



# Penta

Child Health Research

## FONDAZIONE PENTA

*- for the treatment and care of children with HIV and related diseases - ONLUS (non-profit organization)*

### Organization, Management and Control Model

**ART. 6 LEGISLATIVE DECREE NO. 231 OF 8 JUNE 2001**  
*“REGULATION ON THE ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES”*

16/9/2019

Approved by the Board of Directors of Fondazione Penta Onlus  
 (“Foundation”)

#### **Fondazione Penta Onlus**

Torre di Ricerca Pediatrica, Corso Stati Uniti 4, 35127 Padova, Italy  
Iscrizione Registro Prefettizio Padova n.30 ex D.P.R. 10.2.2000 n.361  
C.F. 92166930286 P.Iva 04150680280  
[www.penta-id.org](http://www.penta-id.org)



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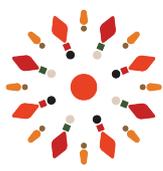
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## **Organization, Management and Control Model**

**A)**

### **GENERAL PART**



## Glossary

<b>At-risk (activity) areas</b>	The Foundation's areas of activity in which the risk of committing the Offences is more substantial.
<b>CCNL</b>	National collective bargaining agreement.
<b>Code of Ethics</b>	The Code of Ethics adopted by the Foundation.
<b>Contractors</b>	Those people who act in the name and/or on behalf of the Foundation under a mandate or other contractual commitment.
<b>Decree</b>	Legislative Decree 231/01, as amended and supplemented.
<b>Recipients</b>	All the recipients of the Model and, more specifically, Directors, Employees, Contractors, Suppliers and Partners.
<b>Employees</b>	All the workers employed by the Foundation.
<b>Entities</b>	Firms, associations, consortia, etc. that are relevant for the purposes of the Decree.
<b>Fondazione Penta Onlus ("Foundation")</b>	Fondazione Penta Onlus (non-profit organization) with registered office in Corso Stati Uniti 4, Padova (PD), Italy, tax identification number 92166930286.
<b>Suppliers</b>	All persons, whether individuals or legal entities, from whom/which the Foundation receives any kind of service.
<b>Function/Area</b>	The Foundation's organizational structure.
<b>Disciplinary offence</b>	Conduct by an Employee that violates the rules of conduct laid down by the Organizational Model.
<b>Notices</b>	Communications to the Supervisory Body listed in Chapter 3, section 3.10 of the Model.



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<b>Guidelines</b>	The Guidelines for the construction of organization, management and control models laid down by the Decree and approved by Confindustria in the latest current version.
<b>(Organizational) Model</b>	The organization and management model adopted by the Foundation pursuant to and for the purposes of Art. 6 of the Decree.
<b>Corporate Bodies</b>	The Foundation's Board of Directors, the Scientific Committee and the Board of Statutory Auditors.
<b>Supervisory Body or Body</b>	The Supervisory Body appointed pursuant to the Decree.
<b>Partner(s)</b>	The Foundation's commercial or operational partners who are contractually bound to the Foundation and who have a role in projects and operations.
<b>Chairman</b>	Chairman of the Board of Directors and the Foundation's legal representative.
<b>Whistleblowing Procedure</b>	The Procedure adopted under Art. 6, para. 2- <i>bis</i> , 2- <i>ter</i> and 2- <i>quater</i> , of Legislative Decree 231/2001 and contained in Chapter 4 of the Model.
<b>Public Administration (or PA)</b>	Any Public Administration, including representatives in their capacity as Public Officials or Public Servants, whether de facto or otherwise, as well as the members of the Bodies of the European Communities and Functionaries of the European Communities and of Foreign States.
<b>Sensitive Processes</b>	Internal processes that may lead to the commission of the offences referred to in the Decree.
<b>Offences or Offence</b>	The offences referred to in the Decree.
<b>Whistleblowing Reports</b>	Reports of unlawful conduct that are relevant for the purposes of the Decree and violations of the Model as defined in Chapter 4, section 4.1 of the same Model.



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<b>Secretary General</b>	Persons elected by the Board of Directors as being responsible for keeping the accounts and performing other tasks to support the work of the Chairman (pursuant to Art. 12 of the Foundation's Articles of Association).
<b>Persons in senior positions</b>	Persons who carry out representative, administrative or managerial functions within the Foundation as well as persons who, de facto or otherwise, exert management and control over the Foundation.
<b>Persons in subordinate positions</b>	Persons subject to the direction or supervision of a person or persons in a senior position.
<b>Standard Operating Procedures (SOPs)</b>	Procedure(s) adopted by the Foundation.



## Preamble

### 1. Preamble

Fondazione PENTA - *for the treatment and care of children with HIV (and related diseases)* - ONLUS is a non-profit organization for social utility pursuant to Legislative Decree no. 460 of 4 December 1997 founded in 2004 by the sole founder “*Comitato Assistenza e Ricerca AIDS Pediatrico*” - ONLUS (AIDS Pediatric Assistance and Research Committee - non-profit organization, “C.A.R.A.P. ONLUS”).

The Foundation pursues only purposes of social solidarity towards people who are disadvantaged because they are carriers or potential carriers of HIV/AIDS or other diseases associated with poverty (malaria, TB, etc.) and all paediatric pathologies, developing the related biomedical research.

In particular, the Foundation performs its activities in the following sectors:

- a) social and social-health assistance;
- b) healthcare;
- c) scientific research of particular social interest;
- d) training.

The Foundation aims to be a coordination hub for various entities, at national and international level, dedicated to the health of children. In particular, in the sectors in which it operates, the Foundation acts: (i) in its capacity as promoter and funder of clinical studies; (ii) in its capacity as coordinator of national and international research projects; and (iii) in its capacity as a hub for the collection, study, research and dissemination of documentation regarding assistance in the field of Aids and related diseases.

More specifically, to achieve its purposes, the Foundation:

- arranges **research programmes** at national and international level and coordinates **clinical trials** of medicinal products (according to the “Good Clinical Practice” rules, Ministerial Decree no. 162 of 15 July 1997 and the Ministry of Health Circular no. 15 of 5 October 2000);
- **studies and enhances** converging social-welfare aspects, also promoting dialogue between medicine and converging social-welfare needs, involving academic bodies, cultural institutions, local authorities and other public and private institutions, both Italian or foreign;
- makes its own cultural heritage available and **promotes seminars and meetings** between academics to facilitate exchange on ethical, social and welfare issues and, in general, on all



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other issues concerning research and care in the area of Aids and related diseases and all paediatric pathologies;

- establishes **grants and scholarships** within the scope of its sector of research.

The Foundation also performs ancillary and instrumental activities (so-called “related” activities) in order to achieve its purposes and promote progress and scientific research in Aids and related diseases.

The Foundation is aware of the importance of adopting an Organization and Management Model pursuant to Legislative Decree 231 that is suitable for preventing unlawful conduct and has decided to prepare this Organizational Model in the belief that it represents, inter alia, a tool for improving its organizational structure as well as an opportunity to raise awareness among the Foundation’s staff, through process control, of the need to prevent and/or impede the commission of Offences and to adopt correct and transparent conduct.

Although the adoption of the Model does not constitute an obligation imposed by the Decree but rather a voluntary choice on the part of each individual entity, for the reasons mentioned above the Foundation has decided to adapt to the provisions of the Decree. This document therefore constitutes the Organization and Management Model – drafted in implementation of Art. 6, para. 1, letters (a) and (b) and para. 2, Art. 7, para. 2 and 3 of the Decree – of Fondazione Penta - for the treatment and care of children with HIV (and related diseases) - ONLUS (non-profit organization).



## 2. Structure of the Model

The Organizational Model is divided into the following parts:

Part letter	Title	Contents	Annexes
<b>A</b>	<b>General Part</b>	1. The criminal liability of entities	Annex 1: Types of Offences
		2. The Organizational Model of Fondazione Penta - for the treatment and care of children with HIV (and related diseases) - ONLUS (non-profit organization)	Annex 2: Areas at Risk of Offences
		3. The Supervisory Body	
		4. Whistleblowing Procedure	Annex 3: Whistleblowing Report Template;  Annex 4: Confidentiality Undertaking
		5. Dissemination of the Organizational Model	
		6. Code of Ethics (reference)	
		7. Disciplinary System	
		8. Accompanying documentation	



Part letter	Title	Contents	Annexes
<b>B</b>	<b>Code of Ethics</b>		
<b>C</b>	<b>Special Part</b>	Introduction	Annex 5: Contractual Clause
		Offences against the Public Administration or Judicial Authority	Annex 6: Information form
		Corporate and corruption offences in the private sector	
		Computer crimes and unlawful data processing	
		Offences regarding money laundering, utilization of money, goods or benefits deriving from illegal activity and self laundering	
		Offences regarding Health and Safety at work	



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## **Chapter 1**

### **The criminal liability of entities**



## 1.1 Legislative Decree no. 231/2001 and subsequent addenda

With Law no. 300 of 29 September 2000, Italy ratified the OECD Convention signed in Paris on 17 December 1997<sup>1</sup>, the EU Convention signed in Brussels on 26 July 1995<sup>2</sup> and the EU Convention signed in Brussels on 26 May 1997<sup>3</sup>, delegating to the Government the preparation of legislation regulating corporate liability, which had not been recognized in our legal system previously, since only an individual could be the active participant in an offence.<sup>4</sup>

The Decree, containing the “*rules on the administrative liability of legal entities, companies and associations including those without legal personality, as provided for by Art. 11 of Law no. 300 of 29 September 2000*”, is the implementation of the commitments undertaken by Italy at community and international level in the fight against corruption. It introduced into our legal system the liability of Entities in the case of administrative offences resulting from a crime committed by persons that represent an Entity or who, in any case, perform certain duties within that Entity.

With the Decree, the Government has laid down the general principles and criteria for attributing administrative liability to Legal Entities as well as the penalties and related procedure for investigating the crimes and applying the penalties.

## 1.2 The liability of the entity and the persons whose conduct are considered relevant

The administrative liability of the Entity is autonomous but is the direct consequence of conduct that falls within an offence committed by an individual. In particular, according to the Decree, **only conduct considered “to the advantage or in the interests” of the entity**, is unlawful and, therefore, has criminal relevance, regardless of the fact whether it actually achieved a benefit or not. Therefore, the Entity is not liable if the perpetrators of the offence acted in their own interests or in those of third parties.

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<sup>1</sup> OECD Convention signed in Paris on 17 December 1997 on combating bribery of foreign public officials in international business transactions.

