



## PREVENTION & PROHIBITION & PROHIBITION OF SEXUAL HARASSMENT AT WORKPLACE

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### 1.0 PREAMBLE

FSID is committed towards creating a healthy work environment that enables employees to work without fear or prejudice, gender bias, hostility, or sexual harassment. FSID firmly believes in the rights of every employee / associate to a work-environment free from harassment, intimidation, or offensive behaviour. In pursuit of offering such environment to all the concerned people, the Company has designed the subject Policy in line with the provisions of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the “Act” and “Rules” respectively).

### 2.0 APPLICABILITY

This Policy is applicable to all direct/indirect employees and any other person connected with FSID.

### 3.0 DEFINITION

- a. “Aggrieved person” means and includes in relation to a workplace, a person of any age whether employed or not, who alleges to have been subjected to any act of Sexual Harassment at the workplace by the Respondent.
- b. “Complainant” means and includes, in relation to a workplace, an aggrieved person, who alleges sexual harassment against him/her or in case, the aggrieved person is unable to file a complaint on his/her own, then any person, filing the complaint on behalf of the aggrieved person in the manner stipulated in this Policy.
- c. “Complaint” means a complaint made in accordance with the Act and in accordance with this Policy.
- d. “Employee” means a person employed at the workplace, for any work on regular, temporary, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or by any other such name.
- e. “Employer” means a person responsible for management, supervision, and control of the workplace
- f. “Hostile Work Environment” means an environment created by actions of the Respondent/s which has an effect on an individual’s educational or work performance and creates an intimidating antagonistic employment, educational and living environment.
- g. “Internal Committee, also referred to as IC” means the internal committee constituted by the Disciplinary Authority/ Chief Executive for the purpose of dealing with all matters in relation to Sexual Harassment.
- h. “Member” means a member of the Internal Committee.



- i. “Respondent” means a person including an Employee or third party against whom the Complainant has made a complaint.
- j. “Sexual Harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely:
  - i. Physical contact and advances.
  - ii. A demand or request for sexual favours.
  - iii. Making sexually coloured remarks.
  - iv. Showing or sharing (electronically or otherwise) pornography.
  - v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature, and
  - vi. Any other acts or omissions that are of like nature to the instances above.
- k. “workplace” means and includes all offices including all branches or other premises where the Company’s activities are conducted and also includes any place where the aggrieved person or the respondent visits/stays in connection with his/her work including but not limited to any social, business or other functions, during the course of and/or arising out of employment/contract/engagement with the Company, including transportation provided for undertaking such a journey.

#### 4.0 INSTANCES OF SEXUAL HARASSEMENT

The following circumstances, among other circumstances, can amount to Sexual Harassment: if it occurs or is present in relation to or connected with any act or behaviour of sexual harassment:

- a) implied or explicit promise of preferential treatment in employment as quid pro quo for sexual favours.
- b) implied or explicit threat of detrimental treatment in employment.
- c) implied or explicit threat about a employee’s present or future employment status;
- d) interference with the work of the and creating an intimidating or offensive or hostile work environment.
- e) meting out of humiliating treatment which is likely to affect the employee’s health or safety.
- f) sharing sexist jokes, letters, messages either by electronic mail, mobiles or otherwise that may cause humiliation or offense to the aggrieved person and despite requests by the aggrieved person or others to desist from sharing the same, are still carried out by the offender or even without such advice, when they are, by their nature, humiliating, offensive or vulgar.
- g) display or sharing (electronically or otherwise) of sexually offensive pictures, videos, materials or graffiti.
- h) unwelcome inquiries or comments about a person’s sex life.
- i) unwelcome sexual flirtation, advances, propositions.
- j) making offensive gesticulations, at the aggrieved person or verbal abuse with sexual overtones.
- k) persistent unwanted attention with sexual overtones or stalking or unwanted touching or brushing against an aggrieved person’s body.
- l) implied or explicit promise of preferential treatment in employment by grant of promotion, local or foreign travel, favourable working conditions/assignments or engagement of the aggrieved person in any of the Company’s activities or the grant of benefits or payment of a stipend or allowance etc.



- m) derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person.

