



ANTI SEXUAL HARASSMENT POLICY

1. PURPOSE

Eastern Produce Kenya Limited (“the **Company**”) is fully committed to providing a work environment where all persons can work together comfortably and productively free from discrimination and any form of harassment, including sexual harassment.

This policy applies to all employees of Eastern Produce Kenya Limited and all contractors, clients, Growing partners, suppliers, service providers and visitors to the Company.

This policy recognises the primacy of the stipulations of the Employment Act and the Sexual Offences Act regulating sexual harassment and it is not intended as a substitute for the company’s disciplinary code.

2. DEFINITION

Sexual harassment is unlawful in Kenya. It is defined in different legal acts but in this context the policy is guided by the Sexual Offences Act and the Employment Act (2007). Section 6 of the Employment Act (2007) defines sexual harassment as where an employer or a representative of the employer or a co-worker:

- a. directly or indirectly requests an employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express:
 - i. promise of preferential treatment in employment;
 - ii. threat of detrimental treatment in employment; or
 - iii. threat about the present or future employment status of the employee;
- b. uses language whether written or spoken of a sexual nature;
- c. uses visual material of a sexual nature; or

- d. shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

Sexual harassment means any unwanted and inappropriate conduct of a sexual nature. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual. A single incident may constitute sexual harassment.

Unwanted conduct is sexual harassment if:

- (a) The recipient has made it clear that the behaviour is considered offensive; and/or
- (b) The perpetrator should have known that the behaviour is regarded as unacceptable.

3. STATEMENT OF INTENT

- 3.1 The Company has a zero-tolerance policy on sexual harassment. All Managers, Employees, Consultants and Service Providers and other persons who have dealings with the Company have the right to be treated with dignity. Sexual harassment of any form or nature will not be permitted or condoned.
- 3.2 The aim of this policy is to provide direction and rules for governing the conduct of employees, and any other person whom Eastern Produce Kenya Limited may legally hold to account, to ensure a work place free from sexual harassment and to ensure that adequate measures and procedures are readily available to deal with sexual harassment and to prevent its reoccurrence.
- 3.3 This policy seeks to encourage the development and implementation of practices which create a work environment that is free of sexual harassment and in which the integrity, dignity, privacy and the right to equality are respected.
- 3.4 Persons who have been or are being subjected to harassment in the workplace have the right to lodge a grievance. If sexual harassment is found to have taken place, appropriate action will be taken by the Company in accordance with the Company's Disciplinary Procedures for Sexual Harassment.

- 3.5 This policy forms part of the Company's rules and also its broader policy to promote equal opportunities for all in the workplace.
- 3.6 The Company's expectations regarding appropriate workplace conduct are higher and broader than those imposed by the law, such that it is possible for conduct not to violate the letter of the law but to nonetheless violate this policy and subject an individual to disciplinary action.
- 3.7 The Company recognises that individuals come to the workplace from a wide variety of backgrounds and with a wide range of personal values and behavioural preferences. Therefore, the Company has provided the following guidance regarding behaviour that the Company prohibits, regardless of an individual's level of seniority, length of employment, or value in other respects to the Company; regardless of whether the person engaging in the conduct intends any harm by this behaviour; and regardless of whether the behaviour is or was considered acceptable in other workplaces, cultures, or settings in which the person engaging in the behaviour has lived or worked.
- 3.8 The Company prohibits the behaviours described in clause 2 above not only because these behaviours can subject individuals and the Company to legal liability, but, more importantly, because these behaviours violate the dignity of the person and can have the effect of creating a hostile work environment making it uncomfortable and difficult for colleagues to function effectively in the workplace.

