

**Draft Whistleblower Protection Policy recommended by the Social Partners (attachment to the 2<sup>nd</sup> MODULE OF POLISH INTEGRITY PACT)**

ETHICAL MANAGEMENT AND WHISTLEBLOWER PROTECTION POLICY IN **[NAME OF ENTITY]**

**CHAPTER I – SAFEGUARDS AGAINST UNETHICAL BEHAVIOUR IN BIDDING FOR AND IMPLEMENTING GOVERNMENT CONTRACTS**

1. Acting in the capacity of a bidder, a contractor or a subcontractor in a public tender, [name of entity] undertakes to:
  - a) Maintain high legal, ethical and moral standards, and
  - b) Observe the principles of integrity, objectivity, accountability and honesty.
2. The principles set out in Section 1 shall be enforced by way of:
  - a) Abstaining from any informal or confidential arrangement with representatives of other entities taking part in a public tender;
  - b) Abstaining from any situation in which any financial or personal benefits are offered to or received from any representatives of the Client, auditors, regulators or any other entities taking part in a public tender;
  - c) Abstaining from the use of any information or other resources unlawfully obtained by [name of entity] in order to build its competitive advantage;
  - d) Preventing conflict-of-interest situations where representatives or associates of [name of entity] engage in developing any tender documents prior to awarding the contract.
  - e) Providing in good faith accurate information about the progress of a public procurement process at the request of the Client and interested non-governmental organisations.
  - f) Implementing a whistleblower protection policy and enforcing compliance among [name of entity]'s employees and associates, as set out in Chapter II of this document.
3. All employees and associates of [name of entity] are expected to comply with these rules.

**CHAPTER II – WHISTLEBLOWER PROTECTION POLICY**

**GENERAL PROVISIONS**

**Paragraph 1.**

1. The whistleblower protection policy in [name of entity], hereinafter called "the Policy", shall apply to all employees of [name of entity] as well as natural persons, legal persons or units without legal entity that act on behalf of [name of entity].
2. The Policy has been adopted in order to ensure protection of persons who take action for the good of [name of entity] by reporting irregularities that may be taking place at [name of entity] or in relations with Customers, Associates, Subcontractors, Business Partners and Suppliers providing services to [name of entity] that may lead to damages or losses to [name of entity] or may undermine the good reputation of [name of entity].
3. The Policy forms an annex to the Working Rules applicable in [name of entity] [or a different document outlining the ethical standards and core values to be observed by all employees of the Entity].
4. Subcontractors that are legal persons acting on behalf of [name of entity] shall adopt their own internal whistleblower protection policy. Such policy should be tantamount to this present Policy, and the obligation to adopt it by Subcontractors should derive directly from contracts concluded between them and [name of entity].

**Paragraph 2.**

1. Whenever a reference is made in this document to:
  - a) **The Company** – it shall mean [name of entity],

- b) **An Employee** – it shall mean a person employed by the Entity, a person rendering service for the Company regardless of the legal basis for his or her actions on behalf of the Entity, e.g. short-term service contract, contract of mandate, internship or a civil contract of any kind etc.
- c) **Abuse** - it shall mean any unlawful conduct or other conduct in any area of the Company's operations, accounting and reporting and other areas which are in breach of the laws and regulations or internal policies applicable in the Company that may result in damages or losses to the Company.
- d) **Whistleblower** – it shall mean an Employee who reports abuse.
- e) **Advisor** – it shall mean a person or unit (e.g. Compliance, Ethical Officer etc.) appointed to handle reports of irregularities.

