

CODE OF CONDUCT
FIGHT AGAINST CORRUPTION AND INFLUENCE PEDDLING

TABLE OF CONTENTS

Introduction	1
Section I – Presentation of prohibited behaviours	2
A. Prohibition of any act of corruption	2
B. Prohibition of any act of influence peddling	3
C. The penalties	4
Section II. Rules to be observed.....	5
A. Gift Policy.....	6
B. Donations, patronage and sponsorship.....	7
C. Lobbying activities	8
D. Relations with public players	8
E. Conflict of interest.....	9
F. Compliance with accounting control procedures	9
Section III – Internal alert system and disciplinary system	10
A. Internal alert system.....	10
B. Disciplinary system	10

Introduction

KEM ONE expects every one of the members of its personnel to reflect, by his / her conduct, his / her commitment to complying scrupulously with the rules to combat corruption and influence peddling.

In order to guide KEM ONE's employees in their day-to-day activities, so that they are always in accordance with the law and KEM ONE's ethical and transparency values, the present code of conduct:

- presents and illustrates prohibited behaviours (Section I)
- sets out the rules to be observed in the context of their professional activity (Section II)
- presents the internal alert system and sets out the disciplinary measures to sanction the company's employees if the present code of conduct should be breached (Section III).

The present code of conduct takes effect from the date on which it is incorporated in the internal regulations.

Section I – Presentation of prohibited behaviours

A. Prohibition of any act of corruption

➤ **The concept of corruption**

Corruption is defined as the act by a person holding a public or private office:

- to ask for, receive or accept
- any benefit in cash or in kind
- whether directly or indirectly,
- for himself / herself or for a third party (parent, family member etc.),
- with a view to accomplishing, delaying or not accomplishing an act within his / her duties.

In concrete terms, the corrupt person “cashes in” on his / her official duty.

The following are punished equally:

- the corrupter: the person offering, promising or giving, whether at his / her initiative or that of the corrupt person (active corruption)
- and the corrupt person: the person who demands, receives or accepts (passive corruption).

There is corruption even if the corruption process does not occur or does not have the hoped-for effect; this is, for example, the case where the corrupt person’s demands or the corrupter’s offers are not accepted.

♦ Public and private corruption

Corruption can occur in relations with players in the private sector and with those in the public sector.

With regard to the public sector, not only the State and state departments (e.g. town halls) are concerned, but also commercial organisations held or controlled by a State (e.g. the GPMM), organisations or agencies controlled or run by a State (e.g. the URSAFF, DREAL or DIRECCTE), international public organisations and political parties.

♦ Direct and indirect corruption

Corruption is reprehensible whether carried out directly or indirectly via a third party.

➤ **Types of conduct constituting an act of corruption**

Corruption can take on very diverse forms depending in particular on the country or business sector of the company.

Gifts which may be offered or received in the context of an act of corruption can come in various forms such as:

- the payment of sums of money;
- the supply of goods in kind (wine, wristwatch, smartphone etc.);
- the provision of services (work carried out in a private house etc.);
- an invitation to entertainment (invitation to a restaurant or a sports event) or offers to stay in a holiday resort at a ridiculously low price;
- promises to provide jobs to friends or relations;
- the payment of commission etc.

The considerations expected in return for such gifts may also be of very varied kinds and contents, such as:

- the award of the renewal of a contract;
- the obtaining of advantageous commercial conditions (sale of products at a price clearly lower than the market price, obtaining of excessive discounts or price reductions, commission rates clearly above the market rate etc.);

- the obtaining of strategic commercial or technical information from a company;
- more favourable or faster processing of an application by an administration;
- the agreement of an authority to an out-of-court settlement for an infringement of the law.

Thus, the following behaviours are prohibited as they constitute acts of corruption:

- Accepting a sum of money from a candidate in a call for tenders or asking them to pay certain personal expenses in return for the award of the contract.
- Suggesting that a supplier sign a contract in return for employing a friend or relation.
- Offering to pay a civil servant a sum of money or to give them a benefit in kind in order to obtain planning permission, an application for permission to operate an Installation Classified for the Protection of the Environment (ICPE) or more favourable construction or operating conditions.
- Agreeing to sell products to a customer business at prices which are manifestly lower than those on the market concerned, this being in return for holidays paid by this customer.
- Granting a provider a commission at a manifestly higher rate than that on the market concerned in return for an invitation to oneself and one's family to a stay in an exotic country.
- Allocating to a commercial agent, volumes of products in return for bottles of wine.
- Granting to a customer a credit ceiling clearly higher or payment periods clearly longer than those normally allowed the category to which the customer concerned belongs in return for an invitation to a major sporting event.
- Agreeing to conclude a contract with a haulage contractor at price well above that on the market concerned in return for invitations to a high level restaurant.
- Offering money to a local authority official to speed up an administrative procedure.
- Paying a kickback to members of a foreign administration to obtain a contract in that country.
- For the director of a subcontractor, offering the buying director of the contracting company sums of money to maintain subcontracting operations and guarantee a volume of turnover in the future.
- Offering a sum of money to customs officials to avoid infringements being recorded.
- Paying a sum of money to an official so that they do not write a report of an offence.