4. FORMS/EXAMPLES OF SEXUAL HARASSMENT

- a. Sexual harassment can occur regardless of whether the targeted individual accepts or rejects the advances or other offending behaviour. Accordingly, prohibited conduct includes a wide range of subtle or overt behaviours, including, but not limited to:
 - (a) Physical conduct, verbal conduct, non-verbal conduct, *quid pro quo* harassment and sexual favouritism. The aforesaid is explained in more detail below:
 - (b) Physical conduct of a sexual nature includes all unwanted physical contact ranging from touching to sexual assault, attempted rape and rape, and includes, but is not limited to, attempted or actual kissing, fondling, petting or pinching, groping, a strip

search by or in the presence of the opposite sex, hugging, and invading another's personal space.

- (c) Verbal forms of sexual harassment include, but are not limited to, unwelcome innuendoes or taunting, suggestions and hints, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments about a person's body made in their presence or to them, unwelcome and inappropriate enquiries about a person's sex life, and unwelcome whistling at a person or group of persons, wolf-whistling or kissing sounds, derogatory or patronising name calling and telephone calls with sexual overtones;
 - (d) Non-verbal forms of sexual harassment include, but are not limited to, unwelcome gestures, indecent exposure, and the unwelcome display of sexually explicit pictures and objects;
 - (e) *Quid pro quo* harassment occurs where a supervisor, member of management or co-staff member undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of a staff member or job applicant in exchange for sexual favours; and/or
 - (f) Sexual favouritism exists where a person who is in a position of authority rewards only those who respond to his/her sexual advances, while other deserving staff members who do not submit to sexual advances are denied promotions, merit rating or salary increases.
- b. Conduct prohibited by this policy is unacceptable and forbidden in the workplace, whether it occurs on the Company's premises or at any work-related setting outside the workplace, such as during business meetings, Company related social events, or Company related travel.
 - c. Any of the above behaviours includes those using electronic media, including but not limited to blogs, text messages, e-mails, social networking sites, message boards, and/or instant messaging. Individuals should also be mindful of their conduct on social media sites and should not post anything about their co-workers or colleagues that may violate this policy, including sexist comments, discriminatory insults or comments, or obscenity.

5. COMPLAINT PROCEDURES

- a. The Company strongly urges the reporting of all incidents of harassment or retaliation as defined in this policy, regardless of the offender's identity or position. All cases of harassment, retaliation and victimization including Gender Based Violence to be reported to:
1. The Independent Human Rights Mechanism (IHRM) through the following access points:
 - TWEGUU AKASE Phone Lines:
 - Toll-free 0800721815
 - Normal calls, SMS or WhatsApp 0113479693
 - Visit the Office of the IHRM at Sireet OEP Plaza, 4th floor, Nandi Hills Town.
 - E-mail: independent@tweguukase.co.ke
 2. The following additional reporting methods can be used and the cases will be channeled to the IHRM for action:
 - (a) With the relevant supervisor or line manager;
 - (b) With a Senior Line Manager;
 - (c) Through a Union representative
 3. By anonymous letters/mail outlining the nature of the harassment which may be anonymously deposited in Tier 1 TWEGUU AKASE box.
 - b. The complaint & complainant will be treated confidentially. Individuals who believe they have experienced conduct that is contrary to the Company's policy or who have concerns about such matters shall address these concerns directly with the IHRM. Individuals should not feel obligated to file their Complaints with their immediate supervisor first before bringing the matter to the attention of the IHRM.
 - c. Once a complaint is received, through the additional listed access points, the complaint will be referred to the IHRM through the EPK Incidence/complaints Form EP217/23. Failure to escalate a complaint or not to treat it in confidence may itself be a breach of the Company's disciplinary procedures.
 - d. It should be noted that individuals who have experienced conduct that they believe is contrary to this policy have an obligation to take advantage of the IHRM.
 - e. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of discrimination or all forms of

harassment. Therefore, while no fixed reporting period has been established, the Company strongly urges the prompt reporting of complaints or concerns so that rapid, constructive action can be taken.

