

# MODEL SEXUAL HARASSMENT POLICY

(VERSION SEPTEMBER 2017)

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## **1. POLICY STATEMENT PROHIBITING SEXUAL HARASSMENT**

The Company is committed to providing a work environment that is free of any form of harassment including sexual harassment. Sexual harassment is sanctioned by the Laws of Kenya and is against the Company's values. The Company applies a zero tolerance policy with respect to any form of sexual harassment in the workplace and will take prompt and appropriate action when it determines that an allegation of sexual harassment is credible. The Company shall also take action to promote, develop workplace structures and a culture for preventing and redressing incidents of sexual harassment, guided by the Laws of Kenya. All employees are expected to understand the contents of this Policy and abide by its requirements.

Signature:

Chief Executive Officer (CEO)

## **2. PURPOSE**

The purpose of this Policy is to promote a conducive work environment that is free from all forms of sexual harassment and in which all persons are treated with respect and dignity at the work-place. This is a commitment by the Company to define workplace sexual harassment, prohibit it in all forms, provide procedures for lodging complaints about conduct that violates this Policy, investigate sexual harassment allegations and carry out appropriate measures in case of violations.

## **3. SCOPE OF THE POLICY**

This Policy applies to:

- a) All categories of employees of the Company including permanent and temporary staff, general workers, independent contractors, suppliers, consultants, union representatives, supervisors, managers, executive and non-executive directors;
- b) Prospective employees; and,

- c) All third parties dealing with the company including; suppliers, service providers, clients or any other business associates. All contractors shall be responsible for providing their representatives, employees, agents and/or officials with a copy of this policy.

## **DEFINITION OF AREAS OF OPERATION**

The workplace includes any physical space under the control or management of the Company including all offices or other premises where the Company's business is conducted including pack houses, greenhouses, canteens, rest/changing rooms, pack houses, company transport vehicles, other transportation vessels, grading halls, dispensaries/clinics, training halls, conference venues and company housing.

## **4. MEANING OF SEXUAL HARASSMENT**

For the purpose of this Policy, sexual harassment means any unwanted conduct of a sexual nature in the workplace or in connection with work which makes a person feel offended, humiliated and/or intimidated. It includes a situation where an individual is asked to engage in sexual activity as a condition of that person's employment or in exchange for special treatment during employment.

A victim of sexual harassment can be a man or a woman or a boy or girl. The victim can be of the same sex as the perpetrator of the harassment. The perpetrator can be a superior at work, co-employee, employee from another department, even a third party who has a business relationship with the Company.

Sexual harassment does not include romantic relationships or consensual interactions between or amongst employees.

#### **4.1 Forms of Sexual Harassment**

Sexual harassment may take various forms, including conduct which is either, inappropriate or contributes to a hostile work environment. They include, but are not limited to:

- Verbal abuse of a sexual nature;
- Repeatedly standing too close to or brushing up against a person;
- Sexual pranks, teasing, jokes, or innuendo in person or via SMS, email or any other form of communication;
- Unwelcomed touching or grabbing of a sexual nature;
- Repeatedly asking a person to socialize during off duty hours when the person is not interested;
- Giving unwanted gifts or any objects that are of a sexual nature;
- Off duty, unwelcome conduct of a sexual nature that affects the work environment;
- Making or displaying sexually demeaning gestures, offensive pictures or other materials in the workplace; and,
- Physical assault and rape.

### **5. COMPLAINT/GRIEVANCE PROCEDURE**

#### **5.1 Guiding Principles**

The following principles apply to this Policy:

- Confidentiality. All inquiries, complaints and investigations shall be treated in a confidential manner. Information shall be revealed strictly to persons designated to investigate and adjudicate sexual harassment cases under this Policy. The identity of a complainant may be released to the respondent and witnesses. All parties and witnesses are expected to keep the identity of the persons involved and details of the complaint confidential. All parties involved shall be required to enter into non-binding agreements whose violation will lead to appropriate disciplinary action being taken by the Company.
- Protection for Parties and Witnesses The Company is committed to ensuring that no employee who brings forth a complaint is subjected to any form of reprisal or threats of reprisals. Any breach of this principle will attract disciplinary action. The Company will take

adequate steps to ensure that the complainant or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.

- Non Discrimination. All decisions reached under this Policy shall not be based on personal agenda, relationship or sexual orientation.
- Expediency. All parties involved in the investigation and determination of a complaint are expected to treat all cases with prudence and expediency and in line with the timeframes provided under this Policy or where justifiable under special circumstances, within a reasonable timeframe.