NOTE: The above instances of sexual harassment are illustrative and not exhaustive.

## 5.0 CONSTITUENTS OF SEXUAL HARASSMENT

- a. The Conduct must be unwelcomed, unwanted, uninvited, unreasonable, and offensive to the aggrieved person adversely affecting the dignity of the Aggrieved person.
- b. Physical contact is not an essential factor for Sexual Harassment.
- c. The aggrieved person's rejection of or submission to such conduct is used explicitly or implicitly as a basis for a decision which affects the aggrieved person's job.
- d. Conduct that creates an intimidating, hostile or humiliating working environment for the aggrieved person.
- e. Acts of Sexual Harassment, among other circumstances/acts, may be related to employment or work. Therefore, all such acts committed outside the office or department, for example in the cafeteria, on business travel in a flight or hotel, place of visit for official purpose such as conferences, field projects, of the Company, official events, etc. shall be covered and considered Sexual Harassment.
- f. Respondent can be anyone over whom the Company has sufficient control and without limitation, can be the aggrieved person's boss, supervisor, sub-ordinate, trainer, colleague, co-worker, vendor, contractor, or agent of the Employer etc.

## 6.0 THIRD PARTY HARASSMENT

- a. Third party harassment means Sexual Harassment perpetrated by visitors, patrons, vendors, independent contractors, professionals, consultants, and others with whom the Employees have come in contact with, directly or indirectly, as representing the Company or as persons involved with the activities of the Company, who may have a professional and/or business relationship with such person/s.
- b. Where an act of Sexual Harassment at the workplace occurs as a result of an act or omission by any third party, Company shall take all steps necessary and reasonable to assist the aggrieved person or the complainant in terms of support, legal and preventive actions.
- c. Further, where the Respondent is a third party and the Company has no control over the employment of such person, the IC shall forward such complaints to the Employer of the Respondent, and/or assist the aggrieved person or the complainant in filing an FIR with the police and shall also cooperate with the authorities by rendering the necessary assistance including producing any evidence or allowing any witnesses to tender their evidence.

## 7.0 PREVENTION OF SEXUAL HARASSMENT

- a. Any behaviour leading to or committed towards Sexual Harassment is unacceptable and the Company shall strive through sensitization, training, awareness, and deterrence to create an environment that is free from such behaviour/actions.
- b. All Employees shall:
  - i. treat others with respect and dignity



- ii. refrain from actions that may offend, embarrass or humiliate others (whether deliberate or unintentional)
- iii. let others know you don't approve of disrespectful or harassing behaviour
- iv. apologise if someone tells you that they are offended by your words or actions; and
- v. familiarise yourself with this Policy and the law applicable.

#### **8.0 INTERNAL COMPLAINTS COMMITTEE (ICC)**

- a. Internal Complaints Committee ("IC/Committee") shall be constituted as per this Policy. This Committee shall be vested with the authority to admit, hear and investigate cases of grievance in relation to Sexual Harassment and recommend disciplinary action against those found guilty to the company.
- b. In the event, a complaint is received from an Aggrieved Person/Complainant against the person(s), such complaint shall be dealt with by the Local Committee in accordance the provisions contained in the Act and Rules.
- c. The ICC shall prepare an annual report in each calendar year in such form and at such time as prescribed in the Governing Rules and submit the same to the Chief Executive & Board of the Company.
- d. The ICC shall deal with complaints received by them directly or from any administrative authorities or from other persons stipulated under Rule 6 of SHWW Rules, 2013.

#### **9.0 COMPOSITION OF INTERNAL COMPLAINTS COMMITTEE**

The composition of the Committee shall be as provided below, their term of office on the Committee shall be no longer than 3 years from the date of their appointment as a member of the Committee:

- a. The Presiding Officer (who shall have 3 years' term on the Committee) of the Committee shall always be a woman employee of the company, possessing a discerning nature and an objective bent of mind.
- b. Not less than two members of the Committee shall be employees. At least one of them shall be adequately experienced & competent on this subject so as to ensure that requirements of the law are duly interpreted and implemented.
- c. The Committee shall also have an external member from any NGO or association or being a professional who is familiar in handling sexual harassment issues. The external member be paid appropriate remuneration and allowances by the company for participating in the proceedings of the Committee as per the company policy.
- d. Complaints Committee will comprise of the 5 members out of which at least 2 members will be women, in addition to the external member. At all times, it is recommended that 50% of the total members nominated to the Committee shall be women.
- e. The Committee shall be responsible for:
  - Conducting POSH awareness programs for the employees, periodically.



