



Policy for Prevention of sexual Harassment

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Policy for Prevention of sexual Harassment

1. Introduction:

Cloudnine believes that all its employees have a right to be treated with respect and dignity. The Organization is committed towards creating a healthy working environment that enables its employees to work without fear, prejudice, gender bias or sexual harassment.

In accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereinafter referred to as the “Act”) & the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 (hereinafter referred to as the “Rules”), the Organization has framed the following policy (the “Policy”) for prevention of sexual harassment at workplace

2. Commitment:

- Cloudnine is committed towards providing a work environment that ensures every employee is treated with dignity and respect and afforded equitable treatment. The Organization is also committed towards promoting a work environment that is conducive to the professional growth of its employees and encourages equality of opportunity.
- The Organization will not tolerate any form of sexual harassment and is committed to take all necessary steps to ensure that its employees are not subjected to any form of harassment. This Policy seeks to provide awareness to all employees of Cloudnine on what acts constitute sexual harassment, the redressal mechanism in place and the penal consequences (both interim and final) imposed on perpetrators of sexual harassment.

3. Law:

The Act has been enacted and the Rules have been framed by the Central Government with an objective to provide protection against sexual harassment of women at the workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

4. Scope:

- This Policy applies to all categories of employees of the Organization, including permanent employees, permanent management, workmen,

temporary employees, trainees, consultants, advisers, ad hoc employees, daily wage earners, probationers, apprentices, employees on contract, etc., at its workplace or at visits to partner organizations. The Policy is applicable to all categories of employees as stated above, irrespective of whether such persons have been engaged directly or through an agency or a contractor, and whether such employees are working for remuneration or on a voluntary basis.

- The Policy shall also be applicable to all third parties such as visitors, clients, customers, contractors, service providers, and any other person authorized to be present within the premises/ workplace of Cloudnine.
- The Organization will not tolerate sexual harassment, if engaged in by partners, or by suppliers or any other associates of the Organization. It shall extend to cover sexual harassment of women by men, of men by women or between the same sexes. Harassment is unlawful irrespective of who is involved in the behavior.

5. **Definition of Terms:**

- (a) **“Complainant”** means, in relation to a Workplace (*as hereinafter defined*), a man or a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent (*as hereinafter defined*);
- (b) **“Employees”** means all employees of Cloudnine as set out in Clause 3.1 of this Policy and includes all categories of employees of the Organization either working part-time or full time and including but not limited to:
- Permanent employees;
 - Temporary employees;
 - Trainees;
 - Contract employees;
 - Consultants; and
 - Advisers.
- (c) **“Employer”** means Cloudnine and includes –
- (i) Board of Directors of Cloudnine; and (ii) any person(s) or board or committee responsible for the formulation and administration of policies that enables management, supervision and control of the Workplace.

- (d) **“Internal Complaints Committee (ICC)”** means a committee constituted by the Employer for the purpose of dealing with all matters in relation to sexual harassment;
- (e) **“Member/s”** means a Member/s of the Internal Complaints Committee;
- (f) **“Respondent”** means a person (Employee) against whom the Complainant has made a complaint of Sexual Harassment;
- (g) **“Sexual harassment”** includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely:
 - i. Physical contact and advances; or
 - ii. A demand or request for sexual favours; or
 - iii. Making sexually coloured remarks; or
 - iv. Showing pornography; or
 - v. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

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

- (i) Implied or explicit promise of preferential treatment in the Complainant’s employment; or
 - (ii) Implied or explicit threat of detrimental treatment in the Complainant’s employment; or
 - (iii) Implied or explicit threat about the Complainant’s present or future employment status; or
 - (iv) Interference with the Complainant’s work or creating an intimidating or offensive or hostile work environment for the Complainant; or
 - (v) Humiliating treatment likely to affect the Complainant’s health or safety.
- (h) **“Workplace”** means and includes the offices of Cloudnine as well as the premises of other third parties, vendors and associates of Cloudnine where the Employees of Cloudnine are required to perform work or that are visited by the

Employees of Cloudnine arising out of or during the course of employment and includes transportation provided by Cloudnine for undertaking any journey, in connection with the business of Cloudnine.