## **5.2 Complaints Procedure**

An employee who observes or believes that he or she has been/is being sexually harassed is encouraged to take the following steps:

1. Inform the offending person that his/her conduct is unwelcome and to cease immediately, or report the matter to the appropriate person as designated under this policy;
2. Where appropriate, record each incident - noting what was said or done, date(s), times, location/places, and the names of any witnesses, complainant's response. Nonetheless, a complainant need not have a record of events to file a complaint;
3. Enlist witnesses where possible;
4. In case the harassment is repeated or of a severe nature, follow the complaints process under this Policy.

An employee may lodge an anonymous complaint under this Policy. However, due to the serious implications of sexual harassment incidents and difficulties associated with their investigation, employees are encouraged to fully disclose all information related to the incident.

### **5.2.1 Informal Complaints Process**

Where a complainant alleges sexual harassment, he/she may request that the matter be handled informally. He/she may discuss the complaint with:

1. Section representative of the gender committee;
2. A counsellor, if present; and,
3. A member of the Human Resources Department.

Any of the persons listed above to whom the complaint is made, shall: :

- Request for a meeting with both the complainant and the respondent. To ensure that the complainant is comfortable enough to disclose the details of his/her complaint, the designated person shall initially request for separate meetings;
- Ensure that both the complainant and the respondent understand the informal complaints process and possible outcomes;
- Hear the complainant's allegation and obtain any relevant information from him/her and/or from any witnesses;
- Give an opportunity to the Respondent and/or his/her witnesses to respond to the complaint;
- Facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant;
- Keep a confidential record of the process and resolution. In the event that the complaint is resolved to the satisfaction of both parties, the record of the complaint may not be filed in the employee's official records kept by the Human Resources Department;
- Follow up after the resolution to ensure that the offensive conduct has ceased;
- Ensure that the informal complaints process is completed promptly, within one (1) week of the complaint being made.

### **5.2.2 Formal Complaints Process**

A complainant may choose to make a formal complaint if he/she has been/is being sexually harassed. A complainant may also elect to use this formal complaints process if the informal process fails to meet their expectations or if the harassment continues in spite of the resolution made at the end of the informal process.

A complainant may lodge a formal complaint using the following procedure:

1. File a written complaint with either of the following persons:
  - Section representative of the Gender Committee;
  - Union Committee representative;

- Company nurse or counsellor;
  - Line manager or supervisor;
  - Any member of the Human Resources department.
2. The complainant is encouraged to file a complaint within 24 hours of the incident.
  3. The recipient of the complaint will refer the matter to the Gender Committee to immediately commence investigations.
  4. The Gender Committee is required to use the following procedure when conducting the investigation and resolving the claim:
    - Request for a meeting with both the complainant and the respondent for the purpose of obtaining information about the complaint. To ensure that the complainant is comfortable enough to disclose the details of his/her complaint, the Committee may request for separate meetings;
    - Ensure that both the complainant and respondent understand the formal complaints mechanism and the possible outcomes;
    - Interview any witnesses or third parties separately;
    - Make a determination regarding whether or not there was an incident of sexual harassment within two (2) weeks of receiving the complaint. The determination shall be made by a simple majority vote of the members of the Gender Committee adjudicating the matter.
    - Prepare a report detailing the investigations, findings and recommendations containing remedial action for the Company's consideration through the Human Resources Department. The Gender Committee shall be guided by Section 5.4 of this Policy in making its recommendations to Management.
    - Keep a confidential record of all claims brought before the Committee.
  5. The Human Resources Department in consultation with Management will consider the Gender Committee's report and proceed as follows:
    - If in agreement with the recommendations of the Gender Committee, the Human Resources department shall within one (1) week of receipt of the Gender Committee's report, notify the complainant, respondent and the Gender Committee of the measures the Company intends to apply. The Human Resources Department shall provide both parties with a right to reply/communicate before making the final determination;
    - In the event that the Human Resources Department disagrees with the findings or recommendations of the Gender Committee, the Human Resources Department shall

convene a meeting within five (5) days of receipt of the complaint with the Gender Committee to review and discuss the evidence gathered. The Human Resources Department and the Gender Committee shall endeavour to reach an agreeable outcome. The final determination shall remain with the Human Resources Department. The Human Resources Department shall notify the complainant and respondent of the measures the Company intends to apply within one (1) day of the meeting with the Gender Committee and provide both parties with a right to reply/communicate their final position before making the final determination.