- Investigating every formal written complaint of sexual harassment.
- Taking appropriate remedial measures to respond to any substantiated allegations of sexual harassment.
- Discouraging and preventing employment-related sexual harassment.
- Take unbiased decisions, post deliberating the aggrieved person's case with all supporting evidence/documents.

#### 10.0 PROCEDURE FOR LODGING COMPLAINT

- a. Any Aggrieved Person may make, in writing, a complaint of sexual harassment at workplace to the Committee within a period of three months from the date of incident and in case of a series of incidents, within a period of three months from the date of the last incident. However, the IC may extend the period beyond three months, but not exceeding three months thereafter, for the reasons to be recorded in writing, if it is satisfied that circumstances prevented the aggrieved person making the complaint within the said period.
- b. The Presiding Officer or any member of the IC may also render reasonable assistance to the Aggrieved Person, for making any such complaint in writing, if he/she is unable to make the complaint in writing themselves and read out the complaint to the Complainant in the language requested by the Complainant, and to obtain the signatures of the Complainant.
- c. Where the aggrieved person is unable to make a complaint, on account of his/her physical incapacity, the complaint can be filed by his/her relative or friend or co-employee or any officer of National Commission for Women or State Women's Commission or any person who has the knowledge of the incident, with the written consent of the aggrieved person.
- d. Where the aggrieved person is unable to make a complaint due to mental incapacity, it can be filed by his/her relative or friend or a special educator or a qualified psychiatrist or psychologist or guardian under whose care he/she is receiving treatment or care or any person who has knowledge of the incident, jointly with the aforesaid persons.
- e. Where the aggrieved person is dead, complaint can be filed by any person who has knowledge of the incident with the written consent of his/her legal heir.

#### 11.0 CONCILIATION

- a. The IC may, at the request of the Aggrieved Person, take steps to settle the issue between him/her and Respondent by means of conciliation provided that no monetary settlement shall be made as a basis of such conciliation.
- b. Where a settlement has been arrived, the IC shall record the settlement so arrived and forward the same to the Employer to take action as specified in the recommendation.
- c. The IC, as the case may be, shall provide copies of the settlement as recorded, to the aggrieved person and the Respondent.
- d. Where a settlement is arrived, no further inquiry shall be conducted by the IC.
- e. The IC may proceed to record a settlement as aforesaid only if it is satisfied that the aggrieved person has agreed for such settlement, voluntarily and without pressure/undue influence or coercion from the Respondent or any person acting for and on his/her behalf.



## 12.0 INQUIRY

- a. The Committee and its members shall at all times conduct themselves and their proceedings, investigations with the highest ethical standards and abide by the principles of natural justice in all respects.
- b. In the event, the Complainant informs IC that any term or condition of the settlement as entered in accordance with Clause XII of this Policy has not been complied with by the Respondent, the IC shall proceed to make an inquiry into the complaint as per this Clause
- c. Where both the complainant and Respondent are employed in the Company, both the parties shall, during the course of inquiry, be given an opportunity of being heard and a copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.
- d. For the purpose of making an inquiry under this Clause, the IC shall have the same powers as vested in a Civil court under the Code of Civil procedure, 1908 when trying a suit in respect of the following matters:
  - e. Summoning and enforcing the attendance of any person and examining him on oath.
  - f. Requiring the discovery and production of documents; and
  - g. Any other matter which may be prescribed.
- h. The inquiry shall be completed within a period of 90 days.
- i. Provided that if for reasons beyond control, the inquiry cannot be completed within 90 days as aforesaid, the IC may proceed to complete the same expeditiously and submit its report to the Disciplinary/ Executive Authority.

