

PREVENTION OF SEXUAL HARASSMENT POLICY

1. Background

Techindia Nirman Limited (hereinafter referred to as the “**Company**”) is committed to provide equal opportunity and a harassment free workplace notwithstanding race, caste, religion, colour, ancestry, marital status, gender, sexual orientation, age, nationality, ethnic origin or disability, as the case may be. Thus in order to create such a safe and conducive work environment, this Policy has been framed, in line with the provisions of the “**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**” of India (hereinafter referred to as the “**Act**”) and existing rules framed thereunder namely the “**Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013** (hereinafter referred to as the “**Rules**”).

2. Purpose & Scope

Purpose of this policy is to provide protection against sexual harassment of women at workplace and the prevention and redressal of complaints of sexual harassment and matters related to it.

This policy extends to all employees including individuals coming to the workplace for employment or for any other purpose whatsoever including but not limited to visitors, vendors, contractual resources, and applies to any alleged act of sexual harassment against persons at workplace, whether the incident has occurred during or beyond office hours.

This policy does not prevent any aggrieved person from taking recourse to the law of the land.

3. Important Definitions

- (a) “Aggrieved Individual” means in relation to a workplace, a woman, of any age, whether employed or not, who alleges to have been subject to any act of sexual harassment by the respondent and includes contractual, temporary employees and visitors.
- (b) “Complainant” is any aggrieved individual (including a representative as more fully described under Rule 6 of the said Rules, if the aggrieved individual is unable to make a complaint on account of her physical or mental incapacity or death or otherwise) who makes a complaint alleging Sexual Harassment under this Policy.
- (c) “Employee” as defined under the Act and means a person employed with the Company for any work on permanent, temporary, part-time, ad-hoc or daily wage basis, either directly or through an agent, including a contractor, who 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 expressed or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.
- (d) “Employer” means Techindia Nirman Limited (TNL).
- (e) “Internal Committee” means and include an Internal Complaints Committee (hereinafter referred to as the “**IC**”).
- (f) “Member” means a member of the IC.
- (g) “Presiding officer” means the presiding officer of the IC and shall be nominated by TNL

- (h) “Respondent” means a person against whom a complaint of alleging sexual harassment has been made under this policy.
- (i) “Parties” means collectively the complainant and the respondent.
- (j) “Sexual Harassment” includes any one or more of the following unwelcome acts of behavior (whether directly or by implication) :
- A. Any unwelcome sexually determined behavior or pattern of conduct that would cause discomfort and/or humiliate a person at whom the behavior or conduct was directed namely –
- (i) Physical contact and advances;
 - (ii) Demand or request for sexual favours;
 - (iii) making sexually coloured remarks or remarks of sexual nature about a person’s clothing or body;
 - (iv) showing pornography;
 - (v) Any other unwelcome physical, visual, verbal or non-verbal conduct of sexual nature including but not limited to cat-call, wolf/finger whistle, vulgar/indecent jokes, letters, phone calls, text messages, e-mails, gestures etc.

Sexual harassment can involve a series of incidents or it can be a one-off occurrence.

- B. The following circumstances, among other circumstances, if it occurs or is present in relation to connected with any act or behavior of sexual harassment may amount to sexual harassment:-
- Implied or explicit promise of preferential treatment in employment; or
 - Implied or explicit threat of detrimental treatment in employment; or
 - Implied or explicit threat about the present or future employment status; or
 - Interference with work or creating an intimidating or offensive or hostile work environment for the person; or
 - Humiliating treatment affecting any person’s health or safety.

(k) “Workplace” includes all places of work including Branch Offices, Regional Offices, Sub Divisional Offices, Head Office, and any other establishments of TNL. It also includes places not just the physical premises under the supervision of TNL, but even areas in and outside office premises i.e., any place visited by the employees arising out of or during the course of employment including accommodation, transportation provided by the employer for undertaking such journey.

