in carrying out activities involved in operational processes at risk of crime.

6.4.2 Sanctions

A failure to adhere to the procedures and rules in this section of the disciplinary arrangements, which are an integral part of the compliance program, by middle-management and white-collar employees shall, depending on how serious the contravention is, be sanctioned by the following disciplinary measures:

- a warning given verbally;
- a warning given in writing;
- a fine not exceeding four hours' pay
- suspension from work without pay up to a maximum of 10 days;
- dismissal with notice;
- dismissal without notice.

Where the employees above are empowered to represent the Fondazione to outsiders, imposition of the fine that is the most severe sanction will automatically entail them being relieved of the power of representation.

Warning given verbally

This sanction is imposed where, unpremeditated, there are breaches of the procedures and rules or procedural errors attributable to negligence by workers that are not material outside of the Fondazione.

Warning given in writing

A written warning is given where:

- there is re-offending in the two-year period in the form of unpremeditated breaches of procedures or rules;
- there are procedural errors attributable to negligence by the workers that are material outside of the Fondazione.

Fine

In addition to cases of repeated contraventions (re-offending), fines may be applied in cases where, owing to the level of hierarchical or technical responsibility or where there are aggravating factors, the unpremeditated/negligent conduct may, even if only potentially, undermine the effectiveness of the compliance program; a few examples include:

a failure in the duty to inform the Surveillance Committee and/or one's direct hierarchical or functional superiors;

repeated failures to adhere to the requirements in the procedures and rules of the compliance program, where they concerned or concern dealings in which one of the necessary parties is a public administration body.

Suspension from work without pay

In addition to cases of repeated contraventions (re-offending) that may attract a fine, suspension from work without pay up to a maximum of 10 days will be imposed for serious breaches of procedures and rules such as expose the Fondazione to liability.

Purely by way of example, suspension from work without pay applies in cases of:

a failure of observe the rules on powers of signature and on delegated authority regarding any legal acts and documents with Public Administration bodies;

a failure by senior-level personnel to exercise vigilance over the adherence to the procedures and rules of the compliance program by their subordinates in order to verify their actions in areas at risk of crime and, in any case, in activities involved in operational procedures at risk of crime;

untrue or unfounded reports of breaches of the compliance program and the Ethics Code.

Dismissal with notice

Dismissal with notice is issued in cases of repeated serious breaches of the procedures and rules – breaches that are material outside of the Fondazione - in carrying out activity in the areas/activities at risk identified in the special section of the compliance program.

Dismissal without notice

Dismissal without notice is issued for failings that are so serious as not to allow, not even provisionally, continuation in employment (so-called just cause). The cases below serve purely as examples:

breaches of procedures and rules in the compliance program that are material outside of the Fondazione, and/or fraudulent circumvention, effected through conduct unmistakeably aimed at committing one of the crimes covered by Legislative Decree 231/2001 and subsequent amendments, such as terminate the relationship of trust with the employer;

a breach and/or the circumventing of the internal control system carried out by removing, destroying, or tampering with the procedure documentation or by preventing control or access to the information and to the documentation by persons so authorised, including by the Surveillance Committee, so that they are prevented from being transparent or from being verified.

If a worker is responsible for one of the failings in this article Fondazione Novae Terrae can decide on his/her interim suspension with immediate effect.

Where the Fondazione decides in favour of dismissal, the dismissal shall have effect from the day that the interim dismissal started, going back to the investigation stage.

6.5 Measures against any managers

Under the joint effects of letter b), article 5 and of article 7 of Legislative Decree 231/2001, and solely in relation to said rules, having regard for the procedure as in article 7 of Law no. 300 of 20th May 1970, the sanctions indicated in this paragraph apply to managers that commit disciplinary offences arising as a result of:

a failure to adhere to the procedures and rules of the compliance program designed to ensure that activity is carried out in accordance with the law and to promptly detect and eliminate risk situations as defined by Legislative Decree 231/2001;

a breach and/or the circumventing of the internal control system carried out by removing, destroying, or tampering with the procedure documentation or by preventing control or access to the information and to the documentation by persons so authorised, including by the Surveillance Committee;

disregard of the rules of the Ethics Code;

disregard of the duty to inform the Surveillance Committee and/or direct hierarchical or functional superiors of a failure to adhere to the procedures and rules of the compliance program;

a failure by personnel in a senior position to exercise vigilance over the adherence to the procedures and rules of the compliance program by their subordinates in order to verify their actions in areas at risk of crime.

A failure to adhere to the procedures and rules indicated in this paragraph may, depending on the seriousness of the contravention and in consideration of the particular nature of the trust of the employment relationship, justify dismissal with notice (so-called giustificatazza) and, in the most serious cases, dismissal without notice (so-called just cause) of the manager, to be issued in accordance with the provisions of law and of the applicable National Collective Labour Agreement.

Where the manager is empowered to represent the Fondazione to outsiders, imposition of disciplinary sanctions will automatically entail withdrawal of their power of representation.

OTHER PROTECTIVE MEASURES WHERE THERE IS A FAILURE TO ADHERE TO THE RULES OF THE COMPLIANCE PROGRAM

Measures against members of the bodies of the Fondazione and, in general, of office holders

In the event of members of the bodies of the Fondazione and holders of office in general breaching the procedures in this compliance program or where, in carrying out activities in the areas at risk, their conduct does not conform to the rules of the compliance program, the General Manager shall be informed, or in the case of breaches by the latter, the Management Board, and the measures most appropriate in terms of the By-laws shall be applied to the person concerned.

