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Applicant exporters and other relevant parties should maintain and document an appropriate compliance management system to avoid and detect corruption.

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## **6. Legal information**

For insurance to be granted and subsist applicable Swiss and foreign law including anti-corruption law must be complied with in connection with the conclusion and performance of the underlying transaction/export contract in relation to which insurance cover is requested under this application. In this regard, please take note of the following provisions in the Swiss Criminal Code and other relevant Swiss statutes with respect to bribery.

### **Relevant provisions of the Swiss Criminal Code (SCC, SR 311.0):**

#### **Art. 102 – Liability under the criminal law**

<sup>1</sup> If a felony or misdemeanour is committed in an undertaking in the exercise of commercial activities in accordance with the objects of the undertaking and if it is not possible to attribute this act to any specific natural person due to the inadequate organisation of the undertaking, then the felony or misdemeanour is attributed to the undertaking. In such cases, the undertaking is liable to a fine not exceeding 5 million francs.

<sup>2</sup> If the offence committed falls under Articles 260ter, 260quinquies, 305bis, 322ter, 322quinquies, 322septies paragraph 1 or 322octies, the undertaking is penalised irrespective of the criminal liability of any natural persons, provided the undertaking has failed to take all the reasonable organisational measures that are required in order to prevent such an offence.

<sup>3</sup> The court assesses the fine in particular in accordance with the seriousness of the offence, the seriousness of the organisational inadequacies and of the loss or damage caused, and based on the economic ability of the undertaking to pay the fine.

<sup>4</sup> Undertakings within the meaning of this title are:

- a) any legal entity under private law;
- b) any legal entity under public law with exception of local authorities;
- c) companies;
- d) sole proprietorships.

#### **Art. 322ter – Bribery of Swiss public officials / Bribery**

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces an undue advantage, or offers, promises or gives such an advantage to a third party in order to cause the public official to carry out or to fail to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion, is liable to a custodial sentence not exceeding five years or to a monetary penalty.

#### **Art. 322quater – Bribery of Swiss public officials / Acceptance of bribes**

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator demands, secures the promise of or accepts an undue advantage for that person or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion, is liable to a custodial sentence not exceeding five years or to a monetary penalty.

#### **Art. 322quinquies – Bribery of Swiss public officials / Granting an advantage**

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator or a member of the armed forces an undue advantage for that person or for a third party in order that the person carries out his official duties is liable to a custodial sentence not exceeding three years or to a monetary penalty.

#### **Art. 322sexies – Bribery of Swiss public officials / Acceptance of an advantage**

Any person who as a member of a judicial or other authority, as a public official, officially-appointed expert, translator or interpreter, or as an arbitrator, demands, secures the promise of, or accepts an undue advantage for himself or for a third party in order that he carries out his official duties is liable to a custodial sentence not exceeding three years or to a monetary penalty.

#### **Art. 322septies – Bribery of foreign public officials**

Any person who offers, promises or gives a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces who is acting for a foreign state or international organisation an undue advantage, or gives such an advantage to a third party, in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion, any person who as a member of a judicial or other authority, a public official, an officially-appointed expert, translator or interpreter, an arbitrator, or a member of the armed forces of a foreign state or of an international organisation demands, secures the promise of, or accepts an undue advantage for himself or for a third party in order that he carries out or fails to carry out an act in connection with his official activity which is contrary to his duty or dependent on his discretion is liable to a custodial sentence not exceeding five years or to a monetary penalty.

#### **Art. 322octies – Bribery of private individuals**

<sup>1</sup> Any person who offers, promises or gives an employee, partner, agent or any other auxiliary of a third party in the private sector an undue advantage for that person or a third party in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion is liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> In minor cases, the offence is only prosecuted on complaint.

### **Art. 322novies – Bribery / Accepting bribes**

<sup>1</sup> Any person who as an employee, partner, agent or any other auxiliary of a third party in the private sector demands, secures the promise of, or accepts an undue advantage for himself or for a third party in order that the person carries out or fails to carry out an act in connection with his official activities which is contrary to his duties or dependent on his discretion is liable to a custodial sentence not exceeding three years or to a monetary penalty.

<sup>2</sup> In minor cases, the offence is only prosecuted on complaint.

### **Art. 322decies – General provisions**

<sup>1</sup> The following are not undue advantages:

- a) advantages permitted under public employment law or contractually approved by a third party;
- b) negligible advantages that are common social practice.

<sup>2</sup> Private individuals who fulfil official duties are subject to the same provisions as public officials.

### **Relevant provisions of the Swiss Export Risk Insurance Act (SERVG, SR 46.10):**

#### **Art. 36**

<sup>1</sup> Imprisonment of up to one year or a fine will be awarded to persons who deliberately:

- a) effect the conclusion of an insurance or payments thereunder for themselves or to the benefit of others through incorrect or incomplete information;
- b) evade the obligation to deliver or the refund obligation pursuant to Article 19 paragraph 2 second sentence and Article 20 through incorrect or incomplete information;
- c) fail to comply with their obligations to avoid losses pursuant to Article 16 paragraph 2;
- d) fail to comply with their obligations to support SERV in the collection or utilisation of undelivered export goods pursuant to Article 19 paragraph 2 first sentence.

<sup>2</sup> Offences committed abroad are also punishable.

<sup>3</sup> Criminal prosecution on the basis of the special provisions of the Criminal Code is reserved in any cases.

<sup>4</sup> The cantons are in charge of the criminal prosecution. All judgements and decisions to discontinue any case shall be notified to the Federal Attorney General in full and without delay.

### **Bribery provision of the Swiss Federal Unfair Competition Act (UCA, SR 241):**

#### **Art. 4a UCA – Offering and accepting bribes**

<sup>1</sup> A person shall be deemed to be acting unfairly if he/she,

- a) offers, promises or grants an undue advantage to an employee, a partner, a representative or other assistant of a third party in the private sector in connection with their official activity, in return for an act or omission to his/her benefit or to the benefit of a third party that is in breach of their duty or at their discretion;
- b) as employee, partner, representative or other assistant of a third party in the private sector, asks for, obtains the promise of or accepts in connection with his/her official or commercial activity an

undue advantage for him/herself or a third party for an act or omission that is in breach of his/her duty or at his/her discretion.

<sup>2</sup> Advantages approved contractually by the third party, as well as minor favours customary in society shall not be deemed to be undue advantages.