

# **KME Group S.p.A.**

## **Internal Regulations regarding transactions with related parties**

**Update: text adopted on 11 November 2010**

- Reviewed article 150, paragraph I of the Legislative Decree n° 58/98 (hereinafter in brief the “TUF” - Consolidated Finance Act) that obligates the Directors, at least quarterly, to report to the Board of Statutory Auditors regarding the business activities carried out and those operations with the biggest economic, financial and equity impacts carried out by the company and its subsidiaries and, specifically, regarding those in which those same Directors have an interest, either on their own behalf or for third parties, or that are in any way influenced by the party that carries out managerial and coordination activities, a rule that was speedily inserted into article 14 of the Articles of Incorporation and that is regularly reported during the Board of Directors Meetings.
- Reviewed articles 2391 and 2391, part two, of the Italian Civil Code that deals with matters regarding interests of the Directors and transactions with related parties, as well as with the sanctions referred to in article 2629 bis, of the Italian Civil Code.
- Reviewed article 71 bis, of the Regulations adopted by CONSOB (Italian SEC) with its resolution n° 11971 of 14 May 1999, (hereinafter in brief “Issuers’ Regulations”) that imposes upon quoted companies that their transactions with related parties, also if finalised through their subsidiary companies which, because of their subject, amount, methodology or timeframes could have impacts on the safeguarding of the company’s equity and assets, or regarding the completeness and correctness of information, also accounting information, must be highlighted in an “Informational Document”.
- Reviewed the CONSOB (Italian SEC) communications n° 1025564 of 6 April 2001 and n° 6031329 of 7 April 2006 that requires that the Board of Statutory Auditors sends a full list of all the controls that have been carried out during the financial year, focusing special attention on those transactions that have been carried out with related parties.
- Reviewed the legislation, rules and regulations relative to the drafting of Financial Statements and accounting situations and taking into account what is laid down by the International Accounting Standard n° 24 (hereinafter in brief “IAS 24”), as well as the other measures regarding these matters issued by CONSOB with its communication n° DEM/6064293 of 28 July 2006, with the Regulations adopted with resolution n° 17221 of 12 March 2010, (hereinafter in brief the “CONSOB Regulations”), to which reference should be made for anything not dealt with in these Regulations (hereinafter in brief the “Internal Regulations”).
- Reviewed articles 7 and 9 of the “Corporate Governance Code” promoted by Borsa Italiana S.p.A., which the company declares that it observes, (hereinafter in brief the “Corporate Governance Code”) that gives the principles and procedures for Corporate Governance regarding these matters.
- Reviewed the binding positive opinion, given by the Internal Controls Committee on 11 November 2010.

**KME Group S.p.A.**

(hereinafter in brief “KME” or the “Company”)

**resolves to adopt the following**

**INTERNAL REGULATIONS  
regarding  
transactions with related parties**

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## **Article 1 *General Principles***

The transactions with related parties, carried out directly or through subsidiary companies (1), fully observe the following principles:

- transparency;
- basic correctness;
- procedural correctness.

## **Article 2 *Application area***

The text of the IAS 24, in its format adopted according to the procedures contained in article 6 of the EC Regulations n° 1606/2002 aligned with the relative domestic legislation, is the reference point, because it is applicable, for the interpretation and observance of these Regulations (hereinafter in brief the “Internal Regulations”).

Therefore, a party is defined as a “related party” of the Company if it:

(a) directly or indirectly, including through subsidiaries, trustees or intermediaries:

(i) controls the company, is controlled by or is subject to joint control;

(ii) holds a stake in the company which enables it to exert significant influence over the company;

(iii) exercises control over the company jointly with other parties;

(b) is an associate of the company;

(c) is a joint venture in which the company is a participant;

(d) is a manager with strategic responsibilities of the company or its parent;

(e) is a close relative of a party referred to in paragraphs (a) or (d);

(f) is an entity in which a person referred to in paragraphs (d) or (e) exercises control, joint control or significant influence or owns, directly or indirectly, a significant portion, but not less than 20%, of voting rights;

(g) is a supplementary pension fund, collective or individual, Italian or foreign, established for the employees of the company, or of any other entity associated with it.

The Board of Directors can indicate other parties to whom the Internal Regulations are applicable. In this context, the Company has identified as “executives with strategic responsibilities”, who are subject to the Internal Regulations, the executive Directors of the following subsidiary companies:

- KME A.G. (limited to the “*Vorstand*” – Management Committee);
- ErgyCapital S.p.A. (limited to the Managing Director);
- Drive Rent S.p.A. (limited to the Managing Director).