- f. The IHRM will deal with all allegations of harassment in a serious, expeditious, sensitive and confidential manner. Employees will be protected against victimization or retaliation for lodging grievances. However, employees who are willfully and falsely accused of harassment will also be protected against victimisation.
- g. The Company recognises that sexual harassment is a sensitive issue and that a victim may in certain circumstances feel scared to approach the perpetrator, lodge a formal complaint or turn to colleagues or others for support. To this end the Company through the IHRM will provide training and sensitisation programs as described in Section 11 of this policy.

6. ADVICE, ASSISTANCE AND INVESTIGATION

- a. On receiving a complaint, the Head of IHRM will contact the Complainant to understand the nature of the complaint and assess whether the Complainant needs additional support. Such support may include medical assistance, protection, psychological support and the re-deployment of any party on the property.
- b. The Head of IHRM will also assess how best the complaint will be handled accounting, where legally possible, for the Complainants wishes and the vulnerability of the Complainant.
- c. If further investigation of the complaint is required, this will be undertaken by persons appointed by the Head of IHRM who are not related to the incident.
The Head of IHRM may also request the involvement of specialist third-party consultants/psychiatrist/psychologists to assist in any such process.
- d. Such an investigation when completed will be reviewed by the Head of IHRM in consultation with the Grievance Committee. At any time, the Head of IHRM reserves the right to guide the complainant to report the matter to the relevant authorities.

- e. Nothing in this policy inhibits a Complainant's rights under the law to bring a claim against the Company and or the individual.

7. FORMAL PROCEDURE

- 7.1 Any allegations of severe human rights impact which has been caused by, contributed to, or is directly linked with Eastern Produce Kenya Limited and/or its business partners shall follow the grievance management procedure of the IHRM which consists of 7 steps below:
 - 1. Receive
 - 2. Register and Acknowledge
 - 3. Assess and Assign, or Refer
 - 4. Investigate and Recommend
 - 5. Adjudicate and Respond
 - 6. Resolve or Review
 - 7. Follow-up and Close Out
- 7.2 Appropriate steps shall be taken at all stages to ensure that the matter is dealt with seriously, expeditiously, sensitively and confidentially, paying due regard to the nature of the allegation.
- 7.3 The Company has Zero-tolerance to victimization, discrimination and retaliation. It is an offence to victimise or retaliate against an individual who in good faith reports a grievance of sexual harassment.

8. RETALIATION/DISCRIMINATION PROHIBITED

This policy seeks to encourage employees, complainants and witnesses to express freely, responsibly and in an orderly way their opinions and feelings about any problem or complaint of sexual harassment. The Company strongly prohibits retaliation against any individual making a complaint, even if a complaint made in good faith is not substantiated. Witnesses involved in any complaint of harassment will also be protected from retaliation.

Retaliation against an individual for reporting discrimination or harassment, for participating in an investigation of a claim of discrimination or harassment, a serious violation of this policy and, like discrimination or harassment itself, shall be subject to disciplinary action up to and including summary dismissal from employment.

9. EMPLOYEE'S RESPONSIBILITY

- 9.1 All employees are responsible for helping to ensure that all discrimination and harassment is prevented. Any employee who believes that he or she has witnessed discrimination or harassment or is being discriminated against or harassed should report immediately to the IHRM.
- 9.2 Individuals who have questions or concerns about this policy should speak with their Senior Line Manager.

10. NON-DISCLOSURE AND CONFIDENTIALITY

Sexual harassment complaints shall be dealt with utmost confidentiality. All Parties and persons handling the inquiry are required to not disclose the name of a complainant, witnesses or the circumstances related to the complaint to any person except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures in relation to legal action on approval by the Grievance committee.

11. TRAINING AND SUPPORT

11.1 Trainings on this policy and available reporting mechanisms shall be conducted to every employee of the Company and records of such training kept.

11.2 A copy of this policy shall be displayed on the Company notice boards, and all employees must familiarize themselves with its content.

11.3 The Company will hold Anti-Sexual Harassment Awareness, Reporting and Prevention (A-SHARP) Campaigns on a regular basis to promote the culture of zero-tolerance to sexual harassment.