

**MARKET CREATORS LIMITED**

**Prevention of Sexual Harassment Policy**



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**POLICY ON PREVENTION OF SEXUAL HARASSMENT**

**I. OBJECTIVE:**

Market Creators Limited (hereinafter referred to as the “Company”), is committed to providing a work environment in which all individuals are treated with respect and dignity.

The Company has a zero tolerance for any form of sexual harassment, threat, insult, unlawful discrimination and any other unprofessional conduct within the Company and expects all employees to take a similar stand. The Board of Directors have approved the Company's Prevention of Sexual Harassment (POSH Policy) in line with the provisions of the “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013” (the “POSH Act 2013”) and the Principles of Natural Justice. The Act further provides for the redressal of complaints of sexual harassment.

This policy is in compliance with the provisions of the Act. However, it is not intended to curtail Company's power to take disciplinary action up to and including dismissal for workplace behavior that the Company considers inappropriate, irrespective of whether it falls under the meaning of sexual harassment or not.

**II. SCOPE AND APPLICABILITY:**

This Policy extends to all employees of the Company and is deemed to be incorporated in the service conditions of all employees regardless of the position, including those on contract with the Company. The policy will also cover trainees, consultants, visitors, contractors and outsourced staff associated with the Company. The policy will remain applicable wherever such persons have occasion to interact with each other including for example, in vehicles, third party premises, off site meetings public venues, etc.

While the POSH Policy covers all the key aspects of the POSH Act 2013, for any further clarification, reference shall always be made to the POSH Act 2013 and the provisions of the POSH Act 2013 shall prevail.

**III. DEFINITION:**

- Aggrieved Person means a person in relation to work place whether employed or not and includes a visitor also to any units / offices of the Company, who alleges to have been subject to any act of sexual harassment by the respondent.
- Committee means Internal Complaints Committee (ICC) constituted under this policy.
- Complainant means a person (in case of more than one aggrieved employee, all or any one or more of them) of any age and gender whether employed or not, who has experienced Sexual Harassment or has observed some other person experiencing Sexual Harassment, or who files a complaint of alleged Sexual Harassment.
- Employee means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or,

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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 express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name.

- Respondent means a person of any gender against whom the Complainant has made a complaint of Sexual Harassment.
- Sexual Harassment includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) such as:
  - 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.

Following circumstances amongst other circumstances mentioned above may constitute sexual harassment if it occurs or is present in relation or connected with any act or behavior of sexual harassment:

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

Any actions or words with any sexual connotations that interfere with an individual's ability to work or create an uncomfortable atmosphere are considered acts of Sexual Harassment.

- "Witness" shall mean a person (of any gender) who personally has seen or observed the Complainant experiencing Sexual Harassment or who has knowledge about such an incident.
- Workplace shall include any place of work (i.e. the head office / factory office or any branch office) and it shall also include any place where the Complainant or the Respondent visits in connection with his/her work, during the course of and/or arising out of employment/ contract/ engagement with the Company, including transportation provided for undertaking such a journey or the place from where the employees are working remotely.

The above-mentioned definitions are provided in this POSH Policy for the ease of understanding and are not exhaustive in nature. Upon the receipt of any complaint, the Internal Complaints Committee ("ICC") will first analyze whether it amounts to a complaint of 'Sexual Harassment' and whether it has occurred at the 'Workplace' as is defined more specifically in the POSH Act 2013. The ICC's decision on these matters will be final.

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### **IV. INTERNAL COMPLAINTS COMMITTEE:**

Every complaint received shall be forwarded to internal complaints committee formed under the policy for redressal. The investigation shall be carried out by Internal Complaints Committee ("ICC") constituted for this purpose.

ICC has been to be constituted with the following members as nominated by the Company:

- a. A woman employee employed at a senior level amongst the employees shall act as Presiding Officer of the Committee.
- b. Not less than 2 members from amongst employees preferably committed to the cause of women OR who have had experience in social work OR have legal knowledge.
- c. One member shall be from amongst non-governmental organizations OR associations committed to the cause of women OR a person familiar with the issues relating to sexual harassment.

The Name of the Members of the Internal Complaints Committee will be notified as per this Policy and any change in such composition shall be effected in the policy.

At least half the total members of the Committee have to be women. The Presiding Officer and every member shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified by the employer.

