



# LEGAL HAND BOOK FOR **HR MANAGER**



## Advance Praise



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This handbook covers the entire HR ecosystem from legal and compliance perspectives. The comprehensive coverage of statutory provisions, as also the policy templates embedded in the handbook, are expedient for handholding HR Managers to navigate through legal issues surrounding the HR landscape. I must congratulate the team of LawSikho.com and iPleaders for their inexorable efforts in leading yet another initiative that will bring about changes to the lives of HR professionals working across various sectors. I will, personally, fall back on this handbook for going about my day to day endeavours.



### Ajay Prakash Sharma

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Ex- Head HR & ER - RPG Group, Coca-Cola India, JK organisation and Surya Roshni Ltd.*

Having worked in the industry for over 20 years, I must congratulate Ramanuj and the team for putting forth this comprehensive book that covers all HR operations under one umbrella. If you are someone who is new to HR this is your reference book. I have always believed that if one needs to excel in professional life then basics must be very strong and this book has it all. From laws to letters, it is like a ready reckoner.



### Nipun Bhatia

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It is an amazing work of Mr. Ramanuj and team and a nicely articulated, comprehensive and covering each and every aspects of legal framework a HR practitioner has to go through during his day to day responsibility. With my legal qualification and 25 + year long experience in HRM, I am sure that not only HR managers but legal practitioners and HRM students will also benefit with this book.



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## FOREWORD

The concept of Human Resources Development is now attracting greater and greater attention in the sphere of management technique. Human factor plays a pivotal role in the working of any organization. One has therefore to give deep thought to bring about excellence in the field of HRD.

Individual differences is a peculiar trait attached with the human factor and therefore it differs with other factors like machine and material. It is therefore necessary to deal with the employees taking into consideration the concept of individual differences.

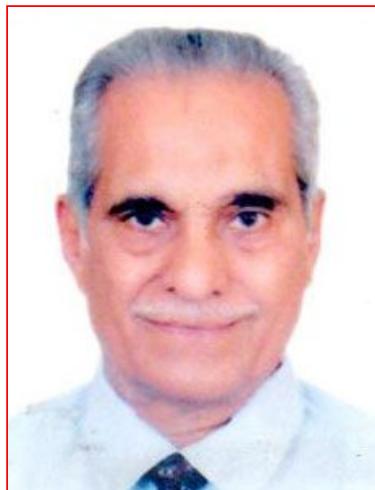
A simple word of appreciation, a patient listening and to share their thought can create a miracle. An effective line of communication is therefore not only necessary but important too.

The "M/s. LawSikho.com" have taken due care to co-ordinate the concept of Human Relations with the implementation of various labour laws and statutory provision in their forthcoming publication of "LEGAL HANDBOOK FOR HR MANAGERS". Appraisal of implications of various labour laws and statutory provisions is an essential part of HR Management. The Author has dealt with all the relevant aspect of both labour laws as well as HRD principles and practice in a most lucid language. I hope this book produced by LawSikho.com would reach many HR Managers and help them to make better decision in the course of their work.

To conclude with one can say that a key to bring excellence in HRD, the management should set the following goal :

"Here lies a Man, who knows how to enlist  
in his service better men than himself."

With Best Wishes



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## Introduction

HR managers are the pillars of modern organizations. They are responsible for welfare of employees, and at the same time must ensure that the organizational objectives with respect to each employee is fulfilled. They face a lot of challenges in order to achieve this goal, and some of the biggest challenges they ever face are legal and regulatory in nature.

HR managers are expected to ensure compliance to labour and employment laws, help lawyers in case of employment disputes, handle government intervention such as inspections and raids by labour officers and inspectors and protect the interests of the organization.

However, HR managers are rarely trained adequately to handle these very serious and critical responsibilities. A certain amount of legal training and resource allocation is necessary for HR leaders to be impactful and take care of their legal obligations.

At LawSikho, we have been teaching the law, regulations and compliance to HR managers for over 5 years now. Our experience made us aware of a palpable deficiency of quality resource materials, training and strategic guidance for lawyers. We have trained over 2000 HR managers on labour law, employment law and even sexual harassment laws. In almost every case, while we took care of the training, the HR managers expressed disappointment that they did not have access to a quality handbook they could lean on for legal issues that arise in course of daily operations.

Our attempt to create a detailed handbook for HR managers has arisen from our desire to fill this gap. We have focussed on practical matters, as we normally do in our courses. While it is not possible to teach critical skills through a book, we can efficiently deliver critical information through this book, and that is what we have attempted to deliver.

We believe that this handbook will be used by generations of HR managers in times to come, because the lessons in these pages are timeless and do not rely merely on the black letter of the law.

We hope to bring out newer versions of this book eventually, which we hope would be richer, based on the feedback from thousands of HR managers who would put this book to good use.

We also humbly request you to check out our [online course on labour, employment and industrial laws for HR managers](#), which may help you much beyond what this book can do for you. We also thank all those HR managers and organizations, which trusted our online labour and employment law courses, as that allowed us to launch this free resources that we today hope will help thousands of HR managers and millions of Indian employees and workmen entrusted under their care.

We seek your valuable feedback on this book and the course curriculum. Please share your views on [ramanuj@ipleaders.in](mailto:ramanuj@ipleaders.in) so that we can keep the work going.



# Day to day problems faced by an HR manager

HR managers face a number of legal, regulatory and procedural issues in day to day functioning. Every HR manager has to understand and learn about these processes and issues in order to be effective and reliable. The impact of the misstep by an HR manager is usually very major, and therefore every step must be measured, guided by clear understanding of the laws that govern specific activities as well as organizational interests.

In this book, we have not only told you what these issues are, but provided you with various templates, formats and forms that you will need to succeed as an HR manager.

Much of this content is taken from a labour and employment law course we offer to HR managers. We are able to offer so much of valuable content free of cost for all HR managers thanks to all those who subscribed to our paid courses and enabled us to have the funds, reach and fire power to take up a big project like this.

We could easily publish this as a paid book with a major publisher. However, our vision was to give it away for free for use by HR managers and others who need to learn labour and employment law and reach the maximum number of people possible. We know that this will be used by a very large number of professionals in their day-to-day work for many years to come, so we have exercised a lot of caution to ensure accuracy. Still, in case you see any mistakes, do tell us so that we can fix that in the next edition!

Also please email your feedback to [ramanuj@ipleaders.in](mailto:ramanuj@ipleaders.in) directly so that we can learn what we did right and where we still need to improve. Tell us what else we can add here and what we should get rid of. If you have a testimonial to share, please email so that our team that worked on it feels encouraged. If we get a good response, we intend to keep updating this book every 6 months with latest content. So please stay in touch through our mailing lists as well.

I hope that our many months of hard work positively benefits you. Also, if you find this interesting, visit our courses website and consider signing up this [this employment and labour law course](#) that is built with a lot of love and care exclusively for HR managers. It is a 6 months course that you can access from anywhere, attend live classes from any place on earth and get personalised feedback on your drafting, strategy, policy documents and other legal output. You will also get access to a massive database of templates and formats that we are constantly upgrading. We also have a course for labour lawyers, feel free to enquire about that if you need the same.

So now let's jump straight into understanding the variety of legal situations that HR managers often face.



## Daily, weekly, Monthly, Quarterly and Yearly compliances; maintaining records and registers; filing of returns

There is a long list of central labour laws in India. Moreover, every state also has its own labour law rules and regulations. It is very difficult to comply with all the requirement of these Acts. Specially if you are an HR of an establishment which has many branches in different states of India, it is very confusing to monitor that whether all the registers are maintained properly, whether all the returns are being filed on time, where to find all the relevant forms and proformas, where you have to file monthly and where you have to file quarterly, half-yearly and yearly returns. Hence, it is very important for an HR to have an exhaustive list of all the relevant compliances and to learn the method to find out all the necessary compliances on his own.

## Handling Industrial and Labour disputes

According to Section 2 (k) Industrial Disputes Act, an Industrial dispute is a dispute between a workmen and employer or workmen and workmen or employer and employer. Such disputes may be related to employment or non-employment, working conditions of labour, terms of employment etc.

### Types of labour disputes

Industrial and labour disputes are mostly related to strikes, lock-outs, go slow, lay off, retrenchments, non-payment of wages and salary, working hours, wrong behaviour of management with labourers, gherao, etc.

### Role of HR in handling such disputes

HR can act as a link between the management and the employees. He can mediate and communicate with each of them to resolve the matter at the earliest possible. He can also ensure to maintain good working conditions and proper implementation of social security benefits for the employees. He needs to be aware about the policies of the company and has to ensure that the employees are always following the policies. To avoid any disputes, he can arrange trainings and workshops and sometimes even get-togethers so that intentions and expectations of both the employer and the employees are communicated to each other. If he comes to know about any possibility of dispute he has to take immediate actions to communicate the issue to the management and try to resolve it immediately to avoid any consequences later.



## Handling accidents

What do you mean by accident? To what extent it comes under the ambit of HR?

Generally accident means an inevitable event which was not planned or designed with a purpose which occurs spontaneously and this unexpected and unintentional event causes damage or injury.

### Types of accident

- Fatal accident
- Accident causing permanent disablement
- Accident causing temporary disablement

### Types of accidental claims

- Road accidents claims
- Accidents at work claims
- Medical negligence claims
- Slip or trip accident claims

What are the laws that govern or regulate the compensation for the injuries sustained in a workplace?

- Employees State Insurance Act
- Factories Act 1948
- Employee compensation Act

## Handling the hiring process

### Deciding the Plan of action

Before the process of recruitment, an HR manager is expected to form the plan of action and assign various tasks to other individuals if needed. This plan of action is to be followed throughout the process of recruitment. The plan of action should contain all the information regarding the procedure that is to be followed by the manager and those who have been assigned by him to perform certain tasks.

### Issuance of vacancy advertisements

Before the procedure of recruitment begins, the employer has to publicise the fact that there is a need for candidates hence he is supposed to publish the vacancy advertisements in various newspapers and magazines and on various online as well as offline recruitment portals.



## Scrutiny

Careful and detailed examination of each and every candidate has to be done by the manager and the committee members assigned for the recruitment.

## Qualification check

Checking if the candidate is eligible for the said job is necessary in order to know if he or she is the right candidate for the job. Qualification check is done by looking at the cover letter and the resume of the candidates, this helps an HR manager in shortlisting of the candidates easily as he is able to know not only about the academic qualities of the individual but also the work experience he or she has had in the field.

## Dealing with headhunters and hiring platforms

These days there are many platforms which provide specialised hiring services. You just have to provide your specific requirements to them and they will hunt for the eligible candidates. They will make all the arrangements for the interview process. You just have to choose from a suitable candidate from the given list of the candidates.

## Dealing with contractors

Sometimes an establishment cannot hire or is not willing to hire employees for a specific type of work. To get the work done they engage with some contractors who provide appropriate workforce to them. In such situation they can avoid some compliances. But, at the same time, some liabilities of the contractor may fall on the shoulders of the establishment. It becomes a duty of the HR manager to ensure that the contractor is complying with all the necessary requirements of law.

## Verification of employment history and antecedents, including last salary drawn

Apart from the educational qualifications, are the employee's claims about his or her past accurate? Typically, verification of this involves the following aspects:

- Obtaining salary slips and statements representing credit of salary in the passbook
- Obtaining a relieving letter from the previous organization

Some organizations also engage private investigative agencies who inquire with the previous employers of the employee about their conduct, to ensure that there are no surprises or relevant matters which the employee has not disclosed.

## Interviewing candidates

Interviewing candidates comes next as, in order to check whether if the individual is worthy of the job, the employer must ensure it personally by contacting the candidate who has applied for the



job. This can be done by telephone and video-calling also as these can be done randomly at any time to test the knowledge and speaking skills of the candidate.

- By Telephone.
- By Video-call.

## Screening and Shortlisting of Candidates

After the qualification check the individuals are to be asked by the HR manager for the screening where interview will be conducted where they will be able to interview the candidates face to face. After the interviewing, the responsibility of shortlisting of candidates lies with the HR manager he is the one who is supposed to make a list of the candidates who have successfully been able to crack the interview and have the right qualifications.

## Psychometric tests

Psychometric tests are nothing but the tests which tests the mental capacity of the individual as well as to measure candidates' suitability for a role based on the required personality characteristics and aptitude.

## Reference and background check

Checking whether if the candidate has given the right reference gives him or her credibility and solidifies he or her recruitment, reference check is also an HR manager's duty before recruiting someone. Background check of a candidate is also necessary when recruiting an individual as it is important to know if the individual being hired is not a bug time street thug or a thief. Background check is very important as the safety of other workers and the workplace is at the hands of the manager.

## Informing the rejected candidates

The responsibility of informing the individuals who were rejected in the process of shortlisting lies with the HR manager. He is supposed to inform each and every rejected candidate personally or via some mode of communication to prevent certain problems which may or may not occur.

## Informing the shortlisted candidates

After all the necessary tests are done, the HR manager is supposed to inform the candidates who have been selected to work at the workplace. He can inform the candidates personally or via phone-call or any other method of communication.

## Salary negotiation(May be done during the interview itself also).

An HR manager is required to negotiate the salary terms with the individuals who have been shortlisted and come to a common consensus in order to proceed to work and accomplish various tasks at the workplace.



## Pre-employment medical checkup

Conducting or making sure that the medical checkup of each and every candidate is done is one of the responsibilities of the HR manager he is supposed to make sure that the person he is recruiting is not a person who has a life threatening disease which may end up affecting the work environment.

## Probation and Confirmation

An employee is not appointed as a permanent employee directly. In most of the cases, he is appointed on probation. Lesser salary is paid as compared to a permanent employee and he can be terminated anytime without any notice or other formalities in this duration. But, if he complies with all the necessary conditions, he is confirmed as an employee. As the employee will enjoy all the benefits and there will be additional burden of his salary on the company, it is the duty of the HR to ensure that only a productive and skilled candidate is hired and confirmed.

## Termination

It is not defined in any law but it generally means that, when the employer initiates the process of terminating the services of an employee it is termed as termination of employment.

### Law applicable

For termination the HR should be aware of the provisions of the Industrial Disputes Act, 1947 and the law of the State where his organisation is established such as The Delhi Shops and Establishments Act, 1954.

### Modes of termination

The services of an employee can be terminated in following manners

#### Termination under contract

Usually when the employee is hired, a contract of employment is drawn up and in such a contract the procedure for the termination is also included and thus this method of termination is done through mutual agreement.

Also many labour contracts are time specific and thus at the expiration of such time the services are automatically terminated. These contracts have to abide by the provisions of labour laws and thus no arbitrary agreement can be made which deprives the employee of his rights.

#### Termination under law

In case of absence of such contracts or the absence of provisions regarding termination, the Central as well as the respective State laws apply for the termination of employment.

Termination Under Central Law



## The Industrial Disputes Act, 1947

- This act applies to workers not employed in administrative or managerial capacity. Under Section 25F of this Act of an employee who has been in continuous service for at least one year to be retrenched is required to be sent a one month notice in writing stating the reason or in place of one month notice, wages for the period of notice. The employee is also entitled to 15 days average pay for each year of continuous service and the employer also has to send a notice to the appropriate authority in Form P of Industrial Disputes (Central) Rules, 1957.
- In cases of Industrial establishments as defined in section 25 L(a) of the, under section 25N, to terminate any employee who has been in continuous employment for at least a year, should be given three month's notice or wages in lieu of the notice and the prior approval of the Central Government or the specified authority has to be taken by an application in Form PA of Industrial Disputes (Central) Rules, 1957.

## The Delhi Shops and Establishments Act, 1954

Under this act, to terminate the services of an employee who has been in employment for more than 3 months, one month notice or wages in lieu of the notice have to be provided but if the employee is removed on the ground of misconduct after being given an opportunity to explain charges against him then no such notice is required.

The list of acts and omissions which can be termed as misconduct have been provided in Rule 13 of The Delhi Shops and Establishments Rules, 1954.

Thus the HR has to ensure that the procedures provided for in these Acts are duly followed otherwise the termination will not be lawful.

## Resignation

Sometimes a sudden resignation of an employee can create huge problem for the employer. Specially if it is one of important employee or an employee who is handling an important/technical position for which it is difficult to find a backup, it becomes really very difficult to handle the situation.

It is very essential for an HR manager to be aware about the terms and conditions of the employment agreements with the employees to be always prepared to handle such situations and save the employer from any loss due to such resignation.

For instance, Delhi Shops and Establishments Act, 1954, requires an employee to give a one month notice before resigning while the employment contract of the same employee may ask for a 3 month notice. Now how to handle the situation when the employee wants to leave immediately without such notice? What if he wants to give only a months notice instead of a 3 month notice?



In such situations HR should also be aware with the legal provision regarding final settlement of the amount to be paid to the employee. He must be aware about the provisions regarding the deductions which can be made legally and the limits of such deductions.

## Leave applications

- See the policies of the company regarding leaves and for which type of leave he has applied
- Ensuring compliance of many labour laws
- How to handle sudden leaves/ medical leaves
  - Backup
  - Or refusing leave
  - How to get work done through others

# Laws every HR manager must know

## 1. State wise Shops and Establishment Act ([here](#))

The Shops and Establishment Act has state wise applicability. We have covered the Delhi Shops and Establishment Act as a reference.

### Applicability

- The Act extends to the whole of the Union Territory of Delhi.
- It applies to all shops and commercial establishments which includes any premises wherein any trade, business or profession is carried out.
- A combined reading of Section 2(5) and Section 2(9) of the Act covers exhaustive list of commercial establishments like residential hotels, restaurants, eating-house, theatre or other places of public amusement. Journalistic institutions and educational institutions run with a private gain are also included.
- It is important to keep in mind that the word ‘shop’ has a very broad meaning under the Act. Any place having a nexus with purchase and sale of goods or services is deemed to be a shop under the Act.



## Important compliances under the Act

### Compliance with respect of Registration of the Establishment

- The registration can be done online in **Form A** as per Section 5 of the Act read with Rule 3 of the [Delhi Shops and Establishment Rules, 1954](#). This statement must contain following particulars:

|  |
|--|
| Name of the employer and managers  |
| Name and Postal address of the establishment   |
| Category of the establishment, if it is a shop, commercial establishment, hotel, theater or another place of amusement or entertainment, restaurant or other eating house. |
| Number of employees working in the establishment, the names of young persons must be mentioned separately.   |
| Date of commencement of business   |

- Form A can be filed online** within **90 days** of coming into force of this Act for existing companies. In case a new establishment is formed, the proprietor must send the statement from the day the establishment commences work to the chief inspector.
- As per Rule 4 the registration certificate issued by the chief inspector in **Form C** must be displayed at a conspicuous place within the organisation.
- It is the duty of the proprietor of the establishment to intimate the Chief Inspector about any changes that may occur with regards to the information submitted to the Chief Inspector in the statement at the time of the registration in **Form D** as per Rule 6 of the rules to the Act.

### Holidays and Leaves

- Every shop and commercial establishment shall remain closed on a close day. The closed day is that day of the week on which the shop or the commercial establishment remains closed. Intimation regarding choice of close day should be sent to the chief inspector in Form E within 30 days as per Rule 8.

### Termination of Employment



- Giving notice of one month before terminating any employee who has worked for more than 3 months.

### **Letter of Appointment to Employee u/s 34 read with Rule 15.**

It is mandatory for every employer to issue a letter of appointment on the appointment of an employee in the establishment. Such document must contain following particulars:-

- Salary or the rate of wages.
- Designation of the employee and the kind of work for which employed whether it is manual work, clerical, supervisory or any other.
- Concessions and benefits that have been conferred to an employee that is special to his post if any.

### **Maintenance of Records and Registers u/s 33 read with Rule 14**

- Register of employment and wages in **Form G**
- Register of leave in **Form I**
- Notice of Holiday in **Form J**
- Every occupier shall exhibit in his establishment a notice showing the close day, the daily working hours and the usual period of rest interval fixed for employees in **Form 'K'** displayed at a conspicuous place

## What are the Penalties under the Act?

| Description of offence  | Punishment  |
|---|---|
| As per Section 40, if in any shop or establishment there is any contravention of any provisions of this Act   | Minimum fine of Rs. 25 which may extend upto Rs. 250 and an additional fine of Rs 5 per day if it continues   |
| As per Section 41, willfully making false entries in records, registers or notice prescribed under Section 33 | Imprisonment for a period not exceeding three months, or<br><br>Fine which shall not be less than fifty rupees but which may extend to two hundred and fifty rupees, or both. |
| Section 42, Willfully obstructing an Inspector in the exercise of any power under section 37                  | Fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees.  |
| For concealing an employee in the establishment from appearing before or being examined by an Inspector.      |   |



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## What are the Challenges under the Act

- The Act is different across different states. It is a challenge to align internal policies governing leave, attendance, holidays and work timings for a large organization and maintain uniformity across India.
- Identification of which state has the most favourable Shops and Establishments Act from a flexibility, cost and competitiveness perspective for your organization is a challenge, especially if you want to open a large organization which caters to a global market. For example, specific industries such as IT and ITeS sector need to stay globally competitive. Provisions of many state-level shops and establishments acts which limit overtime work or require closure on one day of the week can impact competitiveness and costs.
- Identification of applicable exemptions is a challenge, but offers tremendous advantages - for example, law firms in many states do not need to comply with the Act. Similarly, in Maharashtra, a new Act was passed in 2017, whose provisions apply to a 'worker' and not to all employees.
- Simultaneous compliance with other labour laws can be a challenge owing to overlaps, inconsistency and disparity. For example, obligations under Payment of Wages Act, 1936 (in states where the act applies to shops and establishments as well), Industrial Employment (Standing Orders) Act, 1946, Maternity Benefits Act, 1961 Industrial Disputes Act and Sexual Harassment of Women at Workplace Act (POSH) Act need to be reconciled together. Actions such as termination, terms and conditions of work, leaves and imposition of fines need to be in accordance with all applicable statutes.
- Action for non-compliance can be discovered through other ways because government data and systems are being integrated over time and data is maintained digitally. For example, governments can identify from GST returns and issue show-cause notices for non-compliance. Settling matters outside books through unscrupulous means such as bribery is no longer feasible as data owing to digital record keeping and automated and centralised government records.

## 2. The Industrial Disputes Act, 1947 ([here](#)) and The Industrial Disputes (Central) Rules, 1957 ([here](#))

### What are the organisations to which this law will apply?

According to section 2(j) of the act industry means any organized and systematic activity that has carried by a group of people with co-operation and co-ordination with the basic aim to increase the production, supply and distribution of goods In order to satisfy the human need.

It includes:



## Organized sector

- Business
- Trade
- Industrial or handicraft occupation
- Workmen avocation
- Calling of the employer

## Unorganized sector

- Agricultural industries
- Charitable institutions
- Educational and scientific, training institution
- Village industries
- Hospital dispensaries

What are the important compliances under this statute?

### Compliances with regard to lay-off and retrenchment

- It is the duty of the employer to maintain a muster roll (Section 25D).
- An employer who intends to close down any undertaking shall serve at least a notice prior to sixty days before the date on which he intended the closure to the appropriate government. According to Rule 75(A), The Industrial Disputes (Central) Rules, 1957, if a workman is laid off then the employer concerned shall give notice of commencement and termination of such lay-offs in Form O1 and O2 respectively within 7 days of commencement.
- Application for permission to layoff under section 25(M) shall be made in Form O3 and delivered to the authority.
- It is the duty of the employer to give alternative employment or otherwise legally liable to pay the workmen in case of retrenchment. Rule 76 states that a notice must be issued by the employer if he desire to retrench any workmen Form P.
- Rule 76(B)- notice and application for retrenchment in Form PA is served to the appropriate government.

### Compliance in regards to the change in service[Section 9A]

- It is the duty of the employer to inform the workmen, registered trade union, and other officials with 21 days prior notice before making any changes.
- However in case awards and settlements no notice is required to be given on changing the conditions of services.
- If any dispute is pending before any prescribed authority which is to resolve such disputes the employer is required to take prior permission in writing from the authority before prejudicially changing any conditions of service.



## What are the penalties

Penalties under industrial dispute act 1947 are as follows

**Layoff and retrenchment without informing and taking prior permission of the prescribed authority [Section-25(Q)].**

1 month imprisonment, or ₹1000 fine with workmen entitled all the benefit

**Illegal closure [Section-25 R(1)]**

Workmen entitled all the benefit as if closure never happened. Employer shall be punishable for 6 month imprisonment or ₹5000 fine or both.

**Not complying with the orders of the appropriate government or the authority to close down the undertaking [Section-25 R(2)]**

Employer shall be punishable with 1 year imprisonment or Rs. 5000 fine or both and in case of continuing contravention, additional fine of Rs. 2000 per day.

**Committing unfair trade practices [Section 25(T),25(U)]**

6 months fine and Rs. 1000 fine)

**Employer acting in furtherance of illegal strikes/lockouts [Section 26(2)]**

Shall be punishable by imprisonment for 6 months or a fine of Rupees 1000 or with both.

**Breach of settlement or award penalty [Section (29)]**

6 months imprisonment and fine + ₹200 per day if breach is continue.

**Disclosing confidential information penalty [Section (30)]**

6 months imprisonment or ₹1000 fine or with both.

**Contravention of provisions under 25FFA in respect of closure without notice Section 30 A**

Employer shall be liable to be punished with a term of imprisonment of 6 months or a fine of Rs. 5000 or with both.

**Contraventions of provisions of Section 33 (for changing of the conditions of the service during the pendency of the proceedings) [Section 31(1)]**

Employer shall be liable to be punished for c with a term of 6 months of imprisonment or a fine of Rs 1000 or both.

**Contravening any other provision where any other specific penalty is not given [Section 31]**

₹100 fine.

## What are the biggest challenges under the act?

Due to stringent provisions enshrined under industrial dispute act 1947 makes it very difficult for the industrial establishment to work as per their requirement.



- Dealing with trade unions and ensuring that disciplinary violations by individual employees do not escalate into industrial disputes, strikes and go slow.
- Ensuring that there is no violence in industry and factory premises.
- Ensuring that workers have a proper mechanism to channelize grievances and dissatisfaction, and that the Works Committee, Conciliation Officer and Grievance Redressal Committee are able to effectively address worker concerns.
- In case of a collective bargaining situation, ensuring the unions and management are able to arrive at a mutually satisfactory settlement agreements.
- Implementation of a settlement agreement over a period of time.
- Effective provision of all facts to represent the management's stand in the event a legal proceeding is initiated before a labour court or labour tribunal.
- Having appropriate machinery to inform the appropriate government, requesting a reference to a labour court or tribunal if a labour-management dispute spirals out of control.
- Ensuring that the rights and benefits provided to workers across different states in India are not divergent as that can lead to an industrial dispute in future.
- Ensuring that dismissal of one or more employees on disciplinary grounds is not treated as a retrenchment, thereby triggering the obligation to pay retrenchment compensation.
- Ensuring that lay-off or retrenchment in case of sizing down of the business, closure is undertaken as per the provisions of the Act.
- Ensuring that transfer of employees in case of an acquisition of the undertaking by another acquirer does not amount to retrenchment and trigger retrenchment compensation obligations.

### **3. The Factories Act, 1948 ([here](#)) and Model Rule Under The Factories Act, 1948 ([here](#))**

What are the organizations to which this law will apply?

As per **Section 2 (m)** of the Factories Act, 1948

- This Act is applicable to all factories which have employed 10 or more than 10 workers on any day of the preceding 12 months.



- Twenty or more than twenty workers are employed in the manufacturing process in case the manufacturing process being carried out without the aid of power.

## What are the compliances under the Act?

Under the Factories Act, the following compliances should be followed-

### **Section 6 and 7 (Licensing of Factory)**

The occupier of the factory is required the previous permission from the State Government or the Chief Inspector in writing for the site on which factory is to be situated.

The occupier must also send the notice u/s 7 of the act to the Chief Inspector, at least 15 days before he begins to use the premises as a factory containing the following details:

- Name and address of the occupier
- Name and address of the factory
- Name and owner of the premise
- Address for communication
- Nature of the manufacturing process to be carried in the factory
- Total horsepower to be installed
- Name of the manager of the factory
- Number of workers likely to be employed

In addition, the occupier a Health Register in respect of persons employed in occupations declared to be dangerous operation u/s 87 of the Act.