- Unless special circumstances demand otherwise, the Gender Committee shall implement its decision within two weeks of arriving at the final determination of the complaint.
- Both the Gender Committee and Human Resources Department will keep a confidential record of the process and final decision taken.

### **5.2.3 Special Panel**

Where appropriate the Complaints Procedure in 5.2.2 shall apply to all situations, except where a complaint of sexual harassment is brought in relation to or by an employee of the rank of Senior Manager or of a higher rank, or in respect of a complaint brought by or against any other person who not in the employment of the Company. A Special Panel shall be constituted to adjudicate over the complaint respecting a Senior Manager or an employee of a higher rank. The Special Panel shall be constituted as follows:

- 2 Senior staff nominated by the Chief Executive Office, provided that where the Chief Executive Officer is party to the complaint, a Director of the Company shall nominate the 2 staff;
- The Human Resources Manager, provided that where the Human Resources Manager is party to the complaint, the Chief Executive Officer shall nominate a Senior Manager;
- 1 member of the Union Committee, nominated by the Chair of the Union Committee;
- 1 Member of the Gender Committee, not being managerial staff, nominated by the Gender Committee.

The provision relating to the Special Panel shall not prevent recourse to the informal complaints process provided for under section 5.2.1, as a matter of first instance, where both parties to the complaint agree to pursue the informal process.

### **5.3 Alternative Redress Mechanisms**

None of the complaints processes under this Policy preclude an individual from pursuing a resolution through judicial channels.

In addition to and in the event that the complainant or a party to a complaint is not satisfied with the outcome of the complaints process, or where he/she has not received any notification from the Human Resources Department, four (4) weeks after the date of filing the complaint, the Complainant may pursue alternative redress mechanisms such as through the Trade Union, the Labor Office in accordance with the provisions of the Laws of Kenya, formal or informal alternative dispute resolution, or through judicial process.

### **5.4 Remedial Measures**

The Company will treat all sexual harassment incidents with due urgency. Any person found to have committed sexual harassment shall be subject to disciplinary action in accordance with Company Policy. The Company is at liberty to take any appropriate action including: verbal or written warning; transfer; demotion; suspension; summary dismissal; revocation of contract in the case of service providers and independent contractors; reporting the matter to the police for further investigation; or, any other appropriate action. The nature of the Company's action shall depend on the gravity and extent of the harassment. The Company shall also take such measures as are necessary to deter occurrences of sexual harassment at the work place.

The Company will support any victim of sexual harassment by applying appropriate measures including arranging for counselling services, making provision for compassionate leave, medical treatment where necessary, or any other necessary measures required under the circumstances.

## **5.5 False and Frivolous Complaints**

The Company shall not tolerate false or frivolous sexual harassment allegations against any person. Making a false or frivolous claim shall constitute grounds for disciplinary action. A complaint made in good faith which cannot be proven shall not be considered as either false or frivolous.

## **6. ROLES & RESPONSIBILITIES**

### **6.1 Chief Executive Officer**

The Chief Executive Officer (CEO) has the ultimate responsibility for the implementation of the Sexual Harassment Policy. The CEO shall also perform the following functions under this Policy:

- Ensuring that there are broad-based policies containing preventive and redress measures reflecting the Company's zero tolerance on sexual harassment;
- Ensure that the Company has adequate mechanisms to meet the standards under this Policy;
- Provide leadership and direction to the Company in implementing this Policy.

### **6.2 Heads of Departments**

All heads of department and managers are responsible for the wellbeing of employees under their authority. The Heads of Department and Managers shall:

- Ensure that all employees under their supervision understand this Policy and fulfil their responsibilities.
- Ensure that all employees under their supervision are trained and supported to fulfil their role in preventing and dealing with sexual harassment.
- Take appropriate action where any employee under their supervision breaches this Policy.

