

Incitec Pivot Limited

Group Anti-Bribery Policy

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Group Anti-Bribery Policy

1 Introduction and Purpose

Incitec Pivot Limited is committed to operating at the highest standards of ethical behaviour at all times. As outlined in our Code of Conduct, Incitec Pivot Limited is committed to upholding ethical business practices and meeting applicable legal requirements.

As part of this commitment, Incitec Pivot Limited strictly prohibits all forms of bribery and corruption.

Incitec Pivot Limited faces a range of bribery and corruption risks arising from the geographic areas in which it operates, and the nature of its business, and has adopted controls responsive to such risks. This document summarises anti-bribery and corruption laws that apply to Incitec Pivot Limited, and sets out Incitec Pivot Limited's policy on bribery and corruption and key anti-bribery and corruption controls it has adopted.

2 Who does this policy apply to?

This policy applies to:

- Incitec Pivot Limited and each of its owned and controlled subsidiaries, partnerships and ventures (collectively, **Incitec Pivot**);
- all directors, officers and employees of Incitec Pivot; and
- the following third parties:
 - **Agents** – being individuals and entities with legal authority to act on Incitec Pivot's behalf;
 - **Intermediaries** – being individuals and entities that otherwise represent Incitec Pivot, including in facilitating sales (for example, Licensed Explosive Companies in Indonesia);
 - **Distributors** - being individuals and entities that sell Incitec Pivot's goods or services on Incitec Pivot's behalf (but, for the avoidance of doubt, Distributors do not include resellers of Incitec Pivot's products who resell those products on their own account); and
 - other suppliers, consultants and contractors and third parties that directly or indirectly act on behalf of Incitec Pivot.

All of these persons and entities are expected to comply with this policy and conduct their activities on behalf of Incitec Pivot accordingly. Incitec Pivot's management must positively promote the policy by personal example, by giving clear and unambiguous guidance and assistance on its operation, and by ensuring that it is communicated and understood by all Incitec Pivot employees, directors, officers, and by all suppliers, contractors and other third parties who represent or act on behalf of Incitec Pivot.

- 3 **Summary of the policy** Incitec Pivot strictly prohibits all forms of bribery and corruption, including:
- giving or offering bribes to domestic and foreign Public Officials (as defined below);
 - giving or offering bribes to, and requesting or receiving bribes from any individuals or entities with whom Incitec Pivot does business;
 - giving or receiving improper gifts or entertainment;
 - money laundering; and
 - false accounting.
- The above types of improper payments and/or conduct are explained at sections 4 to 13 below.
- 4 **How the relevant laws work** Laws prohibiting the types of bribery and corruption covered by this policy apply in all of the countries in which Incitec Pivot has operations and/or engages in trading activities.
- Examples include the *Foreign Corrupt Practices Act (FCPA)* in the United States and the *Criminal Code* in Australia.
- These laws have extraterritorial reach. This means that, for instance, under the US FCPA, any US citizen, US company or foreign company with US-listed securities may be found liable in the US for any activity that occurs in any country outside the US. A non-US citizen or non-US company may also be liable for FCPA-prohibited activity (even emails, phone calls or bank transfers) that occurs in the US.
- Similarly, under Australian law, an Australian citizen or company may be liable in Australia even where the relevant activity occurred entirely overseas. In addition, where the activity occurs in Australia, a foreign national or foreign company may be liable under Australian law.
- The same or substantially similar principles apply in relation to laws in other countries where Incitec Pivot operates.
- Additionally, laws prohibiting all other types of improper payments covered by this policy**, including private sector bribery, false accounting and money laundering, as well as the improper conduct of joint venture partners or agents, distributors and other third parties, are in place in all of the countries in which Incitec Pivot has operations, and/or engages in trading activities.
- This means that Incitec Pivot and/or any of its directors, officers or employees or any third parties representing or acting on behalf of Incitec Pivot may be found liable in the country where the offending conduct occurs or in their home jurisdiction.

5 **Prohibition on public sector bribery**

Incitec Pivot prohibits giving or offering any benefit to any person, or causing any benefit to be given or offered to any person, with the intention of improperly influencing a Public Official, in order to obtain or retain business or a business advantage for Incitec Pivot.

