

## **Exhibit K**

### **SUMMARY OF GLOBAL ANTI-CORRUPTION LAWS**

A majority of nations around the world have confirmed their acceptance and/or ratification of various conventions and agreements to combat corruption. The main anti-corruption conventions are listed in the Annex to this document. Countries that have signed the conventions are responsible for the enactment of laws and regulations that implement the requirements set out in the conventions. These country specific laws and regulations are collectively referred to as “**Global Anti-Corruption Laws**”, and include for example, in the US, the Foreign Corrupt Practices Act (US FCPA) and in the UK, the Bribery Act. Major emerging economies including China, India, and Indonesia are also now working closely with the OECD and strengthening their anti-bribery frameworks. China has enacted a new anti-bribery law, India has ratified the United Nations Convention against Corruption and Indonesia has introduced anti-bribery legislation.

Anti corruption legislation of many individual countries applies to the activities of its citizens and companies wherever they are in the world. This is true for both the FCPA and the UK Bribery Act, the principal provisions of which are summarized below. The extra territorial reach of Global Anti-Corruption Laws therefore makes it essential that the highest hurdle is applied to business conducted by all companies across all their activities, wherever they are located.

Individuals who violate Global Anti-Corruption Laws may face prison terms and large fines. The companies these individuals work for may also be fined large amounts.

This summary is for high level guidance only and ultimately individuals should recognize that they and the organizations they represent are required to comply with all applicable legislation, including all applicable local legislation.

#### **US FCPA**

Under the US FCPA, public “Officials” include any officer or employee of a government or any department, agency, corporation or instrumentality thereof, or of a public international organization, or of any political party, or any party official or candidate for any such government or political party office, as well as any immediate family members or nominees of such official or candidate.

The US FCPA prohibits the offer or agreement to give “**anything of value**” to an Official for a corrupt purpose, including: gifts, entertainment, free travel, meals or training, business, employment or investment opportunities, personal discounts or credits, assistance to or support of family members, or other benefits.

Any “**corrupt**” payment, promise or offer to pay, or authorization of the giving of anything of value to or for an Official – or to anyone else while knowing it will be shared with such a person – is prohibited.

“Corrupt” means a payment or offer intended for any of the following purposes:

- influencing any official act (or failure to act) by an Official, or any decision in violation of the Official’s lawful duty, or

- inducing an Official to use the Official's influence to affect any governmental act or decision, or
- securing any improper advantage in connection with business.

The US FCPA also prohibits corrupt payments to anyone while “knowing” that all or part of the payment will be passed on to an Official. This means that a company may be held responsible for actions by any party acting on its behalf, such as a sales agent, consultant or joint venture partner.

The US FCPA includes an exception for payments that are “reasonable and bona fide expenditures” incurred by or on behalf of an Official. A “reasonable and bona fide expenditure” is an expense, such as for transportation or lodging that is directly related to:

- the promotion, demonstration, or explanation of products or services; or
- the execution or performance of a contract with a government or governmental agency.

Reasonable and appropriate gifts, hospitality and entertainment for an Official are also permissible, as long as they are not offered or understood as an attempt to influence the Official in the performance (or non-performance) of his or her official duties, or to induce the Official to use his or her influence in connection with business.

In addition to prohibiting corrupt offers and payments, the US FCPA requires companies to keep accurate books and records and establish adequate internal controls.

### **UK Bribery Act**

Unlike the US FCPA, the UK Bribery Act is not restricted to the bribing of public officials and covers bribery in both the private and public sectors.

The UK Bribery Act contains two offences covering the offering, promising or giving of a bribe (active bribery) and the requesting, agreeing to receive or accepting of a bribe (passive bribery).

The UK Bribery Act defines a bribe as a financial or other advantage intended to induce someone to act “improperly”, in the performance of a business or public function. Whilst the written local law would influence what would constitute “improper” action, local custom and practice are disregarded.

Under the UK Bribery Act there is a separate offence relating to bribery of a foreign public official in order to obtain or retain business or an advantage in the conduct of business. Unless it is permitted in the local written law of the country concerned, an advantage offered to a foreign public official could be a bribe.

A “facilitation payment” is a small bribe paid to facilitate, secure or expedite the performance of a routine or necessary governmental action by a foreign public official. Facilitation payments are sometimes referred to as ‘grease payments’. It is an offence to pay facilitation payments under the UK Bribery Act. Other Global Anti-Corruption Laws, e.g. US FCPA, provide for some possible exemptions for facilitation payments

although in practice these are limited. However please note in particular the German Penal Code which provides that benefits offered or paid to a governmental/political official having regard or due to their public duties or office may constitute a crime for a German national even if no improper advantage or influence on the conduct of business by the governmental/political official is sought. German penal law has extraterritorial effect for German nationals.

In addition, under the UK Bribery Act there is a corporate offence for failing to prevent bribery. This law provides that a company or other “commercial organization” can be prosecuted if a person “associated with it” bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organization. An organization could provide a defense against this offence if it had adequate procedures in place to prevent persons associated with it from bribing. A person “associated with” a commercial organization is defined as someone who performs services for or on behalf of the organization.

The UK Bribery Act is not confined in its ambit to UK organisations but also extends to organisations which carry on a business or part of a business in the UK.

In the UK, there are similar requirements to those of the US FCPA for the maintenance of adequate books and records. In the UK these requirements are covered by the Companies Act.

#### **Useful reference sources:**

The text of the US FCPA (15 U.S.C. §§78m and 78dd-1 et. seq.) may be found at the U.S. Department of Justice website at <http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html> .

The text of the UK Bribery Act can be found at <http://www.legislation.gov.uk/ukpga/2010/23/contents>

A summary of the countries which have signed and ratified international and regional conventions as listed in the Annex to this document is available from the Transparency International website at [http://www.transparency.org/global\\_priorities/international\\_conventions/conventions\\_instruments](http://www.transparency.org/global_priorities/international_conventions/conventions_instruments)

#### **Annex: Anti-Corruption Conventions**

##### Global and inter-regional

United Nations Convention against Corruption (UNCAC)

United Nations Convention against Transnational Organized Crime (UNTOC)

OECD Convention on the Bribery of Foreign Public Officials in International Business Transactions (OECD Convention)

Revised Recommendation of the Council of the OECD on Combating Bribery in International Business Transactions

Africa

African Union Convention on Preventing and Combating Corruption (AU Convention)

Southern African Development Community Protocol against Corruption (SADC Protocol)

Economic Community of West African States Protocol on the Fight against Corruption (ECOWAS Protocol)

Americas

Inter-American Convention against Corruption (OAS Convention)

Asia and Pacific region

ADB-OECD Action Plan for Asia-Pacific (Action Plan)

Europe

Council of Europe Criminal Law Convention

Council of Europe Civil Law Convention

Resolution (99) 5 of the Committee of Ministers of the Council of Europe: Agreement Establishing the Group of States against Corruption

Resolution (97) 24 of the Committee of Ministers of the Council of Europe: Twenty Guiding Principles for the Fight against Corruption

European Union Convention on the Protection of the Communities' Financial Interests and the Fight against Corruption and two Protocols

European Union Convention on the Fight against Corruption involving officials of the European Communities or officials of Member States