Measures against outside personnel

Where the conduct of outside personnel or partners amounts to a breach of this compliance program and is such as entails a risk of committing an offence punishable under the Decree, their contract may be terminated – this without prejudice to damages for any loss – pursuant to the clauses in their contract or in their partnership agreements if as a result of that conduct the Fondazione suffers concrete loss, as in the case where a court applies measures provided for in the Decree.

231 COMPLIANCE PROGRAM REVIEWS

To check that the compliance program is always able to fulfil the functions as provided in Legislative Decree 231/01, the Surveillance Committee shall conduct the following reviews :

reviews of legal documents, instruments, deeds, etc.: each year it shall conduct a review of the principal measures and decisions by the Fondazione in the areas of greatest risk;

reviews of procedures: periodically a review shall be made of this compliance program adopting the approach decided by the Surveillance Committee. An analysis of the action undertaken, of the reports, of the level of joint involvement in and knowledge of the Compliance Program by the personnel shall feature among the control activities making up the remit of the Surveillance Committee.

* * *

2) SPECIAL SECTION

FUNCTION AND OBJECTIVES OF THE SPECIAL SECTION

The Special Section of this compliance program sets out to:

identify, following a description of the offences entailing criminal liability, the activities of Fondazione Novae Terrae in connection with which offences covered by Legislative Decree 231/2001 could be committed;

make it clear to the addressees of the compliance program what conduct, in concrete terms, could render Fondazione Novae Terrae punishable under Legislative Decree 231/2001;

regulate the conduct required of the addressees of the Compliance Program, specifically for the purpose of preventing the offences from being committed.

Accordingly, the end goal of the Special Section is to put in place a coherent set of “rules” that cannot be circumvented, barring where there is fraudulent intent (in which case, however, the exemption from liability in point c), paragraph 1, article 6 of the Legislative Decree 231/2001 takes effect).

To secure these aims this Special Section focuses on a detailed examination of the individual offences or of what are seen as offences that fall into the same class. Examples are provided of the possible ways in which those offences might be committed by those acting for Fondazione Novae Terrae, and this enables an assessment to be made as to whether - in connection with the activities that the Fondazione actually carries out – the perpetration of such offences is conceivable, if only in the abstract.

At the same time, however, the constituent elements of even those offences not seen as important for the purposes of the compliance program are set out. In this way all the addressees are in any case aware of them and can judge whether they may have become important (meaning that there is a risk of them being committed), so that notification can accordingly be made to the Surveillance Committee.

* *

CRIMINAL OFFENCES THAT HAVE IMPORTANCE IN RELATION TO THE Fondazione Novae

Terrae COMPLIANCE PROGRAM.

A. Offences involving dealings with the agencies of public administration (articles 24 and 25 of Law 231/01)

Extortion, undue inducement to give or to promise benefits and corruption

Serious fraud to the detriment of the State

Crimes relating to public funding

GENERAL PRINCIPLES REGARDING THE CONDUCT AND IMPLEMENTATION OF DECISION-MAKING PROCESS IN AREAS OF ACTIVITY AT RISK

The Special Section is concerned with the possible conduct by office holders of the Fondazione, its managers, and its employees, as well as by outside personnel and partners, as defined in the General Section (all are referred to hereinafter as "Representatives").

The Fondazione, in the provisions of the special section of this compliance program, intends to establish rules and procedures such as may assist in pre-empting the criminal offences indicated in Legislative Decree 231/2001.

Accordingly, as of now the following prohibitions shall apply to the office holders of the Fondazione, its managers, its employees, its outside personnel, and its partners (the latter through the provisions in their contracts) with regard to:

- conduct such as amounts to the offences considered above (articles 24 and 25 of the Decree);

- conduct such that, though not in itself amounting to any of the above offences, might nevertheless potentially do so;

- creating any situation where there is a conflict of interest with regard to the Public Administration in relation to what is envisaged by the above offences. It should be noted that the following is not permitted:

 - making cash donations to public employees

 - unduly promising money or other forms of benefit to representatives/those acting for the Public Administration;

 - distributing complimentary items and presents that go beyond normal commercial practice or courtesy or that are, in any case, directed at procuring advantage for the activities of the Fondazione. In particular, there is a bar on presents in any form to Italian or foreign public officials, or to their relations, as might affect their independence of judgement or act as an inducement to assure any advantage for the Fondazione. Complementary gifts that are allowable shall be of little value and directed at promoting artistic or ethical initiatives. Presents – excepting those of modest value – must be properly documented so that the prescribed checks can be undertaken;

 - conferring on public employees other benefits of any kind that have the effect described in the point above, to the benefit of the Fondazione;

 - providing partners with benefits that cannot be properly justified with regard to the type of dealings conducted with them;

 - providing remuneration to outside personnel that cannot be properly justified with regard to their type of appointment;

 - providing a public employee with an attendance token or courtesy acts when there are conventions or congresses or other events, or with a consideration for a professional service, other than in the cases or within the limits allowed in law or by the rules of the Fondazione;

 - submitting untrue statements to national or Community public agencies to obtain an unjustified advantage or obtain public funding, contributions, or loans on easy terms;

 - applying sums received by way of public funding, contributions, or easy-term loans from national or Community public agencies for purposes than those for which they were allocated.

