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High Street Essentials Private Limited

Corporate Policy

Policy on Sexual Harassment of Women at
Workplace

Effective Date: 01st May, 2014

Policy on Sexual Harassment of Women at Workplace

1. **Background** - The Government of India has notified "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, with effect from April 23, 2013. Further, the Government has notified "the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 with effect from December 09, 2013. For the purposes of this Policy Note, the said Act & Rules are collectively referred to as "the Sexual Harassment Prevention Law".
2. **Applicability**- This policy is known as Sexual Harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013 & the Rules (hereinafter referred to as 'Policy') and is applicable to all employees of High Street Essentials Private Limited having registered office at D-3, 1st Floor, Maharani Bagh, New Delhi-110065 deployed at the workplace who are either
 - (a) On the rolls of the establishment or
 - (b) Engaged through the Contractor(s) having service agreement with the establishment or as enumerated in clause (f) of section 2 of the SHWW Act.
3. **Objective** – This policy has been formulated keeping in view the provisions under The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013(hereinafter referred to as SHWW Act) and its Rules. The said policy is to define the guidelines and the process to be followed in order to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment in addition to the matters connected therewith or incidental thereto. For any doubt or further clarification, reference is made to the SHWW Act and its Rules.
4. **Abbreviations**- In this Policy document, unless there is anything repugnant to the subject or context thereof, the words and expressions as stated below shall have the following meanings:-
 - (i) **Complainant Employee** (hereinafter referred to as **CE**): - Complainant Employee means a woman, in relation to High

Street Essentials Private Limited, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by another employee (hereinafter referred to as 'Respondent Employee').

- (ii) **Internal Committee:** - Internal Committee means Internal Complaint Committee (hereinafter referred to as **ICC**) constituted at High Street Essentials Private Limited to deal with matter related to sexual harassment.
- (iii) **Employer:** Employer means a person responsible for the management, supervision and control of High Street Essentials Private Limited
[Management: - Management means the person or board or committee responsible for formulation and administration of policies for High Street Essentials Private Limited]
- (iv) **Respondent Employee** (hereinafter referred to as **RE**): - Refers to an employee against whom the complaint for sexual harassment has been lodged.
- (v) **Workplace:** -Workplace includes all offices, branches, and workshops of High Street Essentials Private Limited located anywhere in India. It also includes any place visited by the employees arising out of or during the course of employment including transportation provided by the Management of the establishment for undertaking the journey.

5. **Preamble:** - Sexual harassment is not only a serious misconduct but criminal offence also, which infringe Fundamental Rights of woman. In an effort to promote the well-being of all women employees at the workplace, this Policy envisages as under:-

- (i) It shall be the duty of our Management to prevent or deter the commission of any act of sexual harassment at the workplace.
- (ii) Sexual Harassment will be considered as misconduct and action will be taken based on the findings of the inquiry in this context.
- (iii) The definition of sexual harassment is:-
"Sexual Harassment" includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:-
 - (a) Physical contact and advances; or

- (b) A demand or request for sexual favour; or
- (c) Making sexually coloured remarks; or
- (d) Showing pornography; or
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(iv) The following circumstances, among other circumstances, if it occurs or is present in relation to or connected with any act behavior of sexual harassment:-

- (a) Implied or explicit promise of preferential treatment in her employment; or
- (b) Implied or explicit threat of detrimental treatment in her employment; or
- (c) Implied or explicit threat about her present or future employment status; or
- (d) Interference with her work or creating an intimidating or offensive or hostile work environment for her; or
- (e) Humiliating treatment likely to affect her health or safety.

6. Internal Complaints Committee- The ICC at High Street Essentials Private Limited will comprise of the following:

#	Name	Designation	Contact #	Email Id
1	Shivani Poddar	Presiding Officer	09873922232	shivaniipoddar86@gmail.com
2	Tanvi Malik	Member	9873551618	tanvimalik@faballey.com
3	Vinod Kumar Poddar	Member	9810137976	vinodpoddar@orexports.com
4	Neha Takkar	Member	9999393921	neha@faballey.com
5	Dr. Anandini Dar	Member from NGO	9990882244	anandini@camden.rutgers.edu

Every Member of the ICC shall hold office for a period not exceeding three years, from the date of their nomination as may be specified by the Management.

