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NeoNiche POSH Policy

Prevention, Prohibition and Redressal of
Sexual Harassment at Work Place



1. PREAMBLE:


- 1.1 Sexual harassment at work place is considered as violation of women's right to equality, life and liberty. The Hon'ble Supreme Court in the case of Visaka and others vs State of Rajasthan 1997 AIR SC 3011 also reaffirmed that sexual harassment at work place is a form of discrimination against women and recognized that it violates the constitutional right to equality and provided guidelines to address this issue pending the enactment of a suitable legislation.
- 1.2 Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 has come in to force w.e.f 9.12.2013. The rules in the matter have been notified and come into force w.e.f 9.12.2013. Under section 19(b) of the Act it is obligatory for an employer to frame the policy for prevention of sexual harassment at the work place and the procedure for dealing with the complaints arising from such Acts and display the same in a conspicuous place in the work place. Accordingly, the policy has been framed and notified for the information of the employees.
- 1.3 NeoNiche believes that gender equality is an important aspect that ensures the long-term sustainability of an organization. We also believe that progressive employers need to not just follow, but also define the policy framework of the business environment. Therefore, we are extending the coverage of this policy to all employees irrespective of gender or any other considerations that may make this policy discriminatory.

2. OBJECTIVE

The company firmly believes that every employee has a right to work in an environment free from harassing, intimidating or offensive behaviour and in which issues of harassment will be resolved without fear of reprisal. The policy is designed to take effective measures in accordance with the applicable law to avoid and to eliminate and if necessary to impose punishment for any sexual harassment.

3. POLICY STATEMENT:

Harassment at work place in any form shall not be permitted or tolerated or condoned by the company whether it is based on a person's race, colour, ethnic or national origin, gender, real or perceived sexual orientation, religion or perceived religious affiliation, disability or other personal characteristics. The use of company property including email, notice board or document as a vehicle for harassment is prohibited.



4. APPLICABILITY

This policy is known as policy for prevention, prohibition and redressal of sexual harassment at work place & the Rules (hereinafter referred to as 'Policy') and is applicable to all employees of NeoNiche Integrated Solutions Pvt. Ltd, a Company registered and incorporated under the Companies Act, 1956 and having its Registered Office at Avan Abad, 2nd Floor, 6 Walton Road, Above Hotel Oliver, Near Electric House, Off Colaba Causeway, Mumbai – 400039, India, deployed at the workplace as enumerated in clause (f) of section 2 of the SHWW Act. Sexual Harassment of all employees not limited to Sexual Harassment of Woman employees will also be redressed under the same policy.

5. DEFINITIONS

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 meaning:

- 5.1 Act means Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and rules thereunder (SHWW Act) and its successors.
- 5.2 Company means NeoNiche Integrated Solutions Pvt. Ltd, a Company registered and incorporated under the Companies Act, 1956 and having its Registered Office at Avan Abad, 2nd Floor, 6 Walton Road, Above Hotel Oliver, Near Electric House, Off Colaba Causeway, Mumbai – 400039
- 5.3 CE/AW – Complainant Employee/Aggrieved woman: Refers to any woman employee (as per section 2(a) of SHWW Act) or any other employee who has lodged a complaint of sexual harassment at workplace and has been subjected to any act of sexual harassment by another employee (hereinafter referred to as 'respondent').
- 5.4 ICC – Internal Complaint Committee constituted in accordance with the provisions of this policy read with SHWW Act and Rules thereunder.
- 5.5 Management means Company's Managing Director/Director/Manager or such other officer or Officers/nominee or nominees as may be authorized in this behalf by the Managing Director/Director and notified in an appropriate manner in the establishment and also includes disciplinary authority and Appellate Authority as notified under the service rules or the certified standing orders as applicable.
- 5.6 Respondent Employee Refers to any employee against whom the complaint of sexual harassment has been lodged.
- 5.7 Workplace refers to all the offices of the company and includes departments, branches situated 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, the places where the employees of the company have met for social, sports or extracurricular activities organized by the company. For further clarity and details refer to the clause (O) Sec 2 of the SHWW Act.