At the moment, the Company has not identified any other additional parties to whom the Procedures are applicable, taking into account ownership, any contractual or Articles of Incorporation limitations, or any sector regulations.

(1) Regarding the idea of what is control reference should be made to what is laid down by article 2359 of the Italian Civil Code, which only refers to individual control (see paragraph 7, note 16, of the CONSOB communication n° DEM/10078683 of September 24, 2010).

### **Article 3 Definition of “related parties” and their information obligations**

The controlling parties, the members of the administrative and control bodies of the Company, as well as the executives with strategic responsibilities, as identified pursuant to article 2 above, are subject to the Internal Regulations and, because of this, they have to communicate to the Company all the necessary information in order to enable the identification of the related parties and of the transactions with them.

Specifically, the Directors and the Statutory Auditors of the Company, where they have an interest, either on their own behalf or on that of third parties, must inform the Board of Directors of this, in the person of its Chairman, detailing its nature, timeframes, origin and weight. Those Directors who have such an interest are also obliged to abstain from voting regarding it and they must absent themselves during the relative procedure, except in the case where a different and unanimous resolution is passed by the Board of Directors regarding it.

Taking into account the information received, the Company, through its Administration Manager and its Company Secretariat Manager:

- communicates their qualification as a “related party” to those parties identified as such by the Board of Directors, as per the faculty referred to in article 2, paragraph III;
- draws up the list of the related parties.
- updates the list half-yearly, taking into account the equity investments owned and the information received from the Directors and the Statutory Auditors, as well as from the “executives with strategic responsibilities”.

The subsidiary and associated companies must observe the companies Internal Regulations and ensure that the Company receives the relative information.

Those executives of the subsidiary companies with strategic responsibilities must immediately communicate to the Administration Manager any transactions carried out with related parties, as well as reporting if any of their close family members have put in place transactions with the company or with one of its subsidiaries.

The Company, in observance of the corresponding definition contained in Attachment 2 of the CONSOB Regulations, includes among the “close family members of a person” their not legally separated spouse and their cohabiting partner, as well as the children and dependant of the party oh the not legally separated spouse, or/of the cohabiting partner.

The Internal Controls Committee will take care in the resolving of any uncertainties regarding whether a person can be classified as a related party or not.

#### **Article 4 Definition of “transactions with related parties”**

For “transactions with related parties” there are meant any transfers of resources, services or obligations between related parties, independently of the fact that the action has been carried out for a consideration in value.

The following are deemed to be included:

- merger transactions, spin-off by incorporation or strictly non-proportional spin-off, if carried out with related parties;
- any decision on the allocation of compensation and economic benefits, in whatever form, for members of the administrative and control bodies and managers with strategic responsibilities.

#### **Article 5 Other definitions**

The Internal Regulations take in the definitions, which are referred to in the measures regarding these matters issued by CONSOB and that are currently in force and, specifically, they apply those that are given in article 3 and in Attachment 1 of the CONSOB Regulations.

Regarding the definitions of “important transactions” and “less important transactions” reference should be made to Attachment 3 of the same Regulations.

In order to give a complete situation, the aforesaid Attachments 1 and 3 of the CONSOB Regulations are attached to the Internal Regulations, as a substantial part of them and identified with the letters a) and b), respectively.

#### **Article 6 The Internal Controls Committee and its membership**

The Internal Controls Committee, hereinafter “the Committee”, a body nominated by the Board of Directors, which is only made up of independent and non-executive Directors, watches over the fact that the procedures regarding transactions with related parties conform to the relative legislative and regulatory measures that are applicable to them, as well as the fact that they are fully observed in practice.

The Directors involved must have all the independency requirements laid down by article 148, paragraph 3, of the TUF, as well as by article 7 of the “Corporate Governance Code”.

#### **Article 7 Competencies of the Internal Controls Committee**

The Committee give the Board of Directors its opinion regarding the interest of the Company in carrying out transactions with related parties, as well as regarding the basic appropriateness and correctness of the relative conditions.

Regarding important transactions the Committee must be involved in both the investigative and negotiation stages through the complete and speedy receipt of all the relative information.

The Committee has the discretionary faculty of being able to ask for information and making its comments to the delegated bodies and the parties assigned to carry out the relative negotiations, as well as being assisted by its own independent experts, at the Company's expense, for the purpose of evaluating the characteristics of the operation.