6. Constituents of Sexual Harassment:

- 6.1 Conduct must be unwelcome, unwanted, uninvited, unreasonable, and/or offensive to the Complainant which adversely affects the dignity of the Complainant.
- 6.2 Physical contact is not an essential factor for sexual harassment.
- 6.3 A person's rejection of or submission to such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job.
- 6.4 Conduct that creates an intimidating, hostile or humiliating working environment for the Complainant.
- 6.5 Act of Sexual Harassment must be related to employment or work. Hence, acts committed outside the office, for example in the cafeteria, on business travel in a flight or hotel, place of visit for official purpose such as client premises, offices, official events, etc. are covered.
- 6.6 The Respondent can be whomsoever, provided Cloudnine has sufficient control over the said person and, without limitation, can be the victim's boss, supervisor, sub-ordinate, trainer, colleague, mentor, co-worker, vendor, contractor or agent of the Employer.

7. Exclusion:

It is to be noted that this Policy does not apply when the Complainant is performing work outside of Workplace, of their own accord and for personal reasons.

8. Third Party Harassment:

- 8.1 Third party harassment means Sexual Harassment perpetrated by visitors, patients, patrons, vendors, independent contractors, auditors, consultants, and others with

whom the Employees have come in contact, directly or indirectly, because of Cloudnine having a relationship/business relationship with them.

- 8.2 Where the Sexual Harassment at the Workplace occurs as a result of an act or omission by any third party, Cloudnine shall take all steps necessary and reasonable to assist the affected Employee in terms of support and preventive action.

9. Prevention of Sexual Harassment:

- 9.1 Cloudnine will maintain a zero tolerance policy as far as Sexual Harassment is concerned and as such the same is unacceptable and Cloudnine will strive through education and deterrence to create an environment that is free from Sexual Harassment.

- 9.2 All Employees are expected to:

- a) Treat others with respect and dignity.
- b) Refrain from actions that may offend, embarrass or humiliate others (whether deliberate or unintentional).
- c) Let others know they don't approve of disrespectful or harassing behavior.
- d) Apologize if someone tells them they are offended by their words or actions; and
- e) Familiarize themselves with this Policy.

10. Internal Complaints Committee:

- 10.1 The ICC shall consist of the following Members namely: (a) a Presiding Officer who shall be a woman Employee at a senior level; (b) not less than two Members from amongst Employees who have had experience in social work or have legal knowledge; (c) one member from amongst non-governmental organizations or associations committed to the cause of women or a person familiar with the issues relating to sexual harassment. One half of the total Members so nominated shall be women. This Policy details the names and contact details of the members of the ICC under Clause 20 herein.

10.2 The Presiding Officer and every Member of the ICC shall hold office for a period not exceeding (3) three years from the date of nomination. The Member appointed from amongst the non-governmental organizations or association shall be paid such fees or allowance as prescribed under the Rules. ICC shall send periodical reports to the Employer constituted under this Policy.

10.3 The procedure as regards the ICC shall be as contemplated under the provisions of the Act.

11. Zero Tolerance to Retaliation:

11.1 If an Employee feels that he/she is experiencing any kind of retaliation, victimization or discrimination in the nature of intimidation, pressure to withdraw the complaint or threats for reporting, testifying or otherwise participating in the proceedings, he/she should immediately report the matter by sending an email to the dedicated email id icc@cloudninecare.com. All members of the ICC are mapped to/ included in this email id. Cloudnine prohibits retaliation against anyone for raising a complaint or helping in addressing the complaint. Any retaliation or reprisals are subject to immediate corrective action, up to and including termination of services. Alleged retaliation or reprisals are subject to the same complaint procedures and disciplinary action as complaints of Sexual Harassment.