6. MEANING OF SEXUAL HARASSMENT AND SEXUALLY ORIENTED BEHAVIOUR:

6.1 "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; or
- (ii) A demand or request for sexual favours; or
- (iii) Making sexually coloured remarks; or
- (iv) Showing pornography; or
- (v) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

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

- (i) Implied or explicit promise of preferential treatment in employment; or
- (ii) Implied or explicit threat of detrimental treatment in employment; or
- (iii) Implied or explicit threat about present or future employment status; or
- (iv) Interference with work or creating an intimidating or offensive or hostile work environment; or
- (v) Humiliating treatment likely to affect health or safety.


6.3 Sexual harassment should not be confused with simple friendly behavior or with more intimate exchanges if these are desired and accepted and acts of mutual consent. The difference between friendly behavior (including behavior of an intimate nature) and sexual harassment is that sexual harassment is neither solicited nor accepted by the recipient, it is unwelcome or imposed.

7. CONSTITUTION OF INTERNAL COMPLAINT COMMITTEE:

7.1 The management shall constitute Internal Complaint Committee as per section 4 of the SHWW Act read with the rules thereunder.

7.2 The members of the committee shall be constituted by the management consisting of the following;

- a) A presiding officer who shall be a woman employed at a Senior level at work place from among the employees.
- b) Not less than two members from amongst employees preferably committed to cause of the women or who had experience in social work or have a legal knowledge.

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- c) One member from amongst non-governmental organization or association committed to the cause of women or a person familiar with the issues relating to sexual harassment.

7.3 The management shall decide the total members on the internal committee but shall ensure that at least one half of the total members so nominated shall be women.

7.4 The management may appoint ICC for each office or may appoint one Committee at the corporate level to deal with the complaints arising from any of the offices throughout India. However, whenever a complaints relating to a specific office is being enquired into, one of the senior officials of the said office preferably a women officer shall also be associated with the committee.

7.5 The committee as far as possible shall hold the proceedings in the office or in any other premises at the place in which the complainant is posted. However, committee, at its discretion and without causing avoidable inconvenience to the complainant may hold the proceedings at the corporate office of the company or any other place as decided by the committee.


7.6 Every member of ICC shall hold office for a period not exceeding 3 years from the date of their nomination as specified by the management. The management may at their discretion appoint any member or the presiding officer for another term having regard to his expertise and the experience gained by him while being associated with the committee.


7.7 The names of members of the committee appointed from time to time shall be displayed for the information of the employees along with their designation, office of working, telephone number & email.

8. PROCEDURE OF FILING A COMPLAINT

8.1 The complaint should be made by an aggrieved woman or aggrieved person 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 aggrieved woman employee or aggrieved person shall be made to ICC in writing and be sent either by post/email or given in person to the ICC of the establishment or any officer authorized by ICC in writing.

8.2 The ICC may, for the reasons to be recorded in writing, extend the time limit not exceeding three months, if it is satisfied that the circumstances were such which prevented the employee from filing a complaint within the said period. Where the employee is unable to make a complaint on account of his/her physical or mental incapacity or death or otherwise, his/her legal heir may make a complaint under this section. It is, however, pertinent to state that where the aggrieved woman or aggrieved person is unable to make a complaint on account of his or her physical incapacity, a complaint may be filed by—(a) his or her relative or friend; or (b) his or her 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 aggrieved woman or aggrieved person;

8.3 Where the aggrieved woman or aggrieved person is unable to make a complaint on account of his or her mental incapacity, a complaint may be filed by—

- (a) His or 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 he/she is receiving treatment or care; or
- (e) any person who has knowledge of the incident jointly with his or her relative or friend or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care he/she is receiving treatment or care;

Notes:

- (i) Where the aggrieved woman or aggrieved person 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 his / her written consent.
- (ii) Where the aggrieved woman or aggrieved person is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of his /her legal heir.