ICC would be strictly governed by section 4 of the SHWW Act.

As per Section 4, Internal Complaint Committee shall consist of the following members nominated by employer:

1. A Presiding Officer who shall be a senior woman employee of the workplace. In absence of such senior level woman employee, presiding officer shall be nominated by other administrative units. If there is no woman in the administrative units also, Presiding Officer shall be nominated from any other workplace of the same employer or other department or organization. The term of presiding officer shall not exceed three years from the date of nomination.
2. At least two members amongst employees having commitment towards cause of woman and legal knowledge.
3. One member from an NGO or such background who is familiar with issues relating to sexual harassment.

It should be noted herewith that atleast half of the total members of the Internal Complaint Committee shall be woman

7. Procedure of filling a Complaint -

- (i) The complaint should be made by CE within a period of three months from the date of occurrence of incident and in case of a series of incidents, within a period of three months from the date of last incident. The complaint by an CE shall be made to ICC in writing and be sent either by post or given in person to any member of ICC of the establishment or any officer authorized by ICC in writing. The CE shall submit six copies of complaint along with supporting documents and the names and address of the witnesses.
- (ii) The ICC may, for the reasons to be recorded in writing, extend the time limit exceeding three months, if it is satisfied that the circumstances were such which prevented the CE from filling a complaint within the specified period. Where the employee is unable to make a complaint on account of her physical or mental incapacity or death or otherwise, her legal heir may make a complaint under this section.

It is, however, pertinent to state that where the CE is unable to make a complaint on account of her physical incapacity, a complaint may be filed by-

- (a) her relative or friend; or
- (b) her co-worker; or
- (c) an officer of the National Commission for Women or State Women's Commission; or
- (d) any person who has knowledge of the incident, with the written consent of the CE;

Where the CE is unable to make a complaint on account of her mental incapacity, a complaint may be filed by-

- (a) her relative or friend; or
 - (b) a special educator; or
 - (c) a qualified psychiatrist or psychologist; or
 - (d) the guardian or authority under whose care she is receiving treatment or care; or
 - (e) any person who has knowledge of the incident jointly with her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care she is receiving treatment or care;
- (iii) Where the CE for any other reason is unable to make a complaint, a complaint may be filed by any person who has knowledge of the incident, with her written consent.
- (iv) Where the CE is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of her legal heir.

8. Manner of inquiry into Complaint-

- (i) The ICC on receipt of the complaint shall send one of the copies received from the CE to the RE within the period of seven working days.
- (ii) The RE shall file his reply to the complaint along with his list of documents, and names and addresses of witnesses, within a period not exceeding ten working days from the date of receipt of the documents.

- (iii) The ICC may, before initiating an inquiry and at the request of the CE, take steps to settle the matter between her and the RE through conciliation, provided that no monetary settlement shall be made as a basis of conciliation. Where a settlement has been arrived during conciliation, the ICC shall record the settlement and forward to the management to take action. The copies of the settlement as recorded during conciliation shall be provided to the both the parties and no further inquiry shall be conducted by the ICC. However, if the terms arrived during conciliation has not been complied with by the RE, the ICC shall proceed to make an inquiry into the complaint or as the case maybe forward the complaint to the police.
- (iv) The ICC will initiate a detailed inquiry as deemed fit and shall complete with the time period of ninety days.
- (v) Where both the parties are employees, the parties shall, during the course of inquiry, be given an opportunity of being heard. The parties shall not be allowed to bring in any legal practitioner or represent them in their case at any stage of the proceedings before the ICC.
- (vi) The ICC shall have the right to terminate the inquiry proceedings or to give an ex parte decision on the complaint, if the CE or RE fails, without sufficient cause, to present herself or himself for three consecutive hearings convened by the Presiding Officer. Provided that such termination or ex-parte order may not be passed without giving a notice in writing, fifteen days in advance, to the party concerned.
- (vii) The ICC shall after completing the inquiry, submit its recommendations to the Management with recommendations of the penalty to be imposed within the ten days from the date of the completion of inquiry.
- (viii) The management shall act upon the recommendations on the ICC with the period of 60 days from the receipt of the recommendations.
- (ix) The HR/Personnel/Administrative Department will extend full cooperation in facilitating to conduct the proceedings by the ICC.
- (x) In conducting the inquiry, a minimum of three members of the ICC including the Presiding Officer shall be present.