- Maintain a Bound Inspection Book.
- Annual return to be filed on time.
- Report from Health Office

## Health Provisions

| Rule (MFR) | Description  |
|------------|--|
| 20         | <b>Record of whitewashing</b> <ul style="list-style-type: none"><li>• The record of dates on which whitewashing, colour washing, varnishing, etc. are carried out shall be entered in a register maintained in Form 7.</li></ul> |



|       |   |
|-------|---|
| 21    | <b>Cleanliness of walls and ceilings.</b> <ul style="list-style-type: none"> <li>Every factory must be clean and there should be no accumulation of dirt with a disinfectant</li> <li>Paint or repaint walls, ceilings, and staircases of the factory once in every 5 years. Repaint the walls once in every 3 years in case of washable water paints.</li> </ul>   |
| 22    | <b>Disposal of Trade Wastes and Effluents.</b> <ul style="list-style-type: none"> <li>The arrangements made in for the treatment of wastes and effluents due to the manufacturing processes shall be approved by the relevant authority.</li> </ul>   |
| 23    | <b>Ventilation and temperature.</b> <ul style="list-style-type: none"> <li>The factory premises should have adequate ventilation by the circulation of fresh air. The walls and roofs should be of such quality that the temperature in the factory doesn't rise beyond the reasonable conditions of comfort.</li> </ul>  |
| 24-34 | <b>Artificial humidification</b> <ul style="list-style-type: none"> <li>If the humidity in any factory is increased artificially, the water used for this purpose should be taken from a public water supply or should be purified before it is used.</li> <li>A humidity register must be maintained as per rule 28</li> </ul>   |
| 35-36 | <b>Natural and Artificial Lighting</b> <ul style="list-style-type: none"> <li>There shall be provided and maintained sufficient and suitable artificial lighting in every part of the factory along with available natural lighting.</li> <li>Effective provision shall be made for the prevention of glare, either directly from a source of light or by reflection from a smooth or polished surface</li> </ul> |
| 38-43 | <b>Drinking Water</b> <ul style="list-style-type: none"> <li>There should be suitable points in every factory which provide a sufficient supply of drinking water.</li> <li>The word 'drinking water' shall be mentioned in the language understood by the workers.</li> </ul>  |
| 44-53 | <b>Latrine and Urinals</b>  |

|       |  |
|-------|--|
|       | <ul style="list-style-type: none"> <li>• Sufficient latrine and urinal accommodation should be there in every factory accessible to the workers all the time while they are present in the factory.</li> <li>• The arrangement must be separate for male and female with proper lights and ventilation.</li> </ul> |
| 54-56 | <p><b>Spittoons</b></p> <ul style="list-style-type: none"> <li>• Every factory shall have a sufficient number of spittoons placed at a convenient place. The spittoons should be cleaned regularly</li> </ul>  |

## Safety Provisions

|    |   |
|----|---|
| 57 | <p><b>Fencing of Machines</b></p> <p>The dangerous parts of all machinery should be securely fenced.</p>  |
| 58 | <p><b>Register of workers employed for work on or near machinery in motion</b></p> <p>Register of workers employed for work on or near machinery in motion should be maintained in <b>Form 9</b></p>  |
| 59 | <p><b>Employment of young persons on dangerous machines</b></p> <ul style="list-style-type: none"> <li>• A young person should work only after sufficient training and under the supervision of a person and is aware of the precautions to take while working at a dangerous machine.</li> </ul>         |
| 60 | <p><b>Hoists and lifts</b></p> <p>A register shall be maintained to record particulars of examination of hoists and lifts and shall give particulars as shown in Form 10.</p>   |
| 61 | <p><b>Lifting machines, chains, ropes and lifting tackles.</b></p> <p>All parts of lifting machines, chain, rope and lifting tackle should be of good construction, sound material and free from defects. They should be thoroughly checked by a competent officer at least once in <b>12 months</b>.</p> |
| 62 | <p><b>Pressure plants.</b></p> <p>If a factory is using any machinery which is operated at a pressure above atmospheric pressure, then the pressure should be kept under check.</p>   |
| 63 | <p><b>Provision for gasholders</b></p> <ul style="list-style-type: none"> <li>• Every gasholder shall be of adequate material and strength, sound</li> </ul>  |



|    |   |
|----|---|
|    | <p>construction and properly maintained.</p> <ul style="list-style-type: none"> <li>• All possible steps shall be taken to prevent or minimise ingress of impurities in the gasholder.</li> </ul>   |
| 64 | <p><b>Excessive weights.</b><br/>No worker employed in the factory shall be made to carry or move any load which might cause any injury to him.</p>   |
| 65 | <p><b>Eye Protection</b><br/>If any process is carried out in the factory which involves a risk of injury to the eyes from particles or fragments, suitable goggles or effective screens should be provided to the workers who are working in such circumstances.</p> |
| 66 | <p><b>Minimum dimensions of manholes</b><br/>Every confined space like chamber, tank, pipe etc, which persons may have to enter should have effective means of egress and manholes of specified dimensions to act as an outlet against dangerous fumes.</p>           |
| 68 | <p><b>Fire Prevention</b><br/>The factory should take all practical measures to prevent the outbreak of fire and its spread, both inside and outside the factory. Safe means of escape should be in the factory for the persons, in case of a fire.</p>               |

## Welfare Provisions

|             |  |
|-------------|--|
| 83          | <p><b>Washing Facilities</b><br/>Separate and adequate washing facilities to be provided for male and female workers. The facilities should be clean and conveniently accessible.</p>  |
| 84          | <p><b>Facilities for keeping clothing</b><br/>The factory should provide a suitable place for keeping the clothes not worn during the working hours and for the drying of wet clothes.</p>   |
| 85          | <p><b>First-aid appliances</b></p> <ul style="list-style-type: none"> <li>• First-aid boxes or cupboards containing with necessary contents, should be maintained and provided during all the working hours.</li> <li>• The number of such boxes should not be less than one for every 150 workers working in the factory.</li> </ul>                                  |
| 88 to<br>94 | <p><b>Canteen and restrooms</b></p> <ul style="list-style-type: none"> <li>• If the factory has more than 250 workers employed, minimum one canteen should be provided and maintained by the occupier.</li> <li>• A factory having more than 150 workers should provide adequate and suitable restrooms and lunch rooms, with provision for drinking water.</li> </ul> |



|    |   |
|----|---|
| 96 | <b>Facility for creches</b><br>If the factory employs more than 30 women workers, it should provide a suitable room for the use of children under the age of 6 years of such women. |
|----|---|

## Working Hours of Adults

| RULE | Description  |
|------|--|
| 104  | <b>Notice of periods of work of adult workers</b> <ul style="list-style-type: none"> <li>• A notice should be put every day clearly showing the periods in which adult worker may be required to work that day.</li> <li>• The notice of periods of work for adult workers shall be in Form 16.</li> </ul>   |
| 105  | <b>Register of adult workers</b> <ul style="list-style-type: none"> <li>• Every factory is required to maintain a register of adult workers showing the name and nature of the work of a worker.</li> <li>• The register of adult workers shall be in Form 17.</li> </ul>  |
| 110  | <b>Notice of periods of child workers</b><br>The notice of periods of work for child workers shall be in Form 18.  |
| 111  | <b>Register of child workers</b><br>The register of child workers shall be in Form 19.   |
| 102  | <b>Register of compensatory Holidays in Form 14</b><br>If a worker is deprived of any of the weekly holidays, he should be allowed to take that holiday in that month or within the two months immediately following that month.   |
| 112  | <b>Register of Leave and wages</b> <ul style="list-style-type: none"> <li>• The manager shall keep a register in Form 20 hereinafter called the register of leave with wages</li> <li>• The register of leave with wages shall be preserved for a period of three years after the last entry in it and shall be produced before the Inspector on demand.</li> </ul>  |
| 113  | <b>Compliance with regard to leave Book</b><br>The manager shall provide each worker who has become entitled to leave during a calendar year, with a leave book in Form 21) not later than 31st January of the following calendar year.  |
| 121  | <b>Accident or any dangerous occurrence specified in the schedule</b> <ul style="list-style-type: none"> <li>• results in such bodily injury to any person as is likely to cause his death, takes place in a factory, notice shall be sent in form 25 to : <ul style="list-style-type: none"> <li>○ The District Magistrate or Sub-divisional Officer;</li> <li>○ The officer in charge of the nearest police stations; and</li> <li>○ The relatives of the injured or deceased person.</li> </ul> </li> </ul> |



|     |   |
|-----|---|
|     | <ul style="list-style-type: none"> <li>○ Inspector/ Chief inspector</li> <li>● In case the accident or dangerous occurrence causes bodily injury in the factory by the manager of the factory shall forthwith send a notice to the Inspector and the Chief Inspector within 12 hours in form 26</li> <li>● Register of accidents and dangerous occurrences to be maintained in Form 32 under Rule 130.</li> </ul> |
| 122 | <p><b>Notice of poisoning or disease.</b></p> <p>A notice in Form 27 should be sent forthwith both to the Chief Inspector and to the Certifying Surgeon</p> <p><b>Display on notice board</b></p> <p>A notice containing rules and regulations of the factories should be displayed in both English and Hindi language as per Section 108.</p>  |

\*MFR = Model Factory Rules

## What are the Penalties?

| Section | Offence  | Liability           | Penalty  |
|---------|--|---------------------|--|
| 92      | Contravention of the provisions of the Act   | Occupier or manager | imprisonment for a term which may be extend to 2 years or with fine which may extend to ₹1 lakh or both. |
| 94      | already punished for the offence under section 92 previously and if the contravention of that provision continues. | Occupier or manager | imprisonment which may extend to 3 years or with fine which may extend to ₹10000 or with both.           |
| 95      | willful obstruction of the inspector's work  | Any person          | imprisonment which may extend to 6 month or with fine which may extend to ₹10000 or both                 |



|     |  |            |   |
|-----|--|------------|---|
| 96  | wrongful disclosure of the result of analysis under section 91 | Any person | imprisonment which may extend to 6 month or with fine which may extend to 10000 rs. or both.  |
| 96A | contravention of provision of section 41                       | Any person | imprisonment which may extend to 7 years or fine which may extend to ₹2 lakh or with both.  |
| 97  | Contravention of any provision of the Act                      | Any Worker | fine which may extend to ₹500.  |
| 98  | Producing false fitness certificate                            | Any Person | imprisonment which may extend to 2 months or fine which may extend to ₹1000 or with both.   |
| 99  | allows child for double employment                             | Any Person | fine which may extend to ₹1000. unless it appears in court that the child doing double employment by the consent of his parents or guardian and by his consent. |

## What are the biggest challenges?

1. Compliance requirements under the Act are numerous, it is important to create a system such that no compliance is missed.
2. Dealing with raids and investigations.
3. Preparation of adequate replies to show cause notices.
4. Ensuring organization-wide compliance if there are multiple factories in different locations.
5. Identification of the role of occupier and a manager of a factory.
6. Dealing with different kinds of labour-management disputes, involving the Works Committee, Conciliation Board, Grievance Redressal Committee, etc.
7. Coordination with head office and litigators with respect to industrial disputes or other legal proceedings against the organization.



8. Handling repercussions from accidents

## 4. The Payment of Wages Act, 1936 ([here](#))

What are the organisations to which this law will apply?

The Act applies to every establishment including (**Section 2**)

1. Factories
2. Industrial establishments
3. Tramway and motor services
4. Air transport services
5. Dock, Wharf, Jetty
6. Plantations
7. Workshops
8. Establishments where construction work, work-related to bridges and canals, or work related to electricity generation, distribution and transmission of electricity is carried out
9. Establishments notified by the appropriate government.

**Note:** It is not applicable to shops and establishments by default. However, in some states the Act is applicable to shops and establishments also.

What are the important compliances under the statute?

### Mode of Payment of wages

As per section 6, the mode of payment of wages is coins or currency notes currently in circulation or by cheque or by crediting the wages in the bank account of the worker.

### Wage Period

As per Section 4, wage period fixed by the employer shall not exceed one month.

### Maintenance of registers and records (Section 13-A)

As per the section 13 - A, the employer must maintain registers and records of persons employed with the following particulars.

- Name/Particulars of persons employed
- Designation/Nature of work performed by employees
- Wages paid to employees



- Record of deductions made if wages not paid in full.

## Deductions from wages (Section 7)

Employer can only make deductions provided u/s 7. Such deductions cannot exceed the limits provided under Sections 8 to 13 of the Payment of Wages Act.

## Time for the payment of wages (Section 5)

- All payments are to be made on a regular working day.
- When the employment of any person is terminated by the employer or is done on his behalf, wages earned by him shall be paid before the expiry of the Second working day from the day from which he was effectively terminated.
- Where less than 1000 persons are employed, the wages shall be paid before the expiry of the seventh day of the following month.
- Where more than 1000 persons are employed, the wages shall be paid before the expiry of the tenth day of the following month.

## What are the Penalties? ([Amended](#))

- Failing to maintain registers and records, or willfully refusing or without excuse neglecting to furnish information or return, or willfully furnishing or making any information which he is aware is false shall result in a fine not less than ₹1,500 it may also extend to ₹7,500. [Section 20(3)(d)]
- Willful obstruction while an inspector is performing their duty shall result in a fine not less than ₹1,000 which may extend to ₹5,000.
- For failing or neglecting to pay wages to the workers, imprisonment of not less than one month which may extend upto six months with fine of ₹2,000 which may extend upto ₹15,000 and additional fine upto ₹750 each day until such neglect/failure continues. [(Section 20(6)].
- If the person responsible for the payment of wages under this act contravenes any of the following provisions of the act, namely, Section 5(except sub-section 4),Section 7, section 8(except sub-section 8), section 9, section 10(except sub-section 2), and section 11,12, and 13, shall be punished with a fine of not less than ₹1,500 which may extend upto ₹7,500. [(Section 20(1)]
- If a person having responsibility, contravenes any of the following provisions of the Act, namely, Section 4, sub-section 4 of section 5, section 6, sub-section 8 of section 8,



sub-section 2 of section 10, or section 25, will be punished with fine which may extend upto ₹3,750 (Section 20(2)).

- If a person is convicted subsequently for the same offence, a fine of ₹3,750 which may extend upto ₹22500. [(Section 20(5)]

## What are the biggest challenges?

1. Creation of an appropriate wage structure keeping in mind the provisions of the Payment of Wages Act, provident fund contribution and gratuity, which is statutorily correct and does not increase the employer's liability disproportionately and also represents the true costs of the employer to the employee.
2. Ensuring the wage structure for a large organization with presence in multiple states is uniform keeping in mind the state-level minimum wages legislation and cost of living requirements.
3. Implementing full and final settlement on a timely basis.
4. Creation of leave and attendance policy and list of holidays keeping in mind the provisions of the applicable central and state level holidays acts, and, in states where Payment of Wages Act is notified to be applicable to shops and establishments, the Shops and Establishments Act.
5. Imposition of fines in accordance with the provisions of the Act and other applicable laws, after giving a due hearing.
6. Application of the Act in harmony with the Industrial Employment (Standing Orders) Act, where both Acts are applicable.

## 5. The Payment of Bonus Act, 1965 ([here](#)) and Payment of Bonus Amendment Act 2015 ([here](#))

### What are the organisations to which this law will apply?

This Act applies to the following entities [Section 1(3)]:

- Any factory or establishment with twenty or more workers being employed at any day during the year.(Section 2)
- All the departments, undertakings or the branches of such establishments.(Section 3)
- The Government may by notification apply this act to any establishment even factories having less than 20 employees but such establishments should have at least 10 employees.

### Eligibility



As per Section 2(13) of the Act, employee earning a salary upto Rs 21000 per month is covered for the purpose of extending the benefit of bonus under this Act.

## What are the important compliances under the statute?

### **Payment of minimum (Section 10) and maximum bonus (Section 11)**

- The minimum bonus is 8.33 percent of the salary or wage (Rs.7000) of the employee during the accounting year or ₹100 whichever is higher, in case of an employee below 15 years of age minimum amount is ₹60.
- The basic wage calculation ceiling is Rs 7000 per month “or the minimum wage for the scheduled employment as fixed by the appropriate Government” (whichever is higher) as per Section 12.
- Payment of maximum bonus (section 11) is 20% of Rs.7000.

### **Time limit for payment of bonus (Section 19)**

The wages have to be paid within 8 months of the closing of the accounting year, but on application to the Government it may be extended to two years.

In case of any dispute regarding the bonus, it has to be paid within one month of decision of the authority if it orders the payment of bonus in its decision.

### **Maintenance of register and records (Section 26)**

All the employers have the duty to maintain such registers, records and any other documents which may be prescribed.

The following registers have to be maintained

- Register for computation of allocable surplus - Form A of Payment of Bonus Rules 1975
- Register showing set on and set off of allocable surplus - Form B of Payment of Bonus Rules 1975
- Register for details of bonus due, deducted and actually disbursed - Form C of Payment of Bonus Rules 1975

### **Annual return (Amended Rule 5 of Payment of Bonus Rules 1975)**

All employers have to upload unified annual return on web portal of Ministry of Labour and Employment providing information of particulars which are specified in respect of preceding year - Form D of Payment of Bonus Rules 1975.



## What are the penalties?

If any provisions made under this act is violated or if there is failure to comply to the directions or requisitions made under the act, such a person is held liable and he can be imprisoned for 6 months or be fined Rs. 1000 or both (Section 28)

## What are the biggest challenges?

The biggest challenge faced under this act are:

- Providing minimum bonus even if there is no allocable surplus available to the employer.
- Maintaining proper records which are required by law and to produce them to the inspector on their request.
- In cases of surplus exceeding the minimum bonus the surplus has to be provided in the form of bonus as well leading to the problem of proportioning the amount between the employees.

## 6. The Employees State Insurance Act, 1948 ([here](#))

### What are the organisations to which this law will apply?

This law applies to such establishments which had 10 or more employees on any day of the preceding 12 months including ([Circular](#)):

- Shops, hotels, restaurants, cinemas, preview theatres, road motor transport undertakings and newspaper establishments etc, employing 10 or more persons on any day of preceding 12 months.
- Educational institutions(including public,private, aided or partially aided) run by individuals,trustees, societies or other organization
- Medical institutions (including corporate, joint sector, trust, charitable and private ownership hospitals, nursing homes, diagnostic centres, pathological labs.
- Factories (including factories belonging to the Government)other than seasonal factories [Section 2(4)]
- It will not apply to the employees of those factories or establishments, which belong to or are under control of government whose employees receive similar or superior benefits as available under this Act.

### Important Forms for compliance under the Statute ([ESI General Regulations, 1950](#))

| Regulation | Form | Description                             |
|------------|------|---|
| 10 B       | 01 A | Registration of Factory/ Establishment. |



| 10 C       | 01   | Change of Registration                             |
|------------|------|--|
| 11         | 1    | Declaration Form                                   |
| 12         | 2    | Addition/deletion in Declaration Form              |
| 14         | 3    | Declaration Return Form                            |
| 15-A       | 1-A  | Registration of families                           |
| 15-B       | 1-B  | Change in family declaration Form                  |
| 26         | 5    | Return of Contribution                             |
| 32         | 6    | Register of Employee                               |
| 63         | 9    | Claim of Sickness                                  |
| 66         | 11   | Accident Book                                      |
| Regulation | Form | Description  |
| 68         | 12   | Accident Report                                    |
| 76         | 14   | Claim for permanent disablement benefit            |
| 80         | 15   | Claim of dependent benefit                         |
| 83-A       | 16   | Claim of periodical dependent benefit              |
| 87         | 17   | Notice of Pregnancy                                |
| 88         | 18   | Maternity benefit before confinement               |
| 89         | 19   | Maternity benefit after confinement                |
| 89-A       | 20   | Claim of Maternity benefit by nominee              |
| 95E        | 22   | Claim for funeral expense                          |
| 107        | 23   | Life certificate for Permanent Disablement Benefit |
| 107-A      | 24   | Declaration & Certificate for Dependents Benefit   |

## Penalty

| Section | Offence  | Penalty   |
|---------|--|---|
| 84      | false statements made by any person for availing benefits not meant for him under the Act. The Section also includes under its ambit avoiding or enabling any person to avoid any payments to be | imprisonment upto 6 months or fine upto Rs. 2000 or both. |



|            | made under this Act.   |  |
|------------|--|--|
| 85         | non compliance with the provisions of the Act  | Imprisonment is 6 months upto 1 year and fine Rs 10,000.   |
| 85a        | Failure to pay contribution  | Imprisonment is 6 months upto 3 years and fine Rs. 5,000.  |
| 85(b to g) | Non compliance with other requirements   |  |
| 85-A       | Lays down enhanced penalty for repeat offenders under the Act. Any person who has been convicted for an offence under the Act repeats the same offence again | Imprisonment upto 2 years or fine which may extend to Rs.5000 for a subsequent offence.  |
| Section    | Offence  | Penalty  |
| 85-B       | Power of ESI corporation to recover damages  | -  |
| 85-C       | Court's power to direct payment of contribution  | Whenever an employer faces imprisonment under the Act, the court can order in writing to awarding any other punishment in addition to pay his contribution for the duration of his sentence. |
| 86A        | Offences by Companies  | Any person in charge for conducting the business of the company is liable for punishment under the Act if the offence was committed in his knowledge.  |

## What are the biggest challenges?

- How to determine applicability of the Act and identify Central Government notifications in specific areas
- Identification of grounds and situations when ESI benefit is available and when it is not. ESI applicability varies from state to state. For example, in certain states, you cannot claim ESI in respect of super speciality treatment.
- How to assist and represent the employer in an ESI hearing
- What actions to take if you receive an adverse ESI Assessment order



- How to handle an ESI inspection in your premises

## 7. The Employee's Compensation Act, 1923 ([here](#)) and The Workmen's Compensation Rules, 1924 ([here](#))

What are the organisations to which this law will apply?

As per Section 2 (1) dd read with schedule 2, The Act applies to-

- Employees working in factories, mines, docks, construction establishments, plantations, oilfields.
- Person recruited as the driver, helper, mechanic, cleaner or any other in connection with a motor vehicle and to a captain or other member of the crew of an aircraft.
- Persons recruited for working abroad and who is employed outside India as in Schedule II of the Act.
- Other establishments listed in Schedule II of the Employee's Compensation Act.
- The Act does not apply to-
- Members of armed forces
- Workmen who are covered under ESI (Employee State Insurance) Act.

What are the important compliances under the statute?

### **Employer's liability for compensation (Section 3)**

An employer is made liable under this act to pay compensation when:

- The employee gets injured as a result of accident while working under him.
- The employee contracts any occupational disease which is peculiar to that employment.

### **When does the compensation become due?(Section 4A)**

Compensation has to be paid as soon as it falls due and in case the employer does not agree to the amount which he has to pay, he shall pay the amount which he accepts as provisional payment and such payment does not take away the right of the employee to make further claim.

### **Depositing the compensation with the Commissioner (Section 8)**

The payment of the compensation in case of death of an employee or where payment is made in a lump sum to a woman or a person who is legally disabled, has to be made by depositing it with the commissioner and thus direct payment to the employee or dependant will not amount to payment of compensation.



- When compensation is deposited by the employer to the commissioner for the death of an employee, a statement also has to be furnished in Form A of the Workmen's Compensation Rules, 1924 and he gets a receipt in Form B of the Rules. And in other cases the statement is furnished in Form AA and receipt is provided in Form B of these rules.(Rule 6(1) of the Workmen's Compensation Rules, 1924)
- The statement of disbursement under sub section 4 of section 8 of Employee's Compensation Act has to be furnished in Form C of Workmen's Compensation Rules, 1924. (Rule 6(3) of Workmen's Compensation Rules, 1924)
- If employer deposits compensation in accordance with sub section 2 of section 8, the statement has to be furnished in Form D and receipt is received in Form E of Workmen's Compensation Rules, 1924. (Rule 9 of Workmen's Compensation Rules, 1924)

## **Statements of fatal accidents to be sent to the commissioner (section 10A)**

When the commissioner is intimated about the occurrence of an accident he can ask the employer to provide a statement within thirty days to provide the circumstances causing the death of the employee. The employer also has to send in the statement, his opinion about his liability.

## **Report of fatal accidents and serious bodily injuries (Section 10B)**

If the law requires then the employer or any person on his behalf has to send a report regarding the accident within seven days of such accident to the commissioner or the prescribed authority.

The submission of this report shall be made under Form EE of Workmen's Compensation Rules, 1924. (Rule 11 of Workmen's Compensation Rules, 1924)

## **Returns as to compensation (Section 16)**

The State government may direct that correct return shall be sent about all the incidents of accidents of the previous year and the compensation paid for them and any other information as may be prescribed, to the prescribed authority.

## **Duty to notify the employee about his rights (Section 17A)**

The employee has to be informed of his rights to claim compensation by the employer immediately at the time of employment in Hindi, English or the official language of the area and it should be done in writing as well as through electronic means.



## **Registration of agreements(Section 28)**

If there is any agreement between the parties regarding the lump sum payment for the redemption of half monthly payment or any other such payment, a memorandum has to be sent to the commissioner who on being satisfied of its genuineness records it in a register in the prescribed manner.

Such a memorandum of the agreement which is sent to the commissioner should be in close conformity with the circumstances of the case and it should be sent with Form K or L or M of Workmen's Compensation Rules, 1924 as the case may be.(Rule 48 of Workmen's Compensation Rules, 1924)

## **Other Forms**

Form F - Application for compensation by workmen

Form G - Application for order to deposit compensation

Form H - Application for communication

## **What are the penalties?**

- Under section 4A if the employer fails to pay compensation within one month an interest at the rate of 12 percent p.a. or more is charged and the commissioner can also impose a penalty upto 50 percent of the wages if there is no justification for such a delay.
- Under section 29 if the agreement as required under section 28 is not sent to the commissioner, the employer becomes liable to pay the full amount of compensation and cannot deduct more than half of the payment of compensation by agreement or any other method without permission of the commissioner.
- Under section 18A on the failure to
  - Maintain notice book
  - Send statement required to be sent to the commissioner
  - Send a report
  - Make a return
  - Notify the employee about his right of compensation

The person who has the duty to do so, becomes liable to a fine of ₹50,000 which may be extended to ₹1,00,000.

## **What are the biggest challenges?**

- The formulae for compensation of employees is complicated.
- The Act covers injury to the employee but does not cover loss or damage to his property.



- Making and maintaining returns containing the information about the accident and the compensation paid. The compliance level of the Act has been low.
- Dealing with recovery notices of the commissioner can be tricky if the records are not maintained properly because the calculation mentioned for compensation can differ in the notice based on information available with the commissioner.
- Employee compensation is a cost to the company so it is imperative to choose an insurance cover to provide for cover against employees at workplaces.

## 8. The Employees Provident Fund Act, 1952 ([here](#)) and The Employees' Provident Funds Scheme, 1952 ([here](#))

What are the organizations to which this law will apply?

- As per Section 1 of the Employee's Provident Funds Miscellaneous Provisions Act:
  - Every establishment which is a factory engaged in any industry specified in Schedule I of the Employee's Provident Funds Miscellaneous Provisions Act employing 20 or more people
  - Any other establishment employing 20 or more people.
- As per Section 6 of the Act, Employers and employees both shall contribute 12% of wages in EPF.
- Under Section 2 (b) of **The Employees' Provident Funds and Miscellaneous Provisions Act, 1952**, basic wages refers to all emoluments earned by an employee in accordance with the terms of his/her employment contract but does not include the following:
  - The cash value of any food concession
  - Any dearness allowance, house rent allowance, overtime allowance, bonus, commission, or any other similar allowance payable to the employee
  - Any presents made by the employer.

Compliances under the Statute

**Compliance related to contribution (Section 6 of Employees Provident Funds Miscellaneous Provisions Act)(Rule 29 of The Employees' Provident Funds Scheme)**

| Rule* | Description   |
|-------|---|
| 35    | The employer has to prepare contribution card in Form 3 or 3 A. |
| 40    | Contribution to be entered into contribution card every month   |



|    |  |
|----|--|
| 42 | renewal of contribution card in Form 3 or 3 A.   |
| 43 | Every employer shall within one month from the date of expiration of the period of currency of the contribution cards in respect of members employed by him, send the contribution cards to the Commissioner together with a statement in Form 6<br>If a member leaves service, the employer shall send the contribution card in respect of such members before the twentieth day of the month following that in which the members left the service: |

\*The Employees' Provident Funds Scheme rules, 1952

## Compliance related to the Employees pension scheme (Section 6A of the Employee's Provident Funds Miscellaneous Provisions Act)

|   |   |
|---|---|
| Superannuation pension, retiring pension or permanent total disablement pension to employees of any establishment to which this Act applicable. | Not more than 8.33% of the daily wages is to be contributed in employee pension from employers share. |
|---|---|

## Other important compliances related to duties of employers

|          |  |
|----------|--|
| Rule 33  | Nomination in Form 2   |
| Rule 36  | Send the return to commissioner within 15 days of each month in Form 5 and with declaration in Form 2 of the qualifying employees. |
| Rule 36A | Employers to furnish particulars of ownership have to send Form 5 A in 15 days to regional commissioner.                           |
| Rule 37  | Employer has to allot account number to every employee   |

\*The Employees' Provident Funds Scheme rules

## What are the penalties

As per Rule 76 of The Employees' Provident Funds Scheme, If any person

| Description   | Punishment  |
|---|---|
| <ul style="list-style-type: none"> <li>Deducts or attempts to deduct from wages or other remuneration of member the whole or any part of the employer's contribution</li> </ul> | He shall be punishable with imprisonment which may extend to one year, or |



|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>Fails or refuses to submit any return, statement required by this Scheme or submits false return, statement or other document, or makes a false declaration</li> <li>Obstructs any Inspector or other official appointed under the Act or this Scheme</li> <li>Is guilty of contravention of any other requirement of this Scheme</li> </ul> | with fine which may extend to four thousand rupees<br>or with both. |
|---|---|

Rule 32 A of The Employees' Provident Funds Scheme provides for recovery of damage of default payment:

| Time Period                               | Percentage of Penalty |
|---|-----------------------|
| Less than 2 months                        | 5% PA                 |
| More than 2 months but less than 4 months | 10% PA                |
| More than 4 months but less than 6 months | 15% PA                |
| More than 6 months                        | 25% PA                |

## What are the biggest challenges?

|  |
|--|
| Ensuring the compliance framework including record-keeping, periodic contributions and preparation of adequate documents is always on track and updated.                                   |
| Creation of appropriate wage or salary structure in the organization, to ensure that liability is not disproportionate.  |
| Identification of allowances which will not be included in basic wages from a provident fund perspective.  |
| Ensuring that contractors are always compliant with their obligations under the law in respect of the contract labour provided and do not deceive employers about their compliance status. |
| Maintenance of centralized and localized records under the Act   |
| Dealing with raids and inspections   |



## 9. The Payment of Gratuity Act, 1972 ([here](#))

What are the organisations to which this law will apply?