<sup>2</sup> EU Convention signed in Brussels on 26 July 1995 regarding the protection of European Communities’ financial interests and its protocols.

<sup>3</sup> EU Convention signed in Brussels on 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States.

<sup>4</sup> Inasmuch as there was, based on the principle enshrined in Art. 27 of the Constitution (according to which criminal liability is personal), a barrier to the extension of liability to entities, even if they had legal personality.



In particular, the Entity is liable for Offences committed in its interest or to its advantage by:

- **persons in senior positions:** individuals who carry out representative, administrative or managerial functions within the Entity or within one of its organizational units with financial and functional independence, as well as persons who, de facto or otherwise, exert management and control over the Entity itself. Therefore, the formula includes all persons who perform management and control functions for the entity (e.g. directors, managers), whether de facto or otherwise.
- **persons in subordinate positions:** individuals who are subject to the direction or supervision of one of the persons in a senior position (e.g. employees or contractors).

In addition to the Entity's liability, the individual who actually perpetrates the conduct resulting in an Offence has criminal liability.

### 1.3 Types of Offences

The types of Offences – based on the Decree – that could entail administrative liability on the part of the Entity are only those expressly listed by the Legislator and can be found in **Annex 1** to this Model, to which reference is made.

### 1.4 Penalties

The penalties applicable to the Entity in the event of the commission or attempted commission, in its interest or to its benefit, of one or the Offences, are:

PENALTY	DESCRIPTION
<b>Financial penalties</b>	The Entity is liable with its own assets. Law no. 262/2005 has doubled the financial penalties for Corporate Offences punishable by the Decree.



<b>Prohibitive measures</b>	<ul style="list-style-type: none"><li>- Prohibition on conducting business;</li><li>- Suspension or revocation of authorizations, licences or concessions that are functional to the commission of the offence;</li><li>- Exclusion from incentives, grants, contributions and subsidies and/or revocation of those that may have been granted;</li><li>- Prohibition on contracting with the Public Administration (except in order to obtain a public service);</li><li>- Prohibition on advertising goods or services.</li></ul>
<b>Confiscation</b>	The conviction judgment can order the confiscation of the price or profit ensuing from the offence or of sums of money or other goods or benefits of an equivalent value, except for the part that can be returned to the damaged party and without prejudice to the rights of third parties in good faith.
<b>Publication of the Judgment</b>	Publication of the Judgment can be ordered when a prohibitive measure is applied.

## 1.5 Prohibitive measures for the offences referred to Art. 25 of the Decree

As a result of the amendments made to the Decree by Law no. 3 of 9 January 2019, important changes have been introduced regarding penalties in relation to the offences referred to in Art. 25 – *Offences of extortion, undue incitement to give or promise benefits and corruption*.

In particular, a different penalty has been envisaged in the case where the offence is committed by Persons in senior positions or by Persons in subordinate positions (see section 1.8). In cases of offences of extortion, undue incitement to give or promise benefits and corruption, for the prohibitive measures referred to in the previous section, the following are envisaged:

- minimum duration of 4 years and maximum of 7 in the event of conduct on the part of a Person in a senior position;
- minimum duration of 2 years and maximum of 4 in the event of conduct on the part of a Person in a subordinate position.



Moreover, so-called active repentance has been introduced for the same category of offences pursuant to Art. 25, para. 5-*bis*, of the Decree. The prohibitive measures for the crimes of extortion, undue incitement to give or promise benefits and corruption have a shorter duration (minimum duration of 3 months and maximum of 2 years), in the event that the Entity, before the lower court's decision, has endeavoured to:

- avoid further consequences of the offence;
- secure the evidence with respect to the offences and identify those responsible;
- ensure the seizure of the sums or other benefits transferred;
- eliminate organizational shortcomings that led to the offence by adopting and implementing organizational models capable of preventing offences like the one that occurred.

## **1.6 Offences committed abroad**

The liability envisaged by the Decree also applies to Offences committed abroad by a person who is functionally associated with the Entity, provided that the State in which the Offence was committed does not take action for the same Offences.

In cases where the law envisages that the offender is punished on the request of the Minister of Justice, action is taken against the Entity only if the request is also made against the Entity itself.

## **1.7 The entity's culpability and Organizational Models**

For a liability, pursuant to the Decree, to exist, the offence must be connected with the Entity on an objective level and must be an expression of the Foundation's policy or, in any case, derives from a fault in organization, understood as an organizational shortcoming that made it possible to commit the Offence. In this sense, the Entity is required to adopt behavioural models specifically calibrated to the offence risk that characterizes it and aimed at preventing the commission of Offences by drawing up rules of conduct. In order for the adoption of the Model to exempt the Entity from any liability, it must be effectively implemented. In addition to that specified in relation to the penalties envisaged for Offences of extortion, undue incitement to give or promise benefits and corruption (section 1.6), the regulation regarding exemption from liability also differs depending on whether it concerns Persons in senior positions or Persons in subordinate positions.

### **- Offence committed by Persons in senior positions:**

In the event the Offence is committed by persons in senior positions, the Entity is exempt from liability provided it can demonstrate that:



- a) it has adopted and effectively implemented, through its managing body and prior to the offence being committed, an Organization and Management Model capable of preventing the type of Offence that occurred;
- b) it has appointed an internal Supervisory Body, with independent powers of initiative and control, to oversee the functioning of and compliance with the Model and its updating;
- c) the people who committed the Offence did so by fraudulently circumventing the Model;
- d) there was no lack of oversight or insufficient oversight by the Supervisory Body (referred to in point b above).

- Offence committed by Persons in subordinate positions:

In this case, the Entity is liable if the Offence was committed because of a failure to comply with the management or oversight obligations. However, failure to comply with the management or oversight obligations does not entail liability if the Entity, prior to the Offence being committed, had adopted and effectively implemented an Organization, Management and Control Model capable of preventing the type of Offence that occurred.

With the adoption of this Model, Fondazione Penta intends to bring its organizational, management and control instruments into line with the provisions of Legislative Decree 231, and: i) prohibit conduct that could be considered an offence according to the Decree; ii) spread a corporate culture based on legality; iii) provide evidence on the existence of a transparent, effective and coherent organizational structure.

## 1.8 The Guidelines

The Decree provides that the Organization, Management and Control Models can be adopted based on the codes of conduct (e.g. Guidelines) drafted by trade associations and approved by the Minister of Justice using the procedure laid out in the Decree.

Confindustria approved the definitive text (version updated to August 2014) of its own *“Guidelines for the construction of Organization, Management and Control Models pursuant to Legislative Decree 231/2001”*, which can be summarized in the following **fundamental points**:

- **identification of the risk areas**, aimed at verifying in which area/sector of the entity’s business it is possible that the events referred to in the Decree may occur;
- **implementation of a control system** able to prevent the risks by adopting appropriate protocols.

### 1.8.1 Essential aspects of Confindustria’s Guidelines



The **most important elements of the control system** identified by Confindustria in order to reasonably prevent the Offences envisaged by the Decree from being committed are:

A) With reference to intentional offences:

- Code of Ethics;
- Organizational System;
- Manual and/or IT procedures;
- System of Delegation of Authority and Powers of Attorney;
- Control and Management Systems;
- Communication with and training of employees.

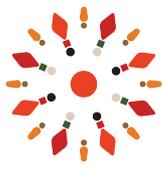
B) With reference to non-intentional offences without prejudice to that indicated with reference to types of intentional offence:

- Code of Ethics;
- Organizational Structure;
- Communication and engagement;
- Operational management;
- Security monitoring system.

The **elements of the control system** must fulfil the following **principles**:

- Each operation must be verifiable, documented, compliant and appropriate;
- Apply the principle of separation of duties (e.g. no one can manage an entire process independently);
- Documentation of the controls;
- Provision of an appropriate disciplinary system for violation of the rules contained in the Code of Ethics and in the procedures laid down by the Model;
- Identification of the requirements for the Supervisory Body, which can be summarised as:
  - a) Autonomy and Independence;
  - b) Professionalism;
  - c) Continuity of Action;
- Reporting obligations to the Supervisory Body.

It should be highlighted that any differences from specific points in Confindustria's Guidelines do not in and of themselves compromise the validity of the Model. Since the individual Model has to be drafted with regard to the Entity's **practical reality**, it can deviate from the Guidelines which, by their nature, are of a more general nature.



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## **Chapter 2**

**The Organizational Model and Fondazione Penta - for the treatment and care of children with HIV and related diseases - ONLUS (non-profit organization)**



## **2.1 Fondazione Penta - for the treatment and care of children with HIV and related diseases - ONLUS (non-profit organization)**

Fondazione Penta performs its activities through the administrative body (Board of Directors), which is responsible for the Foundation's management and administration activities, while oversight is carried out by a Board of Statutory Auditors, which also carries out the audit of the accounts (formerly "accounting control").

The administrative body has all the powers of ordinary and extraordinary administration.

The Foundation's organization charts showing its organizational and functional structure are made known to all employees of the Foundation, by publishing them on the Foundation's server.

## **2.2 The system for delegation of authority and powers of attorney**

The Foundation shall, where necessary, have a system for delegation of authority and powers of attorney in order to guarantee the efficient management of activities and prevent Offences from being committed within it.

In particular, the following shall mean:

- **delegation of authority:** an internal document attributing functions and duties (internal delegation of authority), reflected in the system of organizational communications;
- **power of attorney:** a unilateral legal document with which the Foundation assigns powers of representation to third parties. If the holders of internal functions require powers of representation to perform their duties, the Foundation confers a power of attorney on them that is consistent with the authority delegated to them.

### **2.2.1 System of delegation of authority**

The system of delegation of authority must comply with the following principles:

- those who have particularly significant relationships with third parties on behalf of the Foundation must have the delegation of authority, where necessary;
- the competencies required of those receiving delegations of authority must be clearly defined;
- the delegations of authority must:



- a. provide for spending powers, where relevant for the authorities delegated, that are appropriate for the duties;
  - b. clearly define the powers granted;
  - c. grant managerial powers to a “suitable person”, i.e. someone able to effectively carry out the duties;
  - d. grant managerial powers consistent with the responsibility and position described in the organization chart, and with the Foundation’s objectives;
  - e. be updated in line with organizational changes and be consistent with the Foundation’s organization chart;
- a control on the exercise of powers and authorities must be provided for and implemented.