In any event, **an employee who allows himself / herself to be corrupted is just as punishable as the corrupter.**

B. Prohibition of any act of influence peddling

➤ **The concept of influence peddling**

Influence peddling is defined as a situation where a person:

- asks for, receives or accepts
- any benefit in cash or in kind,
- whether directly or indirectly,
- for himself / herself or for a third party (parent, family member etc.),
- in return for intervening with an authority or a public administration with a view to obtaining awards, jobs, contracts or any other favourable decision.

In concrete terms, the influence peddler cashes in on his / her influence, real or otherwise, to persuade a public corporation to carry out an act or reach a decision or, conversely, to refrain from carrying out an act or reaching a decision.

The act of influence peddling requires:

- the presence of an intermediary (the “peddler” of his / her own influence): the person who asks for, receives or accepts the benefit in order to use his / her influence (making himself / herself guilty of the crime of “passive” influence peddling);

between:

- the potential beneficiary: the person who offers, promises or gives, whether at his / her own initiative or at the request of the influence peddler (making himself / herself guilty of the crime of “active” influence peddling)
- and the authority or public administration which has the power to grant awards, jobs, contracts or any other favourable decision.

There is influence peddling even if the intermediary’s intervention does not in the end influence the decision reached by the public authority.

The potential beneficiary is just as punishable as the “influence peddler”.

➤ **Types of conduct constituting an act of influence peddling**

Influence peddling can come in a wide variety of forms.

The types of gifts which may be offered or received in the context of an act of influence peddling are the same as those offered or received in the context of an act of corruption.

The objectives can also be of very varied kinds and contents.

The objective may be to:

- ♦ achieve preferential treatment in the context of a procedure to award a procurement contract;
- ♦ obtain more favourable or faster processing of a file by an administration or a public authority;
- ♦ avoid the imposition of a penalty by an administration or a public authority.

Thus, the following behaviours are prohibited as they constitute an act of influence peddling:

- Offering a person money, or any other benefit, so that he / she approves the granting of planning permission by a municipality of which the mayor is a family member.
- Granting a customer prices well below those on the market concerned in return for his / her intervention with a civil servant to help obtain a modification of the operating conditions of an ICPE.
- Granting a provider commission in return for his / her intervention in the context of a public procurement procedure so that the contract is awarded to KEM ONE.
- Offering a tax officer sums of money to pay for his / her supposed influence in reducing the payment of back taxes.
- Offering a sum of money to a local elected official in return for his / her intervention with a public authority so that it doesn’t produce a report of an infringement.

C. The penalties

Any act of corruption or influence peddling is punishable by criminal and financial penalties.

The criminal penalties are doubled where a player in the public sector is involved in the act of corruption or where the intermediary intervening in the act of influence peddling holds a public office. These penalties can be applied to the companies, and also to individuals.

♦ Penalties for companies

The company concerned can be sentenced to pay a **fine** as follows:

- In the case of acts of corruption involving a person in public office and acts of influence peddling where the intermediary is in public office: **up to 5 million euros**, but this sum can be increased to ten times the proceeds obtained from the offence.
- In the case of acts of corruption not involving a person in public office and acts of influence peddling where the intermediary is not someone in public office: **up to 2.5 million euros**, but this sum can be increased to ten times the proceeds obtained from the offence.

Other penalties incurred:

- A prohibition from exercising directly or indirectly one or more professional or social activities;
- Being placed, for a period of five years maximum, under judicial supervision;
- The closure of one or more of the company's establishments which were used in the commission of the incriminated acts;
- Exclusion from procurement contracts;
- A prohibition on proceeding with a public offering of securities or having its securities admitted for trading on a regulated market;
- A prohibition on issuing cheques or using credit cards;
- Confiscation of the thing used in or intended for the commission of the offence or the thing which was the product of it;
- The publication of the sentence, with costs borne by the perpetrator of the offence.

