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TFGHR ELIMINATION OF HARASSMENT POLICY

RSA ONLY

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1. POLICY

1.1 LEGISLATIVE FRAMEWORK

Section 6(3) of the **Employment Equity Act No.55 of 1998** states that:

"Harassment of an employee is a form of unfair discrimination and is prohibited on any one or a combination of grounds of unfair discrimination in section 6 (1) of the EEA."

The **Code of Good Practice on the Prevention and Elimination of Harassment** was published on 18 March 2022 ("the Code") provides guidelines to employers and employees on the *"prevention, elimination and management of all forms of harassment in the workplace and appropriate procedures to deal with harassment and prevent its recurrence."*

This Policy therefore incorporates the EEA as well as the Code and addresses specific types of harassment, including sexual harassment as well as racial, ethnic or social origin harassment, which will all be dealt with in more detail below.

1.2 PREAMBLE AND SCOPE OF THE POLICY

- 1.2.1 The Company regards all forms of harassment as unfair discrimination that constitutes a barrier to equity and equality in the workplace.
- 1.2.2 Harassment is a violation of a person's fundamental rights, such as the right to equality, human dignity, privacy, security of person and fair labour practices. Harassment impacts negatively on workplace relations, worker engagement, enterprise reputation, and productivity.
- 1.2.3 Harassment undermines the basic integrity of the employment relationship and is a direct violation of the Company's core values, Code of Ethical Conduct, Human Rights Declaration and Disciplinary Policy.
- 1.2.4 This Policy must be read together with the *TFG Sexual Harassment Policy* as well as the Guidelines: How to deal with Sexual Harassment.

1.3 PURPOSE OF THE POLICY

The purpose of this policy is:

- 1.3.1 to create a work environment free of all forms of harassment, and in which employees and stakeholders respect one another's dignity and integrity, their privacy and right to equality;
- 1.3.2 to protect employees and stakeholders by informing them of conduct that constitutes harassment; and
- 1.3.3 to provide appropriate procedures to deal with harassment and to prevent its occurrence and recurrence.

1.4 APPLICATION OF THE POLICY

- 1.4.1 This policy applies to all employees as well as to the external parties referred to in 1.4.2 below in any situation where employees interact with them.

- 1.4.2 The perpetrators and complainants of harassment may include, but are not limited to managers, supervisors, employees, job seekers and job applicants, persons in training including interns, apprentices and persons on learnerships, volunteers, clients and customers, suppliers, consultants, and other persons who interact with employees.
- 1.4.3 The protection against harassment of or by any person or persons referred to in 1.4.2 above, applies in any situation in which the employee is working, or which is related to their work. This includes, but is not limited to, the following:
- a. the workplace, which includes both public and private spaces in which people perform their work;
 - b. places where the employee is paid, takes a rest break or a meal break, or uses ablution or sanitary facilities such as washing or changing, or uses breastfeeding or medical facilities;
 - c. work-related trips, travel, training, events, or social activities;
 - d. work-related communications, including those enabled by information and communication technologies and internet-based platforms;
 - e. employer-provided accommodation; which includes housing;
 - f. when commuting to and from work, in transport provided or controlled by the employer;
 - g. in the case of employees who work virtually from their homes, or any place other than the employer's premises, the location where they are working constitutes the workplace;
 - h. any other work-related interaction between employees and third parties.

1.5 TFG'S COMMITMENT

- 1.5.1 The Company will not tolerate any form of harassment in the workplace or elsewhere, and harassment will not be permitted or condoned.
- 1.5.2 Allegations of harassment will be dealt with seriously, speedily, sensitively, fairly and, as far as is practically possible, confidentially, as set out in the Guidelines that support this policy.
- 1.5.3 The Company together with all employees have a collective responsibility to provide and ensure a safe working environment for all stakeholders, free of all forms of harassment.
- 1.5.4 Every line manager who receives or becomes aware of a complaint relating to harassment has a duty to investigate, report and resolve such a complaint as soon as possible. Failure to do so will lead to disciplinary action which may include dismissal.

2 DEFINITION OF HARASSMENT

- 2.1 **Harassment** is generally understood to be unwanted conduct:
- a. that impairs dignity;
 - b. that creates a hostile or intimidating work environment for one or more employees or is calculated to, or has the effect of, inducing submission by an employee by actual or threatened adverse consequences; and
 - c. related to one or more grounds in respect of which discrimination is prohibited in terms of section 6(1) of the Employment Equity Act.

