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Guidelines for ETH Zurich employees on reporting suspected malpractice (“Whistleblowing Guidelines”)

dated 28 November 2017

The Executive Board,

pursuant to Article 4(1) of the *Weisungen des ETH-Rates vom 23. Mai 2012 betreffend Umgang mit Meldungen von Angehörigen des ETH-Bereichs zu rechtlich und ethisch unkorrektem Verhalten* (Guidelines of the ETH Board on Handling Reports of Illegal and Unethical Conduct Made by Members of the ETH Domain dated 23 May 2012), the ETH Board resolution dated 5/6 July 2017¹ and Article 4(1)(g) of the ETH Zurich Organisational Ordinance dated 16 December 2006,²

hereby adopts the following guidelines:

Art. 1 Scope and purpose

¹The Guidelines apply to all employees of ETH Zurich (including professors). The main purpose of the Guidelines is to prevent and combat corruption and ensure compliance at ETH Zurich with the code of conduct laid down in Article 3(f) of the ETH Zurich Financial Regulations³.

²The Guidelines set out the relevant responsibilities and the procedures to be followed in the event that ETH Zurich employees, in the course of carrying out their official duties, become aware of suspected malpractice, especially in relation to financial matters (hereinafter referred to as “disclosure”).

³These Guidelines do not apply to the disclosure of suspected research misconduct, sexual harassment, discrimination, bullying, threatening or other inappropriate behaviour towards employees and disclosure relating to the misuse of ETH Zurich telematics resources.

Art. 2 Subject matter and definition

For the purposes of these Guidelines, “malpractice” includes the following acts, including complicity in and incitement to commit such acts:

¹ RSETHZ 130

² RSETHZ 201.021en

³ RSETHZ 245en

- a. felonies or misdemeanours which are prosecutable ex officio and are connected to the performance of official duties at ETH Zurich (e.g. the giving and receiving of bribes, misappropriation of ETH resources, breaches of official secrecy);
- b. failure to disclose vested interests in relation to procurement procedures;
- c. non-compliance with legal obligations, for example in relation to public procurement;
- d. misuse of facilities, equipment and personnel employed at ETH Zurich (e.g. for private purposes or in connection with secondary activities or employment);
- e. non-compliance with and circumvention of internal rules (e.g. Financial Regulations, Regulations Concerning Business Expenses) and control mechanisms.

Art. 3 Internal whistleblowing authorities

¹Employees of ETH Zurich who in the course of carrying out their official duties uncover or receive reports of any felonies or misdemeanours, which are prosecutable ex officio in accordance with Article 2(a), are required to report the incident to their immediate line manager or the next level manager in accordance with Article 22a(1) of the *Bundespersonalgesetz* (Swiss Federal Personnel Act - "FPA")⁴.

²The immediate line manager shall receive any such reports submitted and inform the Vice President for Finance and Controlling, without delay, of the incident reported. With the involvement of other specialist units, the Vice President for Finance and Controlling shall instruct the Legal Office to investigate the incident to the extent required and, if suspicions are substantiated, to prepare a formal complaint for submission to the President in accordance with Art. 14(2) of the *Geschäftsordnung der Schulleitung ETH Zürich* (Rules of Procedure applying to the ETH Zurich Executive Board)⁵.

³Other irregularities that are not classed as criminal offences, as set out in Article 2(b-e) of these Guidelines, must, in the first instance, be disclosed to the immediate line manager, the Vice President for Finance and Controlling or the Ombudsperson.

Art. 4 Form of disclosure

¹Disclosures must be made in good faith and the information provided must be as accurate and precise as possible. The disclosure must not constitute an abuse of process. As a general principle, disclosures must be made openly rather than anonymously.

²Any matters disclosed shall be treated as confidential insofar as is practicable.

Art. 5 External whistleblowing authorities

¹If the ETH authorities (line managers, members of the Executive Board, Ombudsperson) have clearly failed to take action without good reason, ETH Zurich employees may refer the matter

⁴ SR 172.220.1

⁵ RSETHZ 202.3

to the Ombuds Office of the ETH Board⁶. Alternatively, they may file a complaint or report with the appropriate law enforcement authorities or the Swiss Federal Audit Office (“SFAO”) (www.whistleblowing.admin.ch).

²Employees’ careers will not be negatively affected by making disclosures, provided that the allegations in any complaint filed under Article 22a(1) FPA or report lodged with the SFAO under Article 22a(4) FPA are made in “good faith”, are duly substantiated and not made frivolously⁷. However, anyone who knowingly denigrates their colleagues will be subject to disciplinary action, ranging from a warning up to, and including, dismissal.

Art. 6 Concluding provision

These Guidelines enter into force on 1 December 2017 and supersede the guidelines dated 31 January 2007.

3 October 2017

The President: Guzzella

The Secretary General: Poiger Ruloff

⁶ Article 6(1) of the Guidelines of the ETH Board on Handling Reports of Illegal and Unethical Conduct Made by Members of the ETH Domain dated 4 July 2006.

⁷ Protection against unfair dismissal under Article 34c(1)(a) in conjunction with Article 22a(1)(4) of the Swiss Federal Personnel Act.