11.2 If an Employee has any objections towards the Presiding Officer or any of the member of the ICC on grounds of impartiality, fairness, bias or a pre-existing relationship with the Complainant/Respondent/Witness, they may write to the Employer at ravig@cloudninecare.com. This objection will be considered if valid reasons are given and the Employer has the discretion to constitute a new Inquiry Committee.

12. Complaint of Sexual Harassment:

12.1 In the event the Complainant is unable to make a complaint on account of the Complainant's physical or mental incapacity or death or any other reason which prevents the Complainant from making a complaint, then the Complainant's legal heir or any other person as mentioned below may make the complaint on the Complainant's behalf under the Policy:

- (i) In the event the Complainant is unable to make the complaint on account of the Complainant's physical incapacity, the complaint may be filed by:
 - (a) the Complainant's relative or friend;
 - (b) the Complainant's co-worker;
 - (c) an officer of the National Commission for Women or State Women's Commission (in case the Complainant is a woman); or
 - (d) Any person who has knowledge of the incident, with the written consent of the Complainant.

 - (ii) In the event the Complainant is unable to make the complaint on account of the Complainant's mental incapacity, the complaint may be filed by:
 - (a) the Complainant's relative or friend;
 - (b) a special educator;
 - (c) a qualified psychiatrist or psychologist;
 - (d) the guardian or authority under whose care the Complainant is receiving treatment or care; or
 - (e) any person who has knowledge of the incident jointly with the Complainant's relative or friend, or a special educator or qualified psychiatrist or psychologist, or guardian or authority under whose care the Complainant is receiving treatment or care.

 - (iii) In the event the Complainant is unable to make the complaint for any other reason, the complaint may be filed by any person who has knowledge of the incident, with the Complainant's written consent.

 - (iv) In the event of the death of the Complainant, the complaint may be filed by any person who has knowledge of the incident, with the written consent of the Complainant's legal heir.
- 12.2 A Complainant may make the written complaint to the ICC. No particular form is required but the complaint must be in writing and signed by the Complainant.
- 12.3 Any Employee may make a complaint of Sexual Harassment at Workplace to the ICC of the particular location within a period of three months from the date of the incident.

12.4 The ICC is empowered to extend the time limit beyond three months from the date of incident, but not exceeding three months thereafter, for reasons to be recorded in writing if the ICC is satisfied that the circumstances were such which prevented the person from filing the complaint within the said period.

12.5 The Presiding Officer or any Member of ICC may also render reasonable assistance to the Employee for making any complaint in writing, if he/she cannot make the complaint in writing themselves.

Legal heirs or such other persons may also make the complaint if the Complainant is unable to make the complaint on account of his/her trauma, physical or mental incapacity or death or otherwise.

12.6 A withdrawal of the complaint made or filed at any stage of the proceedings shall not preclude the ICC from proceeding with the investigation of the complaint.

12.7 If so requested in writing, by the Complainant, pending completion of the enquiry, the ICC may recommend Employer to:

- (a) Transfer the Complainant or the Respondent to any other Workplace; or
- (b) Grant leave up to 3 (three) months to the Complainant; or
- (c) Grant such other relief to the Complainant as maybe prescribed in the Rules, including restraining the Respondent from reporting on the work performance of the Complainant or writing any confidential report and assign the same to another officer.

12.8 The Employer shall implement such recommendations and send a report of such implementation to the ICC.

Note: In the event that the Complainant is granted leave in accordance with this Policy, such leaves shall be in addition to the leave the Complainant is otherwise entitled to.

13. **Conciliation:**

13.1 The Complainant can request for conciliation before commencement of an inquiry by the ICC.

13.2 No monetary settlement shall be made as a basis of conciliation.

- 13.3 The ICC shall then record the settlement so arrived and forward the same to the Employer to take action as specified in the recommendation.
- 13.4 The ICC shall provide the copies of the settlement to the Complainant and the Respondent.
- 13.5 Where a settlement is arrived under conciliation, no further inquiry shall be conducted by the ICC.