8.4 The complaint should be accompanied by the supporting documents and the name and address of the witnesses, if any to the incident.


9. PROCEDURE TO BE FOLLOWED POST RECEIPT OF COMPLAINT

9.1 If the complaint has been submitted to any one of the members of the ICC, the member concerned should forward the complaint to the presiding officer, if the complainant had explained any factual position relating to the complaint to the member, the member may record the same separately in a note sheet and forward it to the presiding officer.


9.2 The presiding officer should go through the complaint and evaluate if there is a prima facie case or not. The presiding officer having regard to the nature of the complaint may have a meeting with the other members of the committee to decide the further course of action of the complaint.


9.3 The process stated above should be completed expeditiously and delay should be avoided. The next step is to forward the copy of the complaint to the Respondent and seek his/her response within 7 working days from the date of receipt of the complaint. There is no need for serving a separate charge sheet. The complaint itself should be treated as the statement of imputation against the respondent. The Respondent should be given adequate





time to give his / her reply and it should not be generally more than 10 days. However, if the Respondent requests for extension of time limit for submission of the reply, it may be considered by the presiding officer having regard to the reasons furnished by the respondent for seeking extension of time and it may be considered or rejected by the presiding officer. The decision there on should be communicated to the Respondent. If the Respondent submits his / her response or fails to submit the same, the committee may proceed to conduct inquiry.

- 9.4 The inquiry should be conducted in accordance with the disciplinary procedure prescribed under the service rules.
 - 9.5 The date, venue and time fixed for the inquiry shall be notified to the complainant as well as the Respondent and requiring them to appear in person at the appointed place and time.
 - 9.6 At the first sitting of the inquiry, if the complainant requests/ desires a settlement between him/her and the Respondent through conciliation, the committee may facilitate such settlement. Provided that no monetary settlement shall be made as a basis for a compromise. Where a settlement has been arrived at during the conciliation before the ICC, the committee shall record the settlement and forward the settlement to the disciplinary authority. However, if the terms arrived at during conciliation have not been complied with by the Respondent, the ICC shall proceed to make inquiry into the complaint or as the case may be forward the complaint to the police. The copies of the settlement as recorded during the course of conciliation shall be made available to the Respondent as well as the complainant.
 - 9.7 If the complainant does not propose any settlement through conciliation or the Respondent does not agree for any settlement as proposed by the complainant, the committee may proceed to make inquiry in to the complaint in accordance with the procedure prescribed under the disciplinary proceedings.
 - 9.8 The ICC may examine the complainant to present his/her case. If the CE desires to make a statement in camera and in the absence of the Respondent, the committee should facilitate the same. In the event the statement of the complainant is recorded in camera, copy thereof may be made available to the Respondent. The Respondent may be given opportunity to submit interrogatories to the complainant for being answered by him/her and the committee after examining the interrogatories submitted by the Respondent and if it finds that the interrogatories are relevant to the allegations and for establishing the case of the Respondent, may forward the same to the CE. The committee should stipulate time limit within which both the parties should complete the process of interrogation. Thereafter, the committee should record the statement of the witness cited by the complainant and provide opportunity to the Respondent to cross examine the witnesses. The documents if any produced by the complainant or the witnesses may be taken on record and marked as exhibits.
 - 9.9 The next step is to record the statement of the Respondent and his witnesses if any. The documents if any produced by the Respondent be taken on record and marked as exhibits. If the complainant wishes to cross examine either the Respondent or his/her witnesses, the
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opportunity may be made available to the complainant. However, if the complainant chooses not to remain present when the statement of the Respondent is recorded, the same may be permitted. After the statement of the Respondent is recorded and the statement of witnesses produced by him /her is also recorded, the copies thereof may be forwarded to the complainant to submit his/her say if any. If he/she submits any response in writing, the same may be taken on record.

