

IMPERIAL HOLDINGS LIMITED		
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TITLE: <b>ANTI BRIBERY AND CORRUPTION POLICY</b>		
EFFECTIVE DATE: 01/07/2015	REVIEW DATE: 06/2016	NEW

## 1. INTRODUCTION

Imperial Holdings Limited and all its subsidiaries and associated companies, (**"the Imperial Group"**) is committed to combating corruption, bribery and anti-competitive collusion, through the implementation of an Anti-Bribery and Corruption Policy (**"this Policy"**). This Policy has been developed to promote appropriate standards and behavior, in order to prevent bribery, corruption and anti-competitive collusive practices in the various jurisdictions in which the Imperial Group operates. The Imperial Group supports the objectives of this Policy and recognises the legal importance of complying with all anti-bribery, anti-corruption and anti-competitive collusive laws, regulations, and/or policies of South Africa, (**"SA anti-bribery law"**), including:

- ❖ the Prevention and Combating of Corrupt Activities Act, No 12 of 2004 (**"PACCA"**);
- ❖ the Prevention of Organised Crime Act, No 121 of 1998 (**"POCA"**);
- ❖ the Financial Intelligence Centre Act, No 38 of 2001 (**"FICA"**);
- ❖ the Financial Advisory and Intermediary Services Act, No 37 of 2002 (**"FAIS"**);
- ❖ the Criminal Procedure Act, No 51 of 1977 (**"CPA"**);
- ❖ the Competition Act, No 89 of 1998 (**"the Competition Act"**) and
- ❖ the Companies Act, No 71 of 2008 (**"the Companies Act"**).

This policy further recognizes the legal requirements of:

- ❖ the UK Bribery Act, 2010;



- ❖ the Foreign Corrupt Practices Act of 1977;
- ❖ the Australian Criminal Code Act 12 of 1995;
- ❖ the European Union; the Organisation for Economic Cooperation and Development;
- ❖ the United Nations Global Compact Principles;
- ❖ the United Nations Convention against Corruption;
- ❖ the African Union Convention on preventing and Combating Corruption;
- ❖ the South African Development Community's Protocol against Corruption;
- ❖ the laws against bribery, corruption and anti-competitive collusive practices in all other jurisdictions in which the Imperial Group conducts business,

(collectively, "**International anti-bribery law**").

## 2. SCOPE

This Policy applies to all directors, employees (whether permanent, fixed term or temporary), consultants, contractors, agency staff, of the Imperial Group.

Where any policy adopted by Imperial Group conflicts in any way with this Policy, then the policy providing the greatest level of protection against bribery, corruption and conflicts of interest shall prevail.

This policy is in addition to and not a replacement of any existing policy governing anti-bribery, corruption or conflicts of interest.

## 3. POLICY STATEMENT

It is the Imperial Group's policy to conduct all its business with transparency, integrity, and enforcing a zero tolerance approach to bribery and corruption. The Imperial Group is committed to performing with honesty and acting professionally in all its business dealings and relationships. Furthermore, the Imperial Group is dedicated to operating, implanting and enforcing effective systems to counter bribery and corruption. The nature of Imperial



Group's business requires interaction with persons within various levels of governments, multi-national client companies and third party service providers throughout Africa and the World. Imperial Group is committed to upholding all laws in the countries in which it does business, the Imperial Group Code of Ethics, SA anti-bribery law, International anti-bribery law and this Policy.

#### **4. OUR PURPOSE**

The Imperial Group refuses to offer, give or receive bribes or improper payments, or participate in any kind of corrupt or anti-competitive collusive activity, either directly or indirectly through any third party, in order to obtain new business, retain existing business, or secure any improper advantage, and Imperial Group furthermore will not use or permit others to do such things on our behalf.

The Imperial Group will always strive to avoid any appearance of wrongdoing and will report any attempts to bribe us, or to solicit bribes from us, and any suspicions we have about bribery and corruption. We recognise that any allegation of bribery or corruption can seriously damage the Imperial Group's reputation.

The Imperial Group will never participate in any form of corrupt behavior or anti-competitive collusive practices conceal or fail to accurately record the true nature of the Imperial Group activities, or falsify or tamper with the Imperial Group books and records.