2.2 What constitutes *unwanted conduct*?

- 2.2.1 The two primary issues in evaluating whether the harasser/perpetrator knew or should have known that the conduct was unwanted are:
- 2.2.2 Whether the complainant communicated to the harasser/perpetrator that their conduct was unwelcome. The communication may have been verbal, non-verbal or in writing and may have been communicated directly or indirectly to the harasser/perpetrator.
- 2.2.3 If there is no such communication, the facts of the situation must be evaluated to determine whether the conduct was of such a nature that the harasser/perpetrator knew or should have known the conduct complained of is generally considered to be unacceptable.

2.3 Repeated or serious conduct

- 2.3.1 Harassment may take the form of a pattern of persistent conduct or a single instance or event.
- 2.3.2 Whether a single instance of unwanted conduct will be sufficiently serious to constitute harassment must be determined with regard to the facts of the matter.
- 2.3.3 Harassment, in particular bullying, may be an escalating process in the course of employment in which the complainant ends up in an inferior position and becomes the target of systematic negative social acts.
- 2.3.4 It is not necessary to establish the intention or state of mind of the harasser/perpetrator to prove harassment. That the conduct was calculated or intended to offend the complainant(s) may be an aggravating factor relevant to determining a remedy for the complainant. The intention of a harasser/perpetrator may also be relevant for disciplinary proceedings.
- 2.3.5 The following factors may be relevant to determine whether harassment has occurred -
 - a. the context of the alleged harassment;
 - b. the circumstances of the complainant and the impact that the unwanted conduct has had on the complainant; and
 - c. the respective positions of the harasser/perpetrator and complainant.

2.4 A hostile work environment

- 2.4.1 A hostile work environment is one where conduct related to a prohibited ground impacts on the dignity of one or more employees.
- 2.4.2 A hostile work environment has a negative impact on an employee's ability to work and/or on their personal well-being. This environment can be created by the conduct of persons in authority, such as managers and supervisors, or the conduct of other employees.
- 2.4.3 A hostile environment may also be present where an employer should anticipate that employees will be subject to abusive conduct related to a prohibited ground by members of

the public, customers or clients and fails to take reasonable steps to protect employees from such conduct.

- 2.4.4 It is not necessary to show that the complainant/s have not received a particular benefit, to establish the existence of a hostile work environment

2.5 **What are prohibited grounds?**

No person may unfairly discriminate, directly or indirectly, against another person, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground.

3. **NATURE OF HARASSMENT**

Harassment can take many forms and may be the result of physical, verbal or psychological conduct.

- 3.1 **Physical harassment** includes physical attacks, simulated or threatened violence, or gestures (such as raising a fist as if to strike a person or throwing objects near a person).
- 3.2 **Verbal harassment** may include threats, shaming, hostile teasing, insults, constant negative judgment, criticism, or racist, sexist, or LGBTQIA+ phobic language.
- 3.3 **Psychological harassment** is emotional abuse and involves behaviour that has serious negative psychological consequences for the complainant(s) such as is often the case with verbal abuse, bullying and mobbing.
- 3.4 **Bullying** is harassment which involves the persistent abuse of coercive power by an individual or group of individuals. Bullying is intentional behaviour that would cause a person of ordinary sensibilities to fear injury or harm, whether physical or emotional.
- 3.5 **Intimidation** is intentional behaviour that would cause a person of ordinary sensibilities to fear injury or harm.
- 3.6 **Mobbing** is a form of harassment by a group of people targeted at one or more individuals.
- 3.7 **Passive-aggressive or covert harassment** may include negative gossip, negative joking at someone's expense, sarcasm, condescending eye contact, facial expressions or gestures, mimicking to ridicule, deliberately causing embarrassment and insecurity, invisible treatment, marginalization, social exclusion, professional isolation and deliberately sabotaging someone's dignity, well-being, happiness, success and career performance.
- 3.8 **Online harassment** is harassment which is committed, assisted or aggravated by the use of information and communications technology such as personal computers, mobile phones, tablets, the internet, social media platforms or email. Where bullying is conducted online it is referred to as cyber bullying.
- 3.9 Harassment may be referred to as being "*vertical*" or "*horizontal*":

- **Vertical harassment** (also known as “tangible or material”) involves the use of formal power (i.e., title, position, or supervisory control) or material leverage (i.e., financial, informational, resource or legal) to intimidate, threaten, harass, or harm an employee or to dominate and control the complainant. Vertical harassment refers to harassment between the employer/manager and employee.
- **Horizontal harassment** refers to harassment between employees in the same position or on the same level.