The delegation of authority is described in the resolutions of the Board of Directors and in the documentation prepared by the Foundation to define each person’s competence (e.g. job description). The documentation that defines the competence of the main functions within the Foundation, as well as the managers who operate in the At-Risk Areas, is received by the persons concerned. If the holders of functions require powers of representation to perform their duties, they are granted a power of attorney that is consistent with the management powers attributed through delegation of authority.

Each Employee, at the moment of hiring or at a later time, is obliged, by signing a special declaration, to state that they are aware of the contents of the Foundation’s Code of Ethics and the Organization, Management and Control Model (and therefore the provisions of Legislative Decree No. 231 of 8 June 2001, and subsequent addenda), and undertake to engage in conduct that is in line with the applicable parts of the Code of Ethics and Organization, Management and Control Model and to engage in conduct that does not expose the Foundation to the risk of the application of penalties laid down by the Decree and by the laws referred to therein, including with regard to health and safety at work.

### **2.2.2 System of powers of attorney**

The system of powers of attorney must comply with the following principles:

- powers of attorney are granted only to “suitable” people, i.e. someone able to effectively carry out the mandate and who has the internal delegation of authority;
- powers of attorney are prepared, where necessary, by function and in compliance with the delegation of authority;
- powers of attorney clearly describe the management powers granted as well as the spending limits, where relevant for the power of attorney;
- powers of attorney can be granted to individuals or legal entities (that act through their own attorneys, vested with similar powers);



- powers of attorney must be promptly updated in the following cases: extension of responsibilities and powers, transfer to new duties that are incompatible with those for which the power of attorney was granted, resignations and dismissals.

### 2.2.3 Assessment of the system and documentation

The Supervisory Body routinely assesses, together with the other competent functions, the current system of delegation of authority and powers of attorney and the consistency of the latter with the system of organizational communications. In the event that anomalies are found, the Supervisory Body reports them to the Board of Directors along with the recommended changes it considers necessary.

The system for delegation of authority and powers of attorney is defined and formalized in a special document, which also is an integral part of the Model.

The system of powers of attorney is available to all Employees upon request, in the Administration Area.

### 2.3 Implementation and aims of the Model

The Model is based on the identification and updating of the At-risk Areas and related processes: all the processes involved are recorded in the document “*Areas at Risk of Offences*” (**Annex 2**), which will be emailed to all employees (with confirmation of receipt) and will also be available for all Employees in the Administration Area.

The central principles of the Model must be identified in the:

- definition of a clear and transparent **Organizational System**;
- definition of an **Internal Regulatory System**, aimed at planning the formulation and implementation of the Foundation’s decisions with regard to the offence risks that need to be prevented;
- attribution to the **Supervisory Body** of specific oversight duties on the effective and proper functioning of the Model, on its consistency with the objectives and its routine updating (see Chapter 3).

The Model is prepared and implemented in order to prevent and reasonably limit possible risks associated with the Foundation’s activity, with particular attention given to identifying and reducing unlawful conduct.



Furthermore, the Model aims to entrench in the Recipients compliance with the ethical principles, the roles, operating procedures, protocols and, in general terms, with the Model itself, by raising awareness in all those who work in the name and on behalf of the Foundation in the At-Risk Areas that, in the case of violations of the Model, they may be committing an Offence punishable by criminal and administrative penalties against them and against the Foundation.

## 2.4 Recipients of the Model

The rules contained in the Model apply to:

- **persons in senior positions**, namely persons who carry out representative, administrative or managerial functions within the Foundation or within one of its organizational units with financial and functional independence, as well as persons who, de facto or otherwise, exert management and control over the Foundation itself;
- **persons in subordinate positions**, namely persons who, within the Foundation's organization, are subject to the direction or supervision of a person or persons in a senior position (e.g. Employees);
- **external contractors**, namely external persons who act in the name and/or on behalf of the Foundation under a mandate or other contractual commitment or power of attorney and who, whether directly or indirectly, carry out activities that are related to or concerning the Foundation's activity (e.g. outside consultants, professionals);
- **counterparties**, namely parties under contract with the Foundation - except for Contractors - whether individuals or legal entities, such as suppliers, customers and in general all persons from whom the Foundation receives or to whom it provides any kind of service, as well as the Foundation's operational partners who have a role in the Foundation's projects and activities.

Where not specified otherwise below, in this Model and in the Code of Ethics, reference will be made to the **Recipients** of the Model, a category that includes all the above persons.

Recipients' conduct must comply with the general and specific rules of conduct laid down in this Model and in the Code of Ethics, including through discharging their duties of loyalty, fairness and diligence resulting from the legal relationships established with the Foundation.



Moreover, the directors, internal managers and, for the part under its responsibility, the Foundation's Board of Statutory Auditors have the duty to maintain diligent conduct when identifying any shortcomings or violations of the Model or the Code of Ethics, and to oversee compliance with them by their subordinates.

## 2.5 Updating the Model

Art. 6, letter a) of the Decree stipulates that the Model is an “*emanation from the governing body*”. The Board of Directors is therefore responsible for amending or updating it should this be necessary as a result of changes to the law, the organizational structure or in the event of significant violations of the Model and/or its inefficacy is ascertained.

The administrative body will verify, at least on an annual basis, whether the Model is current and effective, also taking into account the findings reported by the Supervisory Body when carrying out its work.

## 2.6 Model, Code of Ethics and Procedures: interrelationships

The **Model** aims to prevent, as far as possible, Offences from being committed through the provision of specific rules of conduct.

The **Code of Ethics** is an instrument of more general application on which the Foundation's management style and its entire operation are based.

The Model and the Code of Ethics are closely integrated, since the Code of Ethics is an integral part of the Model and they both form a single and coherent set of internal rules aimed at encouraging a culture of ethics, transparency and prevention of Offences.

Lastly, the Model is supplemented by all the **procedures** (SOPs) implemented, adopted and disseminated by the Foundation which are, directly or indirectly, aimed at regulating decision-making and operational activities in the at-risk areas, bolstering the (*ex ante* or *ex post*) control mechanisms. In the event of conflict, the Organizational Model prevails over the procedures.

## 2.7 Documentation accompanying the Model

The documentation accompanying the Model is identified in Chapter 8.



# **Penta**

Child Health Research

## **Chapter 3**

### **The Supervisory Body**



### 3.1 Identification and composition of the Supervisory Body

The Decree provides for, in order to exclude the administrative liability of the Entity, an internal supervisory body, with independent powers of initiative and control, be tasked with overseeing the functioning of and compliance with the Model and its updating.

The Supervisory Body, in discharging its functions, must have autonomous powers of initiative and control, be free from any form of interference or conditioning by other bodies of the Foundation and be in direct relationship with the highest administrative positions in the Foundation (Board of Directors) and the Board of Statutory Auditors (or control body).

The Decree does not provide indications regarding the composition of the Supervisory Body. It can therefore be composed of a single member or a board, provided that the composition ensures the effectiveness of the controls in relation to the Foundation's size and organizational complexity.

In any case, composition of the Supervisory Body will be identified in each instance from among one of the following solutions:

- a) single-member composition:
  - appointment of an external professional as the Supervisory Body;
  
- b) board composition:
  - appointment of persons and professionals from outside the Foundation as the Supervisory Body;
  - appointment as the Supervisory Body of (i) an external professional (who must be the Chairman) supported (ii) by another person/professional from outside the Foundation or by an independent director<sup>5</sup> or by a member of the control body and (iii) by the person in charge of one of the Foundation's Areas, in the highest possible hierarchical position and who reports directly to the Foundation's top management;
  - appointment of the Board of Statutory Auditors as the Supervisory Body.

In the case of board composition, the Supervisory Body may be composed of a minimum of three to a maximum of five members, one of whom will act as Chairman and one as Secretary, as identified in each instance.

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<sup>5</sup> For the definition of independent director reference is made to the principles of the Code of Corporate Governance for Listed Companies (in short: non executive directors are independent when they do not have and have not recently had relations, including indirectly, with the Company or with persons associated with it that are such as to affect their independence of judgement).



In any case, the Supervisory Body, depending on the needs and on its composition (in particular, when the members of the Body are all from outside the Foundation's structure), may ask the Board of Directors to identify a person from within the Foundation who can perform the role of "*Interface with the Supervisory Body*", with technical secretariat duties, able to assist and coordinate the activities of the Supervisory Body and who can also be entrusted with tasks in order to carry out the operational control activities.

Even when the Supervisory Body is single member, all the provisions contained in the following sections will apply where they are compatible with its single-member structure.

### **3.2 Subjective requirements of members of the Supervisory Body**

Members of the Supervisory Body must meet, at the moment of their appointment and for the entire duration of their term, the following requirements:

a) Autonomy and independence

The Supervisory Body is not attributed operational duties that, by including it in operational decisions and activities, would undermine the objectivity of its judgement during checks. To preserve hierarchical independence, the Supervisory Body reports directly to the Board of Directors and, upon request or when it deems it useful or necessary, or where envisaged by this Model, it reports on its work to the Board of Statutory Auditors (or control body). Furthermore, composition of the Supervisory Body and the position of its members must be such as to ensure absolute autonomy in its assessments and decisions from both an objective and subjective standpoint.

b) Professional expertise and knowledge of the Foundation's situation

Members of the Supervisory Body must possess specialist technical-professional skills (with regard to inspections, consultancy, analysis of control systems, the law, etc.) that are appropriate for the duties they are asked to perform and can be documented. However, they may use the support of external professionals to acquire skills that they do not possess. Similarly, its members must have in-depth familiarity with the work carried out by the Foundation.

These characteristics, together with independence, ensure the objectivity, authority and competence in judgement of the Supervisory Body itself.

c) Continuity of action



In line with the provisions of this Model, the Supervisory Body must carry out the work necessary to oversee the Model's implementation on a continuous basis, with the appropriate commitment and with the necessary powers of investigation.

To ensure such continuity of action, the Supervisory Body may make use of the Foundation's internal functions (particularly the "Interface with the Supervisory Body"), as well as outside consultants.

d) Incompatibility

No member of the Supervisory Body shall be in any of the positions of ineligibility or forfeiture described in the following sections.

### 3.3 Appointment and termination of office

The members of the Supervisory Body are appointed with a **motivated resolution** by the Board of Directors, which decides whether these members meet the requirements of autonomy, independence, good repute and professionalism.

As a rule the Supervisory Body's term is no longer than three years and members may only be removed for just cause by the Board of Directors, having consulted the Board of Statutory Auditors (or control body), provided the latter is not the Supervisory Body (or a member of it). Members can be re-elected for further terms.