♦ Penalties on individuals

- In the case of acts of corruption involving a person in public office and acts of influence peddling where the intermediary is in public office: any individual involved faces **up to 10 years imprisonment, and a fine of one million euros**, the sum of which can be increased to double the proceeds obtained from the offence.
- In the case of acts of corruption not involving a person in public office and acts of influence peddling where the intermediary is not a person in public office: any individual involved faces **up to 5 years imprisonment, and a fine of 500,000 euros**, the sum of which can be increased to double the proceeds obtained from the offence.

Other penalties incurred:

- The loss of civic, civil and family rights;
- A prohibition from holding public office or exercising the social or professional activity in the exercise of which the offence was committed, exercising a commercial or industrial profession, directing, managing or controlling in any capacity a commercial or industrial company;
- Confiscation of the thing used in or intended for the commission of the offence or the thing which was the product of it;
- The display or diffusion of the sentence imposed.

Section II. Rules to be observed

General principle: In the context of his / her professional activities, no employee of KEM ONE may, directly or indirectly, ask for, receive, accept or proffer, offer or give a sum of money or any other advantage, with a view to granting or obtaining in return a favour or an unjustified service (undue advantage).

⇒ The following are deemed advantages: a 1st class upgrade on a flight, employing a family member, an invitation to a restaurant or football match, an invitation to an event etc.

⇒ The following are deemed a favour or unjustified service: the award of a contract in the context of a call for tenders not based on objective criteria, the granting of prices lower than those usually applied, the allocation of commission well above the usual level on the market concerned etc.

All KEM ONE's employees must ensure that they comply with the rules defined in the present section.

A. Gift Policy

➤ **Principle of prohibition: the act of offering or accepting any gift, to or from a third party to the company, is purely and simply prohibited.**

The term "gift" means any goods, service, invitation to entertainment or any other thing of value.

As such, there is a prohibition on accepting any invitations to leisure activities (sports events, concerts, art exhibition previews etc.).

The payment and acceptance of monetary advantages are strictly prohibited.

➤ Three exceptions to the general principle of prohibition:

■ **Low-value gift**

An employee can accept a gift on condition:

- that **its value is sufficiently low** not to be perceived as a corruption attempt (flowers, chocolates, office sundries)

and

- that the gift is **provided to the department to which the beneficiary employee belongs.**

Any other gift must be refused and returned to its sender.

A template for a letter of refusal is provided on KEM ONE's intranet site.

Furthermore, an employee can offer a low-value gift on condition:

- that he/she has obtained the prior authorisation of the manager of the functional department or site concerned;

or

- that it is an object provided by KEM ONE in the context of KEM ONE's offer / shop of advertising items.

■ **Invitation to an event sponsored by KEM ONE**

An employee can offer places at an event sponsored by KEM ONE at the conditions defined in paragraph B below.

■ **Invitation to a business meal**

A meal can be received from a third party / offered to a third party if all the following conditions are met:

- The meal is organised in the context of the professional activity: the meal takes place on a day of meeting and its aim is to allow participants to hold discussions of a professional nature.
- Its value is that of a normal business meal in accordance with local norms.
- The invitation does not include spouses and other third parties not concerned by the professional activity which is the purpose of the meal.

If an employee considers that it is in the interest of the company KEM ONE to make a one-off exception to the rules of the Gift Policy as defined above, he / she may formulate a request for an exception to the Ethics Officer¹.

This request for an exception shall be made in writing and shall be accompanied by all the necessary context for its appraisal. The Ethics Officer will be entitled to ask for any additional information.

The Ethics Officer will assess whether this request is well-founded in the light of the information provided and will pass his / her opinion on to the General Management of KEM ONE, which alone will have the right to authorise or not to authorise the exception requested.

B. Donations, patronage and sponsorship

➤ **A donation** means any payment made to support charitable works without expecting in return any commercial advantage or other benefit.

Donations can be made in cash or in kind, in the form of goods or services.

Warning: even legitimate donations can be interpreted as acts of corruption where made for the benefit of charitable organisations which could, in one way or another, benefit a third party with ties, directly or indirectly, to KEM ONE. It is therefore necessary to check that no ties can be found with a person (public or private official) who would have decision-making power or influence who could give KEM ONE preferential treatment.

The following are not considered to be donations: contributions intended for associations in the industrial sector, subscriptions paid to professional organisations and sponsorships in the context of which KEM ONE has the benefit of a certain amount of advertising.