With the aim of ensuring compliance with the above:

- the Surveillance Committee shall be informed of any relations that representatives of the Fondazione enter into with the Public Administration

- dealings with the Fondazione's partners shall be defined in writing and the mutual undertakings shall be clearly set out;

 - appointments conferred on outside personnel must likewise be set out in writing with a statement of

the remuneration agreed;

any future appointments of public employees shall be allowed within the limits laid down in law;

no type of payment may be made in cash or in kind;

statements made to national and Community public agencies in the interest of the Fondazione, including for obtaining funding, contributions, or easy-term loans, must contain only information that is absolutely true. The handling of funding, contributions, etc., must include a written account;

sums of a significant value, the level of which shall be decided by the Surveillance Committee in agreement with the General Manager, shall require the approval of the latter.

In particular, should the Fondazione make direct donations in favour of charitable associations (ONLUS) or scientific periodicals and it is found that employees of the Public Administration have a direct or indirect economic involvement in them, the following procedure must be adopted:

the Fondazione, as donor, must draw up and send to the addressee notification of its intent to donate a sum of money (or an item of equipment);

the beneficiary shall adhere to the rules in force that regulate materially making the donation;

the Fondazione, as donor, having taken note of the acceptance, shall provide all the details of the donation and meet all the requirements in law.

* *

B. Offences involving a breach of the provisions for the protection of health and safety at work

The crimes within in the scope of Legislative Decree 231/2001 were extended, with the entry into force of article 25 *septies*, to include unpremeditated homicide as well as serious and grievous unpremeditated injury when these follow a breach of the provisions for accident prevention and for protecting health and safety at work

Explanatory remarks

The above unpremeditated criminal offences incur administrative liability for legal persons if they are the consequence of breaches of the relevant legislation on health and safety at work and, in particular, purely by way of example and in no exhaustive sense, in the following cases:

a failure to undertake risk evaluation, or where it is not done properly;

a failure to draft the respective document and to keep it up regularly updated, or where it is not done properly;

a failure to appoint a person charged with responsibility for the Prevention and Protection Unit, or the appointment of a person without the right professional experience, training, and background;

omitting to install plant, apparatus and/or signalling instrumentation for preventing disasters and/or accidents at work, or removing or damaging them (omission or removal of accident prevention safeguards);

omitting to make available apparatus or other instruments for fire prevention or for lifesaving and rescue in case of disaster or accidents at work, or removing or damaging them so that they are unserviceable (omission or removal of safety devices);

a failure to provide the training/information to employees required under the provisions in force;

a failure to appoint a medical officer responsible for the health supervision of working conditions and of the employees, or the appointment of a person without the right professional experience, training, and background.

Following Legislative Decree no. 81 of 9th April 2008 and its subsequent amendments – implementing article 1 of Law no. 123 of 3rd August 2007 – the Fondazione Novae Terrae compliance program must be adopted and implemented efficaciously, so providing a “company-type” system that can fulfil all legal obligations relating to:

compliance with the technical-structural standards in law regarding equipment, plant, workplaces, as well as chemical, physical, and biological agents;

risk evaluation and the preparation of the attendant prevention and protection measures;

organisational activity, such as emergencies, first aid, periodic safety meetings, consultation with the workers’ representatives for safety;

health supervision activities;

action relating to informing and training the workers;

monitoring and checking on the compliance by workers with work-safety procedures and instructions;

acquiring documentation and certificates that are compulsory in law;

periodic reviews of the application and efficacy of the procedures adopted.

The persons traditionally designated as responsible for duties regarding workplace safety and health are

the employers, as identified in the definition in point b), article 2, of Legislative Decree 81/2008 (corresponding, in the case of Fondazione Novae Terrae, with the person of the General Manager). In addition, there are those persons that are officially designated to comply with standards on health and safety at work under provisions dealing with specific cases.

Identification of Areas at risk of criminal offences that breach the provisions for the protection of health and safety at work

The Fondazione must keep a careful watch over the areas judged most directly at risk regarding the offences and criminal conduct described in the previous paragraph. Those areas are:

- the appointment of the person charged with responsibility for the Prevention and Protection Unit and the responsible Medical Officer;
- carrying out of risk evaluation;
- the drafting of the risk evaluation document and its periodic updating;
- the installation of the plant, apparatus, and/or signalling instrumentation for preventing disasters and/or accidents at work;
- making available apparatus and other instruments for extinguishing fires or for lifesaving or rescue in the event of a disaster or an accident at work;
- the provision of the training / information to employees under the provisions in force.

Any additions to the above areas at risk may be made – and this may be at the initiative of the Surveillance Committee – by the Management Board of Fondazione Novae Terrae, which is authorised to analyse the control system in place and to identify operational measures that may be required.

Risk evaluation and preventive measures in relation to the protection of health and safety at work

At the start of 2015 Fondazione Novae Terrae appointed a specialist company charged with ensuring compliance with all the main requirements concerning the protection of health and safety at work and with conducting an evaluation of the risks for the health and safety of the workers in accordance with existing legislation.

Following completion of the detailed analysis of the risks pertaining to the legislation on accident prevention and protecting health at work, the Risk Evaluation Document shall be drafted/updated in accordance with article 28 of Legislative Decree 81/2008 (and must be immediately re-drafted if there are significant changes to work organization for the purposes of workers' health and safety).