### **CHAPTER III – WHISTLEBLOWER PROTECTION**

#### **Paragraph 3.**

##### **WHISTLEBLOWER IDENTITY PROTECTION**

1. A person or unit is hereby appointed (hereinafter called "the Advisor") to be responsible for handling reports of about irregularities.
2. The Advisor shall report directly to Company Management.
3. The Advisor shall be responsible for providing consultation about indented whistleblowing at the request of Employees. The identity of Employees approaching the Advisor for the purpose of such consultations shall be kept confidential subject to terms set out in Paragraph 3 Section 5 and 6.
4. Any information about Employees intending to report abuse or Whistleblowers and any other persons who are victims of abuse shall be kept confidential. Access to such information shall be restricted exclusively to the Advisor and the Company Management, and possibly to other persons appointed by the Management to investigate the report.
5. The protection of the identity of persons intending to report abuse or Whistleblowers and other persons who are victims of abuse shall be ensured by:
  - a) Separating correspondence addressed to the Advisor from the general correspondence handled by the secretariat;
  - b) Restricting the workflow of information about the Whistleblower solely to individuals involved in investigating the report;
  - c) Securing a confidential telephone connection dedicated to the Advisor and ensuring the confidentiality of telephone conversations;
  - d) Ensuring the security and confidentiality of incoming electronic mail to the Advisor;
  - e) Having the Advisor and persons involved in investigating the reported abuse sign confidentiality statement;
  - f) Ensuring the security of documents related to the investigation of the reported abuse, also after it is closed, and restricting access to such documents exclusively to authorised persons who are involved in the said investigation;
6. In case the reported abuse has the characteristics of a crime and the Company takes steps to report the case to law enforcement agencies the identity of the Whistleblower will be disclosed to law enforcement agencies, in which case the Company shall provide the whistleblower with essential legal aid to deal with law enforcement agencies.
7. The Company shall not take any action that may lead to the disclosure of the identity of persons making anonymous reports, save for the right of the Company to try to encourage such persons to disclose their identity to obtain broader and more specific information about the reported abuse.

#### **Paragraph 4. Investigation**

1. Having received a report about abuse the Advisor shall be responsible for launching an investigation by transferring the case to authorised persons inside the Company, in particular the Management or persons authorised by it to examine the report.
2. Individuals conducting the investigation shall begin the process immediately after being notified by the Advisor about the reported abuse, no later than within 2 weeks from the day of receiving such notification.

3. The Advisor shall inform the Whistleblower about the next steps in connection with the reported abuse and informs the Whistleblower about the outcomes of the investigation.
4. The Advisor shall keep a record of reported abuse cases in a manner that ensures the privacy of Employees intending to report abuse or Whistleblowers or other persons who are victims of abuse. In particular, such records will include information about the date and method of the filing the abuse report and about the nature of reported cases. Access to the records shall be exclusively restricted to the Advisor, Management or persons authorised by the Management to investigate reported abuse and law enforcement agencies whenever the reported irregularities have the characteristics of a crime. The said records will be kept for three (3) years.

#### **Paragraph 5.**

#### **PROTECTION OF WHISTLEBLOWERS AGAINST RETALIATION**

1. In order to prevent potential retaliatory measures against Whistleblowers, the Company where the Advisor obtains information about a possible abuse shall ensure that Employees intending to report abuse or Whistleblowers and other persons who are victims of abuse are:
  - a. protected against dismissal for which no reasonable grounds exist that could derive from an unbiased performance appraisal of such Employees but are instead related to the reported abuse;
  - b. protected against any change of position or place of work resulting in deteriorated employment conditions that has no reasonable grounds nor does it derive from an unbiased performance appraisal of such Employees but is instead related to the reported abuse;
  - c. protected against an apparent redundancy, i.e. a redundancy which is not supported by any viable need to adjust to new economic or management realities but is only done in connection with reported abuse;
  - d. protected against discrimination and mobbing caused by the reported abuse;
2. Under the circumstances outlined in Section 1 Letter a – c, the Company may terminate/restructure or relocate Employees intending to report abuse or Whistleblowers and other persons who are victims of abuse while lowering their employment conditions solely if there are reasonable grounds for it based on an unbiased appraisal of staff performance or other grounds contemplated on the laws and regulations otherwise unrelated to the reported abuse.
3. The provisions of Paragraph 5 shall not apply to Employees who report abuse in ill faith, i.e. they report incidents that do not represent abuse, resort to unsubstantiated slander regarding other Employees, intentionally misrepresent or report abuse committed by themselves.

#### **CHAPTER IV – FINAL PROVISIONS**

#### **Paragraph 6.**

1. This Policy will be presented to all Employees, Customers, Associates, Subcontractors, Business Partners and Suppliers of the Company. They shall have the right to provide their comments and concerns regarding the Policy and its implementation, to be handled by the Advisor.
2. Employees shall adhere to the Policy and any breach thereof shall be subject to sanctions set out the labour code and in the Working Rules of the Company.
3. The Policy shall enter into force as of the day of its adoption by the Company Management.