For the purposes of this policy,

- **Public Officials** include:
 - an employee, official or contractor of a government body or a wholly or partially state-owned enterprise;
 - a person performing the duties of an office or position created under a law of a foreign country or by the custom or convention of a country or region (for example, indigenous elders or community representatives who are authorised to act on behalf of a community, who can influence local government actions on behalf of a community, or who directly or indirectly receive salaries, wages or benefits from a government body in connection with their community leadership);
 - a person in the service of a governmental body including a member of the military or the police force;
 - a politician, judge, or member of the legislature of a state, province, or country;
 - an employee, contractor or person otherwise in the service of a public international organisation (such as the United Nations);
 - an individual who is or who holds himself or herself out to be an authorised intermediary of a public official;
 - a political party, party official or candidate for public office;
 - a member of a royal family; or
 - a commercial entity, or the directors, officers or employees of a commercial entity, in which a government body has a significant ownership interest or over which it otherwise exerts control.
- **Benefits** to Public Officials are any financial or non-financial advantage, and examples include, but are not limited to:
 - cash payments;
 - vouchers and other cash equivalents;
 - political contributions and charitable donations;
 - the provision of personal services and gratifications;
 - the provision of employment opportunities; and
 - the provision of business or investment opportunities.
- Attempting to **improperly influence** a Public Official:
 - includes, but is not limited to, trying to induce a Public Official to misuse their office or position or decide a matter other than on its merits;
 - does not include making a legitimate payment to a public agency to expedite a routine government action

(for example, paying a fee to an immigration department for expedited visa processing, a commerce department for expedited processing of business registration forms or a state-owned telecommunications company for the expedited connection of an internet service to an office).

- **Business advantages** that might be sought through improper influence include, but are not limited to, improper or preferential:
 - access to confidential information;
 - access to public facilities, resources and services;
 - access to senior Public Officials;
 - grants or extensions of approvals, permits or licences; or
 - determination of legal or regulatory disputes, issues or queries.

Importantly, a person contravenes the law and this policy whether or not the giving or offering of a benefit to a Public Official:

- is viewed as customary, necessary or officially tolerated in a situation – bribery still occurs irrespective of how corruption is perceived in a place;
- is done in an attempt to obtain a specific business advantage – bribery still occurs where an attempt is made to gain general favour at an undefined point in the future; or
- ultimately secures a business advantage – bribery still occurs if a person attempts to improperly influence a Public Official but fails to obtain a business advantage.

Benefits that would otherwise be prohibited under this policy may be given in circumstances where your personal safety is compromised. Such benefits must be reported to a Vice President of your Business Unit as soon as possible.

The President (or their delegate) of each Business Unit is required to ensure awareness throughout the Business Unit of the requirements of this policy, including in relation to engaging with Public Officials.

6 Prohibition on private sector bribery

Incitec Pivot prohibits giving or offering 'secret commissions' to any person or entity, or requesting or receiving 'secret commissions' from any person or entity.

'Secret commissions' arise where a person who is the agent or representative of another person takes or solicits a commission from a third party without disclosing that commission to their principal. This would include, for instance, the making of a payment to an agent of a customer of Incitec Pivot, where that agent does not disclose the payment to the customer, in return for facilitating further business or favourable commercial terms for Incitec Pivot with that customer.

7 Prohibition on improper gifts and entertainment

Improper gifts and entertainment may amount to public or private sector bribery. Consequently, gifts and entertainment must only be provided or accepted in accordance with this policy, Incitec Pivot's Gifts and Entertainment Policy, and any local guides and procedures implemented pursuant to these policies.

This policy does not prohibit the giving or receiving of minor gifts, meals and entertainment (including in-house seminars) to or from any

private entity, provided those expenditures:

- are given in the name of Incitec Pivot and not any individual employee (except where strictly necessary, for example, football tickets which may only be issued in personal names);
- are solely aimed at building a general relationship and understanding;
- are not intended, and could not be construed as, an attempt to exert improper influence in order to obtain or retain any business or business advantage, particularly in light of the timing or nature of the expenditure;
- comply with any relevant governmental law, regulation, rule, or code;
- are otherwise lawful in the country in which they are made;
- do not include cash or cash equivalent;
- have been approved by the relevant Executive Team member where the value of those gifts or entertainment exceeds the applicable Reportable Limit (as defined in the Gifts and Entertainment Policy);
- have been approved in advance, in writing, by the Group Chief Financial Officer where the value of those gifts or entertainment exceeds the applicable Financial Limit; and
- are accurately recorded in Incitec Pivot's Gifts and Entertainment Register located on the Hub where the value of the gifts or entertainment exceeds the applicable Reportable Limit.

Any gift or entertainment to or from a Public Official requires approval from the President of the applicable Business Unit and a member of the Legal Team and it must be recorded in the Gifts and Entertainment Register located on the Hub.

