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# SEXUAL HARASSMENT POLICY & PROCEDURE

## 1. PREAMBLE

- 1.1. The Company subscribes to the provisions of the Constitutional Bill of Rights as well as Equity legislation. Sexual harassment undermines the business strategy of the Company and also comprises a violation of the fundamental human rights of men and women in respect of the right to integrity and human dignity, privacy, equity in the workplace, security of person and fair labour practices.
- 1.2. In accordance with the requirements of statute, the Company has decided to adhere to the provisions of this policy and procedure which are aimed at eliminating sexual harassment in the workplace.
- 1.3. The Company will not tolerate disrespect for one another's rights to equity at the workplace. It views sexual harassment in any form as being extremely serious and summary dismissal may result therefrom. Furthermore, the aggrieved individual is not precluded from pursuing other legal rights which could include pressing criminal charges.
- 1.4. Allegations of sexual harassment must be dealt with seriously, expeditiously, sensitively and confidentially. Employees will be protected from victimization that may arise from lodging grievances in this regard.

## 2. APPLICATION

- 2.1. This policy and procedure is primarily aimed at guiding the Company and its employees in regard to this subject but is also broad enough to recognise that the perpetrators and victims of sexual harassment may also include: owners, employers, managers, supervisors, employees, job applicants, clients, suppliers,

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contractors, and others who conduct business with or have dealings with the Company.

- 2.2. Notwithstanding 2.1 above, the Company and its employees do not have the right to take disciplinary action against non-employees but could elect to pursue any other remedies at law. Non-employees who allege that they have been the victim of sexual harassment may in addition to any other recourse recognised in law, lodge a complaint in writing to the employer of the harasser where the harassment has taken place at the workplace or in the course of the harasser's employment or in circumstances in which the organisation has an interest.

### 3. **DEFINITION OF SEXUAL HARASSMENT**

- 3.1. Sexual harassment is unwanted conduct and/ or behaviour of a sexual nature. The unwanted nature of sexual harassment distinguishes it from conduct and/ or behaviour that is welcome and mutual.
- 3.2. Sexual attention becomes sexual harassment if:
- a) The conduct and/ or behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and/ or
  - b) The recipient has made it clear that the conduct and/ or behaviour is considered offensive; and/ or
  - c) The perpetrator should have known that the conduct and/ or behaviour is regarded as unacceptable.
- 3.3. Such behaviour has the purpose and effect of adversely affecting the individual's employment opportunities, employment capabilities or creating an intimidating, hostile or degrading employment environment for that person.

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#### 4. FORMS OF SEXUAL HARASSMENT

- 4.1. Sexual harassment includes unwelcome/ unwanted physical, verbal or non-verbal conduct and/ or behaviour, but is not limited to the examples listed as follows:
- a) Physical conduct of a sexual nature which includes all unwanted physical contact, ranging from touching to sexual assault and rape, and includes a strip search by or in the presence of the opposite sex.
  - b) Verbal forms of sexual harassment include unwarranted innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or directed toward them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling directed at a person or group of persons.
  - c) Non-verbal forms of sexual harassment include unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects.
  - d) Quid pro quo harassment occurs where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence the process of employment, promotion, training, discipline, dismissal, salary increment or other benefit of an employee or job applicant, in exchange for sexual favours.
- 4.2. Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/ her sexual advances, whilst other deserving employees who do not submit themselves to any sexual advances are denied promotions, merit rating or salary increases.

## 5. PRINCIPLES

5.1. The Group will as far as is reasonably practicable create and maintain a working environment in which the dignity of employees is respected and in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals. These endeavours will include establishing the following guidelines:

- Management and employees are to refrain from committing acts of sexual harassment;
- Management and employees share the responsibility of creating and maintaining a working environment in which sexual harassment is unacceptable by ensuring that their standards of conduct and/ or behaviour do not cause offence and by discouraging unacceptable behaviour on the part of others;
- Management should apply the same principles to ensuring that customers, suppliers, job applicants and others who have dealings with the Group are not subjected to sexual harassment by employees;
- Management are expected to take appropriate action in accordance with this policy when instances of sexual harassment which occur within the workplace or which the Group has an interest in are brought to their attention. A failure to do so will be deemed gross misconduct.

5.2. The disciplinary and grievance procedure and code applies in addition to this policy and is to be used as a guideline by the parties thereat. This policy and procedure does, however, contain some variations from the existing disciplinary and grievance codes and in the context of sexual harassment these variations (i.e. in this code) will take precedence, for example:

- the aggrieved employee has an option of adopting a formal or informal process to resolve the grievance;

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- the aggrieved employee may opt to approach an employee from HR or a shop steward or even an external party who is an “outside professional” where the circumstances are justifiable, rather than the immediate line manager or more senior line managers;
  - the aggrieved employee’s heightened right to confidentiality around the matter.

## 6. PROCEDURES

### 6.1. Advice and assistance:

In the event that a victim of sexual harassment should feel unable to approach the perpetrator, he/ she should lodge a formal grievance with the immediate line manager or turn to colleagues for support. In this context, the person may approach the Human Resources/ Labour Relations representative/ Union Representative who will give confidential advice, guidance and support. These parties may in severe cases also direct the aggrieved employee to outside professionals based on the merits of the case. Such advice shall include but not be limited to the following matters listed hereunder.

### 6.2. Options to resolve a problem (based on the merits of each case):

- a) Informal Procedure: if the aggrieved employee prefers informal action, the chosen representative should call the accused employee to a private meeting, advise them of the details of the complaint lodged, assure the accused that the matter will be treated confidentially, give the accused employee the opportunity to state a case in response, explain the outcome that the aggrieved employee requests (an informal settlement) and advise the accused employee of the possible consequences if proved guilty of sexual harassment in a formal disciplinary enquiry. The chosen representative will again meet with the aggrieved employee, advise the said person of the alleged perpetrator’s response and if the aggrieved employee is satisfied, invite both parties to meet to consider resolving and settling the

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matter without the need for formal disciplinary action. The chosen representative will assess what support and assistance the complainant may require after settlement and report such to the HR Manager.

- b) Formal Procedure: if the matter is not settled, or if the aggrieved employee wants formal disciplinary action the chosen representative shall report the matter to labour relations who shall co-ordinate the investigation in respect of the allegations sensitively, the interviewing of witnesses, and the obtaining of written statements. If there is sufficient evidence on a balance of probability to succeed in proving behaviour/ conduct which constitutes sexual harassment, the normal disciplinary procedures in respect of a formal disciplinary hearing shall be followed.

- 6.3. Criminal and Civil charges may be pressed against the alleged perpetrator and the legal rights of the victim are in no way limited by this code.

## **7. CONFIDENTIALITY**

- 7.1. Managers and employees must ensure, as far as is reasonably practicable, that grievances about sexual harassment are investigated and handled in a manner that the identities of the persons involved are kept confidential.
- 7.2. In cases of sexual harassment, management, employees and the parties concerned must endeavour to ensure confidentiality in the disciplinary enquiry. Only appropriate members of management as well as the aggrieved person, representative, alleged perpetrator, witnesses and interpreter (if required) must be present in the disciplinary enquiry.
- 7.3. Disclosure of confidential information will be permitted in terms of the provisions of the Labour Relations Act.