Rules to be followed:

- Obtain permission from the functional manager or site manager concerned before promising or making any donation.
- Do not make a donation if there is a potential conflict of interest. Do not make a donation to organisations nominated by customers, suppliers or civil servants.
- Donations made in cash or paid to accounts belonging to individuals are strictly prohibited.
- All the sites and functional departments must declare to KEM ONE's Management Control Department all the donations made.

➤ **Patronage and sponsorship operations**

Patronage consists of providing material support, without any direct consideration on the part of the beneficiary, to works or people for the exercise of activities in the public interest.

Sponsorship consists of providing financial or material support to an event, person, product or organisation with a view to obtaining a direct benefit from it.

In contrast to donations or patronage, a sponsorship operation aims to obtain a precise advantage: the visibility and publicity generated by the event allowing the image of the sponsor (party providing the support) to be reinforced in specific target groups.

¹ The Ethics Officer is designated in the alert system put in place within KEM ONE. This system is presented on KEM ONE's intranet site.

Rules to be followed:

- Any patronage or sponsorship operation must be approved in advance by KEM ONE's Human Resources and Communication Department.
- All the sites and functional departments must declare to KEM ONE's Management Control Department all the patronage or sponsorship operation made.

C. Lobbying activities

Lobbying means any activity intended to influence the decisions or directives of a government or an authority in favour of a particular cause or interest.

While lobbying activities are not illegal per se, it should be ensured that these activities are not diverted for purposes of corruption or to unduly influence any decision.

E.g.: there is an act of corruption, and no longer lobbying, where the lobbyist pays a civil servant or offers a civil servant privileges in order to incite him / her to support legislation or activities favourable to the lobbyist's business.

Rule to be followed:

No gift may be offered, promised or given with a view to influencing a decision or a directive of an authority in favour, directly or indirectly, of KEM ONE or its activities.

D. Relations with public players

➤ It is important to be particularly vigilant in our **exchanges with public players** (to have an administrative formality carried out, for example).

Rules to be followed:

- Any payment to a public player of a remuneration or an advantage of any kind can only be made after obtaining the prior agreement of the director of the site or the director of the functional department concerned and must, in any event, be stipulated / authorised by law.
- Any contract concluded with a public player must be announced as such to the buyer in the Goods and Services Buying Department concerned, if applicable.
- In the event of any doubt, consult the Legal Department.

➤ **“Facilitation payment”** means the payment of sums of money made with a view to accelerating or facilitating the performance of current and non-discretionary administrative acts (such as customs clearance or the issue of a visa).

Rule to be followed:

Such facilitation payments are purely and simply prohibited.

➤ **“Political contribution”** means any direct or indirect contribution with a view to providing support for a political party, a candidate or an elected official, in the form of the payment of money or any other advantage (services, publicity etc.).

Rule to be followed:

Any political contribution paid by the company or on its behalf is strictly forbidden.

E. Conflict of interests

➤ A situation of a **conflict of interests** arises where a KEM ONE employee has personal, direct or indirect interests which could compete with his / her role within the company. Any such conflict of interests could potentially call into question the neutrality and impartiality with which the person needs to perform his / her duties: his / her personal interests could thus influence the manner of performance of his / her duties.

The interests concerned can be of many kinds (financial advantages, a job offer etc.). They can also concern the person concerned or his / her friends and family.

Rules to be followed:

Where a situation such as this arises, any KEM ONE employee must act so as to prevent any conflict of interests, in particular:

(i) by informing his / her hierarchical superior once they become aware of it;

(ii) and, unless otherwise instructed by his / her hierarchy, by not taking part in KEM ONE’s decision regarding the matter concerned (negotiation or award of a contract, recruitment decision, authorisation of a donation, or a patronage or sponsorship operation, etc.).

F. Compliance with accounting control procedures

All transactions must be recorded and documented exhaustively and transparently, and posted to accounts which reflect their nature in a precise way.

Attempting to hide a payment may constitute a more serious offence than the payment itself.

Rules to be followed:

- All the accounting control procedures in force within the company must be strictly observed (procedure entitled Expense account, Minor expenses, Travel Policy etc.).

- All operations must be exhaustively documented, correctly approved and allocated to the correct expenditure account.

Section III – Internal alert system and disciplinary system
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A. Internal alert system

Any KEM ONE employee discovering conduct or situations contrary to the present Code of Conduct may use the internal alert system put in place within KEM ONE to report them.

The conditions for using this internal alert system are detailed on the KEM ONE intranet and internet sites.

B. Disciplinary system

Non-compliance with the provisions of the present code of conduct may give rise to a penalty, in accordance with the internal regulations in force in the establishment of the employee(s) concerned.