The Risk Evaluation Document adopted by Fondazione Novae Terrae and future amendments and supplements to it shall form an integral part of this compliance program.

Guidelines for establishing the risk evaluation process

The process of making a detailed analysis of the risks must direct its focus at every work environment or workplace of the Fondazione and, operationally, shall proceed as follows:

- Identification of risk factors;
- Identification of the workers exposed to the risks;
- estimate of the degree of exposure.

The detailed analysis of the risks must be undertaken through a rigorous examination of the work cycle housed in the work environment and a distinction shall be made between risks to workers' safety, risks to workers' health, and risks arising out of organisational and operational factors.

Guidelines for establishing the process to monitor implementation of the preventive arrangements described in the Risk Evaluation Document

In conformity with article 35 of Legislative Decree 81/2008, the employer, directly or through the person charged with responsibility for the Prevention and Protection Unit shall, once a year at least, call a meeting to be attended by the following:

- the employer or their representative;
- the person charged with responsibility for the risk Prevention and Protection Unit ;
- the medical officer responsible (where their appointment is provided for);
- the workers' safety representative.

During the meeting, which shall be minuted, an examination shall be made of the Risk Assessment Document, of the prevention and protection measures, and of the program of information and training for the personnel.

Maintaining the current relevance of the Risk Evaluation Document

The Risk Evaluation Document must be kept constantly up to date and in line with the existing legal provisions regarding accident prevention and the protection of safety and health at work.

Equally, and alongside the above, whenever changes or alterations are made to the “production” or work process or also to work stations, and to work tasks, or when there are significant structural works, the Fondazione, and on its behalf the General Manager, shall make every effort to ensure there is a prompt detailed analysis of the risks attendant on the changes, alterations, and/or structural works undertaken, with a consequent re-drafting of the Risk Evaluation Document to maintain its current relevance.

General Principles of conduct relating to the protection of health and safety at work

With respect to the legal provisions on accident prevention and the protection of health and safety at work, all of the addressees of the compliance program and, in particular, all of the senior managers shall have a duty to:

- refrain from conduct such as amounts to the offences to which this special section of the compliance program relates;

- refrain from conduct such that, while in itself not amounting to any of the offences referred to here, might nevertheless potentially lead to such criminal action;

- refrain from conduct that might in one way or another, or for whatever reason, reduce the efficacy of the safeguards adopted by the Fondazione and/or required in law or by in-house rules in order to protect safety and health at work;

- conduct themselves in a proper and transparent manner, ensuring full compliance with the laws and regulations and also with in-house procedures, in carrying out all activities for giving effect to all the measures planned to bring safety and health up to the required level;

- scrupulously adhere to all the rules laid down in law for protecting wellbeing and health in the workplace;

- devise or adopt procedures for evaluating risks and updating them, or for appointing persons/entities with that responsibility, other than those described below;

- ensure that the procedures described in the previous point as well as all the measures provided for in the Risk Evaluation Document are duly functioning, so guaranteeing and facilitating all forms of internal monitoring of their operation as required in law.

At the same time the workers, as provided in the regulations, must:

- play their part in fulfilling the obligations imposed to protect health and safety at work;

- comply with the provisions and instructions issued for general or individual protection;

- make proper use of the work equipment and the safety devices;

- immediately report defects in equipment and devices;

- not remove or modify safety, signalling, or control devices without authorisation;

- not perform on their own initiative manoeuvres or operations that are not within their remit or that can compromise their own safety or that of other workers.

Guidelines for monitoring the implementation of health and safety protection at work

The Surveillance Committee shall conduct monitoring to ensure that the legal provisions on safety and health at work, such as they apply to the activity that Fondazione Novae Terrae performs, are implemented properly, constantly, and efficaciously.

If necessary, it checks periodically that the senior management and/or the other persons who have a duty in this regard have indeed fulfilled the obligations imposed by the rules on accident prevention and on health and safety at work.

In particular, the Surveillance Committee checks that the employer has indeed discharged the duties it has in law regarding organizing the prevention of accidents at work and of occupational disease.

Accordingly, in this connection, the Surveillance Committee makes sure that Fondazione Novae Terrae in the person of the employer (or, where the law so permits, a person delegated by the latter):

- has drafted and adopted the Risk Evaluation Document as required under point a), paragraph 1, article 17 of Legislative Decree no. 81/2008;

- has undertaken periodic updating of the Risk Evaluation Document;

- has appointed the person charged with responsibility for the Prevention and Protection Unit as well as the other staff as in point b), paragraph 1, article 17 of Legislative Decree no. 81/2008;

- has, in performing the tasks of health supervision, appointed the responsible medical officer (where necessary);

- has called, at least once yearly and when there are significant changes in risk exposure conditions, the periodic meeting on risk prevention and protection;

- has designated before the event those workers charged with implementing the measures for fire prevention and for firefighting, for evacuating the workers in case of serious and immediate danger, for lifesaving, for first aid, and for handling emergencies;

- has been keeping the logbook of accidents at work;

- has fulfilled the obligation to train workers where they have been taken into employment, of

transferring or changing their work tasks, of bringing in new work equipment or new technologies.

In addition, the Surveillance Committee, periodically monitors the organisation of safety and health at work as well as the efficacy of prevention measures that have been necessitated by specific situations and actually been implemented in fulfilling the work activity.