4. Procedures and Guidelines

4.1 Composition of Internal Complaints Committee

Pursuant to the relevant provisions of the Act, an Internal Committee (IC) has been constituted to prevent sexual harassment and to receive and effectively deal with complaints pertaining to the same. The Committee shall consist of the following members –

- a. Employer will not form a part of the IC.
- b. Presiding Officer shall be a woman employed at Senior Level from amongst the TNL employees;
- c. One Member shall be from Legal/HR/Secretarial Department and another Member from Finance & Accounts Team and / or any other Department among whom at least one must be a female member.
- d. One Member from amongst Non-Governmental Organizations or Associations Committed to the cause of women or person familiar with the issue relating to Sexual Harassment including a Social Worker with at least 2 years of experience in the relevant field or a person familiar with labor, service, civil or criminal law.
- e. A quorum of 4 members is required to be present for the proceedings to take place. The

quorum must include the Presiding Officer, at least two members (one of whom must be female) and the external member.

Such Presiding Officer or Member, as the case may be, shall be removed from the Committee and the vacancy so created or any casual vacancy shall be filled by fresh nomination in accordance with the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The Committee shall review and examine all complaints referred to them in a timely manner. In this regard it shall have all the rights and powers of any ordinary disciplinary committee to carry out enquiry as it may deem fit, in the interest of a fair and independent investigation. Every effort will be made to conduct the investigation on a confidential basis, with disclosure made only where there is need to know.

4.2 Complaint of Sexual Harassment

4.2.1 Raising of complaint

- (1) Any aggrieved woman may make in writing, a complaint of sexual harassment to the Committee within a period of three (3) months from the date of incident and in case of more than one incident, within a period of three (3) months from the date of last incident. Complaints arising of incidents more than three (3) months old shall not be accepted.

However, the IC may, for reasons to be recorded in writing, extend such time limit of filing complaint up to further 3 months, if it is satisfied that bonafide circumstances prevented the aggrieved woman from filing complaint within the time limit mentioned in point (1) hereinabove. The complaint should clearly mention name and available details of both the aggrieved woman and the respondent. Anonymous or pseudonymous complaints will not be investigated.

- (2) Where the aggrieved woman is unable to make the complaint on account of her physical or mental incapacity or death or otherwise, her representative, as more fully described under Rule 6 of the said Rules, may make a complaint.

4.2.2 Process for Filing Complaint

- (1) The Complainant at the time of filing complaint shall submit 6 copies of the complaint along with supporting documents and the names and addresses of the witnesses to the Complaints Committee.
- (2) On receipt of the Complaint, the Committee shall send one of the copies received from the aggrieved woman within a period of SEVEN working days to the Respondent.
- (3) The Respondent shall file his reply along with list of documents and the witness's names and address within a period not exceeding TEN working days from the date of receipt of the documents.
- (4) The Complaints Committee shall make inquiry into the complaint in accordance with the principles of Natural Justice.
- (5) If the Complainant or Respondent fails to present for three consecutive hearings without sufficient cause before the Committee, the Complaints Committee shall have right to terminate the enquiry proceedings or to give an expert decision on the complaint. If the Complaints Committee decides to give expert order or termination, 15 days prior written notice to be given to the Parties.
- (6) The Parties shall not be allowed to bring in any legal practitioner to represent them in their case

at any stage of the proceedings before the Complaints Committee.

- (7) In conducting the enquiry, a minimum of Three Members of the Complaints Committee including the Presiding Officer shall be present.

4.3 Redressal Process

4.3.1 Conciliation

The Committee may before initiating an inquiry as stated above and at the request of the aggrieved woman take steps to settle the matter between her and the respondent through Conciliation.

Provided that, no monetary settlement shall be made as a basis of Conciliation.

Where a settlement has been arrived at, the Internal Committee, as the case may be, shall record the settlement so arrived and forward the same to Human Resources Department to take action as specified in the recommendation.

The Internal Committee shall provide the copies of the settlement as recorded to the aggrieved woman and the Respondent. Where a Settlement is arrived, no further inquiry shall be conducted by the Internal Committee, as the case may be.