9.10 After completion of the inquiry proceedings, the committee should meet and hold discussion on the material available on the records and proceed to record the findings. The findings recorded be made available to the CE as well as the Respondent to submit their say, if any, within a stipulated time.

9.11 If the CE and the Respondent submits their say within the stipulated period, the committee may examine the same and record their further finding if required. The committee after completing this exercise should finalize the report and forward it to disciplinary authority along with their recommendation as to the punishment, if any, to be imposed on the Respondent, if the charges have been proved.

9.12 The committee should bear in mind that the inquiry proceedings and submission of the report therein should be completed within a period of 90 days from the date of receipt of the complaint.

9.13 Important: For the purpose of making an inquiry under sub-section (1), 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 documents; and
- (c) any other matter which may be prescribed.


9.14 The ICC may at its discretion conduct the inquiry *ex parte* if the complainant or the respondent fails without sufficient cause to present her or himself for three consecutive hearings convened by the committee. However, such *ex parte* order may not be passed without giving a notice in writing 15 days in advance to the party remaining absent from the proceedings.


9.15 The presence of three members of the ICC shall constitute quorum for conducting the proceedings. The outside member shall always be present in all the proceedings to ensure objectivity.

9.16 The parties shall not be allowed to bring any legal practitioner to represent them in their case at any stage of the proceedings before the ICC.

9.17 The ICC shall conduct the inquiry proceedings in a confidential manner.

9.18 In cases where the ICC arrives at a conclusion that the allegation against the Respondent is malicious or CE has made complaint knowing it to be false or the CE has produced forged or misleading document, the committee may recommend to the management to take action





against the CE in accordance with the section 14 of the SHWW Act.

9.19 In cases where the ICC arrives at a conclusion that during inquiry any witness has given false evidence or produced any forged or misleading document, it may recommend to the management to take appropriate disciplinary action.

9.20 The ICC at the request of the CE may recommend to the management:

- (a) To restrain the Respondent from reporting on the work performance of the aggrieved woman or aggrieved person or writing his /her confidential report and assign the same to another officer.
- (b) To transfer the aggrieved woman or aggrieved person or the Respondent to any other workplace or
- (c) Grant leave to the aggrieved woman or aggrieved person for a period up to 3 months.

9.21 The Presiding officer shall keep the disciplinary authority informed on the progress of the inquiry at each stage to ensure that the management is aware of the status of the case and will be in a position to render necessary assistance to the committee in time for ensuring expeditious disposal of the complaint.

10. OTHER FUNCTIONS OF THE INTERNAL COMMITTEE:


10.1 The committee may meet periodically and at least once in a quarter and review the measures taken by the company to suggest enhancing the measures taken by the company to prevent any type of harassment at workplace and recommend remedial measures.


10.2 The internal committee shall submit its annual report to the management listing all the complaints received, action taken by the committee in respect of the said complaints, the number of cases in which the allegations made by the complainant have been proved and not proved. The annual reports shall also include the recommendations sent by the ICC to the management for enhancing the measures taken for prevention and redressal of complaints of harassment.

11. ACTION ON THE REPORT OF THE ICC:

11.1 The disciplinary authority shall initiate action on the report submitted by the ICC.

11.2 If the ICC has held that charges against the Respondent have been proved the disciplinary authority shall take action against the Respondent in accordance with the Disciplinary policy of the company. There is no need for ordering for another enquiry. The disciplinary authority shall examine the report and thereafter propose the punishment in accordance with the disciplinary policy of the company and issue a show cause notice to the Respondent proposing the punishment. After receipt of the response from the Respondent,





the disciplinary authority shall consider the response and pass speaking order imposing the punishment.

11.3 The disciplinary authority shall complete the disciplinary action against the employee within 60 days of the receipt of the recommendations of the ICC.