If you are in any doubt as to the appropriateness of any gift or entertainment, you should consult the President of your Business Unit or the Legal Team beforehand or otherwise as soon as possible.

8 Prohibition on improper sponsorships and donations

Incitec Pivot is committed to the long-term sustainability of the communities in which it operates. In line with this commitment, Incitec Pivot sometimes gives charitable donations and sponsorships in accordance with its 'Principles of Giving'.

While charitable gifts and donations are encouraged, charitable and community organisations may be used as screens for illegal bribes in some countries. Consequently, charitable gifts and donations must only be made if they:

- are not intended, and could not be construed as, an attempt to exert improper influence in order to obtain or retain any business or business advantage, particularly in light of the timing or nature of the expenditure;
- comply with any relevant governmental law, regulation, rule, or code;
- are otherwise lawful in the country in which they are made;
- serve a legitimate purpose;

- are given in accordance with any country-specific Incitec Pivot guidance; and
- regardless of amount, are accurately recorded in Incitec Pivot's Donations and Sponsorships Register located on the Hub and other books and records.

A charitable donation or sponsorship to or at the request of a Public Official requires approval from a member of the Legal Team and to the extent required by any country specific Incitec Pivot guidance, the person identified in that guidance.

Political donations are not permitted. Refer to Incitec Pivot's Political Engagements and Donations Policy.

9 Prohibition on money laundering

Incitec Pivot prohibits any forms of money laundering in connection with its business activities.

Money laundering is the process by which a person or entity conceals the existence of an illegal source of income and then disguises that income to make it appear legitimate.

Use by Incitec Pivot of proceeds tainted by illegality can give rise to liability in a number of countries in which Incitec Pivot operates.

If you become aware of any transaction that you think might involve the payment or receipt of proceeds of any unlawful activity you should contact the Legal Team immediately.

10 Application of this policy to Business Associates and other High-Risk Third Parties

Incitec Pivot engages with third parties in a range of circumstances, particularly in its trading activities and across the activities of its supply chain, including the procurement of goods and services.

Third parties that have actual or apparent authority to represent or act on behalf of Incitec Pivot present significant risks, because Incitec Pivot may be liable under anti-bribery or other laws for their improper actions. These third parties are collectively referred to as **Business Associates**, and are Agents, Intermediaries and Distributors (as defined in Part 2 above). Other third parties that may or may not represent or have actual or apparent authority to act on behalf of Incitec Pivot may nonetheless present particularly acute risks due to their government relationships or jurisdiction. These third parties are collectively referred to as **High-Risk Third Parties**, and are:

- suppliers of goods or services sourced from medium or high-risk jurisdictions (e.g., Albania, China, Indonesia, Mexico, Papua New Guinea, Peru, Romania or Turkey) that are not part of a major, reputable international organisation;
- state-owned enterprises, as their directors, officers, employees and representatives are likely to be characterised as "public officials" under anti-bribery laws; and
- private companies owned by public officials or their relatives, present significant risks, as such entities are sometimes used as conduits to pay bribes.

Incitec Pivot prohibits the provision of a benefit to a Business Associate or High-Risk Third Party where there is a material risk that some or all of that benefit will be provided or offered to another person

as a bribe. Particular care must be taken with, for example, arrangements with Business Associates that assist in securing business or arrange introductions to potential customers or key government decision-makers in a foreign country.

Due Diligence requirements for Business Associates and High-Risk Third Parties

Before a Business Unit engages a Business Associate, it must always conduct due diligence in accordance with Incitec Pivot's Anti-Bribery Due Diligence Checklist (***Checklist***).

Before a Business Unit contracts with a third party that is not a Business Associate, it must conduct diligence in accordance with the Checklist if necessary to assess whether the third party is a High-Risk Third Party and, if so, to assess bribery and corruption risks associated with the third party.

The Checklist sets out the due diligence steps Business Units must take (which may vary depending on the role and location of the third party), examples of potential bribery indicators that Business Units should look out for, and the form in which Business Units must record their due diligence results. In general, the following issues should be investigated:

- reputational issues (e.g., a Business Associate operates in high risk jurisdictions, or has been terminated by counterparties for improper conduct);
- past misconduct (e.g., a Business Associate has been investigated or prosecuted for bribery, corruption or another criminal offence); and
- close government relationships (e.g., the owners, directors, officers or key personnel of a Business Associate, or their relatives, are current or former public officials, or a Business Associate otherwise has other close associations with public officials or agencies).