Important Notes:- For the purpose of making an inquiry, the Internal Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) When trying a suit in respect of the following matters, namely:-

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of document(s); and
- (c) Any other matter which may be prescribed.

9. RELIEF DURING PENDENCY OF INQUIRY:

During the pendency of an inquiry, on the written request made by the CE, the ICC may recommend to the Management to:

- (i) transfer of the CE or the RE to any other workplace; or
- (ii) restrain the RE from reporting on the work performance of the CE or writing her confidential report, and assign the same to another officer; or
- (iii) grant leave to the CE up to a period of three months (leave granted shall be in addition to the leave she would be otherwise entitled).

10. PENALTY:

On the completion of the inquiry, the ICC shall provide a report of its findings to the employer.

- (i) Where the ICC, arrives to the conclusion that allegation of sexual harassment against the RE has not been proved, it shall recommend to the employer that no action is required to be taken in the matter.
- (ii) Where the ICC, arrives to the conclusion that allegation of sexual harassment against the RE has been proved, it shall recommend to the employer to take following actions:
 - (a) a written apology/ warning/ reprimand or censure/ withholding of promotion/ withholding of pay rise or increments/ termination the respondent from the service/ undergoing a counselling session/ carrying out community service
 - (b) Deduct from the salary or wages of the respondent such sum as it may consider appropriate to be paid to the complainant

or to her legal heirs. The factors which determine the amount of the compensations are as follows:

- (1) the mental trauma, pain, suffering and emotional distress;
 - (2) the loss in the career opportunity due to the incident;
 - (3) medical expenses 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.
- (iii) Where the ICC arrives at the conclusion that allegation against the RE is malicious; or CE or any other person knowingly filed a false complaint; or CE or any other person produced forged /misleading documents; or any witness has given false evidence or produced any forged/misleading documents, it shall recommend to the employer or employer of witness to take any of the following action(s):
- (1) a written apology
 - (2) warning
 - (3) reprimand or censure
 - (4) withholding of promotion
 - (5) withholding of pay rise or increments
 - (6) termination the respondent from the service
 - (7) undergoing a counselling session
 - (8) carrying out community service
- (iv) Where the ICC, arrives at the conclusion that person entrusted with-
- (a) the duty to handle the content of complaint; or
 - (b) the identity and addresses of the CE, RE and witnesses; or
 - (c) any information relating to the conciliation, inquiry proceedings, recommendations of ICC; or
 - (d) action taken by the employer shall not published; communicated or named know to the public, press and media in any manner

fails to comply with the his duty, shall recommend the employer to recover a sum of five thousand rupees as penalty.

- (v) Where the employer fails to comply with the following provision-

- (a) constitute an ICC for handling the matters of sexual harassment; or
- (b) act upon the recommendation of the inquiry submitted by ICC with the time frame; or
- (c) take action against the CE or any other person who have filed a malicious against the RE; or CE or any other person knowingly filed a false complaint; or CE or any other person produced forged /misleading documents; or any witness has given false evidence or produced any forged/misleading documents;
- (d) include cases of sexual harassment in annual report;
- (e) contravenes or attempts to contravene or abets contravention of other provisions;

he shall be punishable with fine which may extend to fifty thousand rupees. Further, employer subsequently commit and is convicted of the same offence, he shall be liable for twice the punishment for and cancellation, of his licence or withdrawal, or non renewal, or renewal, or approval, or cancellation of the registration for carrying on his business or activity.

11. GUIDELINES FOR ICC:

- (i) The ICC shall render all the reasonable assistance to the CE for making the complaint in writing.
- (ii) The ICC would go through the details of the complaint and evaluate if there is a prima facie case or not. While doing that, ICC will keep in mind that the CE is not subjected to inquiry more than once. However, if the complaint complexity requires that the CE is to be called for more than once for inquiry, than utmost sensitivity should be displayed and adequate precaution would be taken to ensure that there is no loss of dignity to the CE.
- (iii) The ICC shall make inquiry into the complaint in accordance with the principles of natural justice.
- (iv) The ICC shall make sure that, on the written request by the CE, some relief (during pendency of inquiry) is granted to CE.
- (v) The ICC shall make sure that the compensation is delivered to CE or her legal heir/s in cases where the allegation of sexual harassment has been proved against the RE. In case where the

RE fails to pay the compensation, the ICC may forward the order of recovery of the compensation as an arrear of land revenue to the concerned District Officer.