For this purpose it shall hold meetings, to be called annually, and which can be conducted separately, with the General Manager, with the person charged with responsibility for the Prevention and Protection Unit, and with the Workers' Safety Representative.

* *

C. Offences relating to the employment of non-EU citizens unlawfully staying in the country

Legislative Decree no. 109 of 16th July 2012 added article 25 *duodecies* to Legislative Decree 231/2001. That article concerns the employment of foreign workers without a residence permit or whose permit has expired, been revoked, or annulled, in the aggravated cases referred to in paragraph 12 bis, article 22 of Legislative Decree 286/1998 (Consolidated Law on immigration).

Importance in relation to the Fondazione Novae Terrae Compliance Program

As things stand, Fondazione Novae Terrae does not employ non-EU citizens, nor has it ever given employment to foreigners without a residence permit or whose residence permit has expired. Notwithstanding, its function as an employer - and accordingly, that of the General Manager - in selecting and managing personnel might conceivably be identified as business administration areas where there is a risk of the offence in question being committed. If the Fondazione decides in the future to employ foreigners from non-member States, the following safeguards are to be adopted:

- submission of an application to the "all-purpose" immigration office (Sportello Unico Immigrazione - SUI) for clearance to give employment to a foreign worker resident abroad;

- where a foreigner already resident in Italy is taken into employment, checking that they have a valid residence permit;

- fulfilment of obligations to give notice that such a worker has been given employment;

- requesting that workers be timely in submitting their application to renew their residence permit.

D. Offences committed for the purposes of terrorism and the subversion of the democratic order

Importance in relation to the Fondazione Novae Terrae Compliance Program

The offences of action and of support for terrorist purposes in connection with the Fondazione is unimaginable. Just conceivably, however, a case might be made for the offences of direct or indirect financing by making available funds through unlawfully setting aside money (article 270 bis of the Italian Criminal Code: associations committed to terrorism, including international terrorism, or to the subversion of the democratic order).

Consequently, since in principle there are no grounds for ruling out the commission of the financing offence in question, that offence arguably assumes importance for the Fondazione Novae Terrae compliance program.

Identifying the Areas at risk in connection with the commission of terrorist offences

Regarding the commission of the offence in question, on completion of the examination referred to in the paragraph above and having regard to how Fondazione Novae Terrae effectively operates, the following activities are identified as being exposed to the risk of the offence in question:

- the creation of unjustified funds for directly or indirectly financing associations intent on acts of violence with terrorist ends or the subversion of the democratic order (examples of unjustified funds are economic resources obtained through advisory services, donations, or false invoicing).

Measures to prevent the commission of terrorist offences.

Fondazione Novae Terrae undertakes that:

- It shall not promote, set up, organise, or manage associations pursuing terrorist ends or the subversion of the democratic order;

- It shall have no involvement in the above associations;

- It shall not finance any action by one or more natural or legal persons, in association or otherwise,

directed at carrying out a terrorist act.

Regarding the above points, the Fondazione, to avoid creating unjustified funds shall also adopt formal procedures for the payment of services, including clauses under which payments shall be made exclusively into accounts in the name of the counterparty in the contract in line with the international standards on combatting terrorism.

* *

E. Offences against the person

importance in relation to the Compliance Program

For Fondazione Novae Terrae to incur administrative liability under Legislative Decree 231/2001 it is a requisite that the above crimes be committed in the interest of or to the advantage of the Fondazione.

Regarding the types of offence under articles 600 bis, 600 ter, 600 quater, paragraph 1, and 600 *quinques* of the Italian Criminal Code it does not appear possible that they can be committed in the interest or to the advantage of Fondazione Novae Terrae.

Where such offences are committed by senior management or by their subordinates, they can only have acted solely in their own interest or that of third parties. For this reason the Fondazione takes the view that such offences do not have importance with regard to this compliance program.

By contrast, in relation to the slavery-related offences under articles 600, 601, and 602, the conduct that might conceivably be important in their connection is the unlawful procurement of labour through trafficking in immigrants and the slave trade. It is also noted that alleged offences of this type do not involve solely the person to which the conduct is directly attributable but extend also to anyone that, wittingly, facilitates, even just financially, that conduct (for example, such conduct on the part of a supplier).

Seen in these terms, the Fondazione might – obviously, purely for argument's sake – obtain an advantage or secure the protection of its interests as a result of the offences in question. Consequently, Fondazione Novae Terrae sees the offences under articles 600, 601, and 602 as important in relation to this compliance program (though, in practical terms, with a very low risk).

Identifying the areas at risk

Regarding the commission of the offence in question, following the appraisal in the previous paragraph and taking account of operations such as they are at Fondazione Novae Terrae, the following activities are identified as at risk from commission of the offence:

- taking on and managing personnel;
- dealings with suppliers.

Measures to prevent offences against the person being committed

The Foundation undertakes to give effect to the following measures:

- implementing employment law, with particular emphasis on underage labour, in relation to safety and health at work and, finally, regarding trade union rights or, in any case, workers' rights of association and representation;

- avoiding action that might in any way amount to, or be associated with, conduct that exploits the labour of socially disadvantaged persons;

- including in its Ethics Code principles in support of protecting the physical and mental wellbeing of its employees, as well as of working conditions compatible with their personal dignity;

- including in the general conditions of contract with its partners supplementary clauses that place a duty on them to respect individual rights, in particular in connection with underage labour, health, safety, and trade union representation.