Where the Supervisory Body has a board composition, the Board of Directors identifies the Chairman at the same time the Body is appointed.

In the event the Board of Directors resolves to **terminate the office** of one or more members of the Supervisory Body, the same Board appoints the replacement member(s) at the next meeting after the termination, giving prior notice to the Board of Statutory Auditors (or control body). While awaiting the new appointment, the Supervisory Body continues to carry out its work, where possible, with the members remaining in office. In the event the Chairman is replaced or is unable to participate, the chairmanship is held by the eldest standing member until the appointment of the new Chairman. The term of the new members ends at the expiry of that of the members already in office.

The appointment of the Supervisory Body members, and the termination of office, must appear in the minutes of the Foundation's Board of Directors, giving the personal data of each member, their professional qualification and their position as Chairman or simple member of the Body.



The administrative body must inform all Recipients about the appointment, or the termination, by email (with confirmation of receipt) and/or using any other form deemed appropriate.

The members of the Supervisory Body will act as persons authorized to process personal data pursuant to Art. 2-*quaterdecies* of the Legislative Decree No. 196 of 2003 and subsequent amendments and addenda, in relation to the processing of personal data during the exercise of the duties assigned to them pursuant to the Model.

It should be noted that, unless expressly stated otherwise in this Model, for all the other aspects, the Supervisory Body appointed with a board composition works in compliance with its Rules, which are approved by the Body itself and sent to the Board of Directors.

### 3.4 Incompatibility

The appointment as member of the Supervisory Body presupposes that there are no grounds for incompatibility such as, for example but not limited to, family relationships with members of the Foundation's Corporate Bodies and top management and potential conflicts of interest with the position and the related duties.

Therefore, the following are **grounds for ineligibility** for members of the Supervisory Body:

- having marriage, family or kinship relationships up to the fourth degree with the Foundation's directors or members of its Board of Statutory Auditors;
- maintaining, whether directly or indirectly and with the exception of the permanent employment contact, economic relations and/or contractual and/or professional relations with the Foundation and/or with its directors; such as to affect independence of judgement;
- having been barred, disqualified, filed for bankruptcy or received a sentence that include being barred, even only temporarily, from public office or disqualified from holding a management position;
- having been subject to preventive measures issued by the judicial authorities, except for the effects of rehabilitation;
- having been sentenced or having agreed the application of the punishment in accordance with Articles 444 et seq. of the Criminal Procedure Code, except for the effects of rehabilitation, in relation to one of the Offences laid down in the Decree or similar offences (in particular, offences against assets, against the Public Administration, against public trust, against public order, tax crimes, bankruptcy crimes, financial crimes, etc.);



- having been investigated in relation to one of the Offences referred to in the Decree or similar offences (in particular, offences against assets, against the Public Administration, against public order, tax crimes, bankruptcy crimes, financial crimes, etc.);
- having, in the three financial years before the appointment, acted in the administration or management of companies subject to insolvency proceedings, compulsory administrative liquidation or similar proceedings;
- having, in the three financial years before the appointment, acted in the administration or management of the Foundation;
- being affected by a serious infirmity that makes them unfit to carry out their oversight duties or by an infirmity that, in any case, causes them to be absent from work/their duties for more than six months.

### 3.5 Termination of office

#### 3.5.1 Suspension

The Board of Directors, having consulted with the other members of the Supervisory Body and the Board of Statutory Auditors (or control body), may order the **suspension** from duty of the member of the Supervisory Body who:

- is temporarily subject to a preventive measure;
- is subject to a personal precautionary measure;
- is being investigated in relation to one of the Offences provided for in the Decree or similar Offences (in particular, offences against assets, against the Public Administration, against public order, tax crimes, bankruptcy crimes, financial crimes, etc.);
- is sentenced for an offence other than those for which forfeiture is envisaged (see next section).

#### 3.5.2 Forfeiture

Remaining as a member of the Supervisory Body also presupposes that there are no grounds for incompatibility such as, for example but not limited to, family relationships with members of the Foundation's Corporate Bodies and top management and potential conflicts of interest with the position and the related duties. In this case, the grounds for incompatibility indicated in section 3.4 above constitute **grounds for forfeiture** for the members of the Supervisory Body.

Another reason for forfeiture is the application of punitive measures arising from the application of the disciplinary system referred to in this Model.



For employees only, further grounds for forfeiture of the office are the termination of employment for whatever reason and any change in duties that results in the employee no longer possessing the requirements envisaged by the Model (holding positions of oversight and control and not operational duties).

### 3.5.3 Removal

Grounds for **removal for just cause** of a member of the Supervisory Body are:

- violation of the Model and/or the Code of Ethics;
- serious failure to discharge the duties assigned due to negligence or incompetence;
- obstructive or uncooperative conduct towards the other members;
- launch of a disciplinary procedure for the application (or not) of penalties referred to in this Model;
- absence, without justification, from at least three consecutive meetings of the Supervisory Body (as provided for by section 3.7);
- failure to discharge the reporting obligations provided for in section 3.8;
- having, in any case, a conflict of interest, even if only potential, with the Foundation that may prejudice the member's autonomy and independence of judgement;
- having violated the obligation of discretion and confidentiality regarding news and information acquired during the exercise of their duties, except for the reporting obligations expressly provided for by the Model pursuant to the Decree or by other corporate documents or, in any case, provided for by the law;
- having violated the provisions of the Whistleblowing Procedure;
- the continuation of one of the grounds for suspension referred to in section 3.5.1 above for over one year;
- any other serious failure that may be qualified as "just cause".

Even in the case where the Foundation is subject, as a precautionary measure, to one of the prohibitive measures laid down in the Decree, the Board of Directors, having acquired all the appropriate information, assesses whether the conditions exist for removing members of the Supervisory Body, when it deems that they failed in their oversight or such oversight was insufficient.

Any removal for just cause of one of the members of the Supervisory Body must be resolved by the Board of Directors (where applicable, by the majority vote of those present), having consulted the other members of the Supervisory Body, and subject to the opinion of the Board of Statutory Auditors (or control body), from which the administrative body may depart only with adequate grounds. Subsequently, the Board of Directors will proceed immediately with the appropriate resolutions for a replacement, in accordance with section 3.5.4.



### 3.5.4 Replacement

In the event of termination of office for the above grounds for forfeiture or removal, or due to the death or resignation of one or more of the members of the Supervisory Body, the Board of Directors must proceed without delay as described below.

Where there are any of the **grounds for forfeiture** indicated above, the Board of Directors, after having carried out the appropriate assessments and having consulted the person concerned and the other members of the Supervisory Body, sets a term of no more than 30 days within which the incompatibility must end. Should that term lapse without the aforementioned situation ending, the Board of Directors must declare that the member has forfeited the office and (without delay) make the appropriate resolutions for their replacement.

In the event of the **death or resignation** of a member of the Supervisory Body, the Board of Directors will proceed (without delay), and in any case within 30 days from the occurrence of the event, with the appropriate resolutions for their replacement.

Should termination of office due to forfeiture, removal, death or resignation occur for all the members of the Supervisory Body, the Board of Directors will appoint (without delay), and in any case within 30 days from the occurrence of the event, a new Supervisory Body and will duly inform the Board of Statutory Auditors (or control body).

Should one of the conditions for **suspension** occur, the Board of Directors will appoint (without delay), and in any case within 30 days from the occurrence of the event and having consulted the other members of the Supervisory Body, a new interim member and will duly inform the Board of Statutory Auditors (or control body).

Should all the members of the Supervisory Body be suspended, the Board of Directors will appoint a new interim Supervisory Body and will duly inform the Board of Statutory Auditors (or control body).

Should the grounds for the suspension no longer exist, the Board of Directors will reinstate the member/Supervisory Body with motivated resolution, revoking the appointment of the interim member/Supervisory Body.

Should the grounds for suspension consist in having been sentenced for an offence other than those for which forfeiture is envisaged, the Board of Directors will assess without delay the compatibility of the sentence with the position and duties of the member of the Supervisory Body and resolve, with motivated resolution, to replace them or confirm their office.

The continuation of one of the grounds for suspension for over one year constitutes grounds for removal with just cause (see section 3.5.1).



In any case: (i) while awaiting replacement of one or more of its members, the Supervisory Body continues its work, where possible, with the members remaining in office; (ii) in the event of replacement of the Chairman, or where the Chairman is unable to participate, the Chairmanship is held by the most eldest standing member until the appointment of the new Chairman; (iii) the term of the new members ends at the expiry of that of the members already in office (including those appointed as interim replacements).

### 3.6 Rules of the Supervisory Body

For the purposes of its functioning, the Supervisory Body with a board composition drafts and approves, by a majority of members, new Rules that are communicated to the Foundation's Board of Directors and Board of Statutory Auditors (or control body), as is every update of them. These Rules must also envisage the commitment of members of the Body to observe the provisions of the Whistleblowing Procedure.

### 3.7 Remuneration, resources and operation

Any annual remuneration of the members of the Supervisory Body is resolved by the Board of Directors at the moment of the Body's appointment and it remains the same for the entire duration of the term.

A resolution of the Board of Directors provides the Supervisory Body, in the exercise of its duties, with an **annual spending budget**, and each year the Supervisory Body reports to the administrative body on its use of the budget.

The Supervisory Body can use this budget directly for all its requirements in order to discharge its duties. This budget can be increased, upon the Supervisory Body's motivated request, to meet particular unforeseen and urgent needs.

In discharging its duties the Supervisory Body may make use of other persons, identified within the Foundation for their specific competence and knowledge, as well as external and independent professionals and consultants, while respecting its budget.

The Supervisory Body will also have access to the Foundation's IT system as a whole (network, applications, etc.), with especially assigned authentication credentials and/or through other users/administrators, and will have its own direct email address so that it can work better also from the perspective of personal data protection and safeguarding confidentiality, cataloguing



and sending/receipt of communication/Notices and Whistleblowing Reports relating to the Whistleblowing Procedure.

### 3.8 Functions and powers of the Supervisory Body

The Supervisory Body discharges its duties in complete autonomy and does not work for any other function of the Foundation, nor top management, nor the Board of Directors. It does, however, report its findings to the Board. The Body therefore acts on the basis of the purposes attributed to it by law and directs its work with a view to pursuing such purposes.

It should be noted that, to discharge its duties, and without prejudice to any other necessary activity to this end, the Supervisory Body meets on a regular basis, at least twice a year, to assess application of the Model, including by checking sample documents pertaining the areas at risk of offences. The Supervisory Body draws up minutes of these meetings.