#### ***Article 8 Competencies solely of the Compensation Committee***

Regarding the compensation of the executives who have strategic responsibilities for the Company and the Group, the competencies foreseen by the CONSOB Regulations for the Internal Controls Committee are exercised by the Compensation Committee.

The Compensation Committee consists of three Directors, nominated by the Board of Directors, who are non-executive and independent, pursuant to article 7 of the "Corporate Governance Code".

There are applicable to the Compensation Committee the same measures foreseen for the Internal Controls Committee by the CONSOB Regulations and by the Internal Regulations. Its decisions are communicated to the Internal Controls Committee for the purpose of ensuring the best possible coordination between the two bodies.

Furthermore, it is up to the Chairman of the Internal Controls Committee and the Chairman of the Compensation Committee to ensure the functional coordination of the activities of the two Committees.

#### ***Article 9 Calling meetings of the Internal Controls Committee***

The Committee's meetings are called by its Chairman, on his/her own initiative, or at the request of one of its members, or of the Chairman of the Board of Directors of the Company, with a letter or e-mail sent to the domicile of its members, appropriately in advance of the time of actually carrying out the transactions in question.

The notices calling the meetings must contain the details of the agenda items, as well as the date, the time and the place of the meeting, which can also be held outside the company's registered office as long as the place is in Italy or in another country that is a member of the European Union.

In any case, the members of the Committee must receive all the information and documentation, which is necessary for them to make their own decisions, in good time.

The notices calling the meetings must be accompanied by the documentation that is able to illustrate, in a complete and appropriate fashion, the main features of the transactions.

The Chairman of the Board of Directors and the Chairman of the Board of Statutory Auditors are invited to take part in the Committee meetings. There can also be invited the executives of the company, the members of the



administration and controls bodies of subsidiary and associated companies, their executives, as well as representatives of the External Auditing Company.

#### **Article 10 *Meetings and resolutions of the Internal Controls Committee***

The meetings of the Committee can also be held by teleconference or videoconference, on condition that the participants can be identified and that they are able to follow the discussions and intervene in real time in regarding the matters being dealt with. If these requisites exist the meeting is considered to be held in the Company's registered office, or in another place that is agreed upon between the meeting participants.

An independent Director who has a conflict of interest, as the same is foreseen by the measures currently in force, relative to the individual transaction that has to be examined by the Committee, has the obligation of highlighting this situation and, therefore, not to take part in the resolution process.

The resolutions of the Committee are validly passed with a majority vote.

Whenever two of the independent Directors have a conflict of interest, voting on the resolution is reserved for the third Director. If the third Director also has a conflict of interest voting on the resolution is reserved for the Board of Statutory Auditors.

The Minutes of the Committee meetings are drafted under the care of the Secretary of the Board of Directors and, where applicable, must contain the reasons for the assumption that it is in the Company's interest to carry out the transaction, as well as regarding the basic appropriateness and correctness of the relative conditions.

#### **Article 11 *Categories of transactions***

The transactions con related parties are split as follows:

- transactions of greater materiality;
- less important transactions;
- exempt transactions.

The transactions of greater materiality are those identified as per Attachment 3 of the CONSOB Regulations.

#### **Article 12 *Transactions of greater materiality***

The transactions of greater materiality, as identified in article 11, are submitted for the prior approval to of the Board of Directors that passes a resolution on them, observing the procedures laid down by article 19 of the Articles of Incorporation, after having heard the reasoned opinion of the Internal Controls Committee on the Company's interest in carrying out the transaction, as well as regarding the basic appropriateness and correctness of the relative conditions.

The Committee's opinion is binding and it must be transcribed in full in the Minutes of the Board of Directors Meeting.

The executive Directors of the Company, as well as those of KME A.G. and of Drive Rent S.p.A., must communicate the important transactions, insofar as within their competencies, to the Chairman Board of Directors of the Company, who will then inform the Committee.

**Article 13 *Transactions of greater materiality not approved by the Committee***

The transactions of greater materiality that have not had prior approval from the Committee cannot be carried out by the Board of Directors.

If the Board of Directors intends to carry it out without the prior approval it must call an Ordinary Shareholders' Meeting, without delay, putting the approval of the said transaction into the Meeting Agenda.

The Shareholders' Meeting passes valid resolutions regarding this with the majorities laid down by the Articles of Incorporation.