To prevent the offence in question, the following safeguards are also instituted:

- Ethics Code;
- the introduction of information systems that prevent access to and reception of child pornography.

* *

F. Inducing others not to make statements or to make false statements to the judicial authorities

Law 116 of 3rd August 2009 added article 25 *nonies* to Legislative Decree 231 (it escaped the legislator that an identically numbered article had already been included in the Decree as an effect of point c), paragraph 7, article 15 of Law 99 of 23.7.2009) relating to the offence of "inducement not to make

statements or to make false statement to the judicial authorities”.

Importance in relation to the Compliance Program

Provision for criminal liability on the part of entities for this offence had already been made through the inclusion of transnational crimes. In view of the peculiar characteristics of the crime in question, the Fondazione cannot, *a priori*, rule out its importance (in this case, too, however, the risk appears decidedly low).

Areas at risk and measures to prevent the offence being committed

The offence, reduced to its core elements, could easily arise in any of the areas of activity of Fondazione Novae Terrae. Anyone can find themselves in a situation where they have to conduct dealings with an in-house/external person/entity directly or indirectly involved in legal proceedings.

To ensure that Fondazione Novae Terrae is forewarned of, and can monitor, the prospective involvement in legal proceedings of a person/entity that it has dealings with, an organizational function needs to be designated which, assisted by the Surveillance Committee, should receive all such information.

* *

G. Receiving stolen goods, money laundering, and using funds, assets, or benefits of unlawful origin

Article 25 *octies* of Legislative Decree 231/2001 (introduced by article 63 of Legislative Decree 231 of 21st November 2007) lays down that entities shall be punishable with a fine of between 200 and 300 *quotas* for the offences in the following articles of the Italian Criminal Code: 648 (receiving stolen goods), 648 bis (money laundering), 648 ter (using funds, assets, or benefits of unlawful origin), and 648 ter 1 (self-laundering, added to the offences attracting administrative liability by paragraph 5, article 3 of Law no. 186 of 15th December 2014). Where, instead, the assets or the other benefits are the fruits of a crime attracting a maximum sentence of more than five years, the fine applied shall be between 400 and 1000 shares.

Accordingly, article 25 *octies* widens the scope of Legislative Decree 231/2001, extending it to the offences of receiving stolen goods, money laundering, and using funds, assets, or benefits of unlawful origin, where these offence are for the most part committed on “national” territory.

It is stressed that these criminal offences had already been included among those attracting administrative liability for entities by Law no. 146 of 16th March 2006 whenever they featured elements of a transnational nature.

The above provision was then repealed by point f) paragraph 1, article 64 of Legislative Decree 231/2007.

Risk evaluation and preventive measures regarding receiving stolen goods, money laundering, and using funds, assets, or benefits of unlawful origin

Given the actual practice and circumstances of Fondazione Novae Terrae, the following activities are seen as at risk in relation to the possible offences under article 25 *octies* of Legislative Decree 231/2001:

- contracts for services with counterparties;
- financial transactions with counterparties;
- any investments with counterparties;
- loans and contributions received;
- handling of contracts for outside work and professional services;
- handling of procurement of goods and services;
- handling of financing and cash flow;
- invoicing;
- handling of the organisation’s assets;
- any sponsoring.

Measures for preventing the offences from being committed

The persons in charge of the various relevant areas of Fondazione Novae Terrae, including also the Surveillance Committee, must, on the basis of significant indicators, conduct timely checks on the commercial and professional soundness of its suppliers, its commercial/financial partners, and the companies with which contracts are made for the supply of services:

- a knowledge of, or the capacity to discover, adverse public notices (for example: protests, collective creditor insolvency proceedings);
- acquisition of commercial information on the company, its members, and its directors through specialist companies;
- prices that are out of line with average market values;

A check for irregularity must be conducted on payments made as well as on both loans and contributions received to ensure there is a complete match between persons receiving/making the money transfers and counterparties effectively involved in the transactions.

Financial flows must be subject to formal and substantive checks, especially with regard to payments to third parties.

Pointers that are useful when making such checks include:

- the registered office of the company;
- the premises of the banks;
- the presence of any dummy corporation;
- the presence of any trust arrangements used for extraordinary transactions or operations.

Payments, when made in cash, must be subject to precise thresholds (in compliance with existing legislation), and liquidity must be handled using bearer or anonymous passbooks. Fondazione Novae Terrae must also designate an in-house person/body responsible for contract performance and management, and list their tasks, roles, and responsibilities.

The following safeguards are also created:

- Ethics Code
- disciplinary procedures;
- procurement system;
- dealing with outside workers;
- management arrangements of accounting and financial-statement procedures.

* *

H. Organised crime offences

Paragraph 29, article 2 of Law no. 94 of 15th July 2009, "Provisions relating to security", extended Legislative Decree 231/2001 to include article 24 ter, "organised crime offences".

Importance in relation to the Fondazione Novae Terrae compliance program

For Fondazione Novae Terrae to incur liability under Legislative Decree 231/2001 the above offences have to be committed in the interest of or to the advantage of the Fondazione.

