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## **Sexual Harassment for Female Employees - (Prevention, Prohibition and Redressal)**

### **1. BACKGROUND**

It is our endeavor to keep our workplace i.e. Nibe Ltd. ("Company") safe, transparent and friendly for our people to work in. Understanding the employees and giving them the confidence that the workplace is fair, transparent and safe has been a core philosophy. The Government has released an act on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("Act"). This Act has come into force with effect from 9<sup>th</sup> Dec'13. In order to ensure compliance and more, we have drafted the policy on Sexual Harassment for "Female Employees" to ensure further adherence as below.

### **2. PURPOSE AND 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 workplace for an employment or for any other purpose whatsoever including but not limited to visitors, vendors, contractual resources, secondees 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 would extend to all locations of the company. The possible locations could be:

- i. Any business locations of the company; or
- ii. Any external location/s visited by an Employee due or during employment with the company, such as business locations of any other organizations / entities, guest houses, hotels etc.; or
- iii. Any mode of transport provided by the company (or representative of the Company) to an employee for undertaking a journey to and from the locations mentioned above.

The definitions (i) and (ii) are together referred as "*Premises.*"

**THIS POLICY DOES NOT PREVENT ANY AGGRIEVED PERSON FROM TAKING RECOURSE TO THE LAWS OF LAND.**

### **3. IMPORTANT DEFINITIONS:**

- **Definition of sexual harassment:** A broad definition of sexual harassment consists of any unwelcome physical, verbal or non-verbal conduct of unnecessary, improper or unwelcome sexual nature and may include one or more of the following behavior (whether directly or by implication):
  - i. Unwelcome Sexual advances, demands or request for sexual favors, display of sexual visuals, sexual audios, pornographic or obscene material and any other verbal or physical conduct of a sexual nature; or
  - ii. Transmitting any message by e-mail, telephone, electronic media including social networking websites etc. which is obscene, lewd, suggestive, or blatantly sexual in nature; or
  - iii. Any explicit or implicit communication wherein a sexual favor or demand, whether by words or actions, is made a condition for an individual's employment, career progress, promotion etc. thereby creating a hostile environment; or
  - iv. Sexually charged jokes or remarks and behavior which have sexually oriented innuendoes; or
  - v. Consistent pattern of unnecessary physical contact and advances, staring or targeting unreasonable attention at an individual in day-to-day dealings; or
  - vi. Any pervasive pattern of behavior which makes female uncomfortable, insecure or feel humiliated or disadvantaged based on gender differentiation; or
  - vii. Stalking or making repeated unnecessary / unwelcome visits to the place of residence; or
  - viii. Actual sexual assault.

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

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:

- ix. Implied or explicit promise of preferential treatment in employment or
- x. Implied or explicit threat of detrimental treatment in employment or

- xi. Implied or explicit threat about the present or future employment status or
- xii. Interference with work or creating an intimidating or offensive or hostile work environment for the person or
- xiii. Humiliating treatment affecting any person's health or safety

This is only an indicative list of the possible acts and in no way is exhaustive in nature. Every proven act of sexual harassment will be treated as misconduct under the service rules and appropriate action will be taken for such misconduct.

- **Aggrieved individual:** Means in relation to a workplace, a person, 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.
- **Complainant:** is any aggrieved individual (including representative as more fully described under Act and Rules, if any aggrieved individual unable to make the complaint on account of her mental or physical incapacity or death or otherwise) who makes complaint alleging sexual harassment under this policy.
- **Employee:** as defined under the act and means 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 Principle employer, whether for remuneration or not or working on voluntary basis or otherwise, whether the term of employment are expressed or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.
- **Employer:** means person who are responsible for management, supervision and control of the workplace including appointment/ removal/ termination of employee and will include Director and General manager, chief people officer (CPO), Chief Operating Officer (COO).
- **Internal Committee (ICC):** means and include an Internal Complaint Committee formed by the Company.
- **Member:** means member of ICC.
- **Presiding Officer:** means the presiding officer of the ICC and shall be a woman employed at senior level at the workplace amongst the employees.
- **Respondent:** means a person against whom a complaint of alleging sexual harassment has been made under this policy.
- **Parties:** means collectively the Complainant and the Respondent.

➤ **Workplace:** means establishments, enterprises, institutions, offices, branches, premises, locations or units established, owned, controlled by the company or places visited by an employee out of or during the course of employment including accommodation, transportation provided by the employer for undertaking such journey.