Note: In cases where the Complainant feels that it is a minor instance which could be redressed through conciliation settlement, only in such cases, conciliation can be arrived at.

14. Inquiry into Complaint:

- 14.1 The ICC shall follow the prescribed procedures. The ICC shall, where the Respondent is an Employee, proceed to make inquiry into the complaint in accordance with the provisions of the service rules applicable to the Respondent and where no such rules exist, in such manner as maybe prescribed under the Rules.
- 14.2 In case of breach of the terms of conciliation settlement then an inquiry shall also be held to look into such breach.
- 14.3 ICC shall give equal opportunity of being heard to both the parties.
- 14.4 The inquiry shall be completed within ninety days from the date of complaint.
- 14.5 ICC shall forward the copy of findings to both the parties to make representation against findings of the ICC.

15. Inquiry Procedure:

- 15.1 The Complainant shall submit/send by e-mail copy of the complaint, supporting documents and list of witnesses to the ICC. At the time of filing the complaint, the Complaint shall submit to the ICC, 6 copies of the complaint along with supporting documents and the names and addresses of the witnesses.

- 15.2 One copy of the complaint to be sent to Respondent, after receipt of the complaint, within 7 (seven) working days by the ICC.
- 15.3 The Respondent shall file his/her reply within 10 (ten) working days from the date of receipt of the complaint with his/her list of documents and the list of witnesses.
- 15.4 ICC should follow the principles of natural justice during the course of the proceedings.
- 15.5 ICC may at its discretion conduct the inquiry ex-parte if the Complainant or the Respondent fails without sufficient cause to present themselves for 3 (three) consecutive hearings convened by ICC. However such ex-parte order may not be passed without giving a notice in writing at least 15 (fifteen) days in advance to the party remaining absent from the proceedings.
- 15.6 No legal practitioner is allowed to be brought by the parties to represent them in their case at any stage of the proceedings before the ICC.
- 15.7 Minimum of 3 (three) members including Presiding Officer and the external member shall be present while conducting the inquiry.
- 15.8 For the purpose of making an inquiry, the ICC shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely:
 - a. summoning and enforcing the attendance of any person and examining him on oath;
 - b. requiring the discovery and production of documents; and
 - c. any other matter as may be prescribed.

16. Inquiry Report:

- 16.1 The ICC shall provide Report of the findings to the Employer and both the parties within a period of ten days from the date of completion of inquiry.
- 16.2 The Employer shall act upon the recommendation within sixty days of the receipt of the findings report.

- 16.3 If the ICC arrives at the conclusion that the allegation against the Respondent has not been proved, it shall recommend to the Employer that no action is required to be taken.
- 16.4 If the ICC arrives at the conclusion that the allegation against the Respondent has been proved, it shall recommend to the Employer to:
- a. take action for Sexual Harassment as a misconduct in accordance with the provisions of the service rules applicable or where no such service rules have been made, in such manner as prescribed under the Rules;
 - b. deduct, notwithstanding anything in the service rules applicable to the Respondent, from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the Complainant or to her legal heirs, as it may determine, in accordance with the provisions of Section 15 of the Act. In the event the Employer is unable to deduct the same or in the event of non-payment of the above mentioned sum by the Respondent, the same shall be recovered in a manner as prescribed under Section 13 of the Act.

17. **Penalties:**

17.1 **Consequences of violation of the Policy:**

Any person found guilty of violating this Policy as substantiated by data and facts, will be subject to any of the below mentioned disciplinary action, leading upto and including termination of services with/or without compensation based on severity of case.