#### **5. BRIBERY AND CORRUPTION**

##### **5.1. Definition**

Bribery is where a person offers, promises, gives or receives, demands or accepts a financial or other advantage to/from another person with the intention to bring about the improper performance by that other person of a relevant function or activity or to reward such improper performance.

Corruption is defined broadly as "the abuse of power for personal gain" and bribery and fraud are considered to be aspects of corrupt practices.



The primary anti-corruption legislation in South Africa is PACCA. PACCA aims to prevent and fight corruption in both the public and private sector and creates a general offence of corruption that is broadly defined. In addition to the general crime of corruption, PACCA also criminalises specific corrupt activities.

A person will be guilty of an offence under PACCA if he/she directly or indirectly accepts or offers to accept a gratification (which is any economic benefit, whether in cash, or in any other form) from another person, or gives or agrees to give a gratification to any other person for his/her benefit, or that of another, where the giving or accepting is done in order to induce the other party to act in an improper manner, in the performance of that individual's duties.

## **5.2. Why be concerned**

Penalties for those convicted of an offence as set out in PACCA can range from limitless fines up to life imprisonment. South African courts view convictions of fraud and corruption as serious violations and sentence of 15 years or more are not unusual. PACCA further provides for a tender register blacklisting companies and individuals convicted of acts of corruption, with the consequence that such entities and individuals cannot do business with the South Africa government for 10 years. Over and above this, it is a criminal offence for an individual or enterprise applying for a tender not to disclose their involvement in a company that has been black-listed. A recent innovation is that of publicly naming and shaming individuals convicted of crimes of corruption.

Further PACCA does have extra-territorial jurisdiction if certain requirements are met. Thus a South African citizen or someone who ordinarily resides in South Africa, as well as companies incorporated or registered in South Africa, can be prosecuted in terms of PACCA regardless of whether the offensive act constitutes an offence at the place of its commission.



### 5.3. Examples of corrupt offences under PACCA ( which are not intended to be at all exhaustive ):

- 5.3.1. Offences involving contracts - it is a crime for anyone to accept any form of gratification to influence who will receive a contract in the workplace. Anyone involved in accepting or offering such a gratification will be guilty of corrupt conduct under PACCA, even if the gratification is received or paid by the Imperial Group and the individual does not personally benefit in any way.
- 5.3.2. offences involving a public official – it is a crime for anyone in the private sector to offer a public official gratification to receive a benefit. Furthermore it is also a crime for a public official to offer to do something for someone in the private sector in exchange for gratification;
- 5.3.3. offences that involve judges, magistrates and witnesses - it is a crime to offer a magistrate or judge gratification to influence the outcome of a case ;
- 5.3.4. offences that involve tenders - it a crime to offer or accept gratification in order to influence the award of a tender; and
- 5.3.5. offences of conflict of interest- it is a crime for any public officer to acquire a private interest in a contract connected with the public body.

## 6. POLITICAL DONATIONS

Imperial Group and its employees will never directly or indirectly make a contribution to any political party, organisation or individual engaged in politics in order to obtain an improper advantage in business conducted by the Imperial Group. Furthermore we will never offer or make any contribution as an incentive or reward for obtaining or retaining business or for any improper purpose. Imperial Group will always make sure the contribution is lawful and appropriate. A proper due diligence will always be conducted to ensure that the contribution is not improper and that the requisite approval from the Board was obtained.



## **7. CHARITABLE DONATIONS AND SPONSORSHIPS**

The Imperial Group may make charitable contributions and offer sponsorships for the purposes of socio-economic development, research, cultural and sporting activities, provided they are not for improper business purposes. We will always ensure that the charity is appropriate, legitimate and has all the appropriate registrations. Further we will always conduct a proper due diligence before making any charitable donation or offering any sponsorship. The Imperial Group will never offer or make any charitable contribution as an incentive or reward for obtaining or retaining business or for any improper purpose.

## **8. FACILITATION PAYMENTS**

### **8.1. Definition of facilitation payments**

Facilitation payments are usually small payments or gifts made to low-level public officials in order to speed up or “facilitate” actions the officials are already duty-bound to perform.

### **8.2. Why be concerned**

Facilitation payments are classified as bribes and as such are illegal in South Africa and in other countries where the Imperial Group conducts business. Any type of facilitation payment is prohibited, large or small. Even where such payments are perceived as business practice or acceptable under the local law and even if our competitors engage in such practices, no violations of this principle will be tolerated.