**4. PROCEDURE AND GUIDELINES:** The company views all incidents of sexual harassment seriously and follows zero tolerance towards any act of sexual harassment. All incidents of sexual harassment are prohibited, and any complaint or report of sexual harassment will be investigated and if proved, appropriate action will be taken against offended person. The nature and seriousness of the offence will be adjudged by the committee depending on several factors, including of several circumstances while the Employee was being subjected to any acts of sexual harassment.

**5. COMPOSITION OF INTERNAL COMPLAINT COMMITTEE:** Pursuant to relevant provisions of the Act, an Internal Complaint Committee (ICC) has been constituted to prevent sexual harassment and to receive and effectively deal with complaints pertaining to the same. Below is the list of members of ICC constituted by the Company for its workplaces.

Sl. No.	Name of Member	Designation	Contact number and Email
1	Mrs. Manjusha Ganesh Nibe	Presiding Officer	M.No.9049237777 Manjusha@nibelimited.com,
2	Mr. Prakash Bhamare	Member	M.No. 9011442777 prakash.bhamare@nibelimited.com
3	Mr. Hemant Wani	Member	M.No. 9766311668 hemant.wani@nibelimited.com
4	Mrs. Gangatai S. Buke	External Member from NGO	M.No. 9561961021 gangab@chaitanyaindia.org
5	Ms. Dipali Rajendra Rathod	Member	M.No. 8010247620 Diparathod09@gmail.com

6	Ms. Priya S. Pandey	Member	M.No.7987286490, cs@nibelimited.com
7	Ms. Poonam Chaudhari	Member	M.No.9987513059, poonamchaudhari77523@gmail.com
8	Mrs. Savita Chaudhari	Member	M.No.9890671408, payrollpune@nibelimited.com
9	Mr. Ravindra Kumar Sinha	Member	M.No. 9822911691 ravindra.sinha@nibelimited.com
10	Ms. Deepika Nathani	Member	M.No.960661670 Dipika.Nathani@nibelimited.com

- If any above members' ceases to be a member of the committee then composition of the committee will be changed accordingly.
- It is mandatory that at least one half of the total member of the Internal Complaints Committee so appointed be women members.

**6. COMPLAINTS HANDLING PROCESS:** The Company has established the following process to ensure that any incidence of sexual harassment is dealt appropriately, sensitively, and expeditiously.

Any Employee who experiences sexual harassment at the Premises must file a complaint in writing to the relevant committee within 3 months from the date of incident, if repetitive or series of incidents then within 3 months from last incident. Complaints arising of incidents more than 3 months old shall not be accepted. However, this time may be extended by the committee if there are substantial reasons, justifications or circumstances which may have prevented the Employee from filing this complaint. In event of physical or mental incapacity or death of the affected Employee, then her heirs can also file such a complaint on her behalf.

**7. SETTLEMENT:** After filing such a complaint, if the Employee so requests, prior to initiating an inquiry, the committee can try to settle the matter through conciliation, provided that no monetary settlement shall be made as basis of such conciliation. If such a settlement is reached, the Committee will record the settlement and action will be taken by the company as specified in the

recommendation. Copies of settlement will be provided to the Employee and the respondent. However, it is to be noted that wherever a settlement is arrived at, no further inquiry shall be made by the Committee, unless the terms of settlement have not been complied with.

#### **8. INQUIRY:**

- In case where settlement is not feasible or could not be arrived at through conciliation or settlement procedure then on receipt of such a complaint, the Committee will immediately arrange to fully investigate all relevant details of the matter.
- The Committee shall make the inquiry into the complaint in accordance with principles of Natural Justice.
- A minimum number of 3 members of the Committee, including the Presiding officer, should be present for conducting the inquiry.
- Both parties will be given reasonable opportunity to be heard by the Committee. A copy of findings shall also be given to both the parties to enable them to make representations against the findings of the committee.
- The Committee within 7 (Seven) working days of receiving of complaint shall forward one copy thereof to the Respondent for obtaining reply.
- The Respondent within 10 (Ten) working days of receiving the complaint shall file the reply against the complaint along with list of supporting documents, names and address of witness.
- The Committee shall consider the reply and initiate the enquiry. The Complainant or the Respondent are not allowed to bring their Legal Practitioners to represent them at the stage of proceedings before the Committee.
- In the event of failure to attend the personal hearing before the Committee by the Complainant or the Respondent on 3(three) consecutive dates (intimated in advance), the Committee shall terminate the proceedings or give ex-parte decision. However, the Committee shall serve a notice in writing to the party (ies) 15 (fifteen) days in advance before such termination or ex-parte order.
- The inquiry shall be completed within 90 days from the date of receipt of the Complaint. Further, within 10 days of complete the inquiry, the Committee will formally record the result of the inquiry and forward its recommendations for appropriate action to the concerned officers

of the Company who will act upon such recommendations of the Committee within 60 days.