- Written apology
- Warning
- Reprimand or censure
- With-holding of promotion
- With-holding of pay rise or increments
- Terminating of service
- Undergoing a counselling session
- Carrying out community service

17.2 Irrespective of and without prejudice to complaints initiated before the ICC, the Complainant may, at his/her sole discretion, also choose to lodge a complaint for the same offence with the Police. The ICC shall provide reasonable assistance to the Police in its investigation. ICC may take note of the findings by the Police and/or any other competent authority, in arriving in its recommendations and conclusion. The Respondent shall be subject to any findings or order of any competent authority, including but not limited to, a Court of Law.

17.3 **Punishment for false or malicious complaint and false evidence:**

If the complaint is found to be false and malicious, the Complainant shall be liable for appropriate disciplinary action. However, this shall not include complaints in respect of which the investigation has remained inconclusive due to circumstances which have rendered the offence difficult to prove and/or such complaints which have been made in good faith. The malicious intent on the part of the Complainant shall be established after an inquiry in accordance with the procedure prescribed before any action is recommended.

17.4 **Penalty for publication or making known contents of complaint and inquiry proceedings:**

Where any person entrusted with the duty to handle or deal with the complaint, inquiry or any recommendations or action to be taken under the provisions of the Act violates confidentiality, he/she shall be liable for penalty as maybe prescribed in the Rules.

Where any Employee who is part of the proceedings of the complaint as a witness, Complainant and/or Respondent violates the confidentiality provisions of this Policy, he/she shall be subject to appropriate disciplinary action.

18. **Appeal:**

18.1 The Complainant and the Respondent shall have the right to appeal to the Court of appropriate jurisdiction within ninety days of the decision of the ICC if they are not satisfied with the decision of the ICC.

19. Savings:

- 19.1 The proceedings under this Policy shall be conducted in parallel with the other remedies of law, if such a case arises.
- 19.2 The provisions of this Policy shall not restrict the power of Employer or Complainant to proceed against the Respondent for any other misconduct or to pursue the criminal or civil remedies.

20. Examples Of Instances Construed as Sexual Harassment:

- 20.1 Sexual harassment is classified as below, which includes but is not limited to the following:
- a. surreptitiously looking or prolonged staring at a person, giving rise to gross discomfort to the person;
 - b. telling sexist and/or smutty jokes or sending these through text, electronic mail or other similar means, causing embarrassment or offense, and the same being carried out after the offender has been advised that they are offensive or embarrassing or, even without such advice, when they are by their nature clearly embarrassing, offensive or vulgar;
 - c. malicious leering or ogling;
 - d. the display of sexually offensive pictures, materials or graffiti;
 - e. unwelcome inquiries or comments about a person's sex life;
 - f. unwelcome sexual flirtation, advances, propositions;
 - g. making offensive hand or body gestures;
 - h. persistent unwanted attention with sexual overtones;
 - i. unwelcome phone calls with sexual overtones causing discomfort, embarrassment, offense or insult to the receiver;
 - j. unsavory remarks about a person's physical characteristics, dressing, attitude, etc. ;
 - k. sexual assault;
 - l. malicious and/or unwanted touching or brushing against a victim's body;
 - m. requesting for sexual favors in exchange for employment, promotion, local or foreign travels, favorable working conditions or assignments, a passing

- grade, the granting of honors or scholarship, or the grant of benefits or payment of a stipend or allowance;
- n. derogatory or degrading remarks or innuendoes directed toward the members of one sex, or one's sexual orientation or used to describe a person;
 - o. verbal abuse with sexual overtones; and
 - p. Other analogous cases.

21. Names and Contact Details of the Members of the ICC:

The names and contact details of the Members of the ICC shall be as communicated by REV to the Employees from time to time.

22. Annual Report of the ICC:

22.1 The ICC shall in each calendar year prepare an annual report in the prescribed form and submit the same to the Employer. The report shall encompass the following:

- a. Number of complaints received that year;
- b. Number of complaints disposed off during that year;
- c. Number of workshops or awareness programmes conducted;
- d. Number of cases pending for more than 90 (ninety) days;
- e. Nature of action taken by the Employer.

TIMELINES:

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