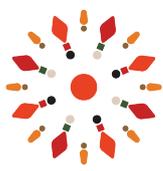
The duties assigned to the Supervisory Body are described below together with the procedures for discharging them.

Pursuant to Art. 6 of the Decree, the Supervisory Body is tasked with overseeing:

- **the Model's effectiveness** – understood as the consistency of the actual conduct of Recipients with the requirements of the Model;
- **the Model's adequacy** – understood as the Model's actual capacity to prevent prohibited conduct, considering the actual reality in which the Foundation operates;
- **the updating of the Model** – understood as the need to monitor and propose changes to the Model in the face of changing circumstances or new types of offences that can generate liability for the Foundation.

To do this, the **Supervisory Body**:

- monitors the application of and compliance with the Model and the Code of Ethics;
- monitors internal protocols associated with the prevention of risks and development of correct conduct with respect to the provisions of the Model and of the Code of Ethics;
- routinely assesses the adequacy of information flows designed for it and constantly verifies their implementation towards Corporate Bodies;
- receives and manages the Whistleblowing Reports in accordance with the Whistleblowing Procedure;
- receives and manages the Notices referred to in section 3.10;
- schedules and carries out routine general audits of the Foundation's activities for the constant and updated control of At-risk Areas and Sensitive Processes, particularly new activities and new processes;



- schedules and carries out routine audits targeted on particular operations or on specific acts performed in the At-risk Areas and Sensitive Processes.
- conducts routine and unannounced internal investigations to assess any violations of the Model (as well as the investigations as provided in the Whistleblowing Procedure);
- liaising with the relevant Areas of the Foundation, it encourages and promotes the dissemination and understanding of the Model including through staff training tools;
- manages the identified violations of the Model using the procedures and terms indicated in the sections below (and in particular in Chapter 4 on the Whistleblowing Procedure);
- oversees the correct maintenance and effectiveness of the documentation envisaged by the Model;
- organizes ad hoc meetings with the Areas of the Foundation to continuously monitor the activities of the At-risk Areas;
- gives its cooperation to the relevant Areas of the Foundation during the identification and classification of the At-risk Areas;
- supports the work to update the Model, in line with changes in the regulations, organizational changes and developments in the Foundation's activities;
- promotes initiatives for training and communication regarding the Model in line with the provisions of this document.

To discharge the above duties successfully, the **Supervisory Body**:

- routinely liaises with all the Areas/Functions in the Foundation;
- when the need arises, and subject to the resolution of the Board of Directors, it uses its own internal operational structure and/or one outside the Foundation which can be entrusted with duties in order to carry out operational controls, under the direction of the Supervisory Body;
- assesses the availability of the documentation and publications regarding and/or connected with the Model, also for the purposes of continuous updating and training.

To ensure this work, **the Foundation guarantees** that the Supervisory Body:

- cannot be influenced in the performance of its work by any other body or structure of the Foundation, without prejudice to the managing body's oversight over the appropriateness of the actions;
- may request or submit requests for information or communications from/to the administrative body or its Chairman, the Board of Statutory Auditors (or control body) and all the Foundation's functions;
- has broad powers of inspection and free access to all the areas/functions of the Foundation – without needing prior consent – to obtain all information, documents or data considered necessary in order to discharge its duties (also in accordance with the provisions of the Whistleblowing Procedure);



- may – under its direct supervision and responsibility – avail itself of all the Foundation’s structures and resources or external consultants.

### 3.9 Communications and relations with the Corporate Bodies

With regard to the Board of Directors and/or the Board of Statutory Auditors (or control body) the Supervisory Body is specifically required to:

- report on the activities it has carried out in order to discharge the duties assigned to it;
- immediately report any significant issues that emerged from the work carried out;
- report on the Model’s implementation.

The Board of Statutory Auditors (or control body) and the Board of Directors have the right to convene the Supervisory Body, including individually and at any time, for it to report on the Model’s functioning or on specific issues.

Similarly, the Supervisory Body may, for urgent reasons only and through the relevant persons and in compliance with the Foundation’s Articles of Association, convene the Corporate Bodies.

#### 3.9.1 Routine Reporting and Planning of activities

To discharge its duties, and without prejudice to any other activity necessary to this end, the Supervisory Body meets regularly during the year and, in any case, every time it is appropriate or necessary.

Each year, the Supervisory Body drafts a written report on its work over the year, and sends it to the Board of Directors and to the Board of Statutory Auditors (or control body) (**Annual Report**). The report must contain - even in summary form - all the elements that are useful for assessing the effective implementation of the Model and, in particular:

- the activities carried out by the Supervisory Body, giving details on the controls carried out during the year and the results;
- any problems (and suggestions for improvement) that emerged in terms of behaviour or internal events (reports of violations of the Model) and in terms of the Model’s completeness and effectiveness. The Annual Report must provide details of each element that is useful for assessing the effective implementation of the Model, except as provided in the Whistleblowing Procedure with regard to keeping the identity of Whistleblowers confidential.
- any corrections and improvements planned by the Foundation and their progress.



The Supervisory Body also submits the broad outline of the audit activities expected for the next year (**Plan of Activities**) to the Board of Directors and the Board of Statutory Auditors (or control body), with the exception of the first year of the Body's term (to allow the Supervisory Body time to fully acquaint itself with the Foundation's situation and be able to make a proper plan).

The Supervisory Body's meetings are minuted and recorded in a special Minute Book, in which the Annual Report, the Plan of Activities and any other official Communication issued by the Supervisory Body will also be recorded.

### 3.9.2 Reporting to the Corporate Bodies

The Supervisory Body **reports** to the Corporate Bodies, through a meeting and/or by preparing a specific report or written note, in accordance with the following criteria:

- at any time, where it considers it appropriate, it may report to the Board of Directors;
- at least once a year (Annual Report), at the end of the year, it reports to the Board of Directors and the Board of Statutory Auditors (or control body) on the work carried out (on a regular basis);
- in case of need, urgency or, in any case, when it considers it appropriate, the Body may always report to the Board of Directors or the Chairman, including directly, and also to the Board of Statutory Auditors (or control body).

The meetings with the Corporate Bodies are minuted and recorded in the Body's Minute Book. Any reports or written notes issued to the Corporate Bodies or, at least, a summary with the reference information (e.g. email) must be entered in this Minute Book.

### 3.9.3 Reporting on violations of the Model

In the event of violations of the Model, and without prejudice to the Whistleblowing Procedure, and in particular as regards the need to keep the Whistleblower's identity confidential, the Supervisory Body must **inform in writing**:

- the Board of Statutory Auditors (or control body), whenever violations of the Model involving the Foundation's top management or its Board of Directors are found or suspected, based on the evidence it has available;
- the Board of Directors, (i) whenever violations of the Model involving the Board of Statutory Auditors (or members of the control body) are found or suspected, based on the evidence it has available; (ii) whenever violations of the Model involving the Foundation's top



management are found or suspected, based on the evidence it has available; (iii) in more serious or urgent cases of violations by the Foundation's employees.

In any case, the Supervisory Body can immediately report any known or suspected violation of the Model by anyone (Recipients of the Model), based on the evidence it has available and which by its nature and/or the means of implementation may compromise the Model's effectiveness, to the Board of Statutory Auditors (or control body) or the Board of Directors, including by email, at its own discretion.

### **3.10 Communications to the Supervisory Body – Notices and Whistleblowing Reports**

The Supervisory Body is also the recipient of the following **Notices**:

- notice of criminal, inspection and/or tax proceedings and/or actions against the Foundation's Directors, Employees (and Self-employed persons on the staff), or Consultants must be sent to the Supervisory Body, and in any case those that involve or could involve the Foundation;
- the following information must be sent to the Supervisory Body by the Directors, the Board of Statutory Auditors (or control body), the relevant functions/areas of the Foundation:
  - a) measures and/or information issued by police bodies or any other authority showing the conduct of investigations into Offences, including those against persons unknown;
  - b) reports forwarded to the Foundation by Employees in the event a legal proceeding is brought against them for an Offence;
  - c) reports prepared by the Foundation's structures as part of their control activities, from which facts, actions, events or omissions may emerge that could be problematic with respect to the Decree;
  - d) notice of the start of investigations aimed at verifying and, as necessary, punishing the failure to comply with the principles of conduct and protocols laid down by the Model, as well as notice regarding any penalties imposed;
  - e) violations of the Code of Ethics;
  - f) news about any investigation or disciplinary procedure launched in relation to violations of the Model and/or the Code of Ethics, penalties and/or measures issued in general, as well as any measures to dismiss such procedures along with the reasons for doing so;
  - g) news about organizational changes;
  - h) updates to the system of delegation of authority and powers;
  - i) any communications from the Independent Auditor about aspects that may reveal shortcomings in the system of internal controls, wrongful acts or observations on the Foundation's financial statements;



- j) statements on the truthfulness and completeness of the information contained in the corporate communications;
- k) information on the appointments awarded, or intended to be awarded, to the Independent Auditor, other than that for the audit of the financial statements;
- l) assessments on the choice of Independent Auditor (based on aspects such as professional skills, experience in the sector and not just based on cost effectiveness).

**Whistleblowing Reports** to the Supervisory Body are regulated by Chapter 4 of the Model.

**In any case, each Recipient must forward any reports regarding conduct in general or practices that are not in line with the rules of conduct contained in the Model and the Code of Ethics.**

The Board of Statutory Auditors (or control body) and the entity appointed to audit the financial statements meet with the Supervisory Body at least once a year to report on the activities carried out.

### **3.11 Procedure for sending Whistleblowing Reports and Notices to the Supervisory Body**

The Supervisory Body assesses the Notices and Whistleblowing Reports received, also in accordance with the Whistleblowing Procedure, and the consequent inspections, reporting and preparation of reports: any penalties will therefore be adopted by the relevant Functions of the Foundation.

The Notices must be sent to the following email address: [odvfpenta@gmail.com](mailto:odvfpenta@gmail.com) or by ordinary post to the following address: via Orazio Marinali n. 22, 35061 Bassano del Grappa (VI), Italy.

The Whistleblowing Reports must be sent only through the channels referred to in section 4.2.

### **3.12 Collection and storage of the documentation**

All the minutes, correspondence, information or reports envisaged in the Model are kept by the Supervisory Body, also in compliance with current regulations on personal data protection (Regulation EU 2016/679 and Legislative Decree 196/2003 and subsequent amendments and addenda).