It seems clear, therefore, that there are offences that plainly have no relevance: mafia-type exchange of electoral votes, kidnapping for the purposes of robbery or extortion, criminal association for the purposes of illegal traffic in narcotic or psychotropic substances.

As regards the other such offences, no present risk can be identified and there are no past occurrences involving the Fondazione. Nevertheless, because the relevance of such offences cannot, *a priori*, be ruled out, the areas at risk are identified together with action aimed at preventing them being committed.

Identifying activities where there is a risk of organised crime offences

The activities judged to be at risk in relation to those organised crime offences listed above and seen as relevant in the risk analysis carried out for the purposes of this compliance program are as follows:

- purchase and/or sales contracts;
- financial transactions;
- investment dealings with parties to contracts with the Fondazione (including potential ones).

Measures for preventing the offences

The following measures are judged necessary:

- where possible, a preference for persons/bodies that have instituted a compliance programme under Legislative Decree 231/2001;
- checks on parties to contracts with the Fondazione through publically available company documentation;

written application, to parties to contracts with the Fondazione, for consent to special clauses subscribing to the principles in Legislative Decree 231/2001.

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I. IT offences and illegal use of data

Following Law no. 48 of 18th March 2008 (ratifying and implementing the Council of Europe Convention on Cybercrime, agreed in Budapest on 23rd November 2001, and rules aligning Italian law to it), Legislative Decree 231/2001 was amended to include article 24 bis, "IT offences and unlawful processing of data".

Importance in relation to the Fondazione Novae Terrae Compliance Program

That the IT crimes above may be important to the Fondazione Novae Terrae compliance program cannot be ruled out *a priori*, even though in practical terms the risk of such offences being committed is low. However that may be, the following activities are thought to be at risk in this connection:

- accessing the IT system;
- authorizing and profiling of users;
- the input, handling, and updating of data.

Measures for preventing the offences

Access to the IT network must be through the use of a double asymmetric key, made up of a public part (the so-called *user ID*) and a private part (the so-called *password*), that enables the operator to access the network solely to the extent of their needs and authority.

Every operator authorised to access the network is assigned a *user ID* and a personal *password* that the operator undertakes not to reveal to third persons. In addition, the employees and the members of the management bodies are barred from:

- in any way altering the functioning of an IT/computer-networking system, or taking action, without having the right and in any way, that affects the data/information/programmes held in an IT/computer-networking system;

- using the *user ID* or *password* of another operator;

- accessing an IT/computer-networking system without the authorization of the Fondazione.

In addition, the following safeguards for preventing IT offences are provided:

- Ethics Code;
- compliance with the legislation on privacy.

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L. Offences against the environment

Importance in relation to the Fondazione Novae Terrae Compliance Program

The relevant legislation lists a series threats of a general nature taken as a basis for criminalizing conduct that obstructs checks required by public agencies on the proper performance of activities that potentially pollute, regardless of whether there is harm to the environment or otherwise.

Though Fondazione Novae Terrae undertakes no type of waste handling in the capacity of a producer of waste, it might be held to account for complicity where the offence in question is committed by a third party that has responsibility for handling waste products.

Fondazione Novae Terrae does not carry out any kind of production or industrial activity and in fact produces only office waste (for example, paper or printer toner), and entrusts third parties with the collection and handling of the waste produced.

This being the position, the offence in question could, accordingly, occur if Fondazione Novae Terrae knew of the unlawful nature of waste handling undertaken by a third party to which it was outsourced.

Measures for preventing the offences

To the extent that it contracts for services and supplies for the collection and transport of the waste it produces, as well as for any storage and processing services, Fondazione Novae Terrae shall take care to make a close prior appraisal of the commercial and professional reliability of the undertakings it

approaches.

Fondazione Novae Terrae shall likewise check that persons/entities to which it outsources such activities submit evidence that:

their entry in the register of environmental operators (*Albo Gestori Ambientali*) lists them in the class for Collection and transport of special non-hazardous waste;

5 Article 210 was repealed by Legislative Decree 205/2010????.

they have, where waste treatment is outsourced to them, the integrated Environmental Authorization.

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M. Corporate offences

Importance in relation to the Fondazione Novae Terrae Compliance Program

As a general point, the corporate offences, as above, do not in themselves bear any relation to the activity of the Fondazione. The fact is, corporate offences normally presuppose a corporate structure: article 11 of Law no. 366 of 3rd October 2001 and article 3 of Legislative Decree no. 61 of 11 April 2002 refer to “commercial companies” or to “companies”. Moreover, a condition for at least some of the crimes in question, is the existence of a number of organizational features typical of a corporate structure (members of the company, the Meeting of the members, etc.), which do not exist in a type of entity like the Fondazione). Lastly, rules of a punitive nature are not applicable by analogy or by extension (article 14, preliminary provisions to the Civil Code). This invites the conclusion that article 25ter of Legislative Decree 231/2001 is not operative with regard to Entities, given that the provisions expressly relate to companies. Nonetheless, the possibility of being charged with corporate offences cannot be fully ruled out.

Likewise, the severity of the relevant rules in the Italian Civil Code concerning private legal persons (Entities and Associations) has given rise to an increasingly settled line in case law favouring the view that a number of rules, though formally relating to company affairs, are in reality general principles applicable to all legal persons, evidently where similar substantive preconditions exist. In addition, there are some instances where provisions take from corporate criminal law make express reference not just to companies, but also to “Entities” (for example: article 2638 of the Civil Code concerning supervision and control).