4.3.2 Inquiry

- (1) In case where a settlement is not feasible or could not be arrived at through conciliation (ref clause 4.3.1 above), the IC will conduct an inquiry into the complaint. Additionally, an inquiry may also be initiated if the aggrieved person informs the IC that any terms of settlement (ref clause 4.3.1 above) has not been complied with by the respondent.
- (2) The IC within 7 (seven) working days of receiving the complaint shall forward one copy thereof to the respondent for obtaining a response.
- (3) The respondent within 10 (ten) working days of receiving the complaint shall file his/her reply to the complaint along with list of supporting documents, names and addresses of witnesses.
- (4) The IC shall consider the reply from the respondent and initiate an inquiry. The complainant or the respondent to the complaint shall not be allowed to bring any legal practitioner to represent them at any stage of the proceedings before the IC. IC shall hear both the complainant and the respondent on date(s) intimated to them in advance and the principles of natural justice will be followed accordingly.
- (5) In the event of failure to attend personal hearing before IC by the complainant or the respondent on three consecutive dates (intimated in advance) without sufficient cause, the IC shall have the right to terminate the inquiry proceedings or give an ex-parte decision. However, the IC shall serve a notice in writing to the party (ies), 15 (fifteen) days in advance, before such termination or the ex-parte order.
- (6) The inquiry process shall be completed maximum within the period of 90 (ninety) days from the date of receipt of the complaint.
- (7) The IC within 10 (ten) days from the date of completion of inquiry shall provide a report of its findings and recommendation(s) to Director & General Manager and such report and recommendation(s) shall also be forthwith made available to the complainant(s) and respondent(s).

- (8) Where the conduct of Sexual Harassment amounts to a specific offence under the Indian Penal Code⁴ (45 of 1860) or under any other law; it shall be the duty of IC to immediately inform the complainant of his/her right to initiate action in accordance with law with the appropriate authority, and to give advice and guidance regarding the same. Any such action or proceedings initiated shall be in addition to proceedings initiated and /or any action taken under this Policy.

4.3.3 Inquiry Report

Where the Internal Committee, arrives at the conclusion that the allegation against the respondent has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.

Where the Internal Committee, arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer, as the case may be—

- (1) To take any action including written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, or terminating the respondent from service or undergoing a counseling session or carrying out community service.
- (2) To take action for Sexual Harassment as a misconduct in accordance with the provisions of the Disciplinary Policy applicable to the respondent or where no such service rules/ Disciplinary Policy have been made, in such manner as may be prescribed;
- (3) To deduct, notwithstanding anything in the service rules applicable to the Respondent, from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the aggrieved woman or to her legal heirs, as it may determine.

Provided that in case the employer is unable to make such deduction from the salary of the respondent due to his being absent from duty or cessation of employment it may direct to the Respondent to pay such sum to the aggrieved woman.

Provided further that in case the Respondent fails to pay the sum referred above, the Internal Committee may forward the order for recovery of the sum as an arrear of land revenue to the concerned District Officer.

The employer shall act upon the recommendation within sixty days of its receipt by him.

4.3.4 Interim Relief

During pendency of the inquiry, on a written request made by the complainant, the committee may recommend to the employer to:

- (1) Transfer the aggrieved individual or the respondent to any other workplace; or
- (2) Grant leave to the aggrieved individual of maximum 3 months, in addition to the leave he/she would be otherwise entitled; or
- (3) Grant such other relief to the aggrieved individual as may found to be appropriate; or
- (4) Restraint the respondent from reporting on the work performance of the complainant.

4.3.5 Determination of Compensation

For the purpose of determining the sums to be paid to the aggrieved woman, the Internal Committee shall have regard to—

- (1) The mental trauma, pain, suffering and emotional distress caused to the aggrieved woman;
- (2) The loss in the career opportunity due to the incident of sexual harassment;
- (3) Medical expenses incurred by the victim for physical or psychiatric treatment;
- (4) The income and financial status of the respondent;
- (5) Feasibility of such payment in lump sum or in installments.