The documentation is archived in a special database for the time strictly necessary in order to discharge the duties, and in any case no longer than 10 years. Access to the database is permitted only to the Supervisory Body and the Board of Statutory Auditors (or members of the



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control body) and the members of the Board of Directors, unless where such access may undermine the oversight by the Supervisory Body for offences directly involving members of such corporate bodies, or necessary to protect the identity of the Whistleblower in accordance with the Whistleblowing Procedure.

Stored data and information are made available to persons outside the Supervisory Body who may have the right to access it, subject to authorization by the same Body and immediate notification to the Board of Directors and Board of Statutory Auditors (or control body).

The Supervisory Body is responsible for keeping its Minute Book.



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## **Chapter 4**

### **Whistleblowing procedure**



## 4.1 Preamble

This procedure is the tool employed by the Foundation to: (i) regulate the methods of making and managing Whistleblowing Reports from Recipients who have become aware of unlawful conduct constituting Offences (even if only alleged, provided they are based on precise and consistent factual elements) or, in general, violations of the Model, and (ii) guarantee protection to Recipients who make such reports and/or persons who are the subject of Whistleblowing Reports made in bad faith.

To this end, it should be specified that the following terms will have the meaning given:

- a) **Whistleblower:** the Recipient making a report;
- b) **Whistleblowing Report:** a detailed description founded on precise and consistent factual elements regarding:
  - i. unlawful conduct that is or is capable of constituting an Offence, or in any case contemplated in the Decree, or
  - ii. violations of the Model or the Code of Ethics that the Whistleblower has become aware of as a result of their duties within the Foundation or their relationships with the Foundation itself (e.g. cooperation, supply, etc.).
- c) **Bad faith report:** An unfounded report made with malice or gross negligence. Whistleblowing Reports made with the awareness that they are unfounded are considered as made with “malice” (e.g. reporting something that is factually untrue, or proven to be patently unfounded, opportunistic and/or aimed at obtaining a benefit and/or damaging others, and/or for emulative or retaliatory purposes).

Whistleblowing Reports that are imprecise, vague or not comprehensive or made inappropriately, negligently misrepresenting (without attention and/or carelessly) the facts or not taking care to check their existence and/or truthfulness are considered as made with “negligence” (e.g. reporting conduct without evidence and without regard as to whether the facts actually occurred).

## 4.2 Reporting Channels

The Foundation has set up Reporting channels that are capable of ensuring the Whistleblower’s identity is kept confidential and that the Whistleblowing Reports are properly managed.

Whistleblowing Reports must be sent to the Supervisory Body using the following methods:

- by e-mail to [odvfenta@gmail.com](mailto:odvfenta@gmail.com);
- by ordinary post to the following address: via Orazio Marinali n. 22, 35061 Bassano del Grappa (VI), Italy;
- verbally.



- [other].

These Reporting Channels are used and managed directly and autonomously by the Supervisory Body; access by the Foundation (through its management and control bodies, or its employees and contractors) is prohibited. The Foundation can only be involved, if necessary, by the Supervisory Body in the Whistleblowing Report management process, though in any case the Whistleblower's confidentiality must be ensured.

### 4.3 Contents of the Whistleblowing Report

The Whistleblowing Report must:

- a) concern **unlawful conduct** that is or is capable of constituting an Offence or in any case **violations** of the Model or the Code of Ethics;
- b) be **detailed and founded** on precise and consistent factual elements: the Whistleblower must therefore provide detailed and relevant information on the unlawful conduct (e.g. persons involved, description and time of the event, how the Whistleblower became aware of the facts).

In particular, the Whistleblower must:

- report only the facts or circumstances that occurred in their presence and/or of which they have documentary evidence;
- in the event the facts or circumstances did not occur in their presence, specifically indicate the persons who can report based on direct experience of the facts that are the subject of the Whistleblowing Report;
- indicate personal information or other elements that would identify the person who committed the facts reported;
- indicate any other persons (e.g. witnesses) who could report on the facts that are the subject of the Whistleblowing Report;
- indicate/provide any documents that could substantiate the Whistleblowing Report;
- provide any other information or evidence that could be a useful confirmation of the facts reported.

To assist and guide Recipients in preparing Whistleblowing Reports that are precise and detailed, a specific **Whistleblowing Report Template (Annex 3)** has been provided.

Only the Form for Whistleblowing Reports can be used for preparing Whistleblowing Reports.

Whistleblowing Reports made in **bad faith** are prohibited.



Violation of the prohibition against making bad faith Whistleblowing Reports may lead to disciplinary action (see Chapter 7 on the Disciplinary System).

#### **4.4 The steps for managing the Whistleblowing Report (eligibility analysis, assessment and investigation, resolution)**

Having received the Whistleblowing Report, the Supervisory Body carries out an initial eligibility analysis (preliminary check) to assess whether it meets the minimum requirements of seriousness and relevance listed in section 4.3, and whether it aims to bring to the attention of the Foundation conduct that poses a risk for its business and/or for others and is not merely a complaint, and whether the subject of the Report has already been assessed by the Foundation or by the competent Authority in the past and, of course, how serious and urgent is the risk for the Foundation and/or for others.

After the check, Whistleblowing Reports are then classified as:

- i. Detailed and relevant reports, requiring further elaboration. Based on the Body's preliminary assessments, these Reports make more or less speedy/urgent intervention necessary and therefore activate the next assessment stage;
- ii. Dubious or unreliable reports, to be archived since they lack sufficient indications in order to proceed with further elaboration;
- iii. Reports entirely lacking in relevance and/or pertinence to the Model, to be archived (e.g. simple complaints and/or comments about other Recipients that do not constitute, not even potentially, the Offences under the Decree or violations of the Model).

Where the Whistleblowing Reports are detailed and relevant and, therefore, require further elaboration (see point i above), the assessment and inspection stage is launched.

In this stage, the Supervisory Body, omitting any element that could, either directly or indirectly, refer to the identity of the Whistleblower, may:

- i. exercise the functions and powers referred to in Chapter 3, section 3.8 of the Model;
- ii. involve the Areas of the Foundation considered necessary in each instance for the purposes of fact-finding;
- iii. request a report on certain facts or circumstances that could be useful for the assessment from the above Areas of the Foundation;
- iv. using the budget it has available, or when this is not sufficient making a request to the Board of Directors, it may use external consultants or professionals for support in the inspections and fact verification.



At the end of the investigation, and based on the information acquired, the Supervisory Body assesses how to resolve the Whistleblowing Report, and therefore it may:

- i. proceed with **archiving the Report** due to the objective lack of unlawful conduct pursuant to the 231 regulations, of violations of the Model or evident and/or reasonable conditions for further investigation. In any case, the Supervisory Body must give reasons in writing for its decision (in compliance with section 3.10);
- ii. **notify** what has been found to the Foundation's top management so that the appropriate measures can be adopted;
- iii. **report** the events to the Judicial Authorities;
- iv. **involve** the Administration Area to launch, if necessary, a disciplinary procedure against the perpetrator of the acts in the Whistleblowing Report or against the Whistleblower who made a Report in bad faith.

In the case where, for the purposes of and within the limits strictly necessary for the assessment and review referred to above, the Supervisory Body has to reveal the identity of the Whistleblower or, if identified, the person potentially reported, the persons to whom such identity will be revealed must first sign a specific confirmation of the confidentiality obligation, according to the special Form (**Annex 4 - Confidentiality Undertaking**), if not the penalties referred to in Chapter 7 are applied.

The Supervisory Body is responsible for guaranteeing that Whistleblowing Reports and their related investigations are traced (keeping a copy of the Report received and all relevant documentation acquired during the assessment). To this end, the Supervisory Body is responsible for keeping special paper/electronic archives that have the appropriate security/confidentiality levels.

#### 4.5 Protections for Whistleblowers

The Foundation ensures the confidentiality of information in all contexts after the Whistleblowing Report, and thus excluding the risks of retaliation and/or discrimination against the Whistleblower.

Any retaliation or discrimination, whether direct or indirect, against the Whistleblower for reasons connected, whether directly or indirectly, with the Whistleblowing Report itself are prohibited. In particular:

- any changes to duties, retaliatory or discriminatory dismissals, and any other retaliatory or discriminatory measure adopted against the Whistleblower will be null and void;



- without prejudice to the possibility of making a complaint to the National Labour Inspectorate by both the Whistleblower and by the trade union indicated by the Whistleblower.

Violation of the measures to protect the Whistleblower may lead to disciplinary actions, without prejudice to any other form of liability laid down by the law.

Any form of retaliation or discrimination and, in general, any other organizational measure that negatively affects the working conditions of those cooperating in the work to verify the Whistleblowing Report's validity is likewise prohibited.

Without prejudice to the above, it must also be said that any form of abuse of this Procedure, through Whistleblowing Reports that result as unfounded and made with malice or gross negligence (bad faith reports, such as Reports that are manifestly opportunistic and/or aimed only at damaging others) may lead to disciplinary actions against the Whistleblower.

#### **4.6 Training and communication**

The Foundation promotes the dissemination and awareness of the Whistleblowing Procedure to all Recipients, including by organizing targeted training courses (also remote training and through the use of IT resources) to disseminate and promote comprehension and implementation of this Procedure. Staff training is managed by the Administration Area in close cooperation with the Supervisory Body.



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## **Chapter 5**

### **Dissemination of the Organizational Model**



## 5.1 Dissemination of the Model

To ensure the Model is effective, it is necessary to ensure - for the human resources already working in the Foundation and those hired in the future - proper knowledge of the rules of conduct contained within the Model, with different levels of detail according to their different level of involvement in Sensitive Processes.

In particular, the procedures and rules of conduct referred to in the Model, including the Code of Ethics, are communicated to all the resources working within the Foundation, as well as those hired in the future.

Communication takes place:

- through publication - in summary extract form - on the Foundation's website [www.penta-id.org](http://www.penta-id.org);
- through the full publication, together with the documentation referred to in the Model (e.g. the Foundation's organization chart, delegations of authority, etc.), in a special section of the Foundation's Intranet/in the Foundation's Administration Area, accessible to all employees, documentation that must be kept constantly up-to-date by the Foundation, also based on the indications provided by the Supervisory Body and/or by the Board of Directors;
- using any other method capable of ensuring that all Recipients and, in general, all the people who should be involved are actually made aware of the communication (e.g. by sending the communication by email to all the persons concerned, physically handing over documentation and internal notices on the issue, making the documentation available in the relevant Area, which ensures its dissemination).