## 13.0 ACTION DURING PENDENCY OF INQUIRY

- a. During the pendency of an inquiry, on the basis of a written request to IC by the aggrieved person, the IC may recommend to the Employer to:
  - b. transfer the Aggrieved person/ Complainant or the Respondent to any other workplace if they are employees of the Company; or
  - c. Grant leave to the aggrieved person not exceeding 3 months if he/she is an employee of the FSID, which shall be in addition to the leave she would be otherwise entitled to as per policies of the Company; or
  - d. prevent the Respondent from reporting on the work performance of the aggrieved person or writing confidential reports if the Respondent and aggrieved person are employees of the Institute; or
  - e. direct the Respondent to keep distance from the complainant/aggrieved person; and/or keep the Respondent under suspension.
  - f. take strict measures to provide a conducive environment of safety and protection to the complainant against retaliation and victimization as a consequence of making complaint.

The recommendations of the IC shall be implemented by the Employer and a report shall be sent to the IC regarding implementation.

## 14.0 FACT FINDING REPORT AND INQUIRY REPORT



- a. On completion of the Inquiry, the IC shall provide a copy of the Facts finding report to the Employer, who shall in-turn supply copies of the Report to both the Complainant and Respondent requiring them to provide their response within a period of 10 days.
- b. After taking into consideration the response of both Parties, the IC shall submit its final Inquiry Report including its recommendations to the Employer.
- c. Where the IC arrives at a conclusion that the allegations against the respondent have not been proved, it shall recommend to the employer that no action is required to be taken in the matter.
- d. Where the IC arrives at a conclusion that the allegation against the respondent has been proved, it shall recommend to the Employer/Disciplinary Authority to take further action for imposition of punishment for proved misconduct under the Company policy/service rules as applicable in the event the Respondent is an employee, to deduct, (notwithstanding anything contained in the service rules as applicable to the Respondent), from the salary/wages of the Respondent such sum as it may consider appropriate, to be paid to the aggrieved person or the legal heirs, as determined by IC as compensation. Provided that in case the employer is unable to make such deduction from the salary/wages of the Respondent due to Respondent being absent from duty or cessation of employment, it may direct the Respondent to pay such sum to the aggrieved person or the legal heirs.
- e. The Employer must act upon the recommendations of the IC within 60 days from receipt of the Report
- f. If the Respondent has been held guilty of the charges, the Employer/Disciplinary Authority shall issue a show-cause notice along with a copy of the Inquiry Report to the Respondent asking him to show-cause as to why it should not be accepted and appropriate punishment should not be imposed, answerable within 10 days thereof.
- g. Thereafter the Employer/Disciplinary Authority shall proceed to pass final order imposing penalty as stipulated in the Company Policy/service rules, which commensurate based on the gravity of the allegations/charges proved, after taking into consideration and the reply submitted by the Respondent, if any, to the Findings as well as the show-cause notice.

If the Employer/Disciplinary Authority decides not to accept the Inquiry Report, it shall record reasons for the same and order for a de-novo inquiry or direct continuation of inquiry from the stage of defect, if the inquiry has not been held in accordance with the Rules. A copy of the said decision be made available to both the parties.

#### **15.0 REMOVAL/DISQUALIFICATION OF THE PRESIDING OFFICER OR COMMITTEE MEMBER**

The Presiding Officer or any member of the Committee shall be removed/disqualified immediately from the aforesaid position in case he/she –

- a. Contravenes the provisions of this Policy; or
- b. Has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her; or
- c. Has so abused his/her position so as to render his/her continuance in office prejudicial to the objective of the Committee.

The position of such a disqualified Presiding Officer or a member shall be filled by a fresh nomination in accordance with this Policy.

#### **16.0 PENALTIES**

- a. Where the Committee upon conducting due investigation arrives at the conclusion



that the allegation against the accused has been proven, it shall make recommendations to the company which address the following points below:

- i. to impose any punishment(s) in accordance with the provisions of the service rules applicable to the guilty; or
- ii. such other action as may be mandated by the Act.

b. Irrespective of and without prejudice to complaints initiated before the IC, Complainant may, at his/her sole discretion, also choose to lodge a complaint with the Jurisdictional Police Station for the same offence with the Police. The IC shall provide reasonable assistance to the Police in its investigation. IC may take note of the findings by the Police and/or any other competent authority, in arriving at its recommendations and conclusion. The Respondent shall be subject to any findings or order of any competent authority, including but not limited to, a Court of Law.