4.3.6 Prohibition on disclosure of information

This policy and the law prohibits any person including IC Members from publishing, communicating or making known to the public, press and media in any manner, contents of the complaint, the identity and addresses of the aggrieved woman, respondent and witnesses, any information relating to conciliation and inquiry proceedings, or recommendations of the IC during the proceedings under the provisions of the Act. Any violation thereto shall also be subject to applicable disciplinary action as outlined in Employee Handbook. Further Company shall impose monetary sanctions as per provisions of the Act and Rules.

4.3.7 Harassment by individuals outside this policy

If an aggrieved woman brings to the notice of the IC any instances of sexual harassment where the respondent is not an employee or other individuals covered under this policy, the Management or any person delegated by the Management shall provide assistance to the aggrieved individual, if such aggrieved individual so chooses, to file a complaint with the IC of the respondent's employer or under the Indian Penal Code or any other law for the time being in force, as may be appropriate.

4.3.8 Protection to Complainant

The Company is committed to ensuring that no employee who brings forward a harassment concern is subject to any form of reprisal. Any reprisal will be subject to disciplinary action. The Company will ensure that the victim or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.

However, anyone who abuses the procedure (for example, by maliciously putting an allegation knowing it to be untrue and/or produces any forged or misleading document) will be subject to applicable disciplinary action.

4.3.9 Appeal

Any person aggrieved by the recommendation of IC may prefer an appeal under the relevant provisions of the Act and Rules.

4.3.10 Disciplinary Proceedings

Pursuant to written recommendation report and findings of IC and subject to the final outcome of the appeal proceedings, if any, necessary disciplinary proceedings may be initiated against the respondent in terms of the applicable provisions of Employee Handbook of the Company.

5. Annual Report

The employer shall include in its report the number of cases filed, if any, and their disposal, number of cases pending for more than 90 days, and the nature of the action taken by the Employer under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in the annual report of the organization.