All Employees must read the Model and the Code of Ethics (also – depending on the case – at the same time as the letter of appointment or upon moving to new duties/functions or entering into the related contracts) and they must abide by them.

## 5.2 Training and communication

The Foundation promotes the dissemination and awareness of the Model, its protocols and updating among all Recipients, who are, therefore, expressly required to know its contents, abide by it and contribute its implementation.



To this end, the Foundation implements (clear, detailed and regular) information and communication mechanisms, concerning the Model, Code of Ethics, distribution of duties and powers, job descriptions and procedures, through various channels (e.g. emails, notices, etc.) to the Recipients.

Where deemed necessary, the Foundation organizes targeted training courses, including remote training and through the use of IT resources, to disseminate and promote comprehension of the procedures and rules of conduct adopted to implement the Model and principles of the Code of Ethics.

Training is differentiated, in terms of content and method, depending on the position of the Recipients, on the existence of risk in the operational area in which they work and on whether they have powers of representation or not.

### **5.3 Compulsory participation and checks**

Participation in training is compulsory for the Foundation's Employees and is formalized by getting them to sign a register (or similar document) or by using another appropriate method for remote training. As part of its duties, the Supervisory Body may arrange specific checks, including sample checks or assessment/self-assessment tests, aimed at verifying the quality of the training programme's contents and the effectiveness of the training provided.

### **5.4 Contractors, freelance professionals, outside consultants and partners**

To ensure effective implementation of the Model, knowledge of and compliance with the Model by the Foundation's Contractors and Counterparties must be promoted and ensured. To this end, appropriate contractual clauses are provided that impose compliance with the principles contained in the Model (for the applicable parts) and in the Code of Ethics. Each conduct implemented by business and financial partners, consultants, suppliers and Contractors, in their various capacities, in breach of the conduct indicated in the Code of Ethics and the Model may result in the termination of the contractual relationship and a claim for compensation for any damage caused to the Foundation.

In this perspective and in order to actually and effectively raise awareness of the Foundation's principles, the Foundation makes its Code of Ethics available to all third parties with whom it comes into contact while conducting its business (e.g. by giving a paper copy of the Code, even in extract form, or by making explicit reference to the Foundation's website).



## 5.5 Training activities

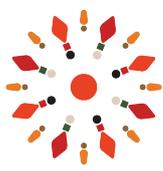
Training aimed at disseminating the provisions of the Decree and the Model is differentiated, in terms of content and method, depending on the position of the Recipients, on the level of risk in the area in which they work and on whether they have the function of representing the Foundation.

### 5.5.1 Staff working in At-Risk Areas

- Management personnel with representative functions:
  - a) Initial training to be carried out following the adoption of the Model, after a new hire or assignment to functions in At-Risk Areas;
  - b) Routine refresher training;
  - c) Special refresher training following regulatory changes that may concern the area of activity;
  - d) Information given in the letter of appointment (for new hires) or assignment to new duties;
  - e) Express reference to the Model in the delegations of authority.
  
- Other employees:
  - a) Initial training to be carried out following the adoption of the Model, after a new hire or assignment to functions in At-Risk Areas;
  - b) Routine refresher training;
  - c) Internal communications;
  - d) Information given in the letter of appointment (for new hires) or assignment to new duties;
  - e) Express reference to the Model in the delegations of authority.

### 5.5.2 Staff not working in At-Risk Areas

- Management personnel with representative functions
  - a) Initial training to be carried out following the adoption of the Model, after a new hire;
  - b) Information given in the letter of appointment (for new hires) or assignment to new duties;
  - c) Express reference to the Model in the delegations of authority.
  
- Other employees and contractors
  - a) Initial training to be carried out following the adoption of the Model, after a new hire;
  - b) Internal communications;



- c) Information given in the letter of appointment (for new hires) or assignment to new duties.

### 5.5.3 Members of the Supervisory Body

For members of the Supervisory Body, the following must be provided:

- a) Initial training to be carried out following the adoption of the Model and after the appointment of a member of the Supervisory Body;
- b) Annual internal refresher training or through participation in external training courses or conferences on the subject.

### 5.5.4 Contractors, Consultants, Suppliers, Partners, etc.

- a) Information given at the moment of signing the respective contracts;
- b) Termination clause in the contract;
- c) Reference to the Foundation's website;
- d) Subsequent information (if necessary) within the terms set by the Supervisory Body.

## 5.6 Training content

With reference to the content, training differs depending who is receiving the training, in particular:

- for personnel working in At-Risk Areas, training must cover:
  - a) Illustration of the Model prepared by the Foundation;
  - b) Examination of the main legislation on the subject (Legislative Decree 231/2001) and the types of offences envisaged therein;
  - c) Examination of the main case law on the subject;
  - d) Illustration of the Supervisory Body's activities and duties;
  - e) Examination of the Model's Special Part, with particular focus on the Sections relating to the At-Risk Activities;
  - f) Examination of the implementing protocols for the Model (where these exist) and their actual application in work activities;
  - g) Illustration of the Code of Ethics.
- for personnel not working in At-Risk Areas, training must cover:
  - a) Illustration of the Organizational Model prepared by the Foundation;



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- b) Illustration of the Supervisory Body's activities and duties;
- c) Illustration of the Code of Ethics.

## **5.7 Personnel selection**

The Administration Area, responsible for personnel hiring, having consulted the Supervisory Body, assesses the opportunity to establish a specific personnel assessment system during selection that takes account of the Foundation's needs in relation to the application of the Model and the Decree. This coordination activity will be encouraged and enhanced, particularly with regard to the hiring of new resources who will work in At-Risk Areas.



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## **Chapter 6**

### **Code of Ethics and conduct**



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## **6.1 Reference**

The Foundation's Code of Ethics identifies the reference values, highlighting the set of rights, duties and responsibilities of everyone who works, in any capacity, within the Foundation or cooperates with it, whether they are employees, customers, suppliers, consultants, agents, partners, public administration, public employees or any other person or entity with whom/which contact is established.

The Code of Ethics is an integral part of this Model and is available on the Foundation's website.



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## **Chapter 7**

### **Disciplinary System**



## 7.1 Function and principles of the disciplinary system

For the purposes of the Foundation's exemption from liability, under Art. 6 of the Decree one of the essential requirements of the Model is an adequate disciplinary system (a concept which also includes civil law remedies against people in senior positions, e.g. the directors, and Contractors, e.g. external contractors) to be applied in the event of violations of the rules of conduct referred to in the Model, and in the event of violations of the principles referred to in the Code of Ethics.

Application of the disciplinary penalties is separate from the launch or outcome of any proceedings, including criminal proceedings, before the judicial authorities. The Foundation has the right to apply, after the appropriate assessments, the disciplinary penalties considered most appropriate for the specific case, as they do not, in view of their autonomy, have to coincide with the court's assessments in criminal proceedings.

The Administration Area constantly monitors and assesses the disciplinary system, ensuring its application, without prejudice to that specified below. Generally, implementation of the disciplinary procedure can be requested on the recommendation of the Supervisory Body, having consulted with the line manager of the perpetrator of the wrongful conduct (for employees). In any case, the Administration Area, subject to the approval of the Chairman, may also implement the procedure autonomously.

## 7.2 Recipients

The disciplinary system applies to the Recipients of the Model, as defined in section 2.6 above. In particular, the disciplinary system applies to:

- Directors and control bodies: these persons/entities have specific responsibilities to comply with and oversee the Model which correspond to their respective functions and duties.
- Employees: compliance with the rules contained in the Model must be considered an essential part of the contractual obligations of the Foundation's Employees, pursuant to Art. 2104 of the Civil Code.
- Contractors, Suppliers and Partners: (understood to mean external contractors and person/entities with a contractual relationship with the Foundation) awareness of,



acceptance of and compliance with the rules contained in this Model must be considered an essential part of the contractual obligations, with all legal consequences, including with regard to termination of the contract and/or appointment and may include compensation for any damage caused.

### 7.3 Recipients' obligations in general

The **Recipients** of the Model, in discharging their duties, must strictly comply with the following obligations:

- comply with the Model (including the implementing procedures, the Code of Ethics, the provisions of the Whistleblowing Procedure and section 7.5 below) and, in general, with the provisions of law in force;
- align any action to criteria of transparency, legitimacy, verifiability - even ex post - of the assumptions and rationale that led to the operation, without any improper interest or any improper conditioning, even if only indirect;
- avoid any undue, unlawful or illegitimate aiding or abetting of third parties of any kind;
- avoid any conflict of interest;
- report to the Supervisory Body any unlawful conduct constituting an Offence (even if only alleged, provided they are based on precise and consistent factual elements) or in general any violations of the Model about which they have direct or indirect knowledge.

In addition, persons who carry out **representative, administrative, direction or management and control functions** (even if only for an area of the Foundation with financial and functional autonomy) must scrupulously comply with the following additional obligations:

- acquire all the regulatory, professional and professional ethics information necessary and appropriate to comply, in a manner that is fully aware and effective, with the above provisions and their substantive purpose;
- transmit suitable training and information to subordinates and contractors to ensure the implementation of the Models and their substantial purposes.

It is therefore expressly and unequivocally reaffirmed that **no unlawful or illegitimate or improper conduct nor any conduct that does not comply with the Model can be justified or considered less serious because it is carried out "in the interest or to the advantage of the Foundation"**.

Therefore, where such conduct is implemented in spite of the contrary measures adopted by the Foundation, it will be one of the specific fields of action of this disciplinary system.



## 7.4 Types of penalties and the criteria for applying them

Conduct by an Employee that violates the rules of conduct laid down by the Organizational Model is a **disciplinary offence**.

The penalties that can be imposed on the Employee are dictated in compliance with Art. 7 of Law 300/1970 (Workers' Statute) and with the CCNL applied.

Fondazione Penta - for the treatment and care of children with HIV (and related diseases)- ONLUS (non-profit organization) applies the CCNL (National Collective Bargaining Agreement) for employees of companies in the distribution and services sector belonging to the Italian General Confederation of Commerce, Tourism, Services and SMEs (of 1 April 2015 with subsequent renewals) to its Employees.

The disciplinary penalties provided for by the CCNL applied are:

- a) verbal warning;
- b) written warning;
- c) fine for an amount not greater than the value of 4 hours of normal pay;
- d) suspension from work without pay for a period of no longer than 10 days;
- e) dismissal without notice.