The Act applies to every establishment including

- Every factory, establishment, mine, oilfield, plantation, port and railway company or shop. (Section 1(3)(a))
- Every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a state in which 10 or more persons are employed, or were employed, on any day of the preceding 12 months.(Section 1(3)(b))
- The act however, continues to apply even if the number of employees goes below 10 at any time.

Important compliances under the statute

- The maximum gratuity amount payable shall not exceed ₹20,00,000/- (increased from Rs. 1000000 to Rs. 2000000 through [Payment of Gratuity \(Amendment\) Act, 2018](#)) as per Section 4(3) [increased from Rs. 10,000,00 through Payment of Gratuity (Amendment) Act, 2018].
- Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than 5 years (Section 4 of the Act) :
  - On his superannuation (A regular payment made by an employee for a future pension), or
  - On his retirement or resignation, or
  - On his death or disablement due to accident or disease.
- Employer may be exempted from liability if he proves (Section 10)
  - That he used due diligence to the enforcement of the act,
  - That the other person in question committed the offence without his knowledge.

What are the Penalties?

- Whenever employer fails in the payment of insurance towards the approved gratuity fund shall be guilty and will be punishable with a fine which may extend to ₹10,000. In case of a continuing offence with a further fine which may extend to ₹1,000 per day. [Section 4(6)]



- Whoever avoids such a payment by false representation or false statements shall be punished with imprisonment for a term which may extend upto 6 months, or with fine which may extend upto ₹10,000, or both [Section 9(1)]
- An employer who makes default in complying with the provisions of the act shall be liable to imprisonment for a term which may extend to 1 year and shall not be less than 3 months with a fine which may extend upto ₹20,000 (minimum amount - ₹10,000) or both [Section 9(2)].

## What are the biggest challenges?

- Dealing with the claims arising out of the deductions.
- Calculating the amount.
- Gratuity is payable irrespective of the financial resources available with the employer.
- Dealing with the nominees.

## 10. The Maternity Benefit Act,1961 ([here](#))

### Eligibility

A woman must have been working as an employee in an establishment for a period of at least 80 days in the past 12 months as per Section 5 (2) of the The Maternity Benefit Act, 1961.

### Maternity Benefit Payments

- Payment during the leave period is based on the average daily wage for the period of actual absence (Section 5).
- A female worker is entitled to a medical bonus of Rs. 3,500 in addition to the salary as per section 8 of the maternity benefits Act, 1961.

### Duration of Maternity Benefit

- The Maternity Benefit Amendment Act has increased the duration of paid maternity leave available for women employees from the existing 12 weeks to 26 weeks as per the provisions of Section 5.
- Under the Maternity Benefit Amendment Act, 2017, this benefit could be availed by women for a period extending up to a maximum of 8 weeks before the expected delivery date and the remaining time can be availed post childbirth.
- For women who are expecting after having 2 children, the duration of paid maternity leave shall be 12 weeks (i.e., 6 weeks pre delivery and 6 weeks post expected date of delivery).

### What are the organizations to which this law will apply?

The Act applies to the following establishment (**u/s 2**)



- All the factories, mines and plantations. It includes any such establishment which belongs to Government.
- Every shop or establishment in which there were 10 or more employees on any day of the preceding 12 months

**Note:** This will be subject to the Shops and Establishments Act of the State.

## What are the important compliances under the statute?

The compliances and forms are prescribed by state wise maternity benefit rules. We have taken the example of Punjab to illustrate the number of compliances applicable in case of maternity benefit Act to establishment engaged in a particular state.

- i. Muster Roll shall be maintained by the employer in **Form A** as per Section 20 and 28 (2A) read with Rule 3 of Punjab Maternity benefit Rules, 1967
- ii. Notice of claim for maternity benefit by the woman employee to the employer in **Form B** as per Section 6 of the Maternity Benefit Act 1961 read with Rule 4 and Rule 6 of the Punjab Maternity Benefit Rules, 1967.
- iii. Proof of pregnancy, delivery of child or miscarriage provided by a medical officer in **Form C** as per sections 6(5) and Rule 28(2)e read with Rule 5.
- iv. Nursing breaks of twenty (20) minutes, provided that in case the crèche or place where children are left by a woman while on duty is not in the vicinity of the place of work a period up to 15 minutes may be allowed for the purpose of journey to and from crèche or the place as per Section 11 read with Section 28(2)(1) read with Rule 7.
- v. The abstract of the provisions of the Act and the Rules shall be exhibited in **Form K** in a conspicuous place by the employer in every part of the establishment in which women are employed as per Sections 1 and 28(1) read with Rule 15 of the Punjab Maternity Benefit Rules, 1967
- vi. The employer shall supply to every woman employed by him at her request free of cost copies of Forms '**B**', '**C**', '**D**', '**E**', '**F**', '**G**', '**H**', and '**I**'.
- vii. **Annual Return** on or before the 21<sup>st</sup> day of January in each year in **Form 'L'**, '**M**', '**N**' and '**O**' as per Section 28(2)(k) read with rule 16.
- viii. If the employer of an establishment to which the Act applies sells, abandons or discontinues the working of the establishment, he shall, within one month of the date of sale or abandonment or four months of the date of discontinuance as the case may be, submit to the Competent Authority a further return in each of the said Forms in respect of the Period between the end of the preceding year and the date of sale, abandonment or discontinuance.



## *Penalty for non-compliance (Section 21)*

| Offence   | Punishment  |
|---|---|
| employer failing to pay any amount of maternity benefit to a woman entitled under this Act                                      | punishable with imprisonment which shall not be less than three months but which may extend to one year   |
| discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, | punishable with imprisonment which shall not be less than three months but which may extend to one year   |
| In case of employer contravening the provisions of this Act or the rules made thereunder  | he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two hundred rupees but which may extend to five thousand rupees. |
| Failure to Display <b>Abstract</b> of Act u/s 19  | Imprisonment may extend to one year or fine u/s 21(2)   |

## What are the biggest challenges?

- The employer has to provide full wages for the period of maternity leave to the employee. The employer has a statutory mandate u/s 11A of the Act to provide creche facilities in case the number of employees is 50 or more.
- Unlike other countries where the state shares the cost of providing such benefits, in India the cost is to be borne by the employer himself.
- Every woman returning to work post delivery is entitled to two breaks in the course of her day to nurse her newborn until she turns 15 months old. However, these breaks remain unexecuted in most cases.
- Provision of a creche, especially for smaller organizations which lack the financial resources for the same, is a challenge, until there are alternate businesses in the economy to whom this responsibility can be outsourced.
- Although the Equal Remuneration Act prohibits discrimination in remuneration and other terms of employment between men and women, the long duration of maternity leave (26 weeks, and fully paid), applicable for up to 2 children, is a huge deterrent for several organizations in hiring female candidates, as it increases their financial costs significantly. Further, organizations view this requirement, coupled with the POSH Act, as being specifically onerous on them.





**Kishore Deshpande,**  
HR Consultant, Cisco.

“ First I did a course on sexual harassment from LawSikho. On seeing my success, and the subsequent handling of Training Sessions, holding workshops etc. the management asked me to go in for a Diploma in Labour Laws with iPleaders. I have now ended up enrolling for the course in November, 2019 and have already completed 5 assignments. Even now I have become addicted to reading and writing articles and penning my thoughts at every opportune moment that I can grab. ”

**Debojyoti Saha,**  
HR Manager at Tata Consultancy Services.

“ The classes are going well. I really like the study materials I can grab. ”

**Jaya Mishra, former Head HR (India),**  
Contentsphere Technologies, currently owner of an HR consultancy firm.

“ The course is quite extensive and I refer to it frequently as a resource when I take up consultancy arrangements. It is important for all HR professionals to be aware of this. ”



<https://lawsikho.com/course/labour-law-hr-managers>



LawSikho.com

## 11. Sexual Harassment (Prevention, Prohibition and Redressal) Act, 2013 ([here](#))

What are the organizations to which this law will apply?

This Act inter alia applies to [Section 2(o)]

- Any private sector organisation or a private venture,
- undertaking
- Enterprise
- Institution
- Establishment
- Society
- Trust
- Non-governmental organisation,
- Unit
- Service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service.

## What constitutes sexual harassment at the workplace

The POSH Act, 2013 has covered instances of conduct that will be deemed inappropriate constituting sexual harassment at workplaces. This behaviour includes sexually unwelcome tinted behaviour. [Section 2(n)]

- It can be through making unwelcome physical contact and advances.
- Requesting or demanding sexual favours
- Making inappropriate sexually coloured remarks
- Showing pornography
- Any other verbal, non-verbal conduct of physical nature

Some examples of behaviour that constitute sexual harassment at the workplace

- Making sexually suggestive remarks or innuendos.
- Serious or repeated offensive remarks, such as teasing related to a person's body or appearance.
- Offensive comments or jokes.
- Inappropriate questions, suggestions or remarks about a person's sex life.
- Displaying sexist or other offensive pictures, posters, mms, sms, whatsapp, or e-mails.
- Intimidation, threats, blackmail around sexual favours.
- Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones.
- Unwelcome social invitations, with sexual overtones commonly understood as flirting.



- Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit.

Some examples that do not constitute sexual harassment

- Following-up on work absences.
- Requiring performance to job standards.
- The normal exercise of management rights.
- Work-related stress e.g. meeting deadlines or quality standards.
- Conditions of works
- Constructive feedback about the work mistake and not the person

## Categories of employees protected under the Act

Women employees are granted protection under the Act. The Act covers women in the following work capacities Section?

- Women employed in full time, part time, ad-hoc and daily basis
- women employed as contract workers
- Women employed through agents
- probationers, trainees, apprentices, interns
- Women working on a voluntary basis without remuneration.

The employment agreement is not necessary for the purpose of protection under the Act.

## How to handle frivolous complaints

- This is a very sensitive area and any allegations/ complaints, however discreetly handled, could prove derogatory for the person against whom it has been raised.
- After receiving the complaint ensure that it is made by the person who is mentioned in that complaint and whether she is actually willing to go ahead with the complaint or not. It should be ensured that the complainant is aware about the consequences of a frivolous.
- Taking necessary action
  - If there is a existing policy, action will be taken according to it
  - If there is no provision in the policy, then it should be decided according to the principles of natural justice and general rules.

**Note:** If you don't have a provision regarding this in the policy, draft and include it in the policy to deal with similar future complaints.

- To avoid such complaints, sensitization of the employees should be ensured through training sessions, seminars etc.



What are the important compliances under the statute?

## **Compliance with regard to Internal complaints committee**

How do you go about forming one for your organisation? Are you required to constitute an ICC at each branch office or a centralised ICC will suffice?

Section 4 of the POSH Act specifies the following with regard to formation of an Internal complaints committee.

- The employer of a workplace is responsible to constitute an Internal Complaints Committee by an order in writing.
- The internal complaints committee shall be constituted at all administrative units or branches of the workplace.

As an HR manager you need to have a plan in place to set up and operationalise the Internal complaints committee at every location. Implementing a reporting framework is essential too.

The next question that comes into the mind is what shall be the composition of members in the ICC? Is it mandatory to have someone from outside your workplace as a member on the committee?

| Member              | Eligibility  |
|---------------------|--|
| Chairperson         | Senior Women Employee<br><br>(If not available then a senior woman employee from any office of the employer can be nominated). |
| Minimum two members | From amongst employees. Those having knowledge and experience of social work should be preferred.                              |
| External Member     | From NGO/ associations committed to the cause of women or familiar with the issue of sexual harassment.                        |

**Note:** One half of the members on the committee should be women.

Do you know that the law casts out a duty on the employer to display at any conspicuous place in the workplace, the penal consequences of sexual harassment; and the order constituting the Internal Committee?

This can be done through fixing posters around the offices and especially at places where the employees will obviously read the posters, for example, near cafeteria, water cooler, coffee machines, washrooms, photocopier machines, etc.



Further section 19 lists down duties of the employer which you as an HR manager may be required to comply with on behalf of the employer

- It is your basic responsibility to provide a safe working environment at the workplace which includes safety from the persons coming into contact at the workplace.
- Organize workshops and awareness programmes at regular intervals for sensitizing the employees with the provisions of the Act.
- The rules prescribe orientation programmes for the members of the Internal Committee.
- Provide necessary facilities to the internal committee or the local committee, as the case may be, for dealing with the complaint and conducting an inquiry.
- Assist in securing the attendance of respondent and witness before the internal committee or the local committee.
- Make available such information to the Internal Committee or the Local Committee, as the case may be, as it may require having regard to the complaint made under sub-section (1) of Section 9 regarding the procedure of making a complaint.
- Provide assistance to the woman if she so chooses to file a complaint in relation to the offence under the Indian Penal Code or any other law for the time being in force.
- If a perpetrator is not an employee, the company/organization should help employees to initiate legal action against the perpetrator for sexual harassment under the criminal law like helping her to file an FIR with the Police.
- Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct.
- Monitor the timely submission of reports by the internal committee.

The Internal Complaints Committee will require facilitation and assistance from the company/organization's end to carry out the enquiries. The facilitation from the company/organization's side can include: –

## **Compliance with respect to employment contracts**

- Sexual Harassment is classified as a form of misconduct under the POSH law. There must be a specific clause in the employment contract with this regard.
- It must also point out the consequences of indulging into the Act of sexual harassment which can include deduction of wages, termination of employment etc.



## Putting up a anti sexual harassment Policy

The law mandates that every company must have an anti-sexual harassment policy as per Rule 13 of POSH Rules.

It should broadly cover guidelines

- Prohibition
- Prevention and redressal of sexual harassment at the workplace
- Promote gender-sensitive safe workspace
- Remove underlying factors that contribute towards a hostile work environment against women.
- Application of the law in a gender-neutral manner
- Establishment of mechanisms on how to deal with false complaints,
- Training of ICCs on handling complaints and the decision-making process,
- Imposition of consequences and organization-wide sensitization of workers, Especially in regional and factory-level environments where they do not understand English or Hindi is challenging.

## Compliance with respect to Annual report

The annual report which the Complaints Committee shall prepare under Section 21, shall have the following details:

- Number of complaints of sexual harassment received in the year;
- Number of complaints disposed off during the year.
- Number of cases pending for more than ninety days.
- Number of workshops or awareness programme against sexual harassment carried out.
- Nature of action taken by the employer or District Officer.

## What are the Penalties under the Act

### Where it is given?

| Nature of Contravention  | Nature of Penalty    |
|--|----------------------|
| Contravention of provisions of the Act by the employer<br><br>For eg: Failure to constitute an Internal Complaints Committee | Fine upto Rs. 50,000 |



|   |   |
|---|---|
| Contravention of the provisions for the second time | liable to twice the punishment, which might have been imposed on a first conviction for the same offence.   |
|   | License shall be liable to get cancelled or withdrawn or non-renewed or cancellation of the registration, as the case may be, by the Government or local authority required for carrying on his business or activity. |

## What are the biggest challenges in implementation of POSH?

- Training the ICC on how to receive and take action on complaints, especially in the investigation and decision-making process, as they are technical in nature.
- Decision-making requires the use of principles of law such as natural justice, appreciation of evidence and the exercise of adjudicative skills, which ICC members (including lawyers) may not have sufficient practice in because they may not have been judges.
- Sensitization of 100% of the workforce (and implementation of refresher programs). This is a challenge as employees work in diverse scenarios. This is particularly a challenge for off-site workers, consultants and people who do not speak English or Hindi as most sensitization programs are made in these languages. Tracking the implementation on such a wide scale is also a challenge.
- Maintenance of confidentiality of the complainant and accused is critical but also a challenge in an organizational context.
- Onboarding of male employees in the implementation process so that they do not view the law adversely and in a way that restricts team-wide collaboration.
- Gender neutral implementation of the law to ensure that men are also protected.
- Dealing with malicious or false complaints.
- Implementation of the law when a member of the senior management or the head of the organization is involved.
- Dealing with unreported cases.
- Containing reputational damage due to non-handling or inadequate handling of a case.



## Important points which an HR manager should know about drafting

### Important contracts

#### Employment arrangement

The nature of arrangement is full time from the premises of the office.

- The working relationship is full time. it is the most heavily regulated agreement because of the nature of the working arrangement.
- Employees have a number of statutory obligations towards employees with respect to passing of social security benefits to the employees, working hours, granting leaves.
- An HR manager needs to ensure that while drafting employment agreement for this type of working relationship he adheres to a number of laws
- For example, the letter of appointment will be governed by shops and establishment Act
- While the employment agreement can be governed by standing orders and multiple laws
- The format of the employment agreement differs based on whether it is time-based employment(full-time or part-time), fixed-term employment, regular employment, temporary employment, etc.
- Ordinary employees and top level executives will have different employment contracts.
- You will also need to keep the provisions of appropriate statutes in mind while drafting key terms, such as the Minimum Wages Act, Payment of Wages Act and Shops and Establishments Act.

#### Fixed term employment arrangement

- Fixed term employment arrangement allows the company to employ staff on the basis of their actual requirement.
- Companies running seasonal businesses will be benefited by adopting such an arrangement.



- For an HR manager, it offers flexibility in terms of hiring.
- Under a fixed term employment agreement, the employee concerned is entitled to all the statutory benefits otherwise accruing to a salaried employee, this includes among others leave, overtime, provident fund, gratuity, bonus etc. as per the applicable laws.
- Similarly, deductions go towards Provident Fund contributions, insurance amounts, labour welfare funds, canteen facilities etc.
- TDS is deducted from salary as per section 192 of the Income Tax Act.
- The employee is taxed accordingly as per his taxable income slab.
- On termination of a fixed term contract though, no severance dues become payable which would otherwise have been applicable, and no conditions precedent are required to be fulfilled as contemplated under Section 25 F of the Industrial Disputes Act.

## List of Prior Agreements

[To be inserted]

**Note:** This sample employment agreement can be used as a base draft for your employees. You may need to modify this suitably to meet specific requirements.

**[PRINT ON STAMP PAPER OF APPROPRIATE VALUE]**

### **Template - EMPLOYMENT AGREEMENT**

This Employment Agreement ("Agreement") is made at [\_\_\_\_\_] on this [\_\_\_\_\_] of [\_\_\_\_], 2011 **[Note: Please insert the date of signing the agreement].**

**By and Between:**

**[INSERT NAME OF COMPANY / LLP / PARTNERSHIP]**, a company / LLP / partnership incorporated in India under the Companies Act, 1956 / Limited Liability Partnerships Act, 2008 / registered under the Indian Partnership Act, 1932, having its registered office at **[INSERT ADDRESS OF REGISTERED OFFICE OF COMPANY / LLP/ ADDRESS OF OFFICE OF PARTNERSHIP]**, ("Organization", which expression shall, unless it is repugnant to the meaning or context, be deemed to include its successors and permitted assigns) of the First Part.

**And**



[\_\_\_\_], son of [\_\_\_\_], aged about [\_\_\_\_] years residing at [\_\_\_\_]<sup>1</sup> ("Employee") of the Second Part.

The Organization and Employee shall hereinafter be referred to as the "**Parties**" in the collective and as a "**Party**" in the singular, as the context may so require.

**WHEREAS:**

- A. The Organization is engaged in the business of **[Insert briefly the business activity of organization]**
- B. The Organization and the employee have agreed to terminate the previous terms of engagement of the Employee.
- C. In supersession of the previous terms of engagement, the Organization wishes to employ the Employee on the terms and conditions contained in this Agreement.
- D. The Organization has offered and Employee has accepted the position in the Organization as [\_\_\_\_][**Note: Please insert the designation**] on the terms and conditions as set out in this Agreement.

**NOW THEREFORE**, in consideration of the promises and the mutual covenants set forth herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

**1. DEFINITIONS AND INTERPRETATIONS:**

- 1.1. For the purposes of this Agreement the following terms shall have the following meanings:

**"Board" or "Board of Directors"** means the board of directors of the Organization as constituted from time to time.

**"Effective Date"** means the date of execution of this Agreement.

- 1.2. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted or consolidated from time to time and all statutory instruments or orders (including delegated legislation whether by way of rules, notifications, bye-laws, guidelines, as amended, extended or re-enacted or consolidated from time to time);

- 1.3. Words elsewhere defined/explained in this Agreement shall have the meaning so ascribed;

- 1.4. Words denoting the singular shall include the plural and vice versa;

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<sup>1</sup> **Note: Please insert the details relating to employee.**



- 1.5. Words denoting any gender include all genders; and
- 1.6. The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.

## 2. APPOINTMENT

The Organization hereby appoints the Employee as the [\_\_\_\_\_] [**Note: Please insert the designation**] of the Organization and Employee agrees to be employed with the Organization as the [\_\_\_\_\_] [**Note: Please insert the designation**] from the Effective Date and be bound by the terms and conditions laid down in the Agreement. The Employee's principal place of employment shall be in [\_\_\_\_\_] [**Note: Please insert city/cities and country of work**]. The Employee may be required to (i) relocate to other locations in India or abroad; and (ii) during his employment under this Agreement, the Employee shall undertake such travel within and outside India, from time to time, as may be necessary in the interests of the Organization's business or as directed by the Board in connection with or in relation to the business of the Organization.

## 3. TERM

The term of the Employee's employment with the Organization will commence on the Effective Date and will be valid from the date hereof. Subject to clause 7 (*Termination*) below, the Employee agrees to remain employed with the Organization for a period of at least [\_\_] years from the Effective Date.

## 4. POWER, FUNCTIONS AND RESPONSIBILITIES OF THE EMPLOYEE

- 4.1. The Employee shall report to the [\_\_][**Please insert the designation of the person/department the employee must report to.**] and shall also be subject to the overall supervision and control of the Board. The Employee shall be responsible for [\_\_].[**Please insert the role of the Employee.**]
- 4.2. The Employee agrees to comply with various Organization policies, rules and regulations as may be updated from time to time unilaterally by the Organization.

## 5. DUTIES AND OBLIGATIONS

- 5.1. The Employee shall work full time for the Organization, devoting his time, attention and skill to the duties of his office and shall faithfully, efficiently, competently and diligently perform such duties and exercise such powers as may from time to time be assigned to or vested in him and shall comply with all lawful directions given to him by or under the authority of the Board and use his best endeavours to promote and extend the business of the Organization and to protect and further the interests and reputation of the Organization.



- 5.2. The Employee shall act diligently and to the best of his ability in the discharge of his duties and subject to any restrictions or limitations imposed by the concerned officer or policy of the Organization in this regard. The Employee's responsibilities will include but not be limited to the following:

[\_\_\_\_\_] [Note: Describe or list out the roles, responsibilities, actions to be taken by the employee in about 100-300 words. This is to be customised depending on the job profile for each employee]

- 5.3. The Employee shall, unless prevented by ill-health or disability, devote adequate time, attention and abilities to the business of the Organization and shall faithfully serve the Organization and use his best endeavours to promote the interest of the Organization.
- 5.4. The Employee shall at all times promptly give to the [\_\_\_\_\_] [Please insert the designation of the person/department the employee must supply information to. Such person/authority could be the same as in Clause 4.1 or some other authority depending on the Organization's needs and structure] all such information, explanations and assistance as the Board may require in connection with the business of the Organization.
- 5.5. During the currency of this Agreement, the Employee shall not directly or indirectly engage himself in any other business, occupation or employment whatsoever, without the approval of the Organization.

## 6. COMPENSATION AND BENEFITS

- 6.1. In consideration of his services to the Organization, the Organization shall pay to the Employee during the term of this Agreement, gross remuneration of Rs. [Insert amount in figures] (Rupees [Insert amount in words]) per annum, subject to deduction of tax at source. This remuneration shall be paid to the Employee in accordance with the Organization's normal payroll practices. The detailed break-up of annual gross remuneration is annexed hereto as Schedule A.
- 6.2. Save and except as otherwise provided in this Agreement or as may be decided by the Board from time to time, the Employee shall be entitled to all such benefits that may be available to him as per law/Organization policy for its management-level employees generally, as in effect from time to time.
- 6.3. The Employee shall be entitled to paid vacation, personal leave and sick days in accordance with the Organization's vacation and leave policies for its employees generally, as in effect from time to time. Notwithstanding anything to the contrary contained in such policies, the Employee agrees and accepts that he shall not have the right to encash, seek encashment or carry forward any unutilized leave in a given year. The Employee may however be permitted to carry forward his unutilized leave with the prior approval of the [\_\_\_\_\_] [Please insert name of



**appropriate authority]** of the Organization or the person in charge of managing human resources, subject to such conditions as may be imposed by the Organization.

## 7. TERMINATION

### 7.1. Termination for Cause

The Organization shall have the right to terminate this Agreement at any time with immediate effect by notice in writing for any one or more of the following reasons ("Cause"):

- a) If the Employee is in the opinion of the Organization guilty of inattention or negligence in the conduct of the business of the Organization or of any other act or omission inconsistent with his duties or commits any serious or repeated or continual breach of any of his obligations under this Agreement; or
- b) If the Employee is absent without leave for a period of [thirty (30) days] **[Note: Number of days of absence entitling the owner to terminate may be modified subject to the needs of business owner]**; or
- c) If the Employee is in the opinion of the Organization guilty of any act or omission adversely affecting the goodwill, reputation, credit, operations or business of the Organization, or commission of any crime involving material dishonesty or moral turpitude; or
- d) If the Employee is in the opinion of the Organization guilty of any dishonesty, fraud, breach of statutory duty, breach of confidentiality obligations, pilferage and theft, attending work under the influence of alcohol, drugs or other intoxicating substances, breach of the Organization rules and policy, disobedience of reasonable orders from superiors or the Board, causing actual or threatening physical harm or damage to Organization property, or any other act of misconduct.

### 7.2. Voluntary Resignation, Death or Disability

- a) The Employee may voluntarily resign from his employment as an Employee of the Organization at any time on giving a prior written notice of 3 months to the Organization. The Organization may at its sole discretion waive all or part of the notice.
- b) In the event of termination of the Agreement due to the Employee's death or disability (physical or mental), the Employee shall be entitled to the basic salary pro-rated to the date of termination. All other obligations of the



Organization towards the Employee pursuant to the Agreement shall automatically terminate and extinguish.

- c) In the event of termination of this Agreement pursuant to clause 7.1(a) or 7.2(a) before the expiry of [To be inserted by business owner]<sup>2</sup> years from the Effective Date, the Employee shall be liable to pay the Organization liquidated damages equal to the total gross salary earned by the Employee during the previous [To be inserted by business owner]<sup>3</sup> months from the date of such termination.

### 7.3. Retirement and termination for ill-health

The age of retirement of the Employee from the services of the Organization shall be [Insert number] years. The Organization at its sole discretion may extend the age of retirement subject to the approval of the Board. If the Employee shall at any time be prevented from ill-health or accident or any physical or mental disability from performing his duties hereunder, he shall inform the Organization and supply it with such details as it may be required and if he shall be is unable by reason of ill-health or accident or disability, for a period of [Insert number] days or more in any period of twelve consecutive calendar months, to perform his duties hereunder, the Organization may forthwith terminate this Agreement.

### 7.4. Termination without Cause

Notwithstanding anything to the contrary herein contained, the Organization shall be entitled to terminate this Agreement at any time by giving the Employee [3 (three)]<sup>4</sup> months' notice in writing or payment of his basic salary in lieu thereof, without assigning any reason or without Cause. In the event of termination by the Organization under this clause 7.4 or in case of a resignation by the Employee as per clause 7.2(a), the Organization may require the Employee to absent himself from its premises on garden leave and not participate in the working of the Organization during the unexpired portion of the notice period.

### 7.5. Handover

Upon the termination of this Agreement for any reason, the Employee shall hand over charge to such person nominated for that purpose by the Organization and shall deliver to such person such papers, documents and other property of the Organization as may be in his possession, custody, control or power, including but not limited to any phones, computers, vehicles, etc provided by the Organization.

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<sup>2</sup> This number should ideally be limited to 1-3 years, that is, the time when the organization is involved in imparting skills and training to the employee.

<sup>3</sup> This number, in order for the clause to held legally enforceable, should ideally be linked in some way to the cost incurred by the business owner for hiring and training the employee (including costs search costs and training cost).

<sup>4</sup> Customized number may be inserted.