11.4 The Respondent shall have a right of appeal to the Appellate Authority in accordance with the disciplinary policy of the company. If the disciplinary policy does not provide for appeal procedure the appeal shall be made to the next higher authority to the disciplinary authority. The appeal shall be preferred within 90 days of the recommendations of the ICC to the Disciplinary Authority.

12. OBLIGATIONS OF THE MANAGEMENT:

12.1 The management shall provide all necessary assistance for the purpose of ensuring full, effective and speedy implementation of the policy.

12.2 The management shall ensure that the ICC shall be reconstituted once the term of the existing committee is over. In cases if there are any complaints against any of the ICC members the management shall take immediate steps to reconstitute the ICC. The time limit specified under this policy shall be inclusive of the time taken for reconstituting the committee.

12.3 The Management will monitor timely submission of reports. For this, the Management will conduct periodic update meetings with the ICC to ensure that the said policy is being implemented in letter and spirit.

12.4 The management shall provide assistance to the CE if he/she so chooses to file a complaint with the police in relation to the offence under the Indian Penal code or any other law for that maybe inforce.

12.5 The Management will also initiate action under the Indian Penal Code or any other law for the 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.


12.6 The Management shall ensure that the annual report of the company includes the measures taken for ensuring the provisions of the SHWW Act are fully complied with and the complaints received under this policy and the action thereon.

12.7 The Management will create awareness amongst employee 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.






13. CONFIDENTIALITY AND NON DISCLOSURE:

- 13.1 The identity and address of the aggrieved woman or aggrieved person, respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the internal committee, the action taken by the employer shall be treated as confidential and shall not be disclosed to anyone who is not authorized to receive the said information.
- 13.2 The above restrictions shall be applicable to all the members of the internal committee and those who appear before the internal committee as witnesses and all those persons who are entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations. Any breach of confidentiality, the person concerned shall be liable for the consequences as stipulated under section 17 of the Act read with rule 12 of the rules.
- 13.3 The provisions of the Right to Information Act are not applicable to the proceedings initiated under the Act in accordance with section 16 of the Act. Accordingly, no disclosure shall be made even if an application under RTI Act is made seeking any information with respect to the complaint or the proceedings or the action taken on the recommendation of the internal committee.
- 13.4 The management may disseminate information regarding the justice secured to any victim of sexual harassment without disclosing the name, address, identity or other particulars calculated to lead to the identification of the aggrieved woman or aggrieved person and witnesses.

14. NeoNiche has a zero-tolerance policy against sexual harassment as well as bullying and harassment in any other form. It is the responsibility of all employees to make this known to other employees, suppliers and customers.



15. TIME LINE FOR ACTIVITIES UNDER THE POLICY:

Sr. No.	ACTION POINT	AUTHORITY / CONCERNED PERSON	TIME LIMIT
1	Complaint	Complaint to be lodged by aggrieved woman or aggrieved person, before Internal Complaints Committee	1) within the period of 3 months from the date of the incident, or 2) in case of series of incidents, within the period of 3 months from the date of last incident.
2	Initiation of Inquiry Proceedings	By the Internal Complaints Committee, by sending the copy of complaint to the Respondent	Within the period of 7 working days of receipt of the complaint
3	Reply by the Respondent along with his list of documents, names and addresses of witnesses	To the Internal Complaints Committee	Within 10 working days from the day of receipt of the copy of complaint forwarded by ICC.
4	Completion of Inquiry proceedings	By ICC	Within 3 months from the date of receipt of complaint
5	Submission of Inquiry Report and Findings along with Recommendations by ICC	To the Management	Within 10 days of completion of Inquiry Proceedings by ICC
6	Implementation of Recommendations made in the Inquiry Report of ICC	By the Management	Within 60 days of the receipt of the Recommendations made in the Inquiry Report by ICC
7	Appeal under clause 11.3 of the policy.	By the aggrieved woman or aggrieved person	Within a period of 90 days of Recommendations by ICC.