### **8.3. Legitimate fees**

A legitimate fee is sometimes payable for a speedy service provided by the government, where this is legally permissible. For example, a published amount to get a visa or a new passport more quickly from a consulate. Payment of such fees is acceptable provided there is a defined business need, the payment is transparent and open, and a receipt is obtained and the expense is properly recorded in the Imperial Group’s financial records. It would not, of course, be



legitimate, if it is a private payment to the official concerned, in order for him to expedite such an application.

## 9. GIFTS, ENTERTAINMENT AND HOSPITALITY

The Imperial Group prohibits the offering of or receipt of gifts, hospitality, gratification or entertainment, which could affect or be perceived to affect the outcome of a business transaction and is not reasonable and *bona fide*. The Imperial Group further precludes any activities involving clients that could impair or create the appearance of impairment of our objectivity and independence with regard to our relationships with clients.

The Imperial Group may offer and receive, gifts, hospitality and entertainment openly, unconditionally and without the intention of obtaining or retaining any business advantage, and provided that the value thereof is not excessive. A business advantage is the unauthorised or improper gaining of a commercial and contractual advantage. If in doubt, you should always consult your manager or person in authority to ensure adherence to this principle.

The Imperial Group will always ensure that:

- ❖ all reimbursable entertainment activities involving the Imperial Group personnel and client/supplier or potential clients has a valid business purpose and the cost is reasonable;
- ❖ all gifts and hospitality ( in excess of R 2 000/ USD 200/ Euro200/ Pounds 200 per gift and value of hospitality) given and received are declared in a gift register and signed-off by an Imperial Group manager; and
- ❖ our operating legal divisions are available to Imperial Group personnel to discuss offering any kind of gift or hospitality to a public official ( but generally such things are best avoided);

The Imperial Group will never:

- ❖ give, promise to give or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;



- ❖ threaten or retaliate against another employee who has refused to commit a bribery offence or has raised concerns under this policy;
- ❖ solicit gifts or hospitality; and
- ❖ offer or accepts gifts of cash or cash equivalent (e.g. vouchers)

## 10. BUSINESS RELATIONSHIPS

The Imperial Group will endeavour to engage with agents, consultants, joint venture partners, consortia, advisors, distributors, contractors, sub-contractors and suppliers (“**third parties**”) to observe this Policy and act at all times in accordance with the Imperial Groups standards in relation to bribery and corruption. In order to protect the Imperial Group against the risk of bribes given indirectly, it is the responsibility of the Imperial Group personnel when employing third parties to conduct an appropriate due diligence process. Third parties need to understand and formally agree to this and it is our responsibility to confirm their behaviour remains compliant.

### **Collusive Practices**

The Competition Act prohibits collusive tendering in the procurement process. Furthermore such conduct also constitutes corrupt activity under PACCA. Collusive tendering or bid rigging is defined as an agreement amongst competitors not to compete on bids they submit after being invited to tender. Together with price fixing and market allocation, collusive tendering falls within the class of conduct referred to as “cartel activity”, which is prohibited.

Imperial Group personnel must never participate in a bid-rigging cartel or engage in cover pricing to favour one or more companies in exchange , for example, for a “loser’s fee”. This type of conduct amounts to the receiving of gratification and is an offence under PACCA. Furthermore when an individual participates in a bid-rigging cartel and it is agreed that his/her company will engage in cover pricing so that a rival firm can win the tender in exchange for a sub-contract, this too amounts to a corrupt activity under PACCA.

Imperial Group personnel must be aware that all parties involved in collusive tendering will be prosecuted under PACCA. Furthermore, the fact that the employee may not derive any



personal benefit from the collusive activity is of no relevance. It constitutes a contravention of the Competition Act and an offence under PACCA.

### **Procurement policy**

The Imperial Group will always verify and check our third parties' experience, background and reputation. The Imperial Group will endeavour to conduct its procurement practices in a fair and transparent manner. We will further endeavour to avoid dealing with contractors and suppliers or other business partners known or reasonably suspected to be paying bribes.

### **Compensation and payments to business partners**

The Imperial Group will not channel improper payments through agents or other intermediaries. Compensation paid to third parties should be appropriate and justified remuneration for legitimate services rendered.