## 8. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 8.1. The Employee shall not during the continuation of this Agreement or thereafter, divulge or make use of any trade secret or confidential information concerning the business of the organization or any of its dealings, transactions and affairs or any information concerning any of its suppliers, agents, distributors or customers which the Employee possesses or comes into possession while in the employment of the organization or which he may make or discover while in the service of the organization and the Employee shall also use his best endeavour to prevent any other person from doing so. All data, documents, plans, drawings, photographs, reports, statements, correspondence, etc. and technical information, know-how and instructions as well as business details or commercial policies that pass to the Employee or which come to the Employee's knowledge shall be treated as confidential and the Employee shall be bound to keep secret all such confidential matters including papers and documents, computer floppies, CDs or other media containing the same and shall not disclose, communicate, reproduce or distribute the same or copies thereof to anyone except in the course of the rightful discharge of his duties as the Employee of the Organization.
- 8.2. The Employee shall not at any time hereafter in any way make known or divulge to any person, firm or body corporate any of the methods, systems or other information of any kind in relation to the affairs of the Organization whether such information is or was acquired by him before execution of this Agreement, in the course of his employment hereunder or otherwise.
- 8.3. The Employee acknowledges that ownership of, and all right, title, and interest in, all work product, improvements, developments, discoveries, proprietary information, trademarks, trade names, logos, art work, slogans, know-how, processes, methods, trade secrets, source code, application development, designs, drawings, plans, business plans or models, blue prints (whether or not registrable and whether or not design rights subsist in them), utility models, works in which copyright may subsist (including computer software and preparatory and design materials thereof), inventions (whether patentable or not, and whether or not patent protection has been applied for or granted) and all other intellectual property throughout the world, in and for all languages, including but not limited to computer and human languages developed or created from time to time by or for the Organization by the Employee whether before execution of this Agreement or afterwards (the "**Intellectual Properties**") shall vest in the Organization. The Employee expressly agrees that all Intellectual Properties created by the Employee shall be under a contract of service. In consideration of his employment with the Organization, the Employee hereby transfers and shall be deemed to have assigned in favour of the Organization, all rights, title and interest in and to all the Intellectual Properties, together with the rights to sublicense or transfer any and all rights assigned hereunder to third parties, in perpetuity. The Employee agrees that such assignment shall be perpetual, worldwide and royalty free. The Employee agrees that notwithstanding the provisions of Section 19(4) of the



Copyright Act, 1957, such assignment in so far as it relates to copyrightable material shall not lapse nor the rights transferred therein revert to the Employee, even if the Organization does not exercise the rights under the assignment within a period of one year from the date of assignment. The Employee acknowledges and agrees that he shall waive any right to and shall not raise any objection or claims to the Copyright Board with respect to the assignment, pursuant to Section 19A of the Copyright Act, 1957. The Employee shall assist and cooperate with the Organization in perfecting the Organization's rights in the Intellectual Properties.

- 8.4. The Employee shall forthwith communicate to the Organization and transfer to it the exclusive benefit of all inventions, discoveries and improvements which he may make or discover during the continuance of his engagement relating to the Organization's trade or business and will give full information as to the exact mode of working and use the same and also all such explanation and instructions, to the officers and workmen of the Organization as may be necessary to enable them effectually to work the same and will, at the expense of the Organization, furnish it with all necessary plans, drawings and models.
- 8.5. The Employee shall, whenever requested so to do by the Organization whether during or after the termination of his employment hereunder, at the cost of the Organization execute and sign any and all applications, assignments and other instruments which the Organization may deem necessary or advisable in order to apply for and to obtain letters, patent, design, registration or other forms of protection for the aforesaid improvements, inventions and discoveries in such countries as the Organization may direct and to vest in the Organization the whole, right, title and interest therein.
- 8.6. A list of all inventions belonging to the Employee and made by him before the execution date of this agreement is annexed as Schedule B (**Excluded Inventions**). Intellectual property rights in Excluded Inventions will not be vest in the Employer. If any invention (not listed in Schedule B) is incorporated in any product, service, program, process, machine, development or work in progress, or released or unreleased product of the Employer by the Employee, the Employer shall have an irrevocable, exclusive and royalty-free license to exercise all rights and exploit the invention on a worldwide basis, and without any restriction as to the extent of the Employee's ownership or interest.
- 8.7. Employee has identified in Schedule C all agreements that were entered into with prior employers regarding preservation of confidential information and / or the ownership of inventions. It is agreed that the Company does not expect the employee to divulge confidential information of a prior employer or otherwise violate any provision of such agreements. The Employee agrees to promptly supply to the Company copies of any such written agreements upon request.

## 9. NON-COMPETITION AND NON SOLICITATION



- 9.1. *Non-competition:* The Employee acknowledges that he is, in the course of his employment with the Organization, likely from time to time to obtain knowledge of trade secrets, Intellectual Properties and other confidential information of the Organization and its affiliates and to have dealings with the customers and suppliers of the Organization. The Employee acknowledges the importance and commercial significance of the covenants under this clause, and admits and acknowledges that he has various other technologies and information which if deployed by him elsewhere or for a third party during the course of his employment or after he ceases to be an employee or ceases to be associated with the Organization, would result in him competing against the Organization. The Employee undertakes the following to the Organization:

That he shall not, for the duration of employment with the Organization, and for a period of two (2) years after the date on which he ceases to be employed by the Organization, either personally or through an agent, Organization or through a partnership or as a shareholder, joint venture partner, collaborator, consultant, advisor, principal contractor or sub-contractor, director, trustee, committee member, office bearer or agent or in any other manner whatsoever, whether for profit or otherwise:

- i) be concerned in any business directly or indirectly manufacturing, operating, selling or distributing products or services which compete with any business then carried on by the Organization; and
  - ii) except on behalf of the Organization, canvass or solicit business or custom for products of a similar type to those being manufactured or dealt in or for services similar to those being provided by the Organization from any Person who is a customer of the Organization;
- 9.2. *Non-solicitation:* For two (2) years following termination of Employee's employment (i) the Employee shall not solicit, encourage, or induce or attempt to solicit, encourage, or induce any (A) employee, marketing agent, or consultant of the Organization to terminate his employment, agency, or consultancy with the Organization or any (B) prospective employee with whom the Organization has had discussions or negotiations within six months prior to Employee's termination of employment, not to establish a relationship with the Organization, (ii) induce or attempt to induce any current customer to terminate its relationship with the Organization or (iii) induce any potential customer with whom the Organization has had discussions or negotiations within six months prior to Employee's termination of employment not to establish a relationship with the Organization.
- 9.3. The Employee agrees that any material breach or written threatened breach of this clause may not be remedied solely by monetary damages, and that in addition to any other remedies, the Organization is entitled to seek injunctive relief against the Employee in a forum of competent jurisdiction for any such breach.



9.4. The Employee agrees and acknowledges that the restrictions contained in this clause are considered to be reasonable in all the circumstances for the protection of the legitimate interests of the Organization and shall be enforceable independently. While the undertakings and agreements under clause 9 are considered by the Organization and the Employee to be reasonable in all circumstances, if one or more should be held to be invalid as an unreasonable restraint of trade or for any other reason whatsoever by a final adjudication of any tribunal or court of competent jurisdiction, but would have been held valid if part of the wording thereof had been deleted or the period thereof reduced or the range of activities or area dealt with reduced in scope, the said undertakings and agreements shall apply with such modifications as may be necessary to make them valid and effective.

## 10. SETTLEMENT OF DISPUTES AND GOVERNING LAW

- 10.1. This Agreement shall be governed and interpreted according to the laws of India.
- 10.2. The Parties shall seek to resolve any dispute, controversy, claim or breach arising out of or in relation to this Agreement including any questions, issues or disputes concerning its existence, validity or termination, by amicable arrangement and in the spirit of compromise, and only if the Parties fail to resolve the same by amicable arrangement and compromise within a period of fifteen (15) days of receipt of written notice of the same by the other Party, either Party may resort to arbitration as provided herein.
- 10.3. Any dispute, controversy, claim or breach arising out of or in relation to this Agreement, including any questions, issues or disputes concerning its existence, validity or termination, shall be referred to arbitration in accordance with the Arbitration and Conciliation Act, 1996 of India. The arbitral tribunal shall consist of three members of whom the Parties shall nominate one each and the thus nominated two members shall in turn appoint the third member. The arbitration shall be conducted in English language at [\_\_\_\_\_] [**specify most convenient location**]. Depending on the consent of parties, the arbitrator may decide to hold proceedings at any other location.
- 10.4. This agreement shall be subject to jurisdiction of courts at [\_\_\_\_\_] [**specify most convenient location**] only.

## 11. EQUITABLE REMEDIES AND INDEMNIFICATION

The restrictions contained in the clauses 8 and 9 are necessary for the protection of the business and goodwill of the Organization and are considered by the Employee to be reasonable for such purposes. The rights and obligations of the Parties under clauses 8 and 9 of the Agreement shall survive the termination of this Agreement and shall not be extinguished by termination of this Agreement. The Employee agrees that any breach of either such clause is likely to cause the Organization substantial and irrevocable damage



that is difficult to measure. Therefore, in the event of any such breach or threatened breach, the Employee agrees that the Organization, in addition to such other remedies which may be available, shall have the right to obtain an injunction from a court, tribunal or any other forum of competent jurisdiction, restraining such a breach or threatened breach and the right to specific performance of the provisions of either such paragraph, and the Employee hereby waives the adequacy of a remedy at law as a defense to such relief.

## **12. MODIFICATIONS OF THIS AGREEMENT**

No amendment, modification or addition to this Agreement shall be effective or binding on either of the Parties hereto unless set forth in writing and executed by them through their duly authorized representatives; and subject to obtaining requisite approvals, if any, following such execution.

## **13. SEVERABILITY**

Should any part of this Agreement be declared illegal or unenforceable, the Parties hereto will cooperate in all ways open to them to obtain substantially the same result or as much thereof as may be possible, including taking appropriate steps to amend, modify or alter this Agreement. If any term or provision of this Agreement shall be hereafter declared by a final adjudication of any tribunal or court of competent jurisdiction to be illegal, such adjudication shall not alter the validity or enforceability of any other term or provision unless the terms and provisions so declared are expressly defined as a conditions precedent or as of the essence of this Agreement, or comprising an integral part of, or inseparable from the remainder of this Agreement.

## **14. ASSIGNMENT**

This Agreement being one for personal services cannot be assigned by the Employee.

## **15. NOTICE**

Any communication required to be given under this Agreement shall be effective when delivered personally to the Party specified below; or when received either: (i) via certified or registered mail, return receipt requested, postage prepaid; or (ii) via express mail or reputable courier service, by such Party. Any notice or other communication required to be given, shall be in writing and duly addressed to the parties at:

- a. In the case of the Organization:

H.R. Manager / [Insert name of appropriate authority in Organization],  
[Insert name, postal address, telephone number, email id of Organization]

- b. In the case of the Employee:

[Insert name, postal address, telephone number, email id of Employee]



The Employee shall be obligated to inform the Organization of any change made to this address at any time.

## 16. COUNTERPARTS

This Agreement will be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

## EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement ("Agreement") is made at [\_\_\_\_] on this [\_\_\_\_] of [\_\_\_\_], 2014

### By and Between:

[\_\_\_\_], a [company / LLP / partnership] incorporated in India under the [Companies Act, 1956 / Limited Liability Partnerships Act, 2008/ Indian Partnership Act, 1932], having its registered office at **[INSERT ADDRESS OF REGISTERED OFFICE OF COMPANY / LLP/ ADDRESS OF OFFICE OF PARTNERSHIP]**, ("Organization", which expression shall, unless it is repugnant to the meaning or context, be deemed to include its successors and permitted assigns) of the First Part.

### And

[\_\_\_\_], son of [\_\_\_\_], aged about [\_\_\_\_] years residing at [\_\_\_\_] ("Executive") of the Second Part.

The Organization and Executive shall hereinafter be referred to as the "Parties" in the collective and as a "Party" in the singular, as the context may so require.

### WHEREAS:

- A. The Organization is engaged in the business of software products for end-consumers and it also sells (through collaborators) to a few enterprise-level clients.
- B. Company desires assurance of the association and services of the Executive in order to retain the Executive's experience, skills, abilities, background and knowledge, and is willing to engage the Executive's services on the terms and conditions contained in this Agreement.
- C. The Organization has offered and the Executive has accepted the position in the Organization as the CEO of the Organisation on the terms and conditions as set out in this Agreement.



**NOW THEREFORE**, in consideration of the promises and the mutual covenants set forth herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

**Definitions and interpretations:**

For the purposes of this Agreement the following terms shall have the following meanings:

**"Board" or "Board of Directors"** means the board of directors of the Organization as constituted from time to time.

**"Effective Date"** means the date of execution of this Agreement.

Reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted or consolidated from time to time and all statutory instruments or orders (including delegated legislation whether by way of rules, notifications, bye-laws, guidelines, as amended, extended or re-enacted or consolidated from time to time);

Words elsewhere defined/explained in this Agreement shall have the meaning so ascribed;

- a. Words denoting the singular shall include the plural and vice versa;
- b. Words denoting any gender include all genders; and
- c. The headings in this Agreement are inserted for convenience only and shall be ignored in construing this Agreement.

**Date of Commencement:** The Employment will commence from the \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_ and be bound by the terms and conditions laid down in this Agreement.

**Place of Work:** The Executive shall be based for the time being at the headquarters of the Organisation, currently located at [ ]. However, the Executive may be required to (i) relocate to other locations in India or abroad; and (ii) during his employment under this Agreement, the Executive shall undertake such travel within and outside India, from time to time, as may be necessary in the interests of the Organization's business or as directed by the Board in connection with or in relation to the business of the Organization.

**Job Function:** The Executive shall be employed as the Chief Executive Officer (CEO) of the Organisation and he/she shall also be required to carry out associated functions which commensurate with his positions as the CEO of the Company or as the organisation may prescribe .may from time to time require.



The Executive also agrees to comply with various Organization policies, rules and regulations as may be updated from time to time unilaterally by the Organization.

**Duties and obligations:**

- a. The Executive shall work full time for the Organization, devoting his time, attention and skill to the duties of his office and shall faithfully, efficiently, competently and diligently perform such duties and exercise such powers as may from time to time be assigned to or vested in him and shall comply with all lawful directions given to him by or under the authority of the Board and use his best endeavours to promote and extend the business of the Organization and to protect and further the interests and reputation of the Organization.
- b. The Executive shall act diligently and to the best of his ability in the discharge of his duties and subject to any restrictions or limitations imposed by the concerned officer or policy of the Organization in this regard.
- c. The Executive shall, unless prevented by ill-health or disability, devote adequate time, attention and abilities to the business of the Organization and shall faithfully serve the Organization and use his best endeavours to promote the interest of the Organization.
- d. The Executive shall at all times promptly give to the Chairman of the Board of Directors all such information, explanations and assistance as the Board may require in connection with the business of the Organization.
- e. During the currency of this Agreement, the Executive shall not directly or indirectly engage himself in any other business, occupation or employment whether permanent or temporary, without the approval of the Organization.
- f. Nothing contained herein shall be construed as preventing the Executive from investing in any other business or entity which is not in competition with the business of the Company. Nothing contained herein shall be construed as preventing the Executive from (1) engaging in day to day personal business transactions and other personal matters (2) serving on civic or charitable boards or committees, (3) advising young startups and entrepreneurs and getting associated with startup incubators, startup forums and groups or (4) continue advisory and consultancy work with the companies the Executive co-founded in the past, provided however, that none of such activities materially interferes with the performance of his duties under this Agreement and provided further that the



Board of Directors approves of each such proposed appointment which approval shall not be unreasonably withheld.

**Hours of Work:** The normal hours of work shall be \_\_\_\_\_ a.m. to \_\_\_\_\_ p.m., or a total number of \_\_\_\_\_ hours per week, as shall be set out by the Company from time to time. However, the Executives may be required to work for such additional hours without pay, as per the need and requirement of the business or as may be necessary for the proper performance of the duties by the Executive.

**Salary and benefits:**

- a. In consideration of his services to the Organization, the Organization shall pay to the Executive during the term of this Agreement, gross remuneration of Rs. **[Insert amount in figures]** (Rupees **[Insert amount in words]**) per annum, subject to deduction of tax at source and other statutory deductions. Salary will be reviewed \_\_\_\_\_. Payment shall be by direct debit into the Executive's bank account, the account details to be provided by the Executive to the Organisation on the execution of this Agreement.
- b. The Executive shall be considered for an annual discretionary cash bonus up to [insert percentage] % of the base annual salary based on performance and the satisfaction of specified goals, including creation of new technology or innovation, as set by the organisation from time to time.
- c. The Executive shall also be considered for Executive Stock Option Plan (ESOP) in a manner as decided by the Board. The stock option shall vest three years from the date of grant subject to Executive's continued services with the Company through such date.
- d. Save and except as otherwise provided in this Agreement or as may be decided by the Board from time to time, the Executive shall be entitled to all such benefits that may be available to him as per law/Organization policy for its management-level Executives generally, as in effect from time to time.

**Leave:** The Executive shall be entitled to paid vacation, personal leave and sick days in accordance with the Organization's vacation and leave policies for its Executives generally, as in effect from time to time. Notwithstanding anything to the contrary contained in such policies, the Executive agrees and accepts that he shall not have the right to encash, seek encashment or carry forward any unutilized leave in a given year. The Executive may however be permitted to carry forward his unutilized leave with the prior approval of the Board of Directors of the Organization, subject to such conditions as may be imposed by the Organization.



**Grievance Procedure:** The Company is most anxious that legitimate grievances raised by an Executive are expeditiously and fairly resolved. Any Executive who has a grievance relating to his/her employment should discuss it with the Company.

**Termination for Cause:**

- a. The Company hopes that it will not become necessary to dismiss an Executive, however, it must be understood that there are certain breaches of Company Rules (hereinafter "Cause") for which, after the facts have been ascertained, an Executive may be dismissed or suspended, without pay, pending further investigations. In such an event, an Executive will be afforded a full right of representation of his/her case to the Company before a final decision is made. The Executive will be dismissed in the event of it becoming absolutely clear that no, or insufficient, improvement on the aspect of performance is forthcoming. At all times the Organisation will abide by procedural fairness when dealing with dismissals from the Company. For purposes of this clause, "Cause" shall mean:
- b. Executive's indictment or conviction of any crime involving moral turpitude under national, state or local law;
- c. Executive's failure to perform (other than as a result of Executive's being Disabled), in any material respect, any of his duties or obligations under or in accordance with this Agreement for any reason whatsoever and the Executive fails to cure such failure within ten business days following receipt of notice from the Organisation;
- d. Executive commits any dishonest, malicious or grossly negligent act which is materially detrimental to the business or reputation of the Organisation, or the Organisation's business relationships, provided, however, that in such event the Organisation shall give the Executive written notice specifying in reasonable detail the reason for the termination;
- e. Any intentional misapplication by Executive of the Organisation's funds or other material assets, or any other act of dishonesty injurious to Employer committed by Executive; or
- f. Executive's use or possession of any controlled substance or chronic abuse of alcoholic beverages, which use or possession the Board of Directors reasonably determines renders Executive unfit to serve in his capacity as a senior executive of the Organisation.
- g. In the event the Organisation terminates the Executive's employment for cause, then the Executive shall be entitled to receive through the date of termination: (1) his base salary



and (2) the benefits provided in clause (vii) hereof including all accrued but unpaid vacation.

- h. This Agreement with the Executive can be terminated, under this clause or clause (xi), only by a vote of the Board of Directors, provided that proper notice of such proposed action was given to the Board of Directors.

#### **Termination without Cause:**

Notwithstanding anything to the contrary herein contained, the Organization shall be entitled to terminate this Agreement at any time by giving the Executive 3 (three) months' notice in writing or payment of his basic salary in lieu thereof, without assigning any reason or without Cause. In the event of termination by the Organization under this clause or in case of a resignation by the Executive as per clause (xiii), the Organization may require the Executive to absent himself from its premises on garden leave and not participate in the working of the Organization during the unexpired portion of the notice period.

In case of termination under this clause or clause (xii), the Executive shall be entitled to receive all accrued but unpaid (as of the Termination Date) Salary and Benefits, along with a Severance Allowance calculated at four (4) times the last annual pay, to be paid in lumpsum within 60 days from the date of termination. Provided, such Severance Allowance will not be payable, in case of termination under this clause is made within one (1) year from the date of Commencement of this Agreement. Executive will only receive the applicable Severance Payment if Executive: (i) complies with all surviving provisions of this Agreement and (ii) executes a full general release in a form acceptable to Company, releasing all claims, known or unknown, that Executive may have against Organisation arising out of or any way related to Executive's employment or termination of employment with Organisation, and such release has become effective in accordance with its terms prior to the 60th day following the termination date, and (iii) agrees not make any voluntary statements, written or oral, or cause or encourage others to make any such statements that defame, disparage or in any way criticize the personal and/or business reputations, practices or conduct of Organisation ((i)-(iii) are collectively referred to hereafter as "Severance Obligations") All other Organisation obligations to Executive will be automatically terminated and completely extinguished.

#### **Termination upon Change of Control:**

- a. If the Executive's employment is terminated by the Company without Cause in connection with or within [one year] after Change in Control, the Executive shall be entitled to Severance Allowance as stated in clause (xi).



- b. For purposes of this Agreement, unless the Board determines otherwise, a Change of Control of the Company shall be deemed to have occurred at such time as:
1. **Change in Ownership.** Any person is or becomes the beneficial owner, directly or indirectly, of voting securities of the Organisation's representing more than 50% of the Organisation's outstanding voting securities or rights to acquire such securities except for any voting securities issued or purchased under any employee benefit plan of the Organisation or its subsidiaries; or
  2. **Sale.** Any sale, lease, exchange or other transfer (in one transaction or a series of transactions) of all or substantially all of the assets of the Company; or
  3. **Liquidation.** A plan of liquidation of the Organisation or an agreement for the sale or liquidation of the Organisation is approved and completed; or
  4. **Board Determination.** The Board determines in its sole discretion that a Change in Control has occurred, whether or not any event described above has occurred or is contemplated.

**Notice Periods:** The Executive may voluntarily resign from his employment as Executive of the Organization at any time on giving a prior written notice of 3 (three) months to the Organization. Notwithstanding the foregoing, the Company, may, at its discretion, waive its right to notice.

**Retirement and termination for ill-health:** The age of retirement of the Executive from the services of the Organization shall be [Insert number] years. The Organization at its sole discretion may extend the age of retirement subject to the approval of the Board. If the Executive shall at any time be prevented from ill-health or accident or any physical or mental disability from performing his duties hereunder, he shall inform the Organization and supply it with such details as it may be required and if he shall be is unable by reason of ill-health or accident or disability, for a period of [Insert number] days or more in any period of twelve consecutive calendar months, to perform his duties hereunder, the Organization may forthwith terminate this Agreement.

**Death or disability:** In the event of termination of the Agreement due to the Executive's death or disability (physical or mental), the Executive shall be entitled to the basic salary pro-rated to the date of termination. All other obligations of the Organization towards the Executive pursuant to the Agreement shall automatically terminate and extinguish.

**Handover:** Upon the termination of this Agreement for any reason, the Executive shall hand over charge to such person nominated for that purpose by the Organization and shall deliver to such



person such papers, documents and other property of the Organization as may be in his possession, custody, control or power, including but not limited to any phones, computers, vehicles, etc provided by the Organization.

## **Intellectual Property:**

The Executive acknowledges that ownership of, and all right, title, and interest in, all work product, improvements, developments, discoveries, proprietary information, trademarks, trade names, logos, art work, slogans, know-how, processes, methods, trade secrets, source code, application development, designs, drawings, plans, business plans or models, blue prints (whether or not registrable and whether or not design rights subsist in them), utility models, works in which copyright may subsist (including computer software and preparatory and design materials thereof), inventions (whether patentable or not, and whether or not patent protection has been applied for or granted) and all other intellectual property throughout the world, in and for all languages, including but not limited to computer and human languages developed or created from time to time by or for the Organization by the Executive whether before execution of this Agreement or afterwards (the "**Intellectual Properties**") shall vest in the Organization.

The Executive expressly agrees that all Intellectual Properties such created by the Executive shall be under a contract of service. In consideration of his employment with the Organization, the Executive hereby transfers and shall be deemed to have assigned in favour of the Organization, all rights, title and interest in and to all the Intellectual Properties, together with the rights to sublicense or transfer any and all rights assigned hereunder to third parties, in perpetuity. The Executive agrees that such assignment shall be perpetual, worldwide and royalty free. The Executive agrees that notwithstanding the provisions of Section 19(4) of the Copyright Act, 1957, such assignment in so far as it relates to copyrightable material shall not lapse nor the rights transferred therein revert to the Executive, even if the Organization does not exercise the rights under the assignment within a period of one year from the date of assignment. The Executive acknowledges and agrees that he shall waive any right to and shall not raise any objection or claims to the Copyright Board with respect to the assignment, pursuant to Section 19A of the Copyright Act, 1957. The Executive shall assist and cooperate with the Organization in perfecting the Organization's rights in the Intellectual Properties.

- a. A list of all inventions belonging to the Executive and made by him before the execution date of this agreement is annexed as Schedule A (**Excluded Inventions**). Intellectual property rights in Excluded Inventions will not be vest in the Organisation. If any invention (not listed in Schedule A) is incorporated in any product, service, program, process, machine, development or work in progress, or released or unreleased product of the Organisation by the Executive, the Organisation shall have an irrevocable, exclusive and



royalty-free license to exercise all rights and exploit the invention on a worldwide basis, and without any restriction as to the extent of the Executive's ownership or interest.

- b. Executive has identified in Schedule B all agreements that were entered into with prior Organisations regarding preservation of confidential information and / or the ownership of inventions. It is agreed that the Company does not expect the Executive to divulge confidential information of a prior Organisation or otherwise violate any provision of such agreements. The Executive agrees to promptly supply to the Company copies of any such written agreements upon request.
- c. Subjected to the other provisions of this agreement, the Executive is free to pursue independent projects during his non-work time. Any intellectual property developed or invented by the Executive resulting out of such independent projects would belong to the Executive. However, such projects should not be in direct competition with the Organisation and should be limited to non-work times, may not be at the expense of an Executive's job performance or interfere in any way with the business needs and operations of the Organisation and may not impose costs on Organisation.
- d. The Executive agrees to indemnify the Organisation from any intellectual property infringement claims made by a prior Employer or a third party, which arises out of inclusion or usage of any third party intellectual property in the products made for or on behalf of the Organisation or any intellectual property developed or created for the benefit of the Organisation by the Executive. Such infringing intellectual property may include without limitation any intellectual property of (i) any former employer, (ii) any person for whom the Executive has performed or currently performing consulting services in independent capacity, or (iii) any other person to whom the Executive has a legal obligation regarding the use or disclosure of such intellectual property.

## **Confidentiality:**

- a. The Executive shall not during the continuation of this Agreement or thereafter, divulge or make use of any trade secret or confidential information concerning the business of the Organization or any of its dealings, transactions and affairs or any information concerning any of its suppliers, agents, distributors or customers which the Executive possesses or comes into possession while in the employment of the Organization or which he may make or discover while in the service of the Organization and the Executive shall also use his best endeavour to prevent any other person from doing so. All data, documents, plans, drawings, photographs, reports, statements, correspondence, etc. and technical information, know-how and instructions as well as business details or commercial policies



that pass to the Executive or which come to the Executive's knowledge shall be treated as confidential and the Executive shall be bound to keep secret all such confidential matters including papers and documents, computer floppies, CDs or other media containing the same and shall not disclose, communicate, reproduce or distribute the same or copies thereof to anyone except in the course of the rightful discharge of his duties as the Executive of the Organization.

- b. The Executive shall not at any time hereafter in any way make known or divulge to any person, firm or body corporate any of the methods, systems or other information of any kind in relation to the affairs of the Organization whether such information is or was acquired by him before execution of this Agreement, in the course of his employment hereunder or otherwise.