If a Business Unit identifies any bribery indicators of concern referred to in the Checklist in the course of anti-bribery due diligence, it must immediately inform the Legal Team, and the Legal Team:

- may require it to conduct further due diligence, which may include engagement of a specialist third party investigator in exceptional circumstances;
- must determine if it is appropriate for the relationship with the third party to proceed;
- may require bespoke anti-bribery controls (for example, prohibitions on the provision of gifts or entertainment to the High-Risk Third Party); and
- must authorise any contract with the third party before entry into the contract.

Where due diligence is required, the Business Unit must complete the due diligence report referred to in the Checklist unless the Legal Team

approves a different reporting format to record the findings from due diligence.

Contractual controls and ongoing monitoring of Business Associates and High-Risk Third Parties

Whether or not issues of concern are identified in the course of anti-bribery due diligence, Business Units must include terms that seek to mitigate the risks addressed in this policy in **all contracts that are negotiated with Business Associates and High-Risk Third Parties**. Those terms must reflect Incitec Pivot's Standard Anti-Bribery Contractual Terms unless the Legal Team has approved a different approach.

After a Business Associate or High-Risk Third Party has been engaged, Business Units must:

- **maintain oversight of the Business Associate's or High-Risk Third Party's work** (including, where appropriate, receiving progress reports, reviewing invoices and other documentation etc.) in order to confirm that legitimate work has been done and improper payments have not been made;
- obtain an **annual Certificate of Compliance with this policy** from Business Associates or High-Risk Third Parties unless the Legal Team approves an exception;
- refresh due diligence that has been conducted on the Business Associate or High-Risk Third Party every two years; and
- fully document, investigate and report to the Legal Team any issues of concern that arise at any time.

11 Application of this policy to joint ventures

Incitec Pivot is involved in joint ventures in many countries.

Incitec Pivot is committed to the prevention of improper financial or other conduct in any **joint venture that it controls** through its ownership, management or board involvement. Any joint venture that is controlled by Incitec Pivot must comply with this policy.

Incitec Pivot is also committed to working to minimise the possibility of improper conduct in connection with those **joint ventures where it is involved but does not exercise control**. This includes any joint venture with a partly or fully state-owned enterprise. Incitec Pivot will make best efforts to require that any such joint venture complies with the standards set out in this policy and must provide it with a copy of this policy.

Additionally, in respect of all of its joint venture arrangements, regardless of whether Incitec Pivot exercises control over the entities concerned, the applicable Business Unit is responsible for ensuring that procedures are in place that aim to address the potential for bribery or any other improper payment made in the course of its joint venture operations. These procedures include but are not limited to the following.

- Business Units must conduct, and keep detailed records of, **due diligence investigations** on any proposed joint venture partner prior to entering into contractual arrangements. A due diligence

investigation should include a review of reputation, expertise, experience, past performance, affiliations to government officials and should consider the business purpose for entering into the transaction.

- Business Units must include terms that seek to mitigate the risks addressed by this policy in all **contracts with proposed joint venture partners**, and such contracts must be authorised by the Legal Team before execution.
- Incitec Pivot directors, officers or employees that are **board members** or are otherwise involved in the operations of joint venture partners should pay particular attention to signs of improper payments and should voice objections where appropriate.
- If an Incitec Pivot director, officer or employee becomes aware of evidence that a joint venture partner has engaged or may engage in improper payments, that evidence must be reported to the Legal Team.

While Incitec Pivot's Anti-Bribery Due Diligence Checklist and standard contractual anti-bribery terms have been developed primarily for use in relation to Business Associates and High-Risk Third Parties, Business Units should review them for guidance on conducting due diligence and contracting with potential joint venture partners.

12 Mergers and acquisitions

Incitec Pivot must conduct, and keep detailed records of, **due diligence investigations** on any proposed merger or acquisition target prior to entering into contractual arrangements with the entity concerned. A due diligence investigation should include a review of reputation, expertise, experience, past performance, affiliations to government officials and should consider the business purpose for entering into the transaction.

This due diligence must be undertaken in relation to past and current conduct of the entity concerned.

13 Accounting, books and records

Incitec Pivot is required to maintain a system of internal accounting controls and make and keep books and records which accurately and fairly reflect, in reasonable detail, the parties, the payment arrangements and the purpose of all transactions and disposition of assets.

Each Business Unit is responsible for maintaining a system of accounting controls that provides reasonable assurances that:

- transactions are executed in accordance with delegations of authority;
- transactions are recorded so as to permit preparation of accurate financial statements and to maintain accountability for assets;
- access to assets is permitted only in accordance with management authorisation; and
- appropriate auditing functions are conducted.