### **6.3 Human Resources Department**

The Human Resources Department is responsible for promoting a conducive work environment that is free from sexual harassment. The Human Resources Department shall be responsible for:

- Educating all employees on the Company's zero tolerance policy on sexual harassment and the procedures and requirements that fall within the Policy;
- Ensuring that all new employees are properly inducted on the Company's policy on sexual harassment by providing copies them with copies of this Policy and training on sexual harassment.
- Providing periodic training sessions (at least once a year) to the Gender Committee and Management on sexual harassment;
- Posting the Policy in conspicuous places at the Company in a simplified format and in a language that is easy for workers and other visitors to the Company premises, to understand;
- Ensuring that all reported incidents of sexual harassment are addressed in a professional and confidential manner, promptly and transparently;
- Ensuring that reported incidents are handled sensitively and with respect for the dignity of the persons involved;
- Ensuring fair remediation for the complainant;;
- Ensure that complainants and/or witnesses are not victimized for reporting or testifying in respect of a sexual harassment allegation.
- Reporting any incidents of sexual harassment observed, both, within and outside of their unit to the Gender Committee or to designated members of the Human Resources Department;
- Periodically, review the effectiveness of the policy in deterring sexual harassment and update the Policy at least every two years after consultation with groups of all employees;
- Providing logistical support to the structures for implementing this Policy, including ensuring that an inclusive and well resourced Gender Committee is constituted and allowed sufficient time and leeway to undertake its mandate;and,
- Ensuring that processes and activities in all departments respect the provisions relating to this policy and that compliance is enforced in a synchronized and complementary manner.

#### **6.4 Supervisors**

Supervisors are responsible for the day to day oversight of the implementation of the Policy.

They are responsible for:

- Ensuring that all the employees under their supervision understand this Policy and the

procedures for reporting and addressing allegations of sexual harassment;

- Providing appropriate assistance to any complainant who wishes to report a sexual harassment case; and,
- Reporting to the Gender Committee or Human Resources Department any incident of sexual harassment which has been reported to he/she or which he/she has personally observed.

## **6.5 Gender Committee**

The Gender Committee is responsible for receiving and handling complaints of sexual harassment on behalf of the Company. This role may also be granted to shop stewards or designated members of the Human Resources Department.

The individuals designated to receive complaints of sexual harassment on behalf of the employer will:

- a) Document receipt of any complaints;
- b) Conduct prompt, neutral investigation into the allegations and write a report of the information gathered and of the findings upon the initial investigation;
- c) Observe the timelines of investigating and finalising a sexual harassment case under this Policy;
- d) Prepare a report with recommendations to Management following investigation of a sexual harassment case;
- e) Follow-up to ensure that the agreed corrective action is implemented;
- f) Keep the complaint confidential to the extent practicable under the circumstances;
- g) Render advice to the Human Resources Department on preventing and redressing sexual harassment;
- h) Support the Human Resources Department in sensitizing workers on sexual harassment;
- i) Monitor that there is no retaliation against the complainant;
- j) Monitor that there is no re-occurrence of inappropriate behaviour sanctioned under this Policy.

The Chairperson of the Gender Committee shall be responsible for convening the Gender Committee and instituting an investigation as soon as a complaint is received. The Chairperson

shall also prepare quarterly reports for the Human Resources Department containing: the number and nature of the complaints received; steps taken upon receipt of complaint; outcome/resolution of the complaint; action taken by HRD; duration of the investigation and of other action taken to prevent sexual harassment at the workplace and the effectiveness of such actions.

## **6.6 Company Employees**

All employees and persons present on Company premises are expected to:

- a) Refrain from any behavior that constitutes sexual harassment;
- b) Promote a culture of mutual respect;
- c) Maintain confidentiality concerning any complaint or investigation on sexual harassment of which he/she is aware;
- d) Consult with and/or report any incident of sexual harassment of which he/she may be aware, to the persons designated to handle sexual harassment complaints under this Policy.

## **7. AWARENESS CREATION**

As a preventative measure, the Company will conduct communication, education and training programs on sexual harassment. All new staff will be required to undergo a comprehensive sexual harassment induction coordinated and/or conducted by the Human Resources Manager and the Gender Committee. In addition, all workers shall undergo sensitization exercises routinely and no less than once a year on sexual harassment. The Company shall allocate sufficient time for the Gender Committee to undertake its duties under this policy, amounting to not less than three (3) hours per month, excluding time spent adjudicating over complaints of sexual harassment.

The Gender Committee, supervisory and managerial staff, shall during the course of their employment with the company, undergo special periodic training sessions on early warning

and reporting mechanism on sexual harassment problems and how to address them as and when they arise. These training sessions shall be facilitated at least once a year.