**Non-Competition Agreement:** The Executive acknowledges that he is, in the course of his employment with the Organization, likely from time to time to obtain knowledge of trade secrets, Intellectual Properties and other confidential information of the Organization and its affiliates and to have dealings with the customers and suppliers of the Organization. The Executive acknowledges the importance and commercial significance of the covenants under this clause, and admits and acknowledges that he has various other technologies and information which if deployed by him elsewhere or for a third party during the course of his employment or after he ceases to be an Executive or ceases to be associated with the Organization, would result in him competing against the Organization. The Executive undertakes the following to the Organization:

- a. that he shall not, for the duration of employment with the Organization, and for a period of two (2) years after the date on which he ceases to be employed by the Organization, either personally or through an agent, Organization or through a partnership or as a shareholder, joint venture partner, collaborator, consultant, advisor, principal contractor or sub-contractor, director, trustee, committee member, office bearer or agent or in any other manner whatsoever, whether for profit or otherwise;
- b. be concerned in any business directly or indirectly manufacturing, operating, selling or distributing products or services which compete with any business then carried on by the Organization; and
- c. except on behalf of the Organization, canvass or solicit business or custom for products of a similar type to those being manufactured or dealt in or for services similar to those being provided by the Organization from any Person who is a customer of the Organization;

**Non-solicitation:**



- a. For two (2) years following termination of Executive's employment (i) the Executive shall not solicit, encourage, or induce or attempt to solicit, encourage, or induce any (A) Executive, marketing agent, or consultant of the Organization to terminate his employment, agency, or consultancy with the Organization or any (B) prospective Executive with whom the Organization has had discussions or negotiations within six months prior to Executive's termination of employment, not to establish a relationship with the Organization, (ii) induce or attempt to induce any current customer to terminate its relationship with the Organization or (iii) induce any potential customer with whom the Organization has had discussions or negotiations within six months prior to Executive's termination of employment not to establish a relationship with the Organization.
- b. The Executive agrees that any material breach or written threatened breach of this clause may not be remedied solely by monetary damages, and that in addition to any other remedies, the Organization is entitled to seek injunctive relief against the Executive in a forum of competent jurisdiction for any such breach.
- c. The Executive agrees and acknowledges that the restrictions contained in this clause are considered to be reasonable in all the circumstances for the protection of the legitimate interests of the Organization and shall be enforceable independently. While the undertakings and agreements under clause xx and clause xxi are considered by the Organization and the Executive to be reasonable in all circumstances, if one or more should be held to be invalid as an unreasonable restraint of trade or for any other reason whatsoever by a final adjudication of any tribunal or court of competent jurisdiction, but would have been held valid if part of the wording thereof had been deleted or the period thereof reduced or the range of activities or area dealt with reduced in scope, the said undertakings and agreements shall apply with such modifications as may be necessary to make them valid and effective.

**Severability:** Should any part of this Agreement be declared illegal or unenforceable, the Parties hereto will co-operate in all ways open to them to obtain substantially the same result or as much thereof as may be possible, including taking appropriate steps to amend, modify or alter this Agreement. If any term or provision of this Agreement shall be hereafter declared by a final adjudication of any tribunal or court of competent jurisdiction to be illegal, such adjudication shall not alter the validity or enforceability of any other term or provision unless the terms and provisions so declared are expressly defined as a conditions precedent or as of the essence of this Agreement, or comprising an integral part of, or inseparable from the remainder of this Agreement.



**Assignment:** This Agreement being one for personal services cannot be assigned by the Executive.

**Notice:** Any communication required to be given under this Agreement shall be effective when delivered personally to the Party specified below; or when received either: (i) via certified or registered mail, return receipt requested, postage prepaid; or (ii) via express mail or reputable courier service, by such Party. Any notice or other communication required to be given, shall be in writing and duly addressed to the parties at:

In the case of the Organization:

[Insert name of appropriate authority in Organization],

[Insert name, postal address, telephone number, email id of Organization]

In the case of the Executive:

[Insert name, postal address, telephone number, email id of Executive]

The Executive shall be obligated to inform the Organization of any change made to this address at any time.

#### **Settlement of disputes and governing law:**

- a. This Agreement shall be governed and interpreted according to the laws of India.
- b. The Parties shall seek to resolve any dispute, controversy, claim or breach arising out of or in relation to this Agreement including any questions, issues or disputes concerning its existence, validity or termination, by amicable arrangement and in the spirit of compromise, and only if the Parties fail to resolve the same by amicable arrangement and compromise within a period of fifteen (15) days of receipt of written notice of the same by the other Party, either Party may resort to arbitration as provided herein.
- c. In case of non resolution of any dispute or difference in the manner specified above, the same shall then be mandatorily referred to Arbitration, the number of arbitrators shall be a Sole independent arbitrator appointed through mutual consent. The arbitrator shall be a competent and reputable individual who is a lawyer and has experience of atleast four years and must have prior experience to work with startups.
- d. The Arbitrators shall not be limited by the Code of Civil Procedure, 1908 and the Indian Evidence Act and shall be free to chart out the procedure to be followed in arbitration.



- e. The arbitration proceedings shall commence on and from the date of appointment of Sole Arbitrator and the award shall be made within a period of 60 days from appointment of Sole Arbitrator.
- f. The proceedings of arbitration and the award shall be made in English.
- g. The venue of proceedings shall be in [place] and the arbitration shall be subject to The Arbitration & Conciliation Act, 1996 and rules framed thereunder and under jurisdiction of the courts at [place].
- h. The fees payable to the Arbitrators (including arbitrator fees and costs but excluding any filing fee payable by a Party commencing the arbitration) shall be borne equally by the Parties; provided, the total fees payable to the arbitrator shall not exceed INR 40000.

**Equitable remedies and indemnification:** The restrictions contained in the clauses (xvii), (xviii) and (xix) are necessary for the protection of the business and goodwill of the Organization and are considered by the Executive to be reasonable for such purposes. The rights and obligations of the Parties under clauses (xvii), (xviii) and (xix) of the Agreement shall survive the termination of this Agreement and shall not be extinguished by termination of this Agreement. The Executive agrees that any breach of either such clause is likely to cause the Organization substantial and irrevocable damage that is difficult to measure. Therefore, in the event of any such breach or threatened breach, the Executive agrees that the Organization, in addition to such other remedies which may be available, shall have the right to obtain an injunction from a court, tribunal or any other forum of competent jurisdiction, restraining such a breach or threatened breach and the right to specific performance of the provisions of either such paragraph, and the Executive hereby waives the adequacy of a remedy at law as a defense to such relief.

**Alteration to Terms of Employment:** Any alterations in the Regulations of Employment affecting staff individually will be notified by a letter or memorandum, but any general alteration will be communicated in a Circular to be seen by all members of staff.

**Jurisdiction:** Any dispute arising out of or in conjunction with this Agreement shall be referred exclusively to the Courts in the State of \_\_\_\_\_.

**Agreement:** The Schedules, Contract Terms and annexures form part of this Agreement and any reference to "this Agreement" includes the Schedules, annexures, Agreement Terms and recitals in the introductory paragraphs.

**I agree to be bound by the conditions of employment above.**



Signed:

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Date:

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**Signed for and on behalf of the Organisation:**

Signed:

---

Date: \_\_\_\_\_

All in the presence of:

1.

2.

## Consultancy Agreement

Consultancy agreement is executed when the company wants to employ someone in the capacity of a consultant. It is a service agreement only but differs from a full time contract on the following points.

- Scope of work
- Freedom and flexibility to work
- Specific skill sets required like taking the services of chartered accountants
- Degree of control is limited by the employer.
- The payment of salary can differ. Normally consultancy fee is paid subject to charging of GST.
- The company is not liable to pay social security benefits in such working relationships.
- Treatment of company's intellectual property becomes a contentious issue.

## CONSULTANCY AGREEMENT

This Consultancy Agreement (**Agreement**) is entered into on this [●] day of [●] (**Effective Date**):



## BY AND AMONG:

[●], a company with CIN [●] incorporated under the laws of [●], and having its registered office at [●], hereinafter referred to as **Client**;

## AND

[●], an individual with [Aadhar Number/ PAN Number] [●] and permanent address [●], hereinafter referred to as **Consultant**;

The Seller and the Purchaser are hereinafter individually referred to as a **Party** and collectively as the **Parties**.

**NOW THEREFORE**, in consideration of the promises and the mutual covenants set forth herein, the Parties hereto, intending to be legally bound, hereby agree as follows:

### 1. Agreement

1.1 The parties have entered into this agreement (“the Agreement”) for the regulation of the appointment of the Consultant for the period of [...] (“the Term”) and services as set out in [...] to be provided to the Client in accordance with the terms of this Agreement (“the Services”).

1.2 The parties acknowledge that this Agreement contains the whole agreement between the parties and that neither party has relied on any oral or written representations (other than set out expressly in this Agreement) made to it by the other or any of its employees or agents having made its own investigations into all relevant matters.

### 2. Services

2.1 The Client pursuant to the Contract engages the Consultant to provide the Services to the Client and the Consultant agrees to provide the Services for the Term upon the terms and subject to the conditions of the Contract.

2.2 Unless otherwise agreed by the parties in writing, the Client shall at its own expense supply the Consultant with all necessary documents and materials (“the Documents”), and all necessary data or other information relating to the Services, within sufficient time to enable the Consultant to provide the Services in accordance with this Contract.



2.3 The Services shall insofar as is reasonably practicable be provided in accordance with the requirements set out in [the Schedule] but subject to this Contract and shall be performed at such times as the Consultant shall in its sole discretion decide.

2.4 The Client shall afford to the Consultant all reasonable co-operation in all matters relating to the performance of the Consultant's obligations under the Contract.

2.5 Throughout the Term of the Contract the Client shall afford the Consultant such access to the Client's information or records and other materials relevant to the Services as the Consultant may require in connection with or to provide the Services.

2.6 The Client shall be responsible for complying with all laws and regulations including particularly in connection with the collection, use, and disclosure of data under or pursuant to this Contract and shall comply with the [\_\_\_\_] (where applicable).

2.7 The Consultant does not warrant, guarantee or undertake any matter on behalf of any third party supplier or service provider.

2.8 The property, copyright, and any other intellectual property rights in any Client's Documents shall belong to the Client. The property, copyright, and any other intellectual property rights in any of the Consultant's documents or materials shall belong to the Consultant, subject only to the right of the Client to use the Consultant's documents and materials during the Term.

2.9 The Client warrants that any Client Material and its use by the Consultant for the purpose of providing the Services will not infringe the copyright or other rights of any third party, and the Client shall indemnify the Consultant against any loss, damages, costs, expenses or other claims arising from any such infringement.

2.10 The parties agree not at any time during the Term to divulge or allow to be divulged to any person any confidential information relating to the business or affairs of the other party to this Contract save as provided by law or with the other party's prior written consent.

**[COMMENT:** This is a key clause as it specifies the dual nature of confidentiality to be maintained by the contracting parties,i.e., the Consultant shall not disclose any information received by the Client during the course of the contract to any person and the same is expected of the Client.]

## 3. Fees, Expenses and Charges



3.1 Subject to any special terms agreed in writing by the parties, the Client shall pay the consultancy fees and other charges from time to time for the provision of the Services as set out in the [Schedule] ("the Fees").

3.2 The Consultant shall not be entitled to vary the Fees at any time during the duration of the Contract without prior written approval of the Client.

3.3 All Fees and sums quoted payable to the Client under the Contract are exclusive of any [relevant tax], for which the Client shall be additionally liable at the applicable rate from time to time.

**[COMMENT:** Relevant tax is subject to the prevailing tax regime of a particular country. For example, if this contract is made within the territories of India, then the relevant tax would be Goods and Services Tax.]

3.4 The Client shall also be responsible for all expenses together with such additional sums which are agreed between the Consultant and the Client for the provision of the Services and any Additional Services or which, in the Consultant's sole discretion, are required as a result of the Client's instructions or lack of instructions, the inaccuracy of any Client documents or material or any other cause attributable to the Client.

3.5 The Fees and any additional sums payable shall be paid in full by the Client into such account as the Consultant shall reasonably instruct from time to time.

3.6 If payment is not made on the due date, the Consultant shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at the rate of [...] above the base rate from time to time of [...] Bank plc from the due date until the outstanding amount is paid in full.

3.7 The Client shall reimburse the Consultant for all out of pocket expenses, incurred by it in connection with the Services for the Client.

**[COMMENT:** Recommended clause under clause 3.7: In doing so, according to clause 3.7, the Client has the right to ask for corresponding receipts of the incurred expenses by the Consultant in connection with services.]

3.8 The Consultant will not be obliged to provide Services unless all Fees and disbursements due to it in relation to the provision of the Services are received as provided in this Contract.

## 4. Warranties and Liability



4.1 The Consultant warrants to the Client that the Services will be provided using reasonable care and skill.

4.2 All dates, periods or times specified in this Contract are estimates only and time shall not be of the essence for the performance by either party of its obligations under this Contract.

**[COMMENT:** It is to be noted that prevalence of this clause in this contract shall serve a repulsive effect, since, one of the conditions mentioned for termination of the contract has time as the essence. Also, expiration of the contract, subject to this clause, is sensitive to recurrent postponement or untimely preponing.]

4.3 The Consultant specifically undertakes at all times to keep confidential any of the Client's confidential information (including this document, the lists or specific customer details and information relating to the Client's business or affairs) and specifically not to disclose (whether or not for profit) such lists or information to any competitor of the Client or any other person, firm or company engaged in similar activity during the Term and at any time following the date of expiry or termination of the Contract.

**[COMMENT:** This is a key clause with respect to survival of the confidential clause in this agreement. As per the language and intent of this clause, confidentiality is sought-after to be maintained for a period with no limitation. Such a clause is subject to modifications and/or negotiations depending upon contracting parties.]

4.4 The entire liability of the Client to the Consultant under or in connection with this Contract shall not in any event exceed the amount of the Fees paid by the Client to the Consultant for the provision of the Services.

**[COMMENT:** This is a key clause with respect to specifying the maximum liability of the Client towards the Consultant in connection with provision of services to be the total amount of the fees paid/accrued to the Consultant.]

4.5 The Consultant agrees to indemnify and keep the Client fully and effectually indemnified from and against any loss claim or liability whatsoever incurred or suffered by the Client as a result of negligence or any default by the Consultant (or its employees, agents or representatives) of its obligations however arising in connection with the Services.

4.6 Except in respect of death or personal injury caused by the Client's negligence, or as expressly provided in this Contract, the Client shall not be liable to the Consultant by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any



duty at common law, or under the express terms of the Contract, for any loss of anticipated savings, business revenues or profits (whether categorised as direct or indirect), or any indirect, special or consequential loss (including losses arising from business interruption, wasted management time, loss of goodwill, data and all other such loss whether or not arising in the normal course of business), damages, costs, expenses or other claims.

4.7 Each of the Client and the Consultant shall be released from their respective obligations and shall not be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of their obligations under the Contract if the delay or failure was due to any circumstances or cause beyond the relevant party's reasonable control.

[**COMMENT:** This is a Force Majeure clause releasing the Client and the Consultant from any liabilities or obligations in times of situations, unforeseeable in nature, which compel non-performance of the contract.]

4.8 Upon occurrence of a force majeure event, the parties shall use reasonable endeavours to resolve and minimize any delay but at the discretion of the Client, this Contract shall be terminated without further liability.

[**COMMENT:** Recommended clause: The client to ensure timely and efficient performance of the promise by the Consultant, i.e., provision of expert services in the corresponding field of expertise and recovery of any costs/expenses/claims/damages/loss suffered due to the negligence of the Consultant can ask the Consultant to either deposit a particular amount of performance security or inform the Consultant that a particular percentage (for examples, 2.5%) of the total fees shall be considered as the performance security which shall be with the Client till the expiration of the contract.]

## 5. Termination

5.1 The Contract may be terminated:

5.1.1 forthwith by either party if the other commits any material breach of any term of this Contract and which (in the case of a breach capable of being remedied) shall not have been remedied within [thirty (30)] days of a written request to remedy the same;

5.1.2 any time upon service of [...] (...) months' notice by either party in writing to the other;

5.1.3 forthwith by the Consultant if the Client fails to make payment of any sums due hereunder on the due date:



5.1.4 forthwith by either party if the other shall become unable to pay its debt or otherwise suffer insolvency events;

5.1.5 forthwith by the Client upon notice to the Consultant, in the event, that the Client or its employees or agents shall engage in any conduct prejudicial to the business of the Client or in the event that the Client reasonably considers that a conflict or potential conflict of interest has arisen between the parties.

5.2 Any termination of the Contract pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to under the Contract or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

## 6. Notices

6.1 Any notice or other communications to be given under the Contract shall be in writing and may be delivered by hand or sent by first class prepaid recorded delivery post (or if the recipient is in another country by prepaid airmail) to the relevant address(es) stated in the Contract (or to such other address as the addressee may from time to time have notified for that purpose) or sent by facsimile transmission or electronic mail.

6.2 Communications shall be deemed to have been received, if delivered by hand at the time of delivery; if posted, [three (3)] working days; [(ten (10)] working days if prepaid airmail) after posting; and if sent by fax transmission, at the date of transmission. In the case of electronic mail, upon receipt at such address except if receipt is not on a business day, in which case the next following business day.

## 7. Miscellaneous

7.1 All other warranties terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

7.2 [In the event of any conflict between the provisions of this Contract and the Schedule, this Contract shall prevail.]

7.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract



by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

7.4 The parties acknowledge and agree that the Contract shall not establish or constitute any relationship of partnership, joint venture, franchise or agency between the parties except as otherwise expressly provided or agreed and neither party shall have the power to bind the other without the other's prior written consent.

7.5 The Consultant shall act with the utmost good faith towards the Client and the Consultant agrees to maintain accurate records and to disclose in writing any relevant facts relating to potential conflicts of interest to the Client.

7.6 The Consultant shall not assign, transfer, mortgage, charge or otherwise encumber or deal with in any other manner (including a declaration of trust) all or any of its rights or obligations under this Contract without the written consent of the Client.

7.7 References to the Consultant include its personal representatives, permitted assigns and successors in title.

7.8 Each party warrants its power to enter into the Contract and has obtained all necessary approvals to do so.

7.9 Except as expressly provided (including in respect of indemnity), the parties do not intend any term of this Contract to create any rights or benefits to any other party other than the parties to the Contract or to be enforceable pursuant to the Contracts [\_\_\_\_] but this does not affect any right or remedy of any third party which exists or is available apart from the Act.

7.10 If any provision of the Contract or this Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract or this Contract and the remainder of the provision in question shall not be affected.

7.11 Reference to any statute or statutory provisions shall be deemed to include any statutory modifications or re-enactments thereof or any rules or regulations made thereunder or any enactment repealing and replacing the Act referred to.

7.12 Unless the context otherwise requires, words importing the singular shall include the plural and vice versa; words importing the masculine gender shall include the feminine gender and vice versa; and references to persons shall include bodies of persons whether corporate or incorporate.



## Law

The law of [\_\_\_\_] shall apply to this Contract, and the parties submit to the exclusive jurisdiction of the [\_\_\_\_] courts.

**COMMENT:** Recommended arbitration clause:

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Access or Justice Institute, and the award made in pursuance thereof shall be binding on the parties.

The parties agree that the arbitration proceedings shall be conducted by way of submission of written pleadings, documents and submissions made by the parties without any oral hearing.

The parties agree that the written pleadings will be submitted to the arbitrator appointed by the said Institute who will resolve the dispute and differences hereunder by fast-track procedure.

The arbitrator shall take a decision in a time-bound manner after considering only such written arguments. The decision or award so given by the Arbitrator shall be binding on the parties hereto. In case, one of the parties does not take part in the arbitration proceedings and/or obstruct the arbitration proceedings, the Arbitrator shall pass ex parte order which would be enforceable on both the parties.]

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement on the day and year first above written.

Signed and delivered for and on behalf of:

For and on behalf of **[Client]**

1. [Insert Signature (& seal, where applicable)]
2. Authorised Signatory

Name:

Designation:

For and on behalf of **[Consultant]**

1. [Insert Signature (& seal, where applicable)]
2. Authorised Signatory

Name:

Designation:



**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement as of the day and year first above written.

For [INSERT NAME AND SEAL OF *[Insert seal of Organization]* ORGANIZATION]

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Director / CEO / HR Manager

*[Insert signature of Director / CEO / Manager]*

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Witness

*[Insert name address and signature of witness]*

---

Witness

*[Insert name address and signature of witness]*

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[To be inserted: **Name, address and designation of employee**]

*Signature of Employee*

Employee

---

Witness

---

Witness



[Insert name address and signature  
witness]

[Insert name address and signature  
of witness] of

## SCHEDULE A

### Details of Remuneration

| Break up of salary        | Rs. (Per annum) |
|---------------------------|-----------------|
| Basic salary              |                 |
| Perquisites               |                 |
| Performance Related Bonus |                 |
| Any other -               |                 |
|                           |                 |
| <b>Sub total</b>          |                 |

|                                   |  |
|-----------------------------------|--|
| Organization's contribution to PF |  |
|                                   |  |
| <b>Gross salary</b>               |  |

## SCHEDULE B

### List of Excluded Inventions

[To be inserted]

## SCHEDULE C

### List of Prior Agreements

[To be inserted]

## Contract Labour

- Contract labourers are hired for specific work through a third party manpower provider. Contract labourers are not on the payroll of the company. An example of contract labourers include employing caterers through a third party. The contract labourers can be hired and fired depending on the work requirement.



- As an HR manager you need to know that the obligations for statutory compliances and maintenance of rests with the contract labourer. You don't need to worry about retrenchment compensation.
- You need to collate the documents and records with the contractor at the time of an inspection or audit.

## Trainee arrangements can be of various kinds

- It can be an apprenticeship which is regulated by the apprenticeship Act and rules. Basically the apprenticeship will be trained under an employee which will be imparted training and education for honing a specific skill or craft with regard to a particular vocation.
- The duration of the program and the terms of non completion of the program are mentioned are important clauses in an apprenticeship contract.
- While internship arrangements are not heavily regulated, the organisations may provide for their own set of terms and policies with regard to payment of stipend, working hours, leaves etc
- But a few regulations may still apply like prevention of sexual harassment at workplace.
- An employment agreement is the parent document governing the terms of the employment relationship.
- Drafting and reviewing the employment terms is a crucial skill for HR managers. The scope and terms of an employment contract varies with the position and the industry one is hiring for.
- It is also to be kept in mind that an appointment letter coupled with standing orders suffices in most cases.

## Standing Order

The standing orders regulate rules related to conditions of employment as per the standing orders Act, 1946. They are to be pre approved by a certifying officer which can be a certifying labour commissioner. It is also required that certified standing orders should be displayed at a conspicuous space in the factory. Certain states like Karnataka follow an automatic certification process, where, if no objection is received by the certifying officer to a standing order proposed by the establishment within a certain time period, it stands automatically certified.

Matters covered in the standing order include but are not limited to

- Classification of workers
- Working in shifts
- Attendance
- Termination and suspension
- Redressal mechanism for the employee
- Transfer and vacancy

The standing orders is required to be displayed at a conspicuous place in the factory premises either in English, Hindi or regional language as understood by the workers of the factory.



One of the key challenges in this regard is about the applicability of the Standing Orders to the IT and ITeS sector- the industry does not want it to be applicable owing to concerns that it reduces their cost competitiveness and operational flexibility by increasing the rights available to members of the workforce.

## Insights About Application of Statutes

The contractual arrangement with a member of the workforce is determined and governed by the applicability of statutory provisions. If certain statutory provisions or benefits are applicable, they may not be capable of being excluded by the contract. The following insights in that regard are useful:

- Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal), Act, 2013 is applicable to all members of the workforce, i.e. permanent employees, temporary employees, contract labour, employees or consultants who work from home, interns, apprentices and even visitors who interact with your workforce.
- Maternity Benefit Act applies to members of the workforce who are engaged as employees, consultants or contract workers (not, however, to interns, trainees and apprentices).
- Industrial Employment (Standing Orders) Act, 1946 is applicable to all workers who work in an establishment, whether they are permanent, temporary or contractual, or even apprentices.

## Important policies

### Code of conduct and ethics policy

As a marketing manager, you are dealing with a number of clients on a day to day basis. what if a distributor of your company offers you a business proposal to work with you personally? Can you enter into a contract with the distributor?

This is where a Code of conduct and ethics policy comes into the picture. It guides the employees on the standards of professional conduct expected from them in situations where employees might feel conflicted ethically.

A Code of conduct and ethics policy essentially guides employees in the performance of their responsibilities and duties in the organisation.

The company expects that the actions of the employees must be in line with the vision, mission and core values of the company. It acts as a reference point for the employees on the standards of professional conduct expected from the employees. Every company's Code of conduct reflects the company's philosophy.



While every company's code of conduct is unique, a code of conduct and ethics policy basically captures the following elements:

- A company's core values and principles
- Standards of professional conduct expected
- Confidentiality
- Tackling situations of conflict of interest
- Dealing with a business opportunity
- Protecting business assets and intellectual property
- Workplace safety
- Definitions and detailed explanations of key terms
- Sufficient examples to clarify grey areas and enable employees to understand what is permitted and what is not

You may have a look at how well and concisely Google has drafted its code of conduct policy [here](#)

## Whistle Blower policy

- It was a former senior executive who blew the whistle in the Satyam case. Where another employee or even a member of the senior management of the organisation is at fault, employees who become aware of it need to be provided with a safe reporting mechanism to report such wrongdoings. Their identity needs to be protected too.
- A whistle-blower policy provides a clear reporting framework wherein employees are encouraged to report wrongdoings and disclose information which he or she believes to be malpractice within the organisation.
- What if an employee makes a wrong accusation against a senior executive in the management out of personal grudge? Well, the whistleblowing policy must provide for the consequences of making a false accusation against a staff member or a senior official in the management.

### **Template -Whistleblower Policy**

The Feedback Group – including Feedback Infra, its subsidiaries and associate companies, is committed to conducting its affairs ethically and lawfully. The Group's philosophy on ethics and proper conduct is built on a rich legacy of fair, transparent and effective governance. It is guided by our DISHA - Our Purpose, Values, Vision and Goals.



## 1. Objective of the Whistleblower

### **Policy:**

**1.1** The objective of the policy is to uphold the DISHA values universally, build and strengthen a culture of transparency and trust within Feedback and ensure that the conduct of business across the Group is ethical, fair and transparent while being efficient and effective. This policy seeks the support of Feedbackers to report significant deviations and report any non-compliance and wrong practices.

Through this policy, we intend to:

1.1.1 enable employees to voice concerns - in a responsible and effective manner;

1.1.2 provide a platform for employees to disclose information internally, which he/she believes shows serious malpractice, impropriety, abuse or wrongdoing within the organization - without fear of reprisal;

1.1.3 enable disclosure of information (as found above), independently of line management (although in relatively minor instances the immediate Line Manager would be the appropriate person to be informed)

1.1.4 ensure that no employee of the Company feels he/she is at a disadvantage to raise legitimate concerns.

2.

### **Applicability:**

**2.1** This policy applies to all employees within the Feedback Group including Permanent Employees, Retainers and Trainees. Any such person who raises a serious concern would hereinafter be referred to as a 'Whistle Blower'.

**2.2** Outsourced or contract resources cannot be whistle blowers directly. They may however,

blow the whistle on cases through a Feedback Group employee.



### 3.

#### **Scope:**

**3.1** The Whistleblower Policy is an extension of our Code of Conduct. A Whistle Blower's role is that of a reporting party with reliable information. They are not required or expected to act as investigators or finders of facts, nor would they determine the appropriate corrective or remedial action that may be warranted in a given case.

**3.2** Whistle Blowers should not act on their own in conducting any investigative activities, nor do they have a right to participate in any investigative activities other than as requested by the Ethics Committee or the Investigators.

**3.3** It should be emphasized that this policy is intended to assist employees who believe they

have discovered malpractice, impropriety, abuse or wrongdoing. It is not designed to question financial or business decisions taken by the Company nor should it be used to reconsider any matters, which have already been addressed pursuant to disciplinary or other procedures of the Company. This policy shall not cover career related or other grievances.

**3.4** A whistle blowing event will be considered as one that has been registered with the Ethics Committee in writing and the Committee has *prima facie* decided to evaluate the case. Frivolous and bogus complaints are strictly prohibited. Concerns expressed anonymously will not be entertained.

**3.5** This policy is intended to provide protection to genuine Whistle Blowers from any unfair treatment as a result of their disclosure.

### 4.

#### **Procedure:**

**4.1** What constitutes Malpractice, Impropriety, Abuse or Wrongdoing?



- 4.1.1 Any unlawful act, whether criminal (e.g. theft) or a breach of the civil law (e.g. slander or libel)
- 4.1.2 Breach of any Policy or Manual or Code adopted by any entities of the Feedback Group.
- 4.1.3 Health and safety risks, including risks to the public as well as other employees
- 4.1.4 Fraud and corruption (including soliciting or receiving any gift/reward as a bribe)
- 4.1.5 Any instance of failure to comply with legal or statutory obligation either for and on behalf of the Company or in any personal capacity in the course of discharging duties of the Company
- 4.1.6 Any instance of any sort of financial malpractice
- 4.1.7 Manipulation of Company data/records
- 4.1.8 Abuse of power and authority by any official of the Company
- 4.1.9 Any other unethical or improper conduct
- 4.1.10 An act of discrimination or sexual harassment
- 4.1.11 Any act with the intention of unethical personal gain

## 4.2 Reporting a Concern

- 4.2.1 How to disclose a concern?

4.2.1.1 It is perfectly acceptable for the employee to discuss his/her concern with a colleague and it may be more comforting to raise the matter if there are two (or more) employees who share the same concern.

4.2.1.2 An employee intending to make any disclosure of a concern is required to disclose all relevant information regarding the concern not later than one- year from the day on which he/she knew of the concern.

- 4.2.2 To whom/where to disclose the concern?

4.2.2.1 In most cases, an employee's reporting manager is in the best position to address an area of concern. However, if the employee is not comfortable speaking with



the reporting manager or is not satisfied with the reporting manager's response, the employee is encouraged to write to any of the Ethics Committee members.

4.2.2.2 The complaint can also be lodged over email to Empower or by sending the details in writing to the Ethics Committee.