4. DEALING WITH SPECIFIC TYPES OF HARASSMENT

4.1 SEXUAL HARASSMENT

- 4.1.1 The Company has adopted a zero-tolerance approach towards all incidents of sexual harassment in the workplace.
- 4.1.2 Sexual harassment undermines the integrity of the employment relationship and is a direct violation of our values, Code of Ethical Conduct, Human Rights Declaration and Disciplinary Policy.
- 4.1.3 The *TFG Sexual Harassment Policy* should be read in conjunction with the *Guidelines: How to deal with Sexual Harassment*. It sets out both an informal and formal process which a complainant in sexual harassment cases may elect to follow.
- 4.1.4 Every line manager who receives or becomes aware of a complaint relating to sexual harassment has a duty to investigate, report and resolve such a complaint as soon as possible.

4.2 RACIAL, ETHNIC OR SOCIAL ORIGIN HARASSMENT

- 4.2.1 Racial harassment is a form of unfair discrimination prohibited by section 6(1) of the EEA which is related to a person’s membership or presumed membership of a group identified by one or more of the listed prohibited grounds or a characteristic associated with such group.
- 4.2.2 Racial harassment occurs where a person is subject to physical, verbal, non-verbal or other conduct based on race which undermines their dignity or which creates an intimidating, hostile or humiliating working environment for the recipient.
- 4.2.3 Racist conduct, including derogatory language, is contrary to the founding principles of the Constitution, in particular the values of non-racialism, dignity, and equality.
- 4.2.4 It can be persistent/repeated or a single incident that is harmful, demeaning, humiliating or creates a hostile or intimidating environment.
- 4.2.5 Racial harassment can be direct or indirect.

- 4.2.6 Every line manager who receives or becomes aware of a complaint relating to racial, social origin or ethnic harassment has a duty to investigate, report and resolve such a complaint as soon as possible.

5 VIOLATION OF THIS POLICY

- 5.1 Any form of harassment perpetrated by an employee against another employee, potential employee or third party who has dealings with the Company (see clause 1.4.2) will be treated as serious misconduct.
- 5.2 Similarly, the intentional fabrication of a harassment complaint constitutes serious misconduct.
- 5.3 Any retaliation or action against a complainant or a failure to co-operate with an investigation will also be viewed as serious misconduct.
- 5.4 The Company reserves the right to take appropriate action in respect of any violation of this policy.
- 5.5 Employees who are found guilty of harassment will be disciplined, which may result in dismissal.

6 CONFIDENTIALITY

- 6.1 Stakeholders who are involved in the investigation and/or disciplinary process and who are recipients of its reports must ensure that the details of the complaint and the complainant are kept confidential as far as reasonably possible.
- 6.2 The Company is required to disclose to either party or to their representatives such information as may reasonably be necessary to enable the parties to prepare for any proceedings in terms of this Policy and the associated Guideline.

7 INTERNAL REPORTING MECHANISM

- 7.1 Eradicating harassment in the workplace is a shared responsibility. Anyone who becomes aware of an incident of harassment in the workplace has a duty to report this to management or the Fuse and follow the procedures detailed in the **Guidelines: Elimination of Harassment in the Workplace**.
- 7.2 The following confidential reporting mechanisms also exist if a complainant of harassment is uncomfortable with raising his/her complaint with his/her line manager:

Tip Offs Anonymous: 0800 118 444 / tfg@tip-offs.com

Fuse: fusesharedservices@tfg.co.za

8 SUPPORT

- 8.1 TFG Wellness offers a 24/7 counselling service for complainants of harassment.
- 8.2 Should you require counselling please contact the TFG Wellness Helpline for support and advice.

9 GLOSSARY

If there are any words, phrases or abbreviations in this policy that you do not understand, please [click on this link](#) for more information / definitions.

10 RELATED POLICIES

This Policy must be read together with the following existing TFG Policies:

TFG Disciplinary Policy

TFG Code of Ethical Conduct

Human Rights Declaration

TFG Sexual Harassment Policy

Diversity, Equity and Inclusion Policy