#### **17.0 PUNISHMENT FOR FALSE OR MALICIOUS COMPLAINT AND FALSE EVIDENCE**

- a. Where the IC arrives at a conclusion that the allegation against the Respondent is malicious or the aggrieved woman / Complainant has made such complaint knowing it to be false or any evidence produced by the aggrieved woman or the Complainant is forged, fabricated and/or misleading, it may recommend to the Employer to take action including disciplinary action against such aggrieved woman/ Complainant in a manner as may be prescribed.
  - i. Provided that a mere inability to substantiate a complaint or provide adequate proof or investigation being rendered inconclusive due to any circumstance, which may make it difficult to prove such allegation, need not attract such action
  - ii. Provided further that the malicious intent on the part of the aggrieved woman/Complainant shall be established only after an inquiry in accordance with the procedure prescribed, before any action is recommended or taken.
- b. Where the IC arrives at a conclusion that during the inquiry any witness has given false evidence or has produced any forged or misleading document, it may recommend to the employer to take action against such witness in accordance with the service rules applicable on such witness or such other manner as may be prescribed.

#### **18.0 DETERMINATION OF COMPENSATION**

For the purposes of determining the compensation payable to the aggrieved person, the IC shall have regard to the following:

- a. the mental trauma, pain, suffering, emotional distress etc caused to the aggrieved woman,
- b. loss in career opportunities due to the incident of sexual harassment,
- c. medical expenses incurred by the aggrieved woman on account of the physical or psychiatric treatment,
- d. The income and financial status of the respondent,
- e. Feasibility of such payment in lump sum or in instalments.

#### **19.0 CONFIDENTIALITY**



Notwithstanding anything contained in the Right to Information Act, 2005, the contents of the Complaint made under this Policy, the identity and addresses of the Aggrieved person/respondent and witnesses, any information relating to the conciliation and inquiry proceedings, recommendations of the IC and the action taken by an employer under this Policy, shall not be published, communicated, or made known to the public, press or media in any manner.

Provided that any information may be disclosed/disseminated for securing justice to the victim of sexual harassment without disclosing the name, identity, or any other particulars vis-a-vis the aggrieved person/victim/complainant and witnesses.

#### **20.0 PENALTY FOR PUBLICATION OR MAKING KNOWN CONTENTS OF COMPLAINT AND INQUIRY PROCEEDINGS**

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of the Act violates confidentiality, he/she shall be liable for a financial penalty and immediate removal from their role. Where the Complainant, the Respondent and/or any other Employee, who is a part of the proceedings of the complaint as a witness, violate the confidentiality provisions of this Policy, he/she shall be subject to appropriate action/disciplinary action.

#### **21.0 APPEAL**

- a. Any person aggrieved from the recommendations or non-implementation of such recommendations of the IC, may prefer an appeal to the court or tribunal in accordance with the provisions of the service rules applicable to the said person or where no such service rules exist then, without prejudice to provisions contained in any other law for the time being in force, the person aggrieved may prefer an appeal in such manner as may be prescribed.
- b. The appeal under sub-section (1) shall be preferred within a period of ninety days of the recommendations. Such an Appeal shall be preferred within a period of ninety days of such recommendations/order.

#### **22.0 MISCELLANEOUS**

- a. The proceedings under this Policy shall not be stalled or postponed merely because the complainant is proceeding against the accused under any other provision of civil or criminal law.
- b. The provisions of this Policy shall not restrict the power of the company or complainant to proceed against the alleged offender for any other misconduct or to pursue the criminal or civil remedies against the alleged offence.
- c. The Committee shall maintain a complete and accurate documentation of the complaint, its investigation and resolution thereof.
- d. The provisions of the Act and any amendments thereto will prevail, in the event of any conflict with the provisions of this Policy.
- e. Company wishes to make the said policy gender neutral with an intention to protect the interests of its employees and to ensure safe working environment.