No undisclosed or unrecorded fund or account may be established for any purpose. Activities must never be disguised.

Incitec Pivot prohibits false, misleading or incomplete record keeping. False, misleading or incomplete record keeping is a criminal and civil offence in many countries in which Incitec Pivot operates. In Australia and the US, for example, it is an offence to make false records in order to facilitate or conceal an illegitimate benefit or loss. A breach of this by an employee may result in immediate disciplinary action by Incitec Pivot.

14 What are the consequences if you breach the laws relating to bribery or other improper payments

Penalties for breaches of the laws that this policy aims to uphold can include imprisonment and the payment of significant fines (by the company, its directors, officers and employees), depending on the jurisdiction. For example, fines imposed by the Department of Justice and Securities and Exchange Commission in the US have amounted to over US\$3.3 billion for a single company. Numerous directors, managers and employees of companies have faced large personal fines and significant prison terms.

Consequences for individuals

In Australia, the penalty for bribery of a foreign public official is ten years imprisonment and/or a fine of \$2.22 million, or both for an individual.

In the US, the criminal penalty for each violation is up to 5 years in prison and a fine of either US\$250,000 or a sum that is twice the gain the individual sought, whichever is greater. Civil penalties, including a fine for each violation, can also be imposed, as can criminal penalties of 20 years imprisonment and/or a fine of US\$5 million for books and records offences.

Consequences for corporate entities

In Australia the maximum penalty for a body corporate will be the greater of \$22.2 million, three times the benefit of any benefit obtained as a result of the conduct, or 10% of the annual turnover of the body corporate for the 12 months prior to the offence (where the court cannot determine the benefit obtained).

In the US, the criminal penalty for each violation is a fine of up to US\$2 million or a sum that is twice the gain the company sought, whichever is greater. Civil penalties for each violation can also be imposed, as can criminal penalties of a \$US20 million for books and records offences.

The risks also include:

- being barred from government work;
- losing private supply contracts;
- facing additional compliance obligations;
- civil litigation (for example, lawsuits by competitors and shareholder class actions); and
- reputational damage.

Other nations have imposed similarly severe penalties. Conscious disregard, deliberate ignorance, and wilful blindness will not avoid liability in relation to any of the matters set out in this policy.

Failure to observe this policy may lead to disciplinary action by Incitec Pivot, which may include termination of employment.

15 Confidential reporting and investigation

Incitec Pivot recognises the value and importance of its directors, officers or employees reporting identified or suspected instances of improper payments or related conduct and strongly supports such disclosures and reports.

All persons should remain alert to any instances of directors, officers, employees, subsidiaries or joint venture partners or Business Associates attempting to engage, or engaging in bribery or other improper conduct or otherwise not meeting the standards of behaviour required under this policy. Reports concerning possible instances of improper practices should be made in accordance with Incitec Pivot's Group Whistleblower Protection Policy (<http://thehub.ipigroup.net/en/Legal/Policies.aspx>).

Incitec Pivot will take all available steps to provide protection to persons who make such reports from any victimisation or detrimental action in reprisal for the making of a report, and subsequent investigations will be conducted in accordance with the principles set out in Incitec Pivot's Group Whistleblower Protection Policy.

16 Training

All employees (including fixed term employees) of Incitec Pivot are required to undertake on-line anti-bribery and corruption training upon induction and bi-annually.

Additionally, employees identified by the Legal Team as having enhanced anti-bribery and corruption compliance responsibilities or exposure to anti-bribery and corruption risk are expected to undertake live training periodically.

Training is a fundamental component of Incitec Pivot's anti-bribery and corruption compliance procedures, and Incitec Pivot expects all employees to comply with their training requirements.

17 Auditing, monitoring and review

Incitec Pivot will undertake periodic audits of compliance by Business Units with this policy where it considers appropriate from a risk perspective. The scope of those audits may include whether Incitec Pivot's Standard Anti-Bribery Contractual Terms have been used where required by this policy, whether appropriate due diligence has been carried out and whether referral has been made to the Legal Team where required by this policy.

Incitec Pivot recognises the value and importance of continuous improvement, and will review the operation of this policy every three years or if there is a material change in its business (for example, due to entry into new regions or completion of material new acquisitions), whichever occurs first.

18 Further advice

A copy of the policy is available on Incitec Pivot's intranet site.

If you are uncertain as to the operation of any aspect of this policy as it applies to you, please contact your manager or the Legal Team.