- (vi) The ICC shall submit an annual report to the employer and district officer which include 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 ninety days;
 - (d) number of workshops or awareness programme against sexual harassment carried out;
 - (e) nature of action taken by the employer
- (vii) The ICC shall do the proper inquiry before taking action against the CE or any other person regarding the false or malicious complaint and false evidence.
[PROVIDED that a mere inability to provide adequate proof need not to attract action against the CE.]

12. EMPLOYER (Management of the establishment) To ENSURE:-

- (i) Employer shall provide safe working environment at the workplace which shall also include safety from the person coming into contact at the workplace.
- (ii) Employer shall make grants confidentiality and non disclosure to the following -
 - (a) the content of complaint;
 - (b) the identity and addresses of the CE, RE and witnesses;
 - (c) any information relating to the conciliation, inquiry proceedings, recommendations of ICC;
 - (d) action taken by the employer

All or any of the above mentioned shall not published, communicated or named know to the public, press and media in any manner. However, the information may be disseminated regarding the justice secured to any victim of sexual harassment without disclosing the names, address, identity or any other particulars which leads to the identification of the CE and witnesses.

- (iii) Employer shall remove the Presiding officer or any member of the ICC, if he –
- (a) contravenes the confidentiality and non disclosure of matter related to sexual harassment ; or
 - (b) has been convicted for an offence or an inquiry into an offence under any law for the time being in force is pending against him; or
 - (c) has been found guilty in any disciplinary proceeding or a disciplinary proceeding is pending against him; or
 - (d) has so abused his position as to render continuance in office prejudicial to the public interest

The vacancy so created or any casual vacancy shall be filled by the fresh nomination.

- (iv) Employer shall display at conspicuous place in the workplace, the penal consequences of sexual harassment; and the order in constituting the ICC.
- (v) The Employer is unable to make any deduction from the salary of the RE due to his being absent from the duty or cessation of employment it may direct to the respondent to pay compensation to CE.
- (vi) Employer shall provide assistance to the CE if she so chooses to file a police complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.
- (vii) Employer shall also initiate action under the Indian Penal Code or any other law for time being in force, against a perpetrator, where the perpetrator is not an employee of the establishment and there is complaint of Sexual Harassment against the said perpetrator in the workplace where the harassment took place.
- (viii) Employer shall ensure the timely submission of annual report with the District Officer as per the format applicable.
- (ix) Employer shall direct HR/Personnel/Administrative Department to ensure to display at conspicuous places the guidelines.
- (x) Employer shall direct and monitor the HR/Personnel/Administrative Department to create awareness amongst employee material on sexual harassment in the following manner:-

- (a) Training cum Awareness session for employees (men and women)
 - (b) Training cum Awareness session for ICC members
 - (c) Training cum Awareness session for Human Resource teams and Senior Management.
- (xi) Employer will assist in ensuring the attendance of the RE and witnesses before the ICC as the case may be.
- (xii) Employer shall conduct periodic update meetings with the ICC and HR/Personnel/ Administrative Department to ensure that the said policy is being implemented in letter and spirit. Also, to provide necessary facilities to ICC.
- (xiii) Employer shall ensure that the relief recommended by ICC for CE shall be implemented within the time frame.

13. APPEAL BY THE CE:

CE may prefer an appeal to the court or tribunal against the recommendations made by the ICC regarding –

- (i) inquiring with the allegations against the RE has not proved; or
- (ii) action and deduction against RE is not up to the expectation of CE; or
- (iii) the ICC arrived at a conclusion that allegation against RE is malicious; or CE any other person made false complaint against RE; or CE any other person produced forged or misleading documents; during the inquiry any witness has given false evidence or produced any forged or misleading documents; or
- (iv) when the person entrusted with the duty to handle or deal with the complaint, the inquiry or recommendations makes known the contents of the complaint and the inquiry proceedings; or
- (v) non- implementation of such recommendation

CE shall file an appeal within a period of ninety days of the recommendations.