The disciplinary penalty to be applied in the actual case is established based on the **severity** of the event, taking into consideration:

- the Employee's level of hierarchical responsibility and autonomy;
- the existence of previous disciplinary action;
- the severity of the conduct in relation to the obligations violated;
- the extent of the damage caused to the Foundation;
- any participation by other Recipients of the Model;
- the context in which the violation of the Model occurred.

In particular, the penalties will be graduated taking into account the following severity indices:

- a) failure to comply with the Model in carrying out activities/processes identified as "*instrumental*" to the commission of the Offences and indicated in Annex 2, if the conditions set out in points b) and c) below are not met;
- b) failure to comply with the Model in carrying out activities/processes identified as "*sensitive*" in Annex 2, if the conditions set out in point c) below are not met;
- c) failure to comply with the Model aimed at committing one of the Offences or, in any case, the existence of the risk of the Foundation being held liable pursuant to the Decree.



With particular attention to violations of the Model associated with the protection of **Health and Safety in the Workplace**, the penalties will be graduated taking into account the following severity indices:

- a) failure to comply with the Model that results in a situation of real danger for the physical integrity of one or more persons, including the perpetrator of the violation, if the conditions set out in points c) and d) below are not met;
- b) failure to comply with the Model which results in an injury to the physical integrity of one or more persons, including the perpetrator of the violation, if the conditions set out in points c) and d) below are not met;
- c) failure to comply with the Model which results in an injury that can be qualified as “serious” pursuant to Art. 583, para. 1, of the Italian Criminal Code, for the physical integrity of one or more persons, including the perpetrator of the violation, if the conditions set out in point d) below are not met;
- d) failure to comply with the Model, resulting in death or an injury that can be qualified as “extremely serious”, pursuant to Art. 583, para. 1, of the Italian Criminal Code, for the physical integrity of one of more persons, including the perpetrator of the violation.

The Administration Area ensures that disciplinary power may be exercised over employees who are responsible for violations of the Model and/or the Code of Ethics. The Supervisory Body must report to the Administration Area any violations of the Model and/or the Code of Ethics of which it is aware, but it cannot adopt any disciplinary penalty. The Administration Area is and remains the holder of the disciplinary power, and adopts measures in concert with the Chairman.

Fondazione Penta - for the treatment and care of children with HIV (and related diseases) - ONLUS (non-profit organization) applies the CCNL for managing personnel of companies in the distribution and services sector to its Employees who qualify as managers. Conservative disciplinary penalties do not apply to Employees who qualify as managers.

Violation of the Model and/or the Code of Ethics by an Employee with power of attorney to represent the Foundation externally may also result in the revocation of the power of attorney.

With particular attention to violations of the Model related to the subject of Whistleblowing, penalties are envisaged in order to:

- protect the confidentiality of the Whistleblower;
- protect the Whistleblower and those who collaborate with the Supervisory Body in any investigation into the Whistleblowing Report against retaliatory or discriminatory measures;
- protect the Foundation from possible forms of abuse of the Whistleblowing Procedure.

**a) Penalties to protect the confidentiality of the Whistleblower**



As part of the Whistleblowing Procedure, the Supervisory Body and the corporate functions involved in any verification activities relating to the Whistleblowing Report are obliged to ensure the confidentiality of the Whistleblower (see section 4.4). Violation of this obligation by the Supervisory Body and the Recipients involved may lead to disciplinary action and entails the application of the measures deemed most appropriate under the Model, and in particular:

- if Employees, the Disciplinary Penalties set forth in this section 7.4, commensurate with the conduct and the consequences, also based on the criteria set out in this section (e.g. level of hierarchical responsibility and autonomy of the Employee, the existence of previous disciplinary penalties, etc.);
- if other Recipients, the Punitive Measures referred to in section 7.5 (II, III, IV, V).

**b) Penalties to protect the Whistleblower and those who collaborate with the Supervisory Body in any inspections and assessments related to the Whistleblowing Report**

Any retaliation or discrimination, whether direct or indirect, against the Whistleblower for reasons connected, whether directly or indirectly, with the Whistleblowing Report itself may lead to disciplinary action. Carrying out the same acts of retaliation or discrimination against those cooperating in the work to verify the Report's validity may also lead to disciplinary action.

The Disciplinary Penalties (in the event that the violation is committed by Persons in a managerial position) or the Punitive Measures referred to in section 7.5 II, III, IV, V (in the event that the violations are committed by other Recipients) will be graded taking into account the indices and criteria referred to in this section (e.g. the subjective element of the conduct, the importance of the obligations violated, the extent of the damage caused to the Foundation, etc.) and the following severity indices:

1. Failure to comply with the Model and the Whistleblowing Procedure, which results in the adoption of retaliation or discrimination measures against the Whistleblower for reasons directly or indirectly related to the Report;
2. Failure to comply with the Model and the Whistleblowing Procedure, which results in changes to the Whistleblower's duties, in retaliation, for reasons directly or indirectly related to the Report;
3. Failure to comply with the Model and the Whistleblowing Procedure, which results in the retaliatory or discriminatory dismissal of the Whistleblower for reasons directly or indirectly related to the Report.

**c) Penalties to protect the Foundation**

The Whistleblower must make reports concerning unlawful conduct that is or is capable of constituting an Offence, or in any case violations of the Model or of the Code of Ethics, that are



detailed and founded on precise and consistent factual elements. Unfounded Whistleblowing Reports made with malice or gross negligence (so-called “bad faith” Reports, see section 4.3) are prohibited. Disciplinary Penalties or Punitive Measures for the Whistleblower shall be classified taking into account the indices and criteria referred to in this section (e.g. the level of hierarchical responsibility and autonomy of the Employee, the existence of previous disciplinary sanctions against the Employee, etc.).

## **7.5 Disciplinary penalties and punitive measures**

Violation of the above obligations may lead to disciplinary action and entails the application of measures deemed most appropriate under the Model and indicated below.

### **I – Employees**

In the event of a violation of the Model, the disciplinary penalties referred to in the current CCNLs will be applied.

Where employees have power of attorney to represent the Foundation externally, application of the disciplinary penalty may also result in the revocation of the power of attorney.

Penalties are applied in accordance with the terms and conditions laid down in the current CCNLs.

### **II – External contractors**

Failure to comply with the Model, as well as violations of the provisions and principles established in the Code of Ethics by each self-employed worker may result, in accordance with the provisions of the specific contractual relationship, in the termination of the relevant contract, without prejudice to the right to claim compensation for damages incurred as a result of such conduct, including damages caused by the court’s application of the measures provided for in the Decree.

### **III - Directors**

Members of the Board of Directors may incur the application of penalties in the event of:

- failure to comply with the Model or the Code of Ethics;
- negligent conduct in identifying violations or possible shortcomings of the Model or the Code of Ethics;



- failure to oversee compliance with the Model or the Code of Ethics by the persons who are subject to it;
- violation of the provisions of the Whistleblowing Procedure;

The administrative body, on its own initiative or on the recommendation of the Supervisory Body, with the abstention of the person involved, carries out the necessary checks and takes the necessary measures, after consulting the Board of Statutory Auditors (or control body) and in relation to the seriousness of the violation, which may consist of:

- formal written reprimand;
- total or partial revocation of any powers of attorney;
- calling of the Shareholders' Meeting to resolve on removal from office for just cause, except as provided for by law or the Articles of Association in relation to calling a meeting by the Board of Statutory Auditors.

Where the violation involves the entire Board of Directors, the Supervisory Body informs the Board of Statutory Auditors (or Control Body) of this, so that the latter can call the Shareholders' Meeting which will take the necessary measures, in line with that described above.

In any case, the right to claim compensation for damages incurred as a result of such conduct remains unaffected.

#### **IV – Board of Statutory Auditors**

In the event of failure to comply with the Model or the Code of Ethics or negligent conduct in identifying violations or any shortcomings of the same by the Board of Statutory Auditors (or a Statutory Auditor) or an auditor, the Supervisory Body informs the Board of Directors, which must call the Shareholders' Meeting to resolve on, depending on the seriousness of the violation, one of the following:

- formal written reprimand;
- removal from office with just cause.

In any case, the Foundation's right to claim compensation for damages incurred as a result of such conduct remains unaffected, including damages caused by the court's application of the measures provided for in the Decree.

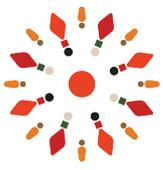
#### **V - Persons in contractual relations with the Foundation**



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Failure to comply with the Model, as well as violations of the provisions and principles established in the Code of Ethics by persons in contractual/business relations with the Foundation may, depending on the case, entail the issue of a specific warning to ensure timely compliance with the Model or result, in accordance with the provisions of the specific contractual relationship, in the termination of the relevant contract, without prejudice to the right to claim compensation for damages incurred as a result of such conduct, including damages caused by the court's application of the measures provided for in the Decree.



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## Chapter 8

### Accompanying documentation



## **8.1 Part B - Code of Ethics**

The Code of Ethics forms an integral and substantial part of the Organization and Management Model, to which the same Model expressly refers.

It identifies the values of the Foundation and the principal guidelines on conduct necessary to achieve them, as well as containing appropriate penalties for non-compliance with the same.

## **8.2 Part C - Special Part**

The Special Part of the Organization and Management Model consists of an Introduction and 5 Sections, each dedicated to a “family” of offences, and aims to have the Recipients conduct themselves in compliance with the provisions of the Model, in order to prevent behaviour that may give rise to offences.

## **8.3 Annex 1: Types of Offences**

Annex 1 contains all the types of offences relevant for Legislative Decree No. 231/2001, among which only some were significant for the Foundation and are covered by this Model.

## **8.4 Annex 2: Mapping of Processes at Risk of Offence**

Annex 2 represents the types of offences relevant to the Foundation and which the Organizational Model aims to prevent.

## **8.5 Annex 3: Whistleblowing Report Template**

Annex 3 is a template that guides Recipients in preparing the Whistleblowing Reports.

## **8.6 Annex 4: Confidentiality Undertaking**

Annex 4 is a standard document to be used in the event that the Supervisory Body must disclose the identity of the Whistleblower and/or the person who is the subject of the Whistleblowing Report to certain Recipients, in order to carry out the necessary assessment and review.



## **8.7 Annex 5: Contractual Clause**

Annex 5 is a standard text to be included in the Foundation's documentation as provided for by the Model.

## **8.8 Annex 6: Information form**

Annex 6 is a standard document to be used, as provided for by the Model, to trace the activities carried out with regard to the Public Administration (Special Part, Section 1).

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