- Where the conduct of Sexual Harassment amounts to a specific offence under the Indian Penal Code<sup>4</sup> (45 of 1860) or under any other law; it shall be the duty of ICC 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.
- An appeal to the decision of the Committee may be referred within a period of 90 days to a court or tribunal as may be prescribed under the Act.

**9. INTERIM RELIEF:** Where an inquiry is initiated on a complaint then, if the complainant so desires, she can request for any of the following actions to be taken during pendency of the complaint as an interim measure of relief:

- Transfer of either of the parties to any workplace; or
- Grant of leave to the complainant up to a period of 3 months; or
- Restraining the respondent from reporting on the work performance of the complainant or writing the confidential report and assign the same to another officer; or
- Grant such relief to the complainant as may be prescribed by the Act.

The Committee may provide such recommendations to the Company to implement. The leave granted to the complainant will be in an addition to the leaves she would be otherwise entitled to.

**10. PROCEDURE TO BE FOLLOWED BY THE COMMITTEE FOR CONDUCTING AN INQUIRY:** For conducting an inquiry into the complaint received by it from an

Employee, the Committee may:

- Summon and enforce the attendance of any person and examine him/her on oath.
- Require the discovery and production of documents; and
- Perform or require performance of any other such act which may be prescribed under the Act.

**11. ACTION AGAINST THE OFFENDER:**



- Necessary action, including but not limited to such disciplinary action as may be specified in the terms of the offender(s), will be taken about such offender(s) based on circumstances and seriousness of the offence.
- If the committee so deems fit and appropriate, then it may direct the respondent to pay compensation to the complainant (either through deduction from salary or in case respondent has left NIBE Ltd. or is on leave, then direct payment).

**12. INVOCATION OF INDIAN PENAL CODE:** If the aggrieved person chooses to file a complaint in relation to the offence under Indian Penal Code or any other applicable law, the Company will provide such assistance to her as she may require. Furthermore, the Company may also cause to initiate action, under the Indian Penal Code or any other applicable law, against the offender. In the event, that, the offender is an employee of different entity/organization / company, then the aggrieved Employee so desires, the Company will cause to initiate action in the workplace at which the incident of sexual harassment took place.

**13. FALSE, FRIVOLOUS OR MALICIOUS COMPLAINTS:** Where the Committee arrives at the conclusion that the allegation against the offender is malicious or the complainant has made the complaint knowing it to be false or has produced any false or misleading documents, then the same will be reviewed very seriously by the Company and appropriate action will be taken against such complaints.

**14. CONFIDENTIALITY OF THE COMPLAINANT:** Any complaints or incidence reported under this policy shall be treated with all possible care, sensitivity, and discretion in protecting the sensibilities of the affected person and no information will be divulged publicly or to any third party which can enable identification of the identity of the affected person. This policy and the law prohibits any person including Committee 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 person, respondent and witnesses, any information relating to conciliation and inquiry proceedings, or recommendations of the Committee during the proceedings under the provisions of the Act. Any violation thereto shall also be subject to applicable disciplinary action as outlined in Employee

Personal file. Further Committee shall impose monetary sanctions as per provisions of the Act and Rules.

**15. PREPARATION OF ANNUAL REPORT AND COMPLIANCE WITH APPROPRIATE GOVERNMENT:** The committee will prepare the annual report in accordance with Section 21 of the Act which shall contain the following details,

- a) Number of complaints of sexual harassment received in the year.
- b) Number of complaints disposed off during the year.
- c) Number of cases pending for more than 90 days.
- d) Number of workshops or awareness programs against sexual harassment carried out.
- e) Nature of action taken by the concerned officers of the Company.

At the location, in the Committee, an HR representative will be nominated. It will be duty of this person to file annual report with the District Officer notified under **Section 5** of the Act by the appropriate Government.

## ANNEXURE:

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