## 4.3 Investigation

4.3.1 Once any disclosure of concern has been made by the Whistle Blower, the Ethics Committee shall pursue the following steps:

4.3.1.1 Obtain full details and clarifications of the complaint.

4.3.1.2 Prepare a detailed written report, not later than 15 days from the date of disclosure of concern.

4.3.1.3 The Ethics Committee may consider the involvement of 'investigators' to pursue the investigation. Investigators would for the purpose of this policy mean 'persons authorized, appointed, consulted or approached by the Ethics Committee and is inclusive of but not limited to the Company's Auditors or the Police or any other external investigation agency or person.'

4.3.1.4 Fully investigate into the allegation with the assistance where appropriate, of other individuals / bodies.

## 4.4 Procedure to be pursued by the Ethics Committee

4.4.1 The Committee will, based on the findings in the written report and after conducting further investigation as it may deem fit, come to a final decision in the matter not later than 30 days from the date of receipt of the written report.

4.4.2 If the complaint is proven to be justified, then the Committee shall recommend disciplinary or other appropriate action against the defaulting employee as per Company procedures.

4.4.3 All decisions by the Committee shall be by way of a simple majority. In the case of a tie, the matter should be referred to the Appellate Authority for a final decision in the matter.

## 5. Appeal against the decision of the Committee:



**5.1** If the Complainant or the person complained against is not satisfied with the decision of the Committee, then either of the Parties could appeal against this decision before the Appellate Authority and the decision of the Appellate Authority in the matter will be final and binding on all the parties. Appropriate appeal procedure may be formulated by the Committee.

**6. Reply to the Whistle Blower:**

**6.1** Whilst the purpose of this policy is to enable the Company to investigate concerns raised by the employees and take appropriate steps to deal with it, the Company will give the employee as much feedback as the Company can.

**6.2** The Company may not be able to inform the employee the precise action the Company takes in cases where this would infringe a duty of confidence owed by the Company to someone else.

**7. Assurances for the Whistle Blower:**

**7.1** If an employee raises genuine concern under this policy, he/she will not be at risk of losing his/her job nor will he/she be suffering from any form of retribution as a result. If one is acting in good faith it does not matter if one is mistaken.

**7.2** The Company will not tolerate any harassment or victimization (including informal pressures) of/against the disclosing employee and will take appropriate action to protect the employee when he raises a concern in good faith.

**7.3** If the employee asks for protection of his/her identity, the Company will not disclose it

without his/her consent. However, it is possible that the Company will be unable to resolve the concern raised without revealing the employee's identity (e.g. required for conducting an effective investigation or when evidence is needed in a Court). But if this occurs the Company will discuss with the employee concerned how the Company plans to deal with the case and based on the discussion, the employee can proceed further in the matter and decide accordingly.

**8. Anonymous Allegations:**



**8.1** This policy encourages employees to put his/her name to any disclosures he/she makes in

writing. Concerns expressed anonymously will not be entertained.

**8.2** While this policy is intended to protect genuine Whistle Blowers from any unfair treatment as a result of their disclosure, misuse of this protection by making frivolous and bogus complaints with mala fide intentions is strictly prohibited.

**9. Complaints of retaliation as a result of disclosure:**

**9.1** If an employee believes that he or she has been retaliated against in the form of an adverse (personnel) action for disclosing concern under this policy he/she may file a written complaint to the Ethics Committee requesting an appropriate remedy. **9.2.** An employee who retaliates against someone who has reported a violation in good faith, is subject to discipline upto and including termination of employment.

**10. Suggestive Punitive Actions:**

**10.1** Depending on the nature of the complaint, the Concerned employee, at the onset of formal investigations, may be informed of the allegations against him/her and have opportunities to give his/her inputs during the investigation. An employee shall be subject to disciplinary action, if the employee fails to cooperate in an investigation or deliberately provides false information during the investigation.

**10.2** The following punitive actions could be taken against employees, where the committee finds the accused guilty. These are only suggestive actions and the committee may decide on the actions to be taken on a case to case basis, depending on the gravity of the offence:

10.2.1 Counseling & warning letter

10.2.2 Withholding of promotion/increments

10.2.3 Bar from participating in performance review cycle

10.2.4 Termination from services

**11. Ethics Committee:**

**11.1 Members:**



11.1.1 Mr. Pankaj Sachdeva – President & Group CFO

11.1.2 Mr. Rajeevan K.N. – Vice President, HCD

11.1.3 Mr. Basant Kumar, Advisor

11.1.4 Ms. Rumjhumi Chatterjee – Group Managing Director, HCD (Member Secretary)

11.1.5 **Appellate Authority:** Mr. R.S. Ramasubramaniam, Co-Chairman

## 12. Retention of documents:

**12.1** All Whistle blower concerns, in writing or documented along with the results of investigation relating thereto shall be retained by the Company.

## 13. Amendment:

**13.1** The Company reserves its right to amend or modify this Policy in whole or in part, at any time without assigning any reason whatsoever. However, no such amendment or modification will be binding on the employees unless the same is notified to the employees.

## Conflict of Interest policy

- Your company is going to enter in a joint venture with another company named XBC limited. Your relative is the MD of XBC Limited. You are one of the directors of the company intending the joint venture with XBC Ltd. Can you take part in such a transaction?
- When an employee's personal interest has the potential to influence the decision making of the company, a conflict of interest arises.
- Such conflict of interest situations can arise when hiring a person also or with dealing with the suppliers or customers of the company.
- A conflict of interest policy lists out the material transactions and circumstances that might give rise to a conflict of interest situation.
- It should list out a mechanism to disclose such transactions and consequences of breach and non-disclosure.

## Template - CONFLICT OF INTEREST POLICY



- Our Company is committed to conducting business in a manner that ensures that every business judgment and decision making is of fair nature and is not influenced by undue personal interests.
- When an employee's personal interests either influence/have the potential to influence or are perceived to influence their decision making at our Company, a conflict of interest situation results.
- These situations may include both closely related persons and friends. Making judgments, taking decisions, or pursuing actions when facing a conflict of interest, may make it difficult for our Company to perform work objectively and effectively and may have legal and regulatory consequences.
- Especially when there is a conflict of interest while hiring a person, making a decision with respect to customers, making any decision in course of your work or making any purchase, you must inform your reporting manager in writing.

Following are the policies to be followed by the employees of the Company in order to avoid any kind of conflict of interests which might harm the reputation and integrity of the Company:

- Employees are expected to recognize when they have or might develop a conflict of interest relationship with another employee, customer, regulator, inspector or any other person dealing with the company.
- Employees should consult with the Reporting Manager if in doubt about what circumstances might create a conflict of interest.
- Employees must disclose to their Reporting Manager any conflicts of interest. Disclosure must take place as soon as the employee identifies that there may be a conflict of interest and, whenever possible, before the employee engages in the conduct in question.
- Newly hired employees specifically must disclose all conflicts of interest with the Company during the hiring process or immediately afterwards so that these can be discussed with the top management.
- Business is dynamic and when circumstances change, existing disclosures may no longer be accurate or complete. When this happens, the employee must freshly disclose the conflict of interest.

## **VIOLATION OF POLICY:**

- When an employee fails to disclose a conflict of interest to the Reporting Manager as required by this policy, the employee shall be informed as to why it is believed that a conflict exists and be given the opportunity to explain his/her non-disclosure.



- If, after hearing the response and making further queries, the Reporting Manager determines that the employee has failed to disclose a conflict of interest, he/she may decide that disciplinary action should be taken by the Company and shall have the right to recover the costs as damages as decided on a case to case basis.
- This will depend on the materiality of the conflict and the reasons for non-disclosure.

## Business and travel policy

- If you are a marketing employee, chances are your work might involve a lot of travel, meeting clients, attending trade fairs etc. The MD of your company has to attend a conference in London, he demands a business class air ticket? Is it reasonable and justified?
- If an employee goes for a personal meeting during work hours, will he be reimbursed, after all, he is going during office hours? Whether you will allow the internal auditor of the company reimbursement of his 2nd AC train tickets or not are some of the questions that a business and travel policy seeks to answer.
- The policy is designed to assist employees in reporting expenses incurred while conducting the company's business or representing the company on its assignments.
- It sets out what expenses the company will approve and reimburse.
- It will include the name/ email id of the person/department to whom you need to report your expenses.
- It can also include terms putting an upper limit on the amount of allowed expenditure.
- It can also include a deadline for reporting such expenses and of course a list of disallowed expenses.

### **Template - BUSINESS & TRAVEL EXPENSE POLICY**

- This policy is designed to assist employees in reporting expenses incurred while conducting the Company's business activities.
- The Company will reimburse employees for approved business travel and associated out-of-pocket expenses that are reasonable and necessary while representing the Company on business assignments.
- The Company expects Employees to act responsibly and professionally when incurring and submitting costs. This includes, for example, travel fares, accommodations, meals,



telephone and documentation/printing charges, and purchases made on behalf of the Company.

## **GENERAL GUIDELINES:**

### **Booking**

- Employees must send an email to [provide finance email id], copying to the [finance head or appointed personnel], in case of business related travel and wait for instructions.
- Employees must arrange all travel through the online booking tool.

### **Food and Local Travel**

Employees will be reimbursed and given a travel allowance of upto Rs. [enter amount] per day, if they are travelling for business purpose, on production of proper invoices. In case of expenses over Rs. [enter aforementioned amount], a prior approval in writing is required from the Company.

### **Travel to Outstation town/cities**

- Employees should, as far as possible, book their journeys sufficiently in advance to obtain the best possible prices. The Company will reimburse employees in case of a pre-approved business travel.
- The Company does not pay for cabs as a mode of transport, to and fro from both the stations.
- If Employees use their vehicles for business travel, amount will be reimbursed as per the amount spent on petrol and for appropriate parking fees.
- The Company is not responsible for traffic or parking violations.
- *[If cost efficiency is an important agenda for the company, like for a startup, an additional clause can be added encouraging employees to stay in backpackers hostels, travel by cheapest flights and save costs while travelling on business for the company]*

## **EXPENSE REPORT SUBMISSION DEADLINE:**

- To receive reimbursement, it is insisted that the employees should submit a completed expense report within [enter number] days of incurring the expense, accompanied by receipts in order to support such expense.
- Original receipts are required for reimbursement of all expenses, which include:
  - Ø Original boarding passes for airplane / train travel
  - Ø Credit Card or Debit Card Receipts
  - Ø Detailed Merchant Receipts
- Receipts must be accompanied by a summary which outlines:
  - Ø The nature of the expense
  - Ø The name and titles of the individuals involved
  - Ø The purpose for the expense



- All expense reports must be submitted to the Administrative Department and Finance within a maximum of [enter number] days of incurring such expense. Expense reports received after [enter aforementioned number] days would not be accepted and would be considered void for the purpose of reimbursing such amounts.
- Each expense reported must then be approved by the Finance.

## **REIMBURSEMENT TO EMPLOYEE:**

- Payment will be made directly to the employee's bank account along with his/her monthly salary.
- Expenses not supported by a receipt or not properly approved by the Finance will not be subject to reimbursement.
- The Company reserves the right to withhold reimbursement while it investigates expense items if it has any reason to suspect foul play. Abuse of the policy, including falsification of expense reports, will result in disciplinary action, up to and including termination of the employment apart from recovery of any amount received in a fraudulent way.

## **NON-REIMBURSABLE EXPENSES:**

- The Company has agreed to reimburse certain business and travel related expenses as mentioned above and shall not reimburse for any other expenses which is incurred by an employee. The following is a general list of non-reimbursable expenses. The list is inclusive in nature.
- Toiletries, cosmetics, medicines, or grooming products
- Expenses incurred by spouses, children or relatives
- Alcohol
- Sightseeing or personal side trips
- Personal entertainment, such as books, magazines, newspapers, hotel room movies, hotel room mini-bar charges, sporting events, etc.
- Valet and laundry services on trips
- [add any other expenses]

## Data Security Policy

- Data security has become a buzzword. In the recent past, data leaks have happened at Facebook.
- A company's business runs on a variety of confidential information, including personal and other customer data. Such info might range from confidential business strategies to launching a new product.
- What if the pendrive through which you were transferring your sensitive data was not encrypted?



- It can also happen that an employee who has left the company has access to confidential information such as client lists, which, if leaked, could harm the reputation or business plans of the company, and personal information of customers, which is statutorily protected against disclosure.
- A data protection policy safeguards the company from potential risks of data breaches. It imposes responsibility on employees for data protection too.

## **Template - DATA SECURITY POLICY**

- Company must protect restricted, confidential or sensitive data from loss to avoid reputation damage and to avoid adversely impacting our customers. The protection of data in scope is a critical business requirement, yet flexibility to access data and work effectively is also critical.
- These policies cover any employee, part-time or full-time or individual with access to the data.
- The data protection policies must ensure that the Company:
- Complies with data protection law (if any) and follow good practice
- Protects the right of employees, customers and partners
- Is open about how it stores and processes individuals' data
- Protects itself from the risks of the data breach

## **EMPLOYEE RESPONSIBILITY FOR DATA SECURITY:**

- You are required not to reference the subject or content of sensitive or confidential data publically, or via systems or communication channels not controlled by Company. For example, the use of external email systems not hosted by Company to distribute data is not allowed.
- Please keep a clean desk. To maintain information security you need to ensure that in-scope data is not left on your desk unattended.
- You need to use a secure password on all your systems. These credentials must be unique and must not be used on other external systems or services.
- Terminated employees will be required to return all records, in any format, containing information.
- You must immediately notify the concerned authority in the event that a device containing in-scope data is lost (e.g., mobile phones, laptops, etc).
- In the event that you find a system or process which you suspect is not compliant with this policy or the objective of information security, you have a duty to inform the concerned authority so that they can take appropriate action.



- If you have been assigned the ability to work remotely you must take extra precaution to ensure that data is appropriately handled. Seek guidance from your manager if you are unsure as to your data security responsibilities.
- Please ensure that assets holding data in scope are not left unduly exposed.
- Data that must be moved within Company is to be transferred only via business provided secure transfer mechanisms (e.g., encrypted USB keys, file shares, official email, etc). You must not use other mechanisms to handle in-scope data. If you have a query regarding use of a transfer mechanism, or it does not meet your business purpose, you must raise this with your Reporting Manager.
- Any information being transferred on a portable device (e.g., USB stick, laptop) must be encrypted in line with industry best practices and applicable law and regulations. If there is doubt regarding the requirements, seek guidance from Reporting Manager.

## Health and safety policy

A health and safety policy needs no introduction. Your employees are your most valuable resource. Providing a congenial, safe and hygienic workplace is your first priority.

Suppose you are running a manufacturing company, not only providing a safe workplace is a statutory obligation on you but also your moral responsibility. Imagine, if heavy machinery breaks down, what corrective course of action you will be guided by to mitigate risks? What reporting framework you have in place for such situations? What about the pollution levels or sewage discharge mechanisms in your factory? Do you have safety markings and fencing in place?

Every company must have a proper framework to ensure the health and safety at the workplace.

A health and safety policy must also state the responsibilities of the employees for maintaining workplace safety.

### **Template - HEALTH & SAFETY POLICY**

#### **POLICY:**

- This policy applies to all the Company's staff including its directors, part-time and fixed-term employees, temporary staff, work from home employees, casual staff, interns. This Company reserves a right to amend the policy at any time as it deems fit.
- At this Company, we believe that no other asset in the Company is as important as the people who contribute with their work to our culture and business results. Therefore the Company is committed to the safety and health of the Employees, customers and visitors, and recognizes the need to comply with applicable regulations governing accident prevention and ensure safety of all the Employees.



- Overall responsibility for observing safety standards belongs to senior management to ensure a safe and healthy work environment. As an integral part of managing the business, the senior management is accountable for managing workplace health and safety with strong leadership and credibility.
- Employee involvement is indispensable to establish and maintain safety and health in the workplace all the Employees should do everything in their power to minimize risks in the workplace, to exercise caution at work activities and to conduct themselves in a manner that does not endanger them or their fellow Employees or customers.

The arrangements made in order to maintain the Health and Safety policy are:

- Maintenance of First Aid kit at the workplace
- Regular risk assessment of the workplace
- Consultation with employees on the matter of health and safety
- Reviewing the policy whenever a change is made in the workplace
- To provide adequate control of the health and safety risks arising from our work activities
- To adhere to office timings, unless the workload is excessive and cannot be managed within work hours.
- To prevent accidents and cases of work-related ill health
- To maintain safe and healthy working conditions

## **EMPLOYEE RESPONSIBILITIES:**

### **HEALTH**

- All employees must strictly adhere to work timings of the office, unless the workload is excessive and cannot be managed within work hours.
- An employee that feels that their workload is excessive and cannot be managed within the working hours must report the same to their Manager. The Manager shall work out a solution to the same in coordination with the [appropriate authority].
- Any employee staying beyond [mention time] in the office premises must intimate their Reporting Manager through email each time the same happens.
- An employee must disclose any serious health conditions to their Reporting Manager at the time of joining and/or whenever he possesses the knowledge of the same. The Reporting Manager is to assess the impact of the health condition on the Company's business and take a call with respect to his/her employment.
- The Company may decide to retain the employee with a serious health condition, severe health issues or accident-ridden on work-from home basis, if the need so arises. It is to be noted that such decisions shall be taken up on cases to case basis by the Leadership.



## SAFETY

- An employee must immediately report any unsafe condition or health hazard to the Reporting Manager.
- In the case of accidents that result in injury, regardless of how insignificant the injury might appear, employees must immediately notify the Reporting Manager.
- Employees who violate safety standards, who cause dangerous situations which might lead to accidents/injury, or who fail to report or remedy such situations, may be subject to disciplinary action, up to and including termination.
- Employees are responsible for maintaining their work areas in an organized and presentable manner. Work areas should also be maintained in a clean, healthy and orderly fashion so as to prevent unsafe, unhygienic situations, accidents and injuries.

## Leave and attendance policy

We all have that one employee who is always running late but works overtime to make up for it. How many overtimes would you allow?

If this is allowed, an employee will work at his own will and create a very convenient and flexible schedule for himself.

What if there is a machinery breakdown in your factory on a Sunday? Can you ask your line manager to forego his Sunday? How will you compensate him for it?

There is an intrinsic cost involved for a company when an employee is absent. It can affect the overall productivity of your team.

Fellow colleagues might be required to take up your work which might eat up their productive hours too. Besides, absenteeism beyond permissible leaves has a bearing on your take home salary too.

A leave and attendance policy is drafted to answer all such questions.

Basic terms in a leave and attendance policy include working days and working hours, criteria for availing sick and privilege leaves, criteria for dealing with late coming, situations permitting work from home, etc.

Leave and attendance policy needs to be in accordance with applicable state-level Shops and Establishments laws or Factories Act (as applicable) and holiday-related legislations.

## Template - LEAVE AND ATTENDANCE POLICY



## Objectives:

The leave policy has been created keeping in mind the following objectives:

- People are able to take holidays effectively and with clarity;
- Performance of colleagues is not affected by absence at work;
- Work of the company, productivity and deliverables are not impacted due to your absence.

## Policy:

- **Working Days And Working Hours:**

- Official working days are from [ ] to [ ]. For any day that you do not show up in a week, put in extra hours on other days to complete the backlog.
- Official working hours are from [ ]am to [ ]pm on weekdays and [ ]am to 4.00] pm on Saturdays. Sundays are weekly off days.
- Integrity is one of the key ingredients in [company name] work environment. Come on time and leave on time – unless there is a backlog that requires you to stay till late or a deadline for an urgent project. Nobody will hold you back if your work is done earlier. We encourage you to come early and finish early.
- *[if there are different branches and working days and/or office timings varies from branch to branch, a table can be provided stating the details of the same]*

- **If Employee/Consultant is required to work on a Sunday or holiday:**

- In case of exigencies, if an employee is required to work on Sundays or on holidays with approval from Reporting Managers, that person shall be allowed to take a day off subject to the employee working for [ ] hours. The Reporting Manager shall bear in mind the team-coordination in case any member takes a day off during such a weekday.
- For example: If the Sales Head or the Marketing Head decides to work on a Sunday and takes Monday off, the respective team members must be aligned in order to make sure work happens smoothly without any negative impact on Monday.

- **Criteria for Work From Home:**

- This option can be granted only with the alignment of the [appropriate authority] and they are satisfied that there will be no impact on the work. If you are taking the option of work from home, 8 hours of work structure must be sent to [ ] Department copying [appropriate authority].



- **Criteria For Taking Half-Day:**

- Half day is counted if the employee works for [ ] hours of the day and work structure on such day needs to be sent (you need to send structure to [ ] Department copying [appropriate authority]).

- **Submission of Daily Report:**

- Submission of daily report is also compulsory. If your Reporting Manager complains in writing about not submission of daily report that day will also be considered as leave.
- Employee has to submit daily report to their Reporting Manager before leaving the office.

- **Privilege and Sick Leaves:**

- **What constitutes a privilege leave?** The Company refers to casual leaves as privilege leaves.
- **What constitutes a sick leave?** Sick leave shall mean a leave of absence granted because of illness. In addition, in the interest of the women working in the company, a female employee can claim one day of sick leave per month in case of menstrual discomfort.

- Employees who have **completed** [ period, eg. one year] of continuous employment:

- Number of Privilege leaves in a year – [ ] days
- Sick Leave – [ ] days in a year

- Leaves for employees who have **not completed** [period, eg. one year] of employment:

- An employee who has completed a period of [ ] months in continuous employment, shall be entitled to not less than [ ] days privilege leave for every such completed period.
- An employee who has completed a period of four months in continuous employment, shall be entitled to [ ] sick leaves for every such completed period.
- 
- Employee who has **not completed a period of [ ] months in continuous employment:**
- Any leave will be without pay leave.
- Sick leave of more than one day will be approved on providing appropriate medical documents. It will be adjusted against future leave entitlement.



- Privilege leave earned during the previous year shall be credited to employees' individual account on first of January of the following year. Any unused privilege leave will be added to the next period, provided that in no case such number of accumulated privilege leave will be more than [ ] days at any point of time.
  - Undue number of holidays must not be taken. In case of prolonged sick leave impact on work has to be kept in mind.
  - Leaves require written confirmation from a Leadership. Privilege leaves cannot be taken continuously for more than [ ] days.
  - For leaves planned for more than [ ] days (inclusive of weekends), inform the Leadership a month in advance in order to allocate your projects accordingly.
  - For more than [ ] days of continuous sick leave, one must submit appropriate relevant medical documentation, including diagnostic tests results, doctors' prescription and medical shop bills (not one but all of these).
  - Every leave needs to be approved by the Leadership. Drop an email at least one week in advance and get it approved. Leaves are not to be taken at the cost of work. It is highly recommended that you create and share a workable structure for ensuring how work will get done without disruption and delays and take alignment of the person you report to and the Leadership.
  - If two or more people from the same team is taking leave on the same day/period, alignment must be taken from the [appropriate authority].
  - Last minute leaves are not encouraged. Last minute leaves are likely to impact your own, your colleagues' and the company's work and the results you produce. It shall also trigger disciplinary actions.
  - The Leadership holds the right to approve or disapprove your leaves depending on the current project, your requirement for special projects, and your backlog.
- **Attendance Protocol**

*[the following clause can be included if the company has access card reader system]*

- **Attendance through Access Card Reader System**

The Automatic Access Machine is available at the company office. It is located at the [entrance gate or the reception]. Identity cards cum access cards are allotted to every employee of the company situated at the office which captures records



of the attendance. Every employee has to punch/swipe their identity card cum access cards at the time of entering or leaving the office premises.

*[Other specifications which can be covered under the Attendance Protocol clause are :*

- *What happens when the employee forgets to bring his ID cum access card*
- *'Out-door' status in case employee is visiting another branch of the company or attending to office work outside the premises*
- *If there is an option of 'tour' when the employee is on official tour for the company]*
- *[If there are multiple offices/branches/locations of the company, and the employee is on visit such other location where access card reader system is installed, it can be provided here that, "the employee must swipe his/her card at such respective location"]*

*[the following clause can be included if the company has SARS sheet system for attendance of employees]*

- **Attendance through SARS sheet**

The SARS sheet is available at the company office and is placed at the [entrance gate or reception]. The SARS sheet ensures that the attendance is captured for every employee working at the office. Hence, all employees in order to capture their attendance have to follow the guidelines given below.

- The SARS sheet should legibly filled and properly maintained without any scribbling or overwriting. Employees have to ensure that they write their correct employee code, name and signature in the SARS sheet.
- No employee is allowed to sign for future timings, future attendance and for proxy for friends and colleagues for a future date. This is a serious offence involving integrity and code of conduct. Disciplinary action including termination can be taken against the concerned employee(s).

- **Duty of the [appropriate authority eg. Manager/Coordinator] while maintaining the SARS sheet**

The SARS sheet should be placed at the office in the morning and after the reporting time to the office, the SARS should be kept under lock and key under the supervision of the [appropriate authority].s available at the company office. The SARS sheet ensures that the attenda

- All employees who come late to the office should approach the [appropriate authority] in order to mark their attendance in the SARS sheet.
- The [appropriate authority] should ensure that the sheet is legibly completed for the HR Fto comprehend.
- The [appropriate authority] is required to keep a copy of the SARS sheet at their end for future records before sending the same to the HR department.



- In case an employee's details are incomplete i.e. employee name, employee code, branch code and signature is not complete in the SARS sheet, the attendance of the concerned employee will not be marked in the payroll.

## Duty of the HR personnel

- On receiving the SARS sheet, the HR personnel should ensure that the sheet is duly filled. Incase of any discrepancy in the SARS sheet the same has to be informed via mail to the immediate [reporting authority].
- Once the comments are received from the Immediate [reporting authority] the HR personnel should update the same in the system.
- The data that is collated should be sent to the payroll team for salary processing.
- Also note that there will be an audit of the SARS sheets before salary processing by our Internal Audit Team who will calculate the number of leaves as per the policy.

## Late Coming:

- If you come at any time after [ ] am, you will be considered late and being late on three occasions in a month will be counted as one leave. This absence will be adjusted against a privilege leave. If at that time you have no privilege leaves remaining, this will be adjusted against your salary.
- If you are late by more than an hour [specify time], it will be counted as a half day. Your salary will be deducted pro rata due to unauthorized absence. If you take leave without due authorization under this policy, you would still be expected to finish your deliverables in such a way so that your teammates are not affected and work can progress uninhibited. If you fail to do this, that would reflect on your performance review, bonus and future increments.
- Unauthorized absence in a month can lead to disciplinary action, extending to deduction of salary or termination of existing consultancy arrangements in appropriate cases.

## Holidays and Festivals:

1<sup>st</sup> January, 26<sup>th</sup> January, 15<sup>th</sup> August, 2<sup>nd</sup> October, Holi, Dusshera, Diwali, and 25<sup>th</sup> December (Christmas) are official holidays. If you need holiday for any other festival, make a request to the [appropriate authority] and it will be considered.

*[a list of holidays covering more festivals can be provided here]*

For the purpose of this policy, year will be counted as the period between [specify format for a year, eg. 1<sup>st</sup> January to 31<sup>st</sup> December].



## Media policy

Suppose you are approached by a media house to respond to a particular query or information about the company. The information to be sought can be about a new product launch, a new competitive entrant etc

A media policy comes in handy in such cases providing a set of guidelines to deal with the manner of communication with the media. Normally it is advised to authorise a spokesperson from the marketing or public relations team to handle media calls.

While drafting the policy, it must be ensured that no person other than the authorised spokesperson interacting with the media without a prior written authorization. It must also be ensured that media is directed to the authorised spokesperson as soon as they contact such person.

Media calls need to be responded quickly and professionally. It is important to keep in mind that the reporter's deadline is met. You see, the manner in which the call is handled will be the reporter's first impression about the company which can later reflect in the covered article about the company.

### **Template - MEDIA POLICY**

This policy exists to assure that information disclosed by the Company is timely, accurate, comprehensive, authoritative and relevant to all aspects of the Company. Adherence to this policy is intended to provide an effective and efficient framework to facilitate the timely dissemination of information.

#### **GUIDELINES FOR TALKING TO THE MEDIA:**

A reporter, producer or other news media may contact an employee for a number of reasons, for example:

- To get information about our Company.
- To get information or comment about an action or event that could impact our industry, new competitive entrants, new product/course launches, changes in government policies or anything else related to or incidental to the business of the company.

The following guidelines are to be followed by the employees if there is an occurrence of any of the above mentioned events:

- Everybody except for specifically authorised persons from the marketing team is prohibited from discussing anything with the media about the company, employees, consultants, affairs of the company, business or anything else at all without prior written



permission from company. Violation of this will be considered a serious breach of discipline and may lead to immediate termination.

- Refer all media calls to authorised spokesperson. Please do not say you are not allowed to talk to a reporter or have to get permission to do so. Instead, you can direct the reporter to directly contact the responsible person. For the time being, the person will be [name, email id and number of concerned person]
- Whenever taking a call from the media, the same courtesy and professionalism in which we approach customers should be displayed towards the media.
- Please act quickly when approached by the media to ensure that the reporter's deadline is met. This is important because the way this call is handled may be the reporter's first impression of the Company and that first impression may end up in the story published or the news segment broadcast.
- In order to promote our Company, it is important to respond quickly, courteously and professionally to all media calls.
- Please remember to contact the Marketing Team if and when you have been approached by the media. Even though you have referred the media, Marketing Team may need your help to prepare a response.
- Do not let a reporter compel you to answer questions on the spot. Just politely tell them that you are not the best person to answer these questions and redirect them to the responsible spokesperson. If you have been authorised in writing to speak to the media, it is always beneficial to prepare in advance in order to provide accurate and relevant information.
- Do not call a reporter directly without first consulting the spokesperson. If you note that there is a reporter amongst our customers, immediately alert the authorised spokesperson about the same.
- The media cannot enter our facility to photograph or film without permission from [concerned person].