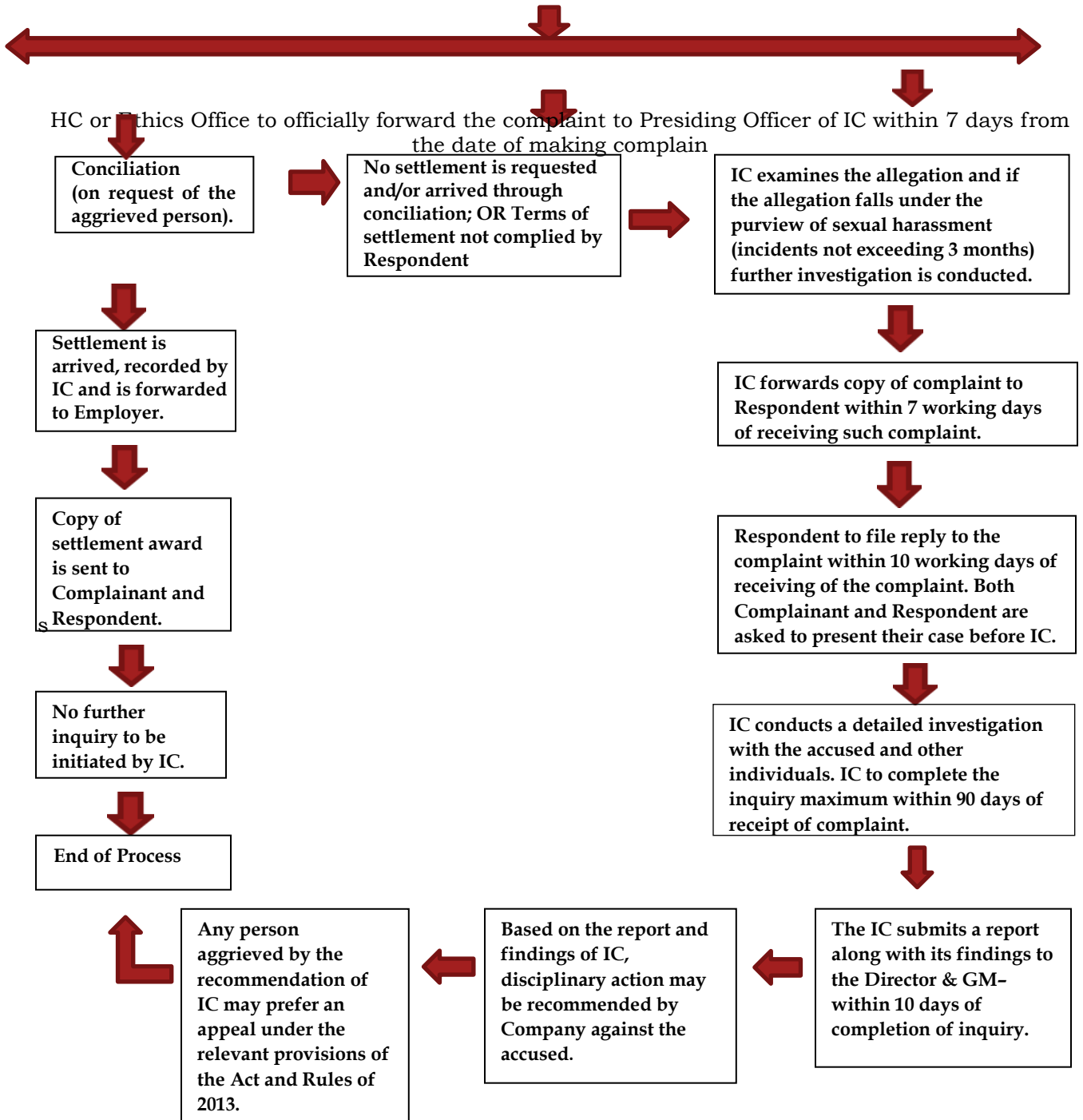
6. Duties of the Employer

Every employer shall:

- (1) Provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;
- (2) Display at any conspicuous place in the workplace, the penal consequences of Sexual Harassments; and the order constituting, details of the Internal Committee and declare the names and contact details of all the Members of the Internal Committee;
- (3) Carry out orientation programs and seminars for the Members of the Internal Committee.
- (4) Organize workshops and awareness programs at regular intervals for sensitizing the employees with the provisions of the Act and orientation programs for the members of the Internal Committee in the manner as may be prescribed;
- (5) Provide necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry;
- (6) Assist in securing the attendance of Respondent and witnesses before the Internal Committee;
- (7) Make available such information to the Internal Committee, as it may require having regard to the complaint made;
- (8) Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force;
- (9) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, against the perpetrator, or if the aggrieved woman so desires, where the perpetrator is not an employee, in the workplace at which the incident of sexual harassment took place;
- (10) Treat Sexual Harassment as a misconduct under the service rules and initiate action for such misconduct;
- (11) Monitor the timely submission of reports by the Internal Committee.

7. Grievance Redressal Procedure

8. Reporting of Complaint through HC or Ethics Office



9. Sections of the Indian Penal Code (IPC) – Sexual Harassment and Punishment for Sexual Harassment

Under the Indian Penal Code, the newly introduced Section (Section 354A) which deals with Sexual Harassment has made this a ‘cognizable offense’ i.e. a person charged with Sexual Harassment may be arrested **without a warrant**.

- (1) A man committing any of the following acts:
 - (i) physical contact and advances involving unwelcome and explicit sexual overtures; or
 - (ii) a demand or request for sexual favours; or
 - (iii) showing pornography against the will of a woman; or
 - (iv) making sexually coloured remarks,shall be guilty of the offence of sexual harassment.
- (2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) above, shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.
- (3) Any man who commits the offence specified in clause (iv) above shall be punished with imprisonment of either description (i.e. either simple or rigorous) for a term which may extend to one year, or with fine, or with both.

In addition to Section 354A set out above, acts of Sexual Harassment may also constitute other offenses under IPC including

- (1) Section 354 (assault or criminal force to woman with intent to outrage her modesty),
- (2) Section 354C (Voyeurism),
- (3) Section 354D (Stalking),
- (4) Section 375 and 376 (Rape) and
- (5) Section 509 (word, gesture or act intended to insult the modesty of a woman) of the IPC.