### **V. COMPLAINT REDRESSAL MECHANISM**

Any aggrieved person may make, in writing, a complaint of sexual harassment at workplace to the ICC giving details of the sexual harassment meted out to her/him within a period of 3 months from the date of incident and in case of a series of incidents, within a period of 3 months from the date of last incident, which may be extended for a further period of 3 months, if circumstances warrant such extension in the opinion of the ICC.

The Presiding Officer or any Member of the ICC can render reasonable assistance to the aggrieved person for making complaint in writing, in case they are unable to do so.

On receipt of complaint, the ICC shall decide the place and time for hearing the complaint and shall intimate the date, time and place of hearing to the Complainant and Respondent. The ICC shall follow principle of natural justice while handling such complaints.

Where the aggrieved person is unable to make a complaint on account of their physical incapacity, a complaint may be filed by:

- a) a relative or friend; or
- b) a 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 person.

Where the aggrieved person is unable to make a complaint on account of their mental incapacity, a complaint may be filed by:

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- a) a relative or friend; or
- b) a special educator or
- c) a qualified psychiatrist or psychologist; or
- d) the guardian or authority under whose care they are receiving treatment or care; or
- e) any person who has knowledge of the incident jointly with any of the abovementioned persons.

Where the 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 their written consent.

Where the aggrieved person is dead, a complaint may be filed by any person who has knowledge of the incident, with the written consent of their legal heir.

### **VI. MANNER OF INQUIRY**

1. Any employee with a harassment concern, who is not comfortable with the informal resolution options or has exhausted such options, may make a formal complaint to the Chairperson of the Internal Complaints Committee constituted by the Management.
2. The complainant shall submit 6(six) copies of the Complaint to the Complaint Committee along with supporting documents and the names and addresses of the witnesses in writing and can be in form of a letter, preferably within 3 months from the date of occurrence of the alleged incident, sent in a sealed envelope. Alternately, the employee can send complaint through an email. The employee is required to disclose her name, department, division and location she is working in, to enable the Presiding Officer to contact her and take the matter forward.
3. The Complaint Committee shall send 1(one) of the copies received from the aggrieved woman to the accused (respondent) within a period of 7 working days.
4. The Accused (respondent) shall file his reply to the Complaint along with supporting documents and the names and addresses of the witnesses, within a period not exceeding 10 working days from the date of receipt of the documents.
5. The Complaint committee have the right to terminate the inquiry proceedings or to give an ex-parte decision on the complaint, if the Aggrieved (complainant) or Accused (respondent) fails, without sufficient cause, to present herself or himself for 3 consecutive hearings convened by the Chairperson, as the case may be, provided that such termination or ex-parte order may not be passed without giving a notice in writing, 15 days in advance, to the party concerned. In conducting the inquiry, a minimum of 3 Members of the Complaints Committee including the Presiding Officer, as the case may be, shall be present.
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. The Internal Complaints Committee shall conduct such investigations in a timely manner and shall

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submit a written report containing the findings and recommendations to the Employer as soon as practically possible and in any case, not later than 10 days from the date of completion of inquiry. The Employer shall act upon the recommendation within 60 days of its receipt by him.

8. The Complaint's Committee report will also be made available to concerned parties.

### **VII. MANNER OF ACTION**

1. The ICC shall on completion of the enquiry provide a report of its findings within 10 days from the date of completion of the enquiry and such report shall be made available to the concerned parties.
2. If the allegation against the respondent has not been proved, the ICC may recommend that no action needs to be taken in the matter.
3. Except in cases where service rule exists, if the ICC arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to take any action for sexual harassment as a misconduct including:
  - a. Written apology to the complainant, warning, reprimand or censure;
  - b. Withholding of promotions, pay rise or increments of the Respondent, terminating the Respondent from service;
  - c. Undergoing a counseling session or carrying out community service.
  - d. To deduct from salary / wages of the respondent or issue direction for payment; such sum as it may consider appropriate to be paid to the aggrieved person or to their legal heirs, as it may determine.
4. The employer shall take action within 60 days of the receipt of report.

### **VIII. APPEAL**

Any party not satisfied or further aggrieved by the implementation or non-implementation of recommendations made, may appeal to the Appellate authority in accordance with the Act and Rules within 90 days of the recommendations being communicated.

### **IX. ACTION FOR FALSE AND MALICIOUS COMPLAINTS**

Any complaint of sexual harassment shall be taken up with utmost seriousness by the Company. However, there shall be zero tolerance for any false and malicious complaint.