The transaction is held to be not approved and, therefore, cannot be carried out, only if the majority of the voting non-related shareholders cast their votes against the transaction and if the non-related shareholders present at the Shareholders' Meeting represent at least 10% of the Share Capital with voting rights.

**Article 14 *Less important transactions***

The less important transactions referred to in article 11 of the Internal Regulations are examined and resolved upon by the competent company body according to the relative procedures currently in force.

For the purpose of carrying them out the Board of Directors has specifically given to the Vice Chairman Dr. Vincenzo Manes and, in the case of his absence or impediment, or where urgency is required, to the other Vice Chairman Dr.ssa Diva Moriani and as long as they, individually, have no conflict of interest regarding the transaction in question, the power to approve the aforesaid transactions, for an amount that is no higher than € 5,000,000.00, of Company and its subsidiary companies.

Furthermore, the Board of Directors has resolved that the corresponding transactions, of a higher amount than € 5,000,000.00, as well as those for a lesser amount for which there exist a conflict of interest situation involving the Vice Chairman called upon to approve them, must be submitted to it for its prior approval.

In both cases the transactions must be submitted for the prior, non-binding and reasoned approval of the prior Internal Controls Committee regarding the interest in carrying out the transaction, as well as regarding the basic appropriateness and correctness of the relative conditions.

In the case of those transactions that fall within the area of those decisions reserved for the Vice Chairman regarding which the Committee has expressed a negative reasoned opinion, the Vice Chairman called upon to approve them must, without delay, inform the Chairman of the Board of Directors, who then has to inform the other Board members. Each one of the non-executive members of the Board of Directors, excluding the members of the Internal Controls Committee, has the faculty of being able to call the same, within the timeframe of three days, for the purpose of passing a resolution regarding the approval of this type of transaction.

The executive Directors of the Company, as well as those of KME A.G. and of Drive Rent S.p.A., must communicate the less important transactions in advance, insofar as they fall within their respective competences, to the Chairman of the Board of Directors of the Company, who will inform the Committee of them.

### **Article 15 *Exempt transactions***

The Internal Regulations measures are not applicable to the following:

1. resolutions regarding the compensation of those Directors invested with special assignments and offices, which fall within the total amount approved, in advance, by the Shareholders' Meeting pursuant to article 2389, paragraph III, of the Italian Civil Code;
2. transactions of less than € 100,000.00 with physical persons and no higher than € 500,000.00 with other persons, as long as they do not present any risks linked to the characteristics of the transaction itself and also with the requirement that these transactions cannot have a significant impact on the equity situation of the Company. In both cases the above cases the amounts are meant to represent a year's transactions and, therefore, they are cumulative;
3. the "Compensation Plans", based on financial instruments, approved by the Shareholders' Meeting, pursuant to article 114 bis, of the TUF (Consolidated Finance Act) and the relative executive transactions;
4. the resolutions regarding the compensation of Directors invested with special assignments and offices, different from those in point 1 above, but only in the case where there are observed the conditions laid down by the measures regarding this matter that are contained in the CONSOB Regulations article 13, paragraph 3, letters a) and b);
5. ordinary transactions finalised at conditions equivalent to normal market ones, or standard practice;
6. transactions with, or between, subsidiary companies, as well as the transactions with associated companies as long as that, within the subsidiary or associated companies that are the counterparts of the transaction, there are no interests, qualified as significant ones pursuant to the Internal Regulations, of other related parties of the Company.

Because the important transactions referred to in point 5 above are not subject to the obligation of publishing the "Informational Document" referred to in article 19, the Company must do the following:

1. communicate to CONSOB, within the timeframes laid down by the applicable measures, the name of the counterpart, the subject and the amount of the transactions.
2. show in the Interim Report on Operations and in the Yearly Report on Operations which transactions, subject to the informational obligations, have been finalised while availing of the exclusion.

For the purposes of the applicability of the exemption referred to in 6 above, the following shall not be considered to be “significant interests”:

1. the mere sharing of one or more Directors, or executives with strategic responsibilities, between the Company and the subsidiary and associated companies;
2. the existence of relations of an equity nature, excluding those referred to in the following point 3 and, in general, those arising from the compensation of executives with strategic responsibilities that is no greater than € 200,000.00, calculated cumulatively on a yearly basis, between the subsidiary and associated companies, on the one hand, and other related parties of the Company, on the other hand and that, in any case, impact or are impacted by the transaction in question;
3. the existence of Incentive plans based on financial instruments or, in any case, on variable compensations, which depend upon the results achieved by the subsidiary or associated companies with which the transaction has been carried out and whose beneficiaries are Directors or executives with strategic responsibilities, also of the Company and when the transaction in question is less than 5% of the value of the results achieved by the subsidiary and associated companies, on which the incentives are calculated;
4. when the subsidiary or associated company is participated in by the party that controls the Company, if the effective weight of that equity investment is not higher than the effective weight of the equity investment owned by the same party in the Company.