## Personnel File Policy

- I was once asked to hire an intern by my former boss, I went through a file of previous internship applications and resumes of past interns. I was able to find the right candidate. Forget about hiring, something as simple as knowing your employee's blood group can be useful if an accident at workplace happens in a factory .
- A Personnel file policy includes information related to an employee's job application, resume, records of training, documentation of performance appraisals and pay adjustments, benefits (if any), medical records and other employment records.



- It must also state the name of the reporting manager or department entrusted with the responsibility of maintaining the personnel file. Generally it is the administrative department entrusted with this responsibility.
- The policy must also state the grounds of granting access to the personnel file to managers or employee himself. For eg, a manager may require the file access at the time of hiring a former employee.
- Such grant requests must be recorded in writing preferably via email to the concerned designated person or the administrative department.

## **Template - PERSONNEL FILE POLICY**

- The Company maintains a personnel file on each employee, subject to present laws. The file includes information related to an employee's job application, resume, records of training, documentation of performance appraisals and pay adjustments, benefits (if any), medical records and other employment records.
- Employee files are maintained by the Administrative Department and are considered confidential.
- Managers, other than the designated administrative representatives may only have access to personal file information on a need-to-know basis.
- A manager considering the hire of a former employee or transfer of a current employee may be granted access to the file.
- Employees may view his or her personnel file by requesting an appointment with the Administrative Department, by email. Employees may not remove, alter or make copies of any of the documents in the file and therefore it must be reviewed in the presence of a staff person.
- Employees are responsible for notifying the Administration about change in any family status, including name, addresses, telephone number, marital status, beneficiaries, dependents and any scholastic achievements.

## **Anti Sexual Harassment Policy**

- In a post-me-too world, sexual harassment is a big danger to every organization. It is not enough to just comply with laws, but companies must be seen to be taking a proactive stance if they do not want to face a huge backlash from social media and possible boycott and disruption of work.
- Employees are now opening up on social media with their allegations even before taking the formal recourse available to them. Not only does it pose a threat to the company's perception in the eyes of the public but also causes hindrances in conducting a proper investigation with regard to the allegation too.



- In many cases, where the senior personnel has been accused of sexual harassment, the HR finds it difficult to make them accountable.
- That's where a clearly defined policy on sexual harassment comes into the picture. The policy should provide for instances which constitute sexual harassment differentiating with instances which do not constitute sexual harassment.
- It must also provide for proper redressal mechanism, timelines within which the complaint needs to be resolved, the details about the constitution of an ICC committee, remedial actions available to the aggrieved person, assurance against retaliation among other things.

## **Template - POLICY ON PREVENTION OF SEXUAL HARASSMENT AT WORKPLACE**

### **1. OBJECTIVE**

- [name of the company] (hereinafter referred as the “Company”) aims to provide an equal opportunity space inclusive for individuals irrespective of their gender, caste, community, race/ethnicity, color, social status, civil status, age, physical ability. The Company takes a strong stance against any form of discrimination and harassment arising out of the above-mentioned reasons. Affirmative action will be taken to ensure that all decisions of this entity are free of any discrimination and disciplinary action will be initiated against any individual or group caught in engaging in such activities.
- The laws of India requires us to lay down guidelines and a forum for redressal of grievances related to sexual harassment. This policy takes complete cognizance of the latest legislation by the government of India “The Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 and its notification published on 9th December 2013 (“Act”). This Act is to provide protection against sexual harassment of women at workplace and for the matters connected herewith or incidental thereto.
- The Company acknowledges that individuals covered by the scope of this policy are to be informed of this policy and to have access to the information needed to prevent sexual harassment. The Company will openly, publicly and widely display this code of conduct together with the contact information of the designated Internal ICC members and external parties authorized to process complaints.
- For the purpose of clarification, this policy will be equally applicable to all employees, part time or full time, those who are working on work from home assignments and consultants, irrespective of their gender and will cover same-sex sexual harassment.

### **2. SCOPE OF PROTECTION**



- This policy applies to all categories of Company's employees (management and regular employees), consultants and directors irrespective of location within India, temporary workers, trainees, interns, employees on contract at client sites and other individuals associated with the Company. For the purpose of identification, above mentioned categories will be referred to as "Company employees". This policy does not include the end users of Company's products and its services.
- The conduct of Company employees will be applicable in all work-related settings and activities, whether inside or outside the workplace, and includes business trips and business-related social events. Any meeting or engagement required for Company official work activity is covered by this policy.
- This policy applies to the conduct of the Company employees toward other internal Company members, external individuals in the role of a customer, supplier, contractor and third-party vendors.

### **3. ACTIONS IDENTIFIED AS SEXUAL HARASSMENT**

- The Company takes a strong stance against any form of discriminating treatment that demeans its community member/s based on gender, caste, community, race and ethnicity, color, social status, civil status, age, physical ability.
- At the Company, all employees are expected to uphold the highest standards of ethical conduct at the workplace and in all their interactions with business stakeholders. The employees have a responsibility to:
  4. Treat each other with respect;
  5. Follow the letter and spirit of law;
  6. Refrain from any unwelcome behavior that has a sexual connotation (of sexual nature);
  7. Refrain from creating hostile environment at workplace via sexual harassment; and
  8. Report sexual harassment experienced and/or witnesses to appropriate authorities and abide by the complaint handling procedure of the company.

"Sexual harassment" includes (but it is not limited to) any one or more of the following unwelcome and inessential acts or behavior (whether directly or by implication) namely:

1. Physical contact and advances; and/or
2. A demand or request for sexual favors; and/or
3. Making Sexually colored remarks; and/or
4. Showing pornography; and/ or
5. Any other unwelcome and inessential physical, verbal or non-verbal conduct of sexual nature; and/or
6. Creating a hostile work environment for employees by putting a complainant (of sexual harassment) in disadvantageous position w.r.t. employment, associated privileges,



benefits & career enhancement in connection or related to any act or behavior of sexual harassment.

7. Physical contact and advances such as touching, stalking, making sounds which have explicit and / or implicit sexual connotations / overtones, molestation;
8. Display of pictures, signs etc. of sexual nature/connotation/overtones in the work area and work-related areas;
9. Verbal or nonverbal communication which offends the individual's sensibilities and affect her/his performance and has sexual connotation/overtone/nature;
10. Repeatedly asking to engage in a romantic relationship;
11. Teasing, voyeurism, innuendos and taunts, physical confinement and /or touching against one's will and likely to intrude upon one's privacy;
12. Sexual harassment is not limited to demands for sexual favors. It also may include such actions as:
  - Sex-oriented verbal "kidding," "teasing" or jokes;
  - Repeated offensive sexual flirtations, advances, or propositions;
  - Continued or repeated verbal abuse of a sexual nature;
  - Graphic or degrading comments about an individual or her appearance;
  - Display of sexually suggestive objects or pictures;
  - Subtle pressure for sexual activity; or
  - Inappropriate physical contact.

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

1. implied or explicit promise of preferential treatment in employment; or
2. implied or explicit threat of detrimental treatment in employment; or
3. implied or explicit threat about present or future employment status; or
4. interferes with work or creating an intimidating or offensive or hostile work environment or
5. humiliating treatment likely to affect the health or safety of the community members.

Take note that above mentioned are applicable but not limited to hiring, firing, performance appraisal, promotion/demotion, assignments, monetary appraisal of any individual part of the Community.

1. All the above is prohibited through any mode of communication including in person, over the phone, on voice mail, through pen and paper, on e-mail, inside or outside of workplace, through chat, through SMS or any other form of communication.
2. Sexual harassment does not refer to occasional compliments of a socially acceptable nature, or consensual personal and social relationships without a discriminatory employment effect. However, note that at the company, you are not allowed to have sexual or romantic relationships with colleagues or customers, and if you really want to engage in one, you must inform the management right away so that we can avoid in



conflict of interest situation. Hence it should be clear that any romantic or sexual advances towards colleagues would be unacceptable and unwelcome. However, all such acts may not constitute sexual harassment unless the same is personally intimidating, hostile, or offensive.

## **OBLIGATIONS OF THE COMPANY EMPLOYEES**

Each member of the Company employees is obligated to follow this policy for themselves. This policy also obligates anyone to report any incident observed as a third party to the authorized ICC members. It is the combined responsibility of the employees to withhold the values and principles of equal opportunity and zero discrimination for all involved.

## **COMPLAINT MECHANISM**

An appropriate complaint mechanism in the form of “Internal Complaints ICC” has been created in the Company for time bound redressal of the any complaint made for violation of this policy.

## **AUTHORIZED COMMITTEE - INTERNAL COMPLAINTS COMMITTEE (ICC)**

1. The Internal Complaints Committee (“ICC”) will be constituted to handle and address any incident arising out of the violation of this policy. The details of the ICC members will be made available openly and the Company employees may contact any of the ICC members directly.
2. The following members of the Company will constitute the ICC:

Presiding Officer:

Member:

Member:

Member:

External Member:

1. The ICC members will have a tenure of 3 years from the date of their appointment. The ICC will receive complaints; investigate every formal written complaint received by them under this policy; provide conciliation, if requested; recommend appropriate actions for punishment for any substantiated allegations of harassment; and take actions discouraging and preventing employment related harassment.
2. If any complaint arises against the Presiding Officer or any of the members of the ICC, the Presiding Officer or the member as the case may be, will recuse himself or herself from the proceedings and an alternate member shall be appointed in his or her position to the ICC by the Company Board of Directors, with exception of an accused board member to avoid any conflict of interest.

## **DUTIES AND FUNCTIONING OF ICC**

1. The ICC will ensure that they remain in open communication with the Company employees to ensure the absence of any violation of this policy.



2. The ICC will ensure that they maintain any records of any observed and informed incidents for purpose of future proceedings.
3. The ICC will ensure absolute transparency in its activities and initiatives, be ready to disclose necessary information to the respective stakeholders when required and investigate the complaints while abiding by the principles of natural justice.
4. The ICC will ensure absolute integrity and honesty with respect to keeping their own biases aside and ensure that they will hold the responsibilities of being part of ICC and Company Community.
5. The ICC will develop the standards for its day to day functioning by identifying its performance metrics, initiatives, timelines, record keeping and evaluation of its members.
6. The ICC will ensure confidentiality of identity of individuals involved, details of the incidents, proceedings of the matter resolution, and will only disclose information with a reason required to protect a possible damage greater than one caused by withholding the information. This decision will require a vote of majority and be executed accordingly.
7. Proceedings can be held and participants of any proceedings of the ICC can join through video conferencing facilities such as Google hangout or GoToMeeting.

## **PROCEDURE FOR FILING AND DEALING WITH THE COMPLAINTS**

1. Filing of the Complaint:
  2. Anyone can lodge a complaint, only in writing, with the ICC. Email can be sent to [ ]. The ICC is required to maintain physical records signed by the complainant for future purposes before initiating a formal investigation. Electronically signed documents will be accepted only from the individuals whose identification (email address or phone number) is part of the member profile at the Company. No anonymous complaints will be acted upon.
3. Dealing with complaints:
  4. Informal resolution option: Once a complaint is accepted, the ICC will aim first and foremost for any form of resolution that is possible through conciliation to identify a possible case of misunderstanding and miscommunication and explore steps to amicably settle the matter between the complainant and the accused. The above process can only be initiated if the complainant agrees to the same.
  5. Investigation: If either of the parties (complainant and accused) disagree with the conciliation, the Internal Complaints ICC can carry out the investigation process which shall involve taking statements from the witnesses. After the investigation process, the ICC is required to prepare a report. This document is confidential in nature and will not be provided to the involved parties. The claimant or accused can choose whether or not to file a complaint with the police in case of serious offences. If a police complaint is filed, the Company will extend support either to the potential victim or the alleged accused unless the investigation results in an unclear outcome. Even in cases where a complaint is not



filed, the Company is liable to take corrective measures which may involve dismissing the accused.

6. Documentation: Every detail of the incidents, complaints, investigation, hearings, evidences, conclusions, agreements and closures will be documented and recorded in soft copy form. These records will be maintained by the ICC in a safe and secure manner, and shall be shared with both the complainant and the accused.
7. At the end of an investigation, final recommendations will be made and sent to the management for execution. Recommendations will incorporate one or more of the following to be used as sanction for the actions proven guilty of: employment status, location of work, team, function, financial penalty, legal action.
8. In the event that the matter is found to be of frivolous in nature and intent and false, strict actions will be taken against the complainant. The accused may or may not choose to be party of this process.
9. In the event that the matter is found to be a mere misinterpretation of the events occurred and does not require any action to be taken against the complainant or the accused, a document stating it so, signed by all parties involved will be maintained by the ICC.
10. In case the ICC finds the degree of offence to be serious enough that a criminal case should be pursued under the India Penal Code, then this fact shall be mentioned in its report and appropriate action shall be initiated by the employer for making a Police Complaint.
11. Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the Company shall take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

#### Timelines:

1. The following timelines will be applicable for the activities of the ICC:
  - a. Accepting a complaint: Any complaint can be accepted if it is reported within a period of 90 days of the incident.
  - b. Initiating the proceedings: After receiving the complaint, ICC has 10 days to initiate the investigation unless it is a matter of extreme urgency. However, immediate action and dialogue must happen with a written response once the complaint is received informing the complainant.
  - c. Investigation: ICC has maximum 90 days to look into the matter and complete the investigation.
  - d. Submission of report: Report submission to the Management must be done within 10 days where the management has 60 days to implement the suggestions made in the report.
  - e. These timelines are prescribed and mandated to be followed in all instances except when the complainant, accused or ICC can provide a valid written reason for the extension accepted by all parties involved.



## **GUIDELINES ON THE RECOMMENDATIONS TO BE SUGGESTED BY ICC**

1. The recommendations suggested by the ICC after the investigation of the complaint may vary on the degree of offence committed by the accused. Sexual harassment complaints may have a combination of one or more of the following categories: mental trauma, emotional, physical and professional damage.
2. Such recommendations may range from the following options:
  - a. Formal apology
  - b. Counselling
  - c. Written warning to the accused and a copy of it maintained in the employee's file.
  - d. Change of work assignment / transfer for either the accused or the complainant.
  - e. Suspension or termination of services of the employee found guilty of the offence
  - f. Direction to the accused to pay monetary compensation to the complainant.

## **CONFIDENTIALITY OF THE PROCEEDINGS**

1. Dealing with the complaints will be done in an utmost confidential manner amongst all parties involved including the ICC members. Any individual violating confidentiality will result into financial and legal action against the person. This will be decided by the ICC members on case to case basis.
2. The Company will ensure that the complainant or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment.

## **ASSURANCE AGAINST RETALIATION**

This policy seeks to encourage all employees to express freely, responsibly, and in an orderly way opinions and feelings about any problem or complaint of sexual harassment. Retaliation against persons who report or provide information about sexual harassment or behavior that might constitute sexual harassment is also strictly prohibited. Any act of reprisal, including internal interference, coercion, and restraint, by an employee, violates this policy and will result in appropriate disciplinary actions.

## **Physical Contact with Customers Policy**

- A physical Contact policy with customers is basically framed to ensure that employees are guided by professional behavior at all times when dealing with customers. It aims to discourage unwanted physical contact with customers. The manner in which you meet someone reflects your character and personal values. Likewise when you meet someone on behalf of the company, your behavior and conduct might be perceived by the other party as a reflection of the company's culture.
- Generally professional meetups are restricted to handshakes and greetings. Highest standards of courtesy and politeness is expected from the parties.



- Standards of professional conduct especially becomes imperative when meeting in public areas.
- A physical Contact with customers Policy should provide for physical contact which can be deemed as inappropriate and unwelcome.
- Measures to take in case a customer or a supplier is uncomfortable with the physical or intimate interaction with a reporting manager. Such measures may include reassignment or changing the reporting manager.

## **Template - PHYSICAL CONTACT WITH CUSTOMERS Policy**

This policy applies to all the Company's staff including its Co-Founders, part-time and fixed-term employees, temporary staff, work-from-home employees, casual staff, interns. This Company reserves a right to amend the policy at any time as it deems fit.

### **POLICY**

- Our Company discourages Employees from engaging in any intimate or inappropriate physical contact with any customers/clients/leads that interact with the employees.
- This is to communicate that unwanted physical contact between the employees and the customers is inappropriate and will strictly not be tolerated.
- It is the policy of the Company that no employee shall initiate any unwanted physical contact with our customers, at our places of business, business events or Company's social events.
- Unwanted physical contact comprises of:
- Hugging, Patting, stroking, rubbing, holding, touching or kissing or any other physical contact that is unwanted
- Any kind of massage, such as a massage on the back, neck, head or any other part of the body

### **PROCEDURE:**

The following procedures are to be undertaken by all the employees of the Company:

- Any physical contact with our customers must be consistent with a professional working environment. Physical contact between employees and customers will be restricted to providing necessary assistance, handshakes, or a pat on the back.
- Employees should avoid situations which could lead to a non-professional relationship with our customers. If such a relationship should begin to develop, the involved employee should discuss the possibility of job reassignment with their Reporting Manager or in some other way limit contact with the involved customer.
- Employees should closely monitor activities between the other employees and customers in all common or public areas of the Company's place of business or at the place of any Company related activity or outings.



- Employees who witness any other Employee and customer engaged in overly affectionate or inappropriately sexual behavior while participating in any public or common areas, should be asked to refrain from this behavior.
- All the employees are required to report any non-professional and/or questionable interactions between any employees and customers that they observe, or have heard about, to their Reporting Manager.
- If the Company determines that unwanted physical contact has occurred between an employee and a customer, effective punitive action will be taken appropriate to the circumstances.
- Any person responsible for unwanted physical contact will be subject to disciplinary action, up to and including termination.

## Probationary Policy

- New employees need time to acclimatise themselves with the working atmosphere of the company. They also require orientation and training in some cases to move towards expected levels of competency desired by the employer.
- The first few months of employment represent an opportunity for both the employee and the Company to determine if the original hiring decision was best for all involved.
- A probationary period policy contains details of terms of probation like period of probation, performance review and assessment, extension and grounds of termination during and after probation.

### **Template - PROBATIONARY POLICY**

The Company recognizes that new employees will need time to become familiar with the workplace and to move toward competency in their position. The first few months of employment represent an opportunity for both the employee and the Company to determine if the original hiring decision was best for all involved.

An individual who has been newly hired shall serve a probationary period of [ ] working months.

- [ ] Months – Non-Managerial, Managerial, Professional & Technical OR any Off-Site Employees
- Probationary period for part-time employees will be as per above.

The probationary period does not include time the individual spent as an intern. However, probationary periods may be waived with the approval from the [appropriate authority].

#### **PROBATIONARY REVIEW:**

- The probationary review must be conducted prior to the end of the probationary period that applies.
- The probationary review shall be signed by the [appropriate authority].



- The supervisor/manager must provide ongoing supervision and keep the new employee informed on his/her performance relative to the Company's expectations.

## **CHANGE OF STATUS:**

An employee cannot change from a probationary status to employment status unless his/her probationary review shows an acceptable assessment.

## **EXTENSION OF PROBATIONARY PERIOD:**

- The probationary period may be extended, with the reasons for the extension given to the employee in writing.
- Probation should be considered active employment only.
- If the individual is absent during the probationary period (i.e., illness, vacation), the length of extension to the probationary period shall be appropriate to the circumstance in each case.

## **TERMINATION:**

- The employee's performance shall be periodically assessed during the probationary period and the results discussed with her\him. If the employee's performance is unsatisfactory, employment may be terminated, in writing, during or at the end of the probationary period.
- During the probation, the employment shall be terminated after 15 days from the date of receipt of the notice by the Company. Giving a notice during probation period, however, is not mandatory for the Company.
- After the end of the probationary period, the termination happens after [90] days from the receipt of the notice by the Company if it is the employee giving a notice. For Company, it will have to give a notice of [30] days minimum.
- Administration must be notified [two (2)] weeks before the end of the probationary period when the Manager suspects that a termination recommendation will be proposed.

## Computer Equipment and Internet usage policy

- I once kept a tab on my internet and WhatsApp usage during office hours. I realised I lost 2 hours of the productive time unconsciously replying to WhatsApp messages, responding to emails. I struggled to complete my work for that day. Well, time spent on the internet for non-personal use affects productivity big time.
- Working online is part and parcel of the nature of work in many organisations. You are chatting with a client on WhatsApp. Will you not respond to your mother's text?
- A Computer equipment and Internet usage policy intends to provide employees and consultants with rules and guidelines about the appropriate use of company equipment, network and Internet access. This policy applies to all employees and consultants with access to Internet and related services through the Company network infrastructure.



- The thumb rule is usage supporting business activities and job functions are allowed.
- Services like working on company's online dashboard, internal chat rooms can be accessed.
- The policy also provides for activities which are not permitted. It can range from blocking access to a Facebook account to restricting access to confidential business information.

## **Template - USE OF COMPUTER EQUIPMENT & INTERNET USAGE POLICY**

- This policy applies to all the Company's staff including its [Founders], part-time and fixed-term employees, work-from-home employees, temporary staff, casual staff consultants, and interns. This Company reserves the right to amend the policy at any time as it deems fit.
- This policy intends to provide employees and consultants with rules and guidelines about the appropriate use of company equipment, network and Internet access. This policy applies to all employees and consultants with access to the Internet and related services through the Company network infrastructure.

### **COMPUTER USE:**

- Computers (desktops or laptops), Computer files, the e-mail system, and software furnished to employees are the Company's property intended for business use. Generally, all consultants are expected to use their own computers and software for work. They are responsible to ensure that no pirated software or illegal hardware is used for the work of the company.
- Incidental and occasional personal use of the company's computers, voice mail and electronic mail systems is permitted, but any information and messages stored in these systems by the employees will be treated as Company Property.
- An employee should have no expectation that any personal information stored by them on the Company's computers and/or communication systems are private and confidential.
- Use of password to protect a file or any stored communication without authorization is prohibited. To ensure compliance with this policy, computer and e-mail usage may be monitored.
- The Company may have to respond to proper requests resulting from legal proceedings that call for electronically stored evidence. The Company will also conduct investigations where complaints of unacceptable behavior towards Computer usage have been made.



- The Company is committed to have a workplace that is free of harassment and sensitive to the diversity of employees. Therefore, employees are not allowed to use Computers and email in ways that are disruptive, offensive to others, or harmful to morale. The Computer system cannot be used to display, download, or email sexually explicit images, messages, or cartoons. The Computer system cannot be used for ethnic slurs, racial comments, off-colour jokes, or anything that another person might consider to be harassment or disrespectful.
- The Company reserves the right to enter any of these systems to inspect and review data recorded in these systems. Employees who violate this policy will be subject to disciplinary action, up to and including termination.

## **INTERNET USE POLICY**

Internet access to global electronic information resources on the World Wide Web is provided by the Company to assist employees in obtaining work-related information. The following guidelines have been established to help ensure responsible and productive Internet use:

- While internet use is intended for job-related activities, incidental and occasional brief personal use is permitted within reasonable times.
- Network administrators may filter content or restrict access to sites whenever it deems fit or appropriate or on instructions from the senior management.
- Internet data that is composed, transmitted or received via the Company's computer communications systems are considered to be a part of the official records of the Company and, as such, are subject to disclosure to law enforcement and other third parties.
- Consequently, Employees should always ensure that the business information contained in Internet email messages and other transmissions are accurate, ethical, appropriate and lawful.
- Data that is composed, transmitted, accessed, or received via the internet, must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, intimidating, or disruptive to an employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender specific comments, or any other comments or images that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation, or any other characteristic protected by law.
- Employees should take the necessary anti-virus precautions before downloading or copying any file from the internet. Downloaded files are to be checked for viruses and compressed files are to be checked before and after decompression



The following are some examples of prohibited activities that violate this Internet Usage Policy:

- Sending or posting discriminatory, harassing, or threatening messages or images
- Using the Company's time and resources for personal gain
- Stealing, using, or disclosing someone else's code or password without authorisation
- Copying, pirating, or downloading software and electronic files without permission
- Sending or posting Confidential Information, trade secrets, or proprietary information outside of the Company
- Violating copyright law
- Failing to observe licensing agreements
- Engaging in unauthorized transactions that may incur a cost to the Company or initiate unwanted internet services and transmissions
- Sending or posting messages or material that could damage the Company's image or reputation
- Participating in the viewing or exchange of pornography or obscene materials
- Sending or posting messages that defame or slander other individuals
- Attempting to break into the computer system of another Company or person
- Refusing to cooperate with a security investigation
- Sending or posting chain letters, solicitations, or advertisements not related to business purposes or activities
- Using the internet for political causes or activities, religious activities, or any sort of gambling
- Jeopardizing the security of the Company's electronic communications systems
- Passing off personal views as representing those of the organisation
- Sending anonymous email messages
- Engaging in any other illegal activities

## VIOLATION OF THE POLICY

- Abuse of the internet access provided by the Company in violation of the law or the Company's policies will result in disciplinary action, up to and including termination of the employment.
- Employees and consultants may also be held personally liable for any violations of this policy.

## Dress Code

The dress code reflects the work culture of the company.



- Normally in IT companies or startups you will observe a casual or semi formal attire reflecting a millennial or relaxed work culture.
- In engineering companies, you will observe a formal colour coded dress code. They are also supposed to wear caps and boots while operating in work areas because of their proximity to heavy machinery.
- Normally a dress code policy must provide that the employees must use their judgement to dress up in a way that makes them look presentable in a professional atmosphere.
- It also must enlist occasions where dressing up formally is expected from the employee. Such occasions can include attending client and business meetings, attending corporate events or workshops.

## **Template - DRESS CODE POLICY**

### **POLICY**

- The appearance of employees is a reflection of the company and work environment. It is important that all employees are aware of the dress code expectations.
- Company has chosen to offer a [smart-casual / business casual/business] dress code for employees. Employees are expected to use good judgment and to show courtesy to their co-workers by dressing in a manner that is presentable and appropriate.
- Should employees be asked to attend business meetings with clients, either in Company's offices or otherwise, they should dress in appropriate business attire. Maintaining a professional, business like appearance is very important for the ethics and appearance of the Company.
- Should the employees be asked to attend workshops or events, either in Company's premises or otherwise, employees must use their own discretion to dress in an attire appropriate for the workshop or event.

### **Hygiene**

Employees are expected to meet the hygiene requirements during regular business hours for the duration of their employment:

- Maintain personal cleanliness by bathing daily
- Maintain oral hygiene
- Use deodorant / anti-perspirant to minimize body odour



- No heavily scented perfumes, colognes and lotions. These can cause allergic reactions, migraines and respiratory difficulty for some employees.
- Clean and trimmed fingernails.
- Wash hands after eating or using the restrooms.

## Personal Grooming

- Clothing must be clean, pressed, in good condition and fit appropriately.
- Socks or hose must be worn with shoes.
- Neat and well groomed hair, sideburns, mustaches and beards.
- Moderate make up
- Well combed and secured long hair
- No dark glasses (unless prescribed by a physician)
- Limited jewelry and no dangling or large hoop jewelry that may create a safety hazard to self or others.
- Tattoos that are perceived as offensive, hostile or that diminish the effectiveness of the employee's professionalism must be covered and not visible to the staff, customers or visitors.

*[in case your company has proper business attire, and has a casual friday policy, the following clause can be added to the policy]*

## Casual Friday

The Company has a “Casual Friday” policy wherein the employees are welcome to wear workplace appropriate casual clothing. While Casual Friday allows the employees to dress in a more casual fashion, they should take into account the necessity to continuously conduct themselves in a professional fashion, and dress in such a way that will not create a negative perception by customers, either internal or external.

*[In case your company has a policy that specific clothing items which are inappropriate will not be permitted in the office premises, a list of the same can be provided in a clause as follows]*

- **Inappropriate Attire (also applicable on Casual Friday)**
- The following items are not permitted in office premises during normal working hours :
  - Sweat Pants;
  - Jogging Pants;
  - Pants that expose the midriff, underwear or leggings;
  - Gym shorts;
  - Bicycle shorts or other athletic shorts;
  - Low-cut tops;



- Halter-tops;
- Spaghetti strap tops;
- Tops that expose the midriff or underwear;
- Mini-skirts;
- Any form of clothing that is mesh, sheer, see-through or otherwise inappropriate for work;
- Any form of clothing that is generally offensive, controversial or disruptive;
- Any form of clothing that is overtly commercial, contains political, personal or offensive messages;
- Plastic flip-flops or sandals;
- Beach footwear.

## **VIOLATION OF POLICY:**

If any employee is found to be dressed inappropriately for business meetings, work, workshops or events either in the Company's premises or otherwise, and/or does not comply with the dress code policy, they will be cautioned in writing. This may negatively reflect on your future increments and promotion.