Given this type of approach regarding other criminal offences in article 25 ter, some risk is conceivable in connection with just the following offences, although in the presence of certain preconditions and only to a limited extent:

- false corporate reporting to the detriment of the creditors (article 2622 of the Civil Code);
- fraudulent information in prospectuses (article 2623, now repealed through Law 262/05);
- obstructing internal controls (article 2625 of the Civil Code);
- transactions to the detriment of creditors (article 2629 of the Civil Code);
- obstructing supervision (article 2638 of the Civil Code);
- obstructing public authorities in the exercise of their supervisory functions.

Given the analysis in the point above, it is stressed that the Entity has only a marginal exposure to risk and only in relation to the possible offences above.

The action to be taken includes, firstly, a duty to scrupulously adhere to the rules stated in the general part of this document.

In addition, regarding especially statements released to third parties on the financial situation and earnings of the Entity, there is a clear duty on the governance bodies of the Entity, its managers, its employees, and those working with it as non-employee personnel:

- to act in proper compliance with the statutory provisions and in-house procedures on drafting the financial

statements, on preparing the budgets, and in any notification given to third parties, providing in all circumstances true and correct information on the asset position, earnings, and financial situation of the Entity;

- to issue the notifications required in law and by in-house rules, or required in contractual dealings, and ensure their timeliness and truth;

- to provide external and in-house supervisory bodies with true and certain data, and in so doing to avoid giving them to understand in any way information that is untrue or incomplete or, in any case, not consistent with the facts;

- to avoid any action or initiative as may obstruct the functions of the supervisory, controlling, or decision-making bodies or that create obstacles to the acquisition of necessary data by Public Authorities, including when they perform legally allowed inspections.

- to avoid seeking any benefit for employees of the Entity when dealing with all those who are entitled to draw on the work and services of the Entity;

Importance for the Fondazione Novae Terrae Compliance Program

It follows, therefore, that in theory the offence in question is conceivable (though the actual risk is undeniably low) even in the case of those working for Fondazione Novae Terrae. An activity that appears notably exposed is the selection and approval of suppliers, which must be based on objective criteria of valuation made by those that are duly authorised and following vetting as to the required professional capacity, technical reliability, and good name.

As also provided in the Ethics Code, the Foundation rigorously observes the principles below.

Dealings with suppliers are conducted with uprightness, propriety, and professionalism, and so as to encourage ongoing relationships as well as sound and lasting trust.

The selection of suppliers and the choice of the conditions for purchasing goods and services are made on the basis of an objective and impartial appraisal, determined by the price and the guarantees provided. In dealing with our suppliers the following principles are adhered to:

- no sort of “reciprocity” with suppliers is admissible: the goods/services sought by the Fondazione are selected and acquired solely on the basis of their value in terms of price and quality;
- any negotiations with a supplier, current or potential, must regard exclusively the goods and the services that are the object of negotiation with the supplier.

For the purpose of preventing the criminal offence in question the following safeguards are in place:

Ethics Code;

Organizational structure (delegation of authority, powers and functions);

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CRIMINAL OFFENCES NOT OF IMPORTANCE FOR THE Fondazione Novae Terrae COMPLIANCE PROGRAM

OFFENCES AGAINST INDUSTRY AND TRADE

Abuse of privileged information and market manipulation

Offences involving forgery of money, of public credit instruments, of revenue stamps, and of means and markings for distinguishing

Offences against industry and trade

Transnational criminal offences, Law no. 146 of 2006

Law no. 146 of 16th March 2006: "Ratification and execution of the Convention and Protocols of the United Nations against transnational organized crime, adopted by the General Assembly on 15th November 2000 and on 31st May 2001", introduced administrative responsibility for entities in the case where transnational crimes are committed.

For Fondazione Novae Terrae to incur liability under the terms of Legislative Decree 231/2001 the above offences have to be committed in the interest or to the advantage of the Fondazione..

It does not appear possible that the offences of criminal conspiracy for the purposes of contraband in foreign-processed tobacco or for the purposes of illegally trafficking in narcotic and psychotropic substances can be committed in the interest or to the advantage of Fondazione Novae Terrae.

Where such offences are committed by senior management or by subordinates, said personnel can only have acted solely in their own interest or that of third parties. Accordingly, the Fondazione judges that such offences are not important with respect to this compliance program.

OFFENCES AGAINST THE ENVIRONMENT

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Conclusion – general remarks

It is noted in conclusion that in compliance with the aims of Legislative Decree 231/2001 and given the size of Fondazione Novae Terrae and the type of activity it undertakes, in each of the areas and the activities at risk, as identified above, the Fondazione (in the person of its legal representative, as well as of all its employees, non-employee personnel, and governance bodies) shall in its organization observe the following principles:

- the principle of separation, whereby any one process shall entail the involvement of at least two persons/bodies to enable cross verification;
- the principle of traceability, whereby for each activity at risk carried out there must be proper documentary substantiation – and in any case written reports – that is kept on file.

As part of its assigned functions, the Surveillance Committee shall be closely vigilant in ensuring that, *inter alia*, these fundamental principles are always observed and shall draw attention to any infringement of them and propose appropriate organisational remedies aimed at securing compliance.

Naturally, there will also be monitoring of the remedies proposed above in relation to each of the possible offences described above.

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