#### **Article 16 *Framework Resolutions***

Whenever it is foreseen that a series of homogenous transactions will be carried out with specific categories of related parties within the same year, it is possible that they can all be authorised by a “Framework Resolution”.

The approval of this “Framework Resolution” falls within the competencies of the Board of Directors and it follows the same procedure for the same sort of transactions with related parties, with reference to the foreseeable maximum amount of the cumulative forecasted transactions.

The Board of Directors must receive, at least quarterly, a complete informational document regarding the actuation of the aforesaid “Resolutions”.

### **Article 17 *Periodic external information***

The Company supplies information, in its Interim and Yearly Reports on Operations, regarding the following matters:

- on the individual important transactions finalised during the relative accounting period;
- on any other individual transactions with related parties, as defined pursuant to article 2427, paragraph II, of the Italian Civil Code, also finalised during the relative accounting period, which have had a relevant impact on the equity situation, or on the financial results, of the Company;
- on absolutely any change or development, whatsoever, regarding the transactions with related parties, which were described in the last Yearly Report on Operations and that have had a relevant impact on the equity situation, or on the financial results, during the relative accounting period.

In the case of a negative opinion by the Committee regarding a less important transaction, the Company shall make publicly available, within 15 days from the closing date of each quarter of the financial year and observing the conditions, timeframes and methodologies of the CONSOB Regulations, a “Document” containing the description of the aforesaid transaction.

### **Article 18 *Periodic internal information***

Each quarter there must be supplied to both the Board of Directors and the Board of Statutory Auditors, under the care of the Executive Directors of the Company, a specific information report regarding the transactions with related parties that are not subject to the prior approval of the Board of Directors. The information report must explain the nature of the relationship, the conditions, specifically the finance ones, the methodologies and the timeframes for the completion of the transaction, the evaluation procedure followed, the interest and the motivation underlying it and the reasons for it.

Furthermore, there must also be supplied a specific informational document regarding the carrying out of those transactions that have had the prior approval of the Board of Directors, also through “Framework Resolutions”.

### **Article 19 *Information Document***

When transactions of greater materiality take place, also when carried out by Italian and foreign subsidiary companies, there is drawn up, pursuant to article 114, paragraph 5, of the TUF, an “Information Document”, drafted in conformity with Attachment 4 of the CONSOB Regulations, which is attached to the Internal Regulations as letter c) and is a substantial part of them.

The timeframes and the methodologies for making available the “Information Document”, as well as the fulfilment of all the other relative obligations, are those laid down by the CONSOB Regulations.

#### ***Article 20 Documentation gathering and filing***

The Administration Manager of the Company, based on the communications received from the subsidiary and associated companies regarding those transactions not driven directly by the Company itself, shall see that there is effectively monitored any overrun of the thresholds laid down by the applicable measures, following any transactions that are not individually important.

Furthermore, he/she shall see to it that the documentation relative to the transactions examined by the Internal Controls Committee, by the Compensation Committee and by the Board of Directors is all properly and correctly filed.

#### ***Article 21 Checking and auditing of the procedure***

The Board of Directors will periodically check the effectiveness of the procedure that has been put in place and, in any case, seeing to it that it is audited together with the Board of Statutory Auditors every two years, while there always remains the possibility of making more timely and speedy interventions, for the purpose of ensuring the highest possible level of efficiency of the Internal Regulations.

#### ***Article 22 Entry in force***

Starting from 1<sup>st</sup> December 2010, the Internal Regulations will come into force and there will be applicable the transparency discipline that is referred to in article 5 of the CONSOB Regulations.

Starting from 1<sup>st</sup> January 2011, the Internal Regulations will be fully applicable, together with the discipline regarding the accumulation of the transactions with the same related party.

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#### **Attachments**

- a) Attachment 1 del CONSOB Regulations;
- b) Attachment 3 of the CONSOB Regulations;
- c) Attachment 4 of the CONSOB Regulations.