## Customer data policy

- A customer data policy ensures that the records of the company's customers are kept confidential.
- It also keeps the relationships of the customers with the company confidential.
- No employee other than those authorized in writing shall divulge any information or records of a customer to anyone outside the Company.
- No employee or consultant is allowed to share any customer data or company database with
  - Anybody outside the company
  - With their own personal email id or data dump
  - Anybody inside the company who does not need the data
- If any data is shared on a need to know basis, after the requirement is over, such access to data must be revoked.
- The policy must also mention that the customer data can be shared with government agencies based on legitimate requirements.



- The customer information is sought by the Company for proper business purposes only the purpose for obtaining such personal information is to provide customers with quality service.

## **Template - Customer Records & Confidentiality Policy**

- It is the policy of the Company that both the records of our customers and the relationships between our Company and our customers are confidential.
- No employee other than those authorized in writing shall divulge any information or records of a customer to anyone outside the Company.
- Our Company shall cooperate with governmental agencies in their properly-made, legitimate requests for information.
- We understand the special duty we have with safeguarding our customer's information. Though this information may be required to be obtained by law or sought by the Company for proper business purposes, such personal information is also vital to our ability to provide its customers with quality service.
- No employee or consultant is allowed to share any customer data or company database with:
  1. Anybody outside the company
  2. With their own personal email id or data dump
  3. Anybody inside the company who does not need the data
- If any data is shared on a need to know basis, after the requirement is over, such access to data must be revoked.

### **POLICY:**

The following code of conduct has been implemented in our Company:

- The Company routinely collects Customer Data and other information about its Customers to better serve them and to offer applicable courses and/or products and services to meet their needs and expectations.
- Under no circumstances is Customer Data shared with a third-party unless necessary to provide direct services for the Company. Typical information is derived from web hosting and our Employee-Customer contact.
- The only employees who are authorized to have access to Customer Data are those who need it to do their jobs. This Customer Data is protected and kept confidential. The Company shall maintain physical, electronic, and procedural safeguards that comply with regulations to protect Customer Data and information.
- The Company may share Customer Data with other departments and employees in order to better serve the Customer, or to inform the Customer about other Company products or services.



- The Company may share Customer Data with other companies that perform services for us or on our behalf.
- Customer Data may be disclosed as permitted or required by law.

## Dating policy/ Fraternization policy

A team leader is dating another team leader and their relationship ends on a sour note. The bitterness of a failed relationship will likely lead to bad working relationships and a poor office environment.

What if a manager is dating a new joinee, the power equation here is not equal. Others might feel that the manager is being partial towards the joinee. Last year, Intel's CEO Brian Krzanich had to resign over relationship with an employee.

Dating in office might give rise to a conflict of interest situation. However social interactions amongst colleagues can't be prohibited outrightly.

A dating policy is imperative to give a clear and defined approach in handling such situations.

While drafting a dating policy a cautionary approach is advisable as extended courtesies or favouritism can cause unwanted problems for the organisation. The following additional points must be kept in mind.

In case, the employee is dating another co-worker, the following mechanisms can be implemented:

- Written disclosure to the reporting managers
- Alignment from the reporting managers
- One of the employees could be transferred to a different team, department or reporting manager
- One of the employees may have to resign and work in a different organization.

The management must also reserve the right for termination of the employment if the situation so warrants, such as when a disclosure about dating which was to be made as per the dating policy has not been made.

### **Template - DATING POLICY**

Favoritism or extended courtesies can create unwanted problems for a Company. While the Company does not encourage co-employee dating, the Company cautions employees not to let such fraternization affect their job performance and we reserve the right to take appropriate action, on a case by case basis.



The Company allows social or friendly relationship between employees outside office provided: both parties mutually and voluntarily consent to the social relationship; the relationship does not breach corporate values, and the relationship does not affect judgment or performance of duties of involved employees or negatively impact the common good of the Company. However, dating a co-worker or having a sexual relationship is not allowed unless the same is specifically disclosed to the management in writing.

The reason for such prohibition is that such a relationship is bound to create multiple conflict of interest situations. The rule equally extends to students, customers, vendors, consultants, interns or any other people dealing with the company on a regular basis.

Here are some examples:

- A purchase manager is in a dating relationship with a vendor. His judgment may be influenced in such a scenario.
- A manager is dating a new joinee. The power equation here is too unequal and other people in the team of the manager may think that he is being partial.
- A consultant is dating a customer or a student. This might lead to bad reputation of the organization if the parents of such a student are upset.
- A consultant is pursuing an intern as a romantic interest. This can lead to severe problems.
- A team leader is dating another team leader, and later their relationship meets a sour end. The bitterness of a failed relationship is likely to lead to complicated working relationships and bad environment in the workplace.

If you must date a co-worker, please inform the management first so that we can avoid or minimize such conflict of interest.

Dating a student or a customer is strictly prohibited in any circumstances.

Also note that our company has a policy prohibiting sexual harassment in the workplace. Since it is clear that sexual relationship with a co-worker is prohibited, we believe this would reduce the possibility of unwarranted solicitation at the workplace. This policy applies to all employees of the Company, including supervisors, consultants, managers, and executives.

## **POLICY:**

To ensure that dating your colleague or others dealing with the company does not adversely affect the workplace, employees who enter into such relationships must comply with the following:



- Employees who develop such relationships must immediately notify and disclose all relevant circumstances to the Reporting Manager. The Reporting Manager on receiving such information shall intimate the [appropriate authority] about the same.
- Agree to possible reassignment/transfer if the employees are working out of the same Company premises. The management will decide who shall be re-assigned/transferred.
- Until the decision has been made with respect to reassignment/transfer by the [appropriate authority], both the employees must behave professionally at all times, avoiding indiscreet behavior while at the workplace or while on Company time or business including refraining from public displays of sexual affection, sexual innuendo, suggestive comments and sexually oriented joking.
- Notify the Reporting Manager and the [appropriate authority] should the relationship terminate during the period the decision is being made by the [appropriate authority].

The Company reserves the right to terminate the employment of either of the co-employees should the need arise to do so. The decision with respect to the same shall lie with the co-employees dating.

#### **VIOLATION OF POLICY:**

Employees found in violation of this policy may be subject to suspension or immediate termination of their employment.

## Social Media policy

- What if you had an argument with a colleague in the office who is also a facebook friend. You both start posting status updates about each other. Think about it, can you do so? What if in the wave of retaliation, you post something that leaks internal details or confidential information of the company. What if you start posting defamatory content about the company itself.
- Take another situation, you are fired from your job on account of disciplinary action. You start writing negative reviews about the Company on Facebook to vent out your frustration.
- Ours is the Instagram generation, the line between what to share online and what not to share online is becoming increasingly blurry. It is a risky proposition in the case of a company.
- Imagine if you are an online content manager working for a leading blog, now there must be a clear distinction made whatever you post on social media or blog in your personal capacity does not represent the views of the company. A social media policy covers such situations.



- A Social media policy provides guidance for Employee use of social media, which should be broadly understood for purposes of this policy to include blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner.

## **Template - Use Of Social Media By Employees Policy**

- This policy applies to all the Company's staff including its part-time and fixed-term employees, work-from-home staff, temporary staff, casual staff, consultants and interns (the entire group is referred to as Employees in this policy). This Company reserves a right to amend the policy at any time as it deems fit.
- This policy provides guidance for Employee use of social media, which should be broadly understood for purposes of this policy to include blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner.

### **POLICY:**

To assist the Employees in making responsible decisions about the use of social media, the Company has established the following guidelines for appropriate use of social media:

- Employees are solely responsible for what he/she posts online, which is not part and parcel of his or her work profile at the Company. They should make it evident on social media that they are posting their own opinion and not that of the company. They should clarify this wherever appropriate and necessary.
- Please understand that employees and consultants who represent themselves as part of the company to the public, such as content marketing executives and marketing managers for example, are considered to be spokespersons of the company even when they are not acting in such capacity. It is important in these cases to make it clear that it is your personal opinion when you are not representing the company, and it is critical to err



on the side of abundant caution rather than otherwise. Utmost maturity in this respect is needed from all of you.

- Employees must not create/post online content that may harm the reputation of the Company in any manner.
- Before creating an online content the employee must consider the risks and rewards that are involved in the content, as they might adversely affect the employee's job performance and the performance of the fellow employees and may result in disciplinary action.
- Although not an exclusive list, some specific examples of prohibited social media conduct include posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libelous, or that can create a hostile work environment.
- Employees must not post work related complaints or criticisms regarding a co-employee or the company on a social media outlet. Use of any statements, photographs, video, or audio that reasonably could be viewed as malicious, obscene, threatening, or intimidating, that disparage customers, members, associates, or suppliers, or that might constitute harassment or bullying is strictly prohibited. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, sexual orientation, disability, religion, or any other status protected by law or company policy.
- Employees must strive to be honest and accurate when posting information or news about the Company, and if an honest mistake is made, then the Employee is expected to correct it
- Employees must not post any information or rumors that they know to be false about the Company, fellow employees, members, customers or suppliers.
- Employees must maintain the confidentiality of Company's trade secrets and private or confidential information. Trade secrets may include information regarding the development of systems, processes, products, websites, know-how, and technology. An Employee is strictly prohibited to post internal reports, emails, circulars, data, status of any project, policies, procedures, or other internal business-related communications.



- Employees are not permitted to create a link from his/her blog, website, or other social networking site to the Company website.
- Employees should refrain from using social media while on work time or on equipment the Company provides, unless it is work-related.
- Use of Employee's official e-mail addresses to register on social networks, blogs, or other online tools utilized for personal use is prohibited.
- Employees are allowed to post their official designations in relation to their job profile with the Company on social media during the term of their employment. They are expected to mention on LinkedIn, Twitter and Facebook that they work with the company. They are also expected to follow official social media accounts of the company.
- After their stint at the company is over, employees must immediately indicate with respect to all references of their official designation on their social media profiles that the stint has ended. They should not communicate on their profile anything that indicates or misrepresents in any way that they continue to be working with the company.
- Employees must handover access to all social media accounts of the Company to their Reporting Manager at the end of their employment.
- Employees are expected to immediately notify the management of the company if they come across any harmful information or misrepresentations about the company or a colleague on social media so that the company can address the same.
- When writing personal blog posts, articles, posting videos or tweets etc they must make it clear that the opinion is of their own and not of the company, unless they are authorised by the company to represent the company as a spokesperson.

## VIOLATION OF THE POLICY

- Abuse of this policy in violation of the law or the Company's other policies will result in disciplinary action, up to and including termination of employment.
- Employees may also be held personally liable for any violations of this policy.



## Equal opportunity policy

- An equal opportunity policy reflects a company's commitment to providing a workplace without any form of discrimination or harassment amongst employees.
- It must state the criteria for promotion or appraisal is based on merit. It can also state that training opportunities are provided to everyone equally.
- It must also state that the company does not discriminate on the grounds of sex, age, gender, race, disability, HIV status etc to reflect a diversified work culture.
- It must also provide details of a reporting manager or a grievance redressal mechanism for employees to report cases and concerns of discrimination.
- Any special arrangements for persons suffering from any disability must be mentioned like providing a wheelchair or accommodation.

### **Template - EQUAL OPPORTUNITY POLICY**

- Our Company is committed to the principle of equal employment opportunity for all employees and to providing employees with a work environment free of discrimination and harassment.
- To provide equal employment and advancement opportunities to all individuals, employment decisions at our Company will be based on merit, qualifications and abilities.
- We do not discriminate in employment opportunities or practices on basis of race, colour, creed, religion, sex, national origin, social or ethnic origin, sexual orientation, age, citizenship, physical or mental disability, HIV status, or any other characteristic protected by the laws.
- Affirmative action will be taken to ensure that all employment decisions, including but not limited to those involving recruitment, hiring, promotion, training/development, compensation, benefits, transfer, termination, layoff, discipline and discharge, are free from unlawful discrimination.
- The Company will make reasonable accommodations for qualified individuals with known disabilities unless doing so will result in an undue hardship.



- If an employee has any queries or concerns about any type of discrimination in the workplace or if any employee or job applicant feels that he/she has been subjected to discrimination by employees or management of the Company, is encouraged and requested to bring these issues to the attention of the Reporting Manager/Person Concerned and report the incident or complaint directly to the Reporting Manager/Person Concerned, who will investigate the matter and attempt to resolve it. You can also email such a problem to directly to the CEO to [email id of the CEO]
- Employees are free to raise concerns over discrimination without fear of reprisal.
- Any employee or member of the management having found to be involved in any type of unlawful discrimination will be subject to disciplinary action as deemed fit by the Leadership, up to and including termination of employment.

## Protection of IP from Employees, Consultants and Vendors

- For a company like apple which leverages on its IP portfolio to obtain a business and competitive advantage,a robust policy to containing guidelines on the protection of its IP assets from possible cases of infringement is very essential.
- Your marketing manager might have access to confidential customer lists, an employee working in a R & D Department may have access to a groundbreaking innovation or a trade secret which offers the company an edge over the company's competitors.
- A policy for IP protection must cover non disclosure obligations expected from the employees, consultants and vendors. Additionally, it must provide for cases which give rise to IP infringement and risk mitigation strategies to combat the same.

## Important notices

### Charge Sheet/ notice of enquiry

- If an employee is regularly violation rules or code of conduct of the organisation, he can be issued a chargesheet.
- For instance, If a workman is habitually coming late without any sufficient cause, he can be issued a warning letter thrice, if he repeats the offence even after being issued a warning letter for the third time, a charge sheet is framed to initiate the enquiry against him.
- The charge sheet must contain full disclosure of facts which make up a misconduct so that the employee is aware of the case made against him for late coming, in our example the



word habitual reflects the nature of late coming so it must be included. Basically, the essential elements forming the misconduct must be reflected in the chargesheet.

- You can't bring a punitive action for an item which is not in the chargesheet. It will take the employee by surprise and would amount to a defect in procedure.
- Other elements of chargesheet include time of committing offence, previous facts showing habit forming tendencies, a reference to the standing order or service rules under which the misconduct falls.

## **Chargesheet**

Date: .....

### **Regd. Post with Acknowledgement Due**

To

Mr.....

E.Code:.....,

Dept.....

### **Charge Sheet cum Show cause Notice**

It has been noticed that you are absenting from duty without leave or intimation to the office from..... till date from your attendance record. You were repeatedly called on your mobile number but you declined the line manager's calls during this period. Your absence from duty caused dislocation of work between colleagues.

You have been previously issued 2 warning letters in this regard on\_(date)\_\_\_\_\_ and \_\_\_\_\_.

In view of the above, your repeated absence from work without on multiple previous occasions is deemed callous and habitual.

It amounts to misconduct under **Standing Order....26.1** of the company, applicable to you which reads as follows.

**Standing Order....(iii):** Habitual absence without leave or absence without leave for 10 consecutive days or overstaying the sanctioned leave without sufficient grounds or proper or satisfactory explanation.

**Standing Order .....(iv):** Absent without leave for 10 consecutive days or more shall be deemed voluntarily abandoning his / her services from the company.



Therefore, you are hereby directed to show cause in writing within 48 hours of receipt of this charge sheet cum show cause notice as to why an appropriate disciplinary action should not be taken against you

In case you fail to submit timely explanation, it will be presumed that you admit the charges.

Accordingly, further disciplinary Action will be taken against you in accordance with law.

### **Authorised signatory**

Supervisor

Cc to: Concerned dept

### **Show cause notice**

- Issuance of a show cause notice is an absolute necessity when it comes to disciplinary proceedings, as it constitutes communication of the alleged wrongdoing to the employee and a chance to be heard.
- Writing such notices would often be the job of HR managers though occasionally lawyers may be called in.
- The reasons for issuing such notice are usually (and are desired to be) spelled out in the employee handbook.

### **Template - Show Cause Notice**

Date:

Name of Employee

Designation / Department

Dear \_\_\_\_\_

### **LETTER OF EXPLANATION**

It has been reported that you have been found to have committed the following acts of

Misconduct:

- a)\_\_\_\_\_
- b)\_\_\_\_\_
- c)\_\_\_\_\_



You are hereby required to provide a written explanation into the allegations stated above on or before DD/MM/YYYY.

Please take note that if your explanation is not received, the Management will assume that you are guilty of the said allegations above and have no explanation to offer in your defense.

Yours faithfully,

---

(Name of Signatory and Designation)

## INQUIRY REPORT

Memorandum No. \_\_\_\_\_ date \_\_\_\_\_ against Shri \_\_\_\_\_  
Design \_\_\_\_\_

I

### PREAMBLE

The undersigned was appointed vide order No.\_\_\_\_\_ dated \_\_\_\_\_ to inquire into the charges framed against the said Shri \_\_\_\_\_ vide the said Memorandum, in pursuance thereof, the inquiry was conducted in accordance with ..... (Rules/ Regulations/ Code of conduct, etc.). The order sheets are at Annexures. The records of the proceedings conducted are at the Annexures.

Shri \_\_\_\_\_ Desig\_\_\_\_\_ was appointed as the Presenting Officer by the Disciplinary Authority vide order No\_\_\_\_\_ dated\_\_\_\_\_.

Shri \_\_\_\_\_ Design\_\_\_\_\_ was associated by Shri \_\_\_\_\_ (CSO) as his DA.

II

### IMPUTATIONS AND CHARGES

(Define the facts and imputations vis a vis the charges and defence of the CSO against such charge. If there has been a shift in the defense, indicate that also).

III

The prosecution produce documentary and oral evidence vide Annexure-II and IV. The defense produced documentary and oral vide Annexure III and V. The CSO was given an opportunity to state his defense at the close of the prosecution evidence vide his statement at Sl.No.4 of Annexure-I. The examination of the CSO by the IO has been recorded vide item No.\_\_\_\_\_ Annexure-V.



IV  
ASSESSMENT OF EVIDENCE AND FINDINGS  
(enclosed)

Place:

Date:

Inquiry Officer Name\_\_\_\_\_

Designation\_\_\_\_\_

## Notice for termination of an employee

- It must be ensured while drafting a termination letter/ notice to an employee, that the reason of termination is properly disclosed.
- Sufficient notice period must be given as per the terms of employment contract.
- If no notice period is given, then sufficient salary and compensation for that period must be given.
- All the details about the handover must be specified.
- It must be ensured that it is signed by the person authorised to terminate the person.

## Miscellaneous

### Offer letter

- It is a formal document which contains details about starting date of employment, offered salary, grounds for termination, rules and regulations of the company.
- It states designation, grade, name of department, details of leave entitlement etc.
- It needs to be signed by the employee and the employer.

### Sample Offer Letter

NAME OF THE COMPANY

CIN no.

Registered office address

Name

Address of the candidate

### Offer Letter of your engagement

Dear \_\_\_\_\_



Congratulations! We are pleased to confirm your engagement with \_\_\_\_\_ on a retainer basis in the position of ‘\_\_\_\_\_’. We are delighted to make you the offer.

You will be entitled to an overall monthly remuneration of INR \_\_\_\_\_ (subject to applicable tax deductions 10% TDS).

For the first 3 months, you will be on probation, in case if one wishes to leave the position in the probation period, then 1 month notice period is mandatory which if not fulfilled salary and incentives will be withheld for the last month.

We may ask you to leave the position with immediate effect in case of non-performance, mismatch of skill sets with the work requirements, disciplinary issues or any other reason.

Other terms of your engagement will be mentioned in a separate retainer agreement/consultancy contract. You may commence working latest by (date)

You are required to submit your Academic Certificates, ID Proofs such as Aadhar Card, PAN, Previous Employment Correspondences which includes Offer Letter, Experience Letter, Salary Slip within 7 days of joining, otherwise the offer letter will stand invalid and cancelled automatically.

We are confident you will be able to make a significant contribution to the success of our organization and look forward to working with you.

Yours truly,  
COO,  
Director

## EXIT MEMO

To,

\_\_\_\_\_  
\_\_\_\_\_

Subject:

Dear [Employee Name],

Thank you for your service to \_\_\_\_\_ [hereinafter the **Company**] for the past [insert no. of months/years served]. We deeply appreciate the time and effort that you have put in the Company.



Please ensure the following in relation to your exit from the Company:

**1. Completion of exit formalities:**

- a) Submission of a duly signed resignation letter addressed to the HR and your managing supervisor at the time of your exit.
- b) Submission of the 'no dues' certificate
- c) Completion of the exit interview scheduled by HR (alternatively, this can be completion of the exit feedback form as provided by HR or as existing on the HR portal of the company).

**2. Official Property to be submitted back (this may be placed in an annexure, where the receipt of the assets will be confirmed by respective departments)**

Submission of the following items to the HR immediately after submission of your resignation letter:

- a) SIM Card
- b) ID/Access Card
- c) Visiting Card
- d) Mobile Handset
- e) Laptop
- f) Keys to your office / cabinet / drawers
- g) Any other property

**3. Formalities to be completed in relation to Confidential Information/Trade Secret**

- A.** Meeting with Manager / Supervisor and formal handover of all the Confidential Information / Trade Secrets furnished to you in connection with your employment.
- B.** Submission of a certificate (as per the format provided by the Company) to confirming that all Confidential Information (as defined in the employment agreement) has been handed over and that no Confidential Information is retained with you in any form including any copies.

**4. Removal of reference to currently being in employment with the Company from social networking sites, for eg. Facebook, LinkedIn and any other networking sites**

This memo is to inform you about the terms and conditions which would be applicable and binding on you after termination of your employment with the Company as per the Employment Agreement and Trade Secret / Confidentiality Agreement.

**Non Compete and Non Solicitation:**

1. You cannot engage in any activity or business which is the same or substantially similar to the Company's business for 12 months from the date of your resignation or termination of your employment directly or indirectly, without the written consent of the Company's management.
2. You cannot work directly with any of the customers / affiliates / vendors and competitors of the Company for a period of 12 months from the date of termination of your employment with the Company.
3. You will not, for 12 months after termination / cessation of your employment with the Company, solicit, or cause any organization directly or indirectly owned or controlled by you to solicit, any employee of the Company to leave the employment of the Company.



4. You will not, solicit for employment, hire or engage as an independent contractor, or cause any organization directly or indirectly owned or controlled by you to solicit for employment, hire or engage as an independent contractor, any person who is employed by the Company for a period of 12 months after termination of your employment with the Company.
5. In case you engage in any activity or business which is the same or substantially similar to the Company's business before expiry of 12 months from the date of termination of your employment and without taking the written consent of the Company, the Company has the right to claim damages against you for the losses, expenses incurred by the Company, which will be decided on a case to case basis. The Company shall initiate criminal proceedings against you under the applicable criminal, cyber and IT, intellectual property laws and other laws. The Company shall also initiate arbitration as defined in the Employment Agreement against you to claim damages.

#### **Non Disclosure of Trade Secrets/Confidential Information**

1. You will return all Confidential Information (as defined in the Employment Agreement), including copies thereof irrespective of storage or presentation medium, including all electronic and hard copies thereof, and any other material containing or disclosing any Confidential Information which is in your possession, power and control. You will not make or retain any copies of such Confidential Information and destroy any such Information in your possession.
2. You will forever hold and maintain the Confidential Information of the Company in strictest confidence for the sole and exclusive benefit of the Company.
3. You will not use any Confidential Information (defined in the Employment Agreement) in any manner for your benefit or copy or publish or otherwise disclose it to others for their benefit or to the detriment of the Company after the termination of your employment with the Company, without the prior written consent of the management of the Company.
4. Until such time that you return and destroy Confidential Information, the Company will, in addition to initiating legal proceedings for recovery of the same, be entitled to withhold your salary, emoluments or other dues. The Company shall claim damages against you for the potential loss to the business of the Company for the next 5 years due to breach of your Employment Agreement and the loss of such Confidential Information.
5. If you fail to have a meeting with the Manager/Supervisor, formally handover all the materials furnished to you, including Confidential Information, and complete the exit formalities, the Company shall initiate legal action against you for the breach of contractual obligations. The Company can initiate criminal action against you for data theft of the materials of the Company, including Confidential Information. The Company shall claim damages against the Employee for the potential loss to the business of the Company for the next 5 years due to breach of the Employment Agreement and the loss of such Confidential Information.
6. Your obligation to maintain the confidentiality and security of Confidential Information of the Company remains even after your employment with the Company is terminated and continues for so long as such Confidential Information remains a trade secret.

We hope that you had a fruitful journey with us and we hope to maintain an amicable relationship with you in the future. We wish you luck for your future endeavours.



For \_\_\_\_\_ Ltd.

(Signature)

Designation: HR

(Signature)

[Insert Name of the Employee]

## Letter Of Appointment for Advisor / Consultants

Date \_\_\_\_\_

Name of the employee

Address\_\_\_\_\_

Dear (First name),

With reference to the discussions you have had with us, we are pleased to appoint you as “\_\_\_\_\_” for our Group companies on the following terms and conditions:

1. 1. You will be paid a consolidated amount of Rs.\_\_\_\_\_ (Rupees \_\_\_\_\_ only) per annum.
2. The above consolidated amount will consist of the following:
  - a) Rs. \_\_\_\_\_ per annum as fixed pay, and
  - b) Rs. \_\_\_\_\_ per annum as variable pay which is linked to your performance and that of the company.
3. This appointment is for a period of two years effective date of your joining and may be renewed on a mutual basis. This arrangement is with effect from \_\_\_\_\_ and will be valid for a period of \_\_\_\_\_ years/s.
4. In this capacity, you will be located at \_\_\_\_\_ and will report to \_\_\_\_\_ or any other person nominated by the company. However, your services could be transferred to any other Departments/Divisions of the Company. Notwithstanding your appointment in this company, your services could be reassigned to any other company of the (Organization Name) Group.
5. You may also be assigned such other duties as may become nec(Organization Name) at the discretion of the Management in any Branch or office of the Company and/ or its Subsidiaries or Associate Companies.



6. You will be eligible for 18 days leave pro-rated per calendar year. However, leave will be allowed subject to exigencies of work.
7. You will be provided comprehensive Accident/ Medical Health Insurance for your and your spouse.
8. It is clarified that in addition to the above, you will not be entitled to any other benefits.
9. This appointment can be terminated by giving three-month notice on either side or payment in lieu of shortfall in this notice period.
10. You shall observe all rules and regulations of the company.
11. During the tenure of the assignment with the company, you will not engage yourself in any other assignments or gainful employment without consent of the management.
12. You are required to maintain the highest order of secrecy with regards to the work or confidential information of the Company and/ or its subsidiaries or Associate Companies and in case of any breach of trust, your appointment may be terminated by the Company without any notice.
13. The Company lays emphasis on all statutory compliances and you should ensure compliance with various statutes in your area of operations.

Kindly sign a copy of this letter in acceptance of the above mentioned terms and conditions and return the same for our records.

Regards

Name of Business Head

Designation

Company

## **Draft Complaint against Sexual Harassment at the Workplace to be submitted in six copies**

Date: [●]

[●] [Insert name of any member of the Internal Complaints Committee (ICC) / Local Complaints Committee, as applicable<sup>5</sup>]

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<sup>5</sup> The complaint must be made to the Local Complaints Committee if the organization employs less than 10 people in the concerned premises or if the complaint is against the employer himself.



[●] [Insert address of the employer and organization with respect to whom the complaint is being made]

Dear [Sir / Ma'am],

**Subject: Complaint against sexual harassment at the workplace as per Section 9(1) of Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013**

- 1) I am currently working as [a/ an] [●] [mention the capacity in which you are working] in the organization mentioned above.
- 2) This is to inform you that I have been subjected to certain instances of sexual harassment at the workplace, which are described below:
- 3) [Insert dates and the event / series of events and actions which in your opinion constitute sexual harassment. Describe the events briefly. Clearly mention the name and designation of the perpetrator]
- 4) I strongly believe that the above mentioned act(s), constitutes “sexual harassment” as per Section 2(n) of Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
- 5) This has been an extremely disturbing incident for me. I request you to commence an inquiry into the matter and take all necessary measures that are prescribed under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and under the organization’s policy to ensure that my grievance is adequately redressed.
- 6) I possess certain evidence with me pertaining to the incident, which I can furnish upon request – it may help the committee in conducting the inquiry.<sup>6</sup>
- 7) The incident has made me feel unsafe in the current working environment – therefore, I will request you to kindly [grant me leave for [●] days / transfer me to another office] [you can request a specific measure] an interim measure, pending completion of the inquiry, or grant me any other suitable interim measure, as the [Internal Complaints Committee / Local Complaints Committee] [choose as applicable] feels appropriate.
- 8) [I hereby state that the incident occurred at a place which does not have an Internal Complaints Committee and within the territorial jurisdiction of the Local Complaint Committee, and hence got the jurisdiction to initiate and conduct inquiry proceedings under the Act.] [Insert this paragraph in case the complaint is made before a LCC]

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<sup>6</sup> These could be electronic or hard copy communication (SMSes, emails, notes), photographs, audio recordings or any other means. Oral evidence can also be provided, although documentary evidence and recordings will be more reliable.



- 9) Kindly intimate me the response of the Committee. I request and expect you to maintain utmost confidentiality. I shall be grateful for your consideration of the matter.

Thanking You,

Yours sincerely

[●] [Insert signature]

[●] [Insert your name and designation]