The Imperial Group will never:

- ❖ enter into agreements that do not have a clear and proper commercial rationale;
- ❖ pay more than the fair market value for goods and services;
- ❖ make payments to third parties without having a binding written agreement (whenever possible) in place and we know exactly what the payment is for; and
- ❖ exchange sensitive information with third parties i.e. pricing, other confidential customer information.

The Imperial Group personnel are encouraged to look out for the following behavior:

- ❖ unusually large fees or cash payments;
- ❖ fees linked to a percentage of the project cost or value;
- ❖ suspicious bidding patterns;
- ❖ a request for money paid into a personal or offshore bank account;



- ❖ someone who does not appear to have the experience, expertise or qualifications for what they are being engaged to do; and
- ❖ lavish hospitality and gifts

Imperial Group personnel must report any suspicious activity to an Imperial Group manager.

## 11. CONFLICTS OF INTEREST

The Imperial Group encourages avoiding situations in which personal interests or actions could conflict or appear to conflict with the best interests of the Imperial Group. All conflicts of interests should be disclosed, whether real or potential, to senior management.

### **What constitutes a conflict of interest?**

Conflicts of interest occur when an employee has an undisclosed direct or indirect personal or economic interest in a transaction. Usually the conflict is about an individual benefiting at the expense of the Imperial Group. But it may also apply where there is nothing untoward in the transaction, but the employee or any member of his family or close circle has some involvement with the other party to the transaction, and may stand to benefit financially from that involvement. Perceptions of conflict of interest can be just as damaging as an actual conflict of interest. A conflict may occur where an employee accepts inappropriate gifts, favours, or kickbacks from vendors, or when an employee engages in unapproved employment discussions with current or prospective contractors or suppliers.

Imperial Group personnel must never:

- ❖ use contacts or any knowledge gained at the Imperial Group for personal gain, or to benefit family and friends;
- ❖ pay a third party more than contractually agreed i.e. market based fee for goods and services;
- ❖ enter into situations in which their personal, family or financial interest may conflict with those of the Imperial Group; or
- ❖ create the impression that customers or suppliers have a contact in the Imperial Group who can exert influence on their behalf.



## 12. **IMPORT AND EXPORT OF GOODS AND SERVICES**

The Imperial Group complies with all legal requirements for the proper import and export of goods and service. The Imperial Group is committed to trading lawfully at all times, hence compliance with all trade regulations and restrictions imposed by recognised national and internal authorities. All restrictive trade practices are strictly prohibited. As well as complying with all relevant laws, the Imperial Group must obtain all necessary licenses and permits to import and export goods, and in doing so, provide honest and accurate information to customs authorities.

## 13. **OUR ROLE AND RESPONSIBILITIES**

### **Imperial Group personnel responsibilities**

The prevention, detection and reporting of bribery, corruption and conflicts of interest is the responsibility of every Imperial Group personnel and those working under the control of the Imperial Group. It is the responsibility of all Imperial Group personnel to raise concerns about any issue or suspicion of bribery, corruption or conflict of interests

Any Imperial Group personnel who suspects actual or potential acts of bribery, corruption or conflict of interest must disclose such information as soon as one become aware of the information. Failure to disclose such information would constitute an act of misconduct that could result in a disciplinary action which could result in dismissal.

## 14. **HOW TO REPORT SUSPICIOUS TRANSACTIONS**

### **How to report**

Imperial Group personnel are required, when discovering or suspecting bribery, corruption or conflict of interest, to immediately report the issue or suspicion.

If you are unsure whether a particular act constitutes bribery, corruption or conflict of interest, you must raise your concerns with your line manager or where this is not appropriate for whatever reason, with the Human Resources Department or any director of the Imperial Group, or via the whistle-blower hotline.



The Imperial Group does not tolerate any form of retaliation, harassment or intimidation of a whistle-blower by other as a result of raising concerns in good faith. All concerns will be investigated and appropriate action taken.

The Imperial Group will investigate all reports of bribery, corruption and conflicts of interest

### **The Imperial Group Anti-Corruption and Tip Offs Hotline Details**

The Imperial Group Anti-Corruption and Tip Offs hotline is independently managed by Tip-Offs Anonymous which is part of well-known audit firm, Deloitte & Touche. The hotline contact details are:

- ❖ **Toll Free Number : 0800 20 35 80**
- ❖ **Email : [imperial@tip-offs.com](mailto:imperial@tip-offs.com)**