Except in cases where service rule exists, if the ICC comes to a conclusion that the allegation was made with malicious intent or the aggrieved person or any other person making the complaint on behalf of the aggrieved person produced false or forged or misleading documents to prove its

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case, the ICC may recommend the Employer to take action against the complainant who has made the complaint, as per Clause VII (3) of this Policy. A similar recommendation to the Employer for taking action would be recommended against any witness whom the ICC concludes, that he/she has given false evidence or produced forged or misleading documents.

It is to be noted that this statement is not intended to discourage employees from coming forward with any complaints. Company recognizes and expects that some claims may be difficult to prove or support, or may not in fact be found to raise to the level of seriousness deemed necessary to constitute Sexual Harassment. These types of complaints will not be considered to be false or malicious complaints.

### **X. CONFIDENTIALITY**

The company understands that it is difficult for the victim to come forward with a complaint of sexual harassment and recognizes the victim's interest in keeping the matter confidential. It shall be the duty of all the persons involved in the inquiry process to ensure that all complaints lodged are treated with utmost confidentiality to the extent practicable and appropriate under the circumstances. The identity and address of the aggrieved person, respondent and witnesses shall not be published or disclosed to the public or media. Any breach of this can invite disciplinary action before, during or after the inquiry.

### **XI. PROTECTION AGAINST RETALIATION**

Retaliation is a serious violation of this policy. Examples of retaliation may include – but are not limited to – threatening a negative action on terms of employment, unsubstantiated negative performance evaluation, continued harassment in any form, discriminatory treatment. Anyone experiencing retaliation should report the matter to the Internal Complaints Committee.

As with complaints of harassment, this too will be treated as misconduct and the Company will take appropriate action to prevent / rectify the retaliation. It will be treated as seriously as an alleged case of harassment and will apply even if the original complaint is not proven. Similarly, bringing undue influence whether directly or indirectly, to the proceedings of an Inquiry by either party will be treated as misconduct and be subjected to disciplinary action.

### **XII. AWARENESS:**

- All the Employees, Agents, Customers, Vendors, Partners and Visitors shall have access to this Policy at any given point of time and clarification related to this Policy shall be addressed by members of ICC.
- A brief shall be given to all existing employees regarding the features of this Policy immediately and annually and to new employees in the Company during their initial Induction.
- Company shall display the notice showing the name of the Internal Complaints Committee members at its every establishment at a conspicuous place. The same is also available as Annexure A of this Policy. The same is subject to change upon changes in constitution of ICC and it shall not be regarded as amendment to Policy.

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- The Company shall communicate about the policy through its official website; display the same at all offices; disseminate the brief policy through email or circulate in any other manner to employees of the Company and training and/or awareness session/s be conducted for existing employees and for new employees (upon joining).

### **XIII. RESPONSIBILITIES AND DUTIES OF THE EMPLOYER**

The responsibilities and duties of the Employer are as under:

- a. Provide a safe working environment.
- b. Formulate and widely disseminate an internal policy or charter declaring prohibition, prevention and redressal of sexual harassment at the workplace.
- c. Display conspicuously at the workplace, the penal consequences of indulging in acts that may constitute sexual harassment and the composition of the ICC.
- d. Declare the names and contacts details of all members of the ICC
- e. Organise workshops and awareness programmes at regular intervals for sensitizing employees on the issues and implications of workplace sexual harassment and organising orientation programmes for members of the ICC.
- f. Provide necessary facilities to the ICC for dealing with the complaint and conducting an inquiry
- g. Treat sexual harassment as a misconduct under the service rules and initiate action for misconduct
- h. Prepare an annual report with details on the number of cases filed and their disposal and submit the same to the concerned authority
- i. Monitor the timely submission of reports by the ICC.

### **XIV. CONCLUSION**

The Company may make any alteration or amendment or rescind any of the clauses of this Policy as and when it finds it necessary to do so as long as it complies with the Act. Any such alterations or amendment or rescinding will be intimated to the employees.

Nothing contained in these rules shall operate in derogation of any law for the time being in force or to the prejudice of any right of any employee under any other Rules or Law.

The decision of the Company shall be final and binding on all. However, the same is without prejudice to any recourse that the Company or the individual concerned may have against the respondent and it shall not limit or restrict the rights of the Complainant and/or the Company to pursue, nor shall they be precluded from pursuing, such further and other legal actions as may be available under law.