## **ANNEX**

1. Sexual Harassment Implementation Checklist
2. Sexual Harassment Complaints Procedure Process Flow

SEPTEMBER, 2017

## SEXUAL HARASSMENT IMPLEMENTATION CHECKLIST

CUT FLOWER SECTOR

CATEGORIES	GUIDING PRINCIPLES	OWNER	COMPLIANCE STATUS: YES: ✓ No: ✗ or N/A	COMMENTS
<b>THE SEXUAL HARASSMENT POLICY</b>	Is there a sexual harassment policy in the Company?	HR		
	Has the sexual harassment policy been duly executed by the Chief Executive Officer (CEO) the equivalent of the (CEO)?	HR		
	Is a simplified version of the sexual harassment policy displayed in a conspicuous place within the Company premises?	HR		
	Has the sexual harassment policy been reviewed in the last two years?	HR		
<b>SET UP OF THE GENDER COMMITTEE</b>	Is there a Gender Committee?	HR		
	Have workers participated in electing at least 70% of the Gender Committee members?	HR		
	Is either gender represented by at least 1/3 of the membership of the Gender Committee?	HR		
	Is the Gender Committee chaired by a non-managerial staff?	HR		
<b>COMPLAINTS PROCESS</b>	Have all persons designated to receive and/or adjudicate sexual harassment complaints signed a non-disclosure agreement?	HR		
	Has the Gender Committee received and documented the positions of both parties to the dispute and witnesses, where applicable?	GC		
	Has the Gender Committee provided both the complainant and the defendant	GC		

CATEGORIES	GUIDING PRINCIPLES	OWNER	COMPLIANCE STATUS: YES: ✓ No: ✗ or N/A	COMMENTS
	an opportunity to communicate their final respective positions to the Committee?			
	Has the Gender Committee documented all the complaints: the process; the decision; reasons supporting the decision and action taken?	GC		
	Is there a suggestion box, situated in a non-conspicuous place within Company premises and which is expressly stated to be in use by workers and other persons for reporting incidents or complaints relating to sexual harassment?	HR		
	Is the suggestion box opened in the presence of a Gender Committee and Workers' Union Committee representatives?	HR & GC		
	Are the Gender Committee and Workers' Union Committee representatives involved in perusing the complaints in the suggestion box at least every two weeks?	HR		
	Has the Gender Committee kept a confidential record of all cases they have investigated and adjudicated?	GC		
<b>RECRUITMENT &amp; PROMOTION</b>	Does the company have clear candidate specifications and qualifications for recruitment?	HR		
	Are all candidates given an opportunity	HR		

CATEGORIES	GUIDING PRINCIPLES	OWNER	COMPLIANCE STATUS: YES: ✓ No: ✗ or N/A	COMMENTS
	to apply and compete for available positions in the Company?			
	Does the Company document the reasons for the selection of each recruit?	HR		
	Are employees subjected to annual individual performance appraisal?	HR		
	Is the individual performance appraisal used to determine annual promotion prospects?	HR		
	Are all job openings communicated to all eligible employees through the Company's official Notice Board?	HR		
<b>TRANSFER</b>	Does the Company apply clear and documented guidelines for effecting staff transfers across sections or stations?	HR		
	Are staff consulted and given reasons prior to the Company making a decision to transfer them?	HR		
	Are affected staffs' views on transfer recorded in the consultation process?	HR		
	Is the decision to transfer a staff ratified by the head of department after the line manager's initial recommendation?	HR		
<b>HOUSING</b>	Are there clear documented guidelines on allocation of housing to staff?	HR		
	Are the guidelines shared with all staff?	HR		
	Are all staff notified whenever vacancies in staff housing occur?	HR		
<b>SYSTEMS</b>	Has the Gender Committee been allocated at least three hours per month to conduct its activities within regulatory working hours – (excluding business directly related to adjudicating over specific complaints)?	HR		
	Are Gender Committee members penalized and/or disadvantaged in term of job security, career progression,	HR		

CATEGORIES	GUIDING PRINCIPLES	OWNER	COMPLIANCE STATUS: YES: ✓ No: ✗ or N/A	COMMENTS
	reduced earnings, on account of executing their mandate of implementing the Sexual Harassment Policy?			
	Is the Gender Committee provided with adequate time to investigate and adjudicate sexual harassment complaints that it has received? [Not lunch time or break time ]	HR		
<b>CAPACITY BUILDING</b>	Does the Company conduct induction on sexual harassment for all new employees?	HR		
	Does the Company conduct at least an annual training session for the Gender Committee and Management on Sexual Harassment?	HR		
	Does the Company conduct annual sensitization exercises for all workers?	HR/ GC		

# Sexual Harassment Complaints Mechanism

Special Committee

Complainant

