Breakthrough’s Prevention, Prohibition and Redressal to Sexual Harassment of Women at Workplace Policy
## ANTI SEXUAL HARASSMENT

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1. **Background**

Sexual harassment infringes the fundamental right of a woman to gender equality under Article 14 of Constitution of India and her right to life and live with dignity under Article 21 of Constitution of India, which includes right to a safe environment from sexual harassment. Equality in employment can be seriously impaired if a woman is subjected to gender specific violence, such as sexual harassment at workplace. The fundamental rights of a woman to life and liberty and to practice any profession depend upon the availability of a safe working environment with respect and dignity. Right to protection from sexual harassment and right to work with dignity are recognized as universal human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which have been ratified by the Govt. of India.

2. **Objective**

An atmosphere of mutual trust among employees is necessary for BREAKTHROUGH TRUST (‘BT’) to function as an organization. Keeping in view of the governing law, i.e., Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“Act”) and Rules 2013 (“Rules”), BT, is introducing a policy (“Policy”) to prevent, prohibit and redress the commission of any act of sexual harassment against any woman employee who are working in the organization. Breakthrough has a zero tolerance to sexual harassment at workplace. In case of any kind of harassment, exploitation and abuse, BT will take action to prevent such misconduct and that anyone who engages in such behavior is subject to disciplinary action. Accordingly, while the policy covers all the key aspects of the Act, for any further clarification reference shall always be made to the Act and the provisions of the Act shall prevail.

3. **Applicability of the Policy**

This policy applies to all categories of employees working at BT.

This Policy with immediate effect is deemed to be incorporated in the service conditions of all the Employees. The policy shall also apply to customers, vendors, business colleagues or representatives from other organizations /establishments with whom the employee may connect or work within the course of official responsibility or work.

4. **Definitions**

   a) “**Aggrieved Woman**” shall mean any woman or any person who identifies themselves as woman of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the Respondent;
b) “Complaint” means a written complaint of sexual harassment to the Internal Committee;

c) “Employee” means a person employed with BT as Regular Staff, Temporary Staff, Project Staff, Consultants, Contractual, Trainee, Interns, Volunteers, and includes person employed on ad hoc or daily wage basis, either directly or through an agent whether the terms of employment are express or implied;

d) “Employer” shall, for the purposes of this Policy, means the Chief Executive Officer of BT;

e) “Internal Committee” shall mean an Internal Committee constituted as per this Policy to deal/dispose the matters relating to Sexual Harassment at the Workplace;

f) “Members” shall mean Members of the Internal Committee;

g) “Misconduct” shall mean and include commission of any of the act/s of sexual harassment at workplace and shall be construed as misconduct in service, either major or minor depending upon the nature of offence:

h) “Respondent” shall mean a person or persons against whom the Aggrieved Woman has made a complaint;

i) “Sexual Harassment” shall include any one or more of the following unwelcome acts or behavior (whether directly or by implication) such as:

   i. Physical contact and advances; or
   ii. A demand or request for sexual favors; or
   iii. Making sexually coloured remarks; or
   iv. Showing pornography; or
   v. Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature

The following circumstances, amongst 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:

   i. implied or explicit promise of preferential treatment in her employment; or
   ii. implied or explicit threat of detrimental treatment in her employment; or
iii. implied or explicit threat about her` present or future employment status; or
iv. interference with her work or creating an intimidating or offensive or hostile work environment for her; or

v. humiliating treatment likely to affect the health or safety of Aggrieved Woman.

Appendix “A” of this Policy provides list of examples of behavior which may be found to constitute sexual harassment in the workplace.

j) “Workplace” includes any place visited by the employee arising out of or during the course of employment including transportation provided by BT for undertaking such journey. The work place includes all land, offices, buildings, lodging, quarters, vehicles and parking areas in use by BT; and

k) “Work from home” subject to conditions of appointment or agreement between employer and employee, employer may allow employee to work from home for such period or periods as may be determined by employer.

5. Internal Committee

a) Employer, by written order, constitutes committee to be known as “Internal Committee” to prevent instances of sexual harassment and to receive and effectively deal with complaints of sexual harassment at workplace;

b) Internal Committee shall consist of the following members to be nominated by the Employer: –

i. A woman employed at a senior level from amongst the employees of BT and she will be appointed as a Presiding Officer (“PO”);

ii. Not less than two members from amongst the employees of BT preferably committed to the cause of women or who have had experience in social work or have legal knowledge; and

iii. One member from amongst non-governmental organizations (‘NGO’) who shall be familiar with issues relating to sexual harassment at workplace.

Other parameters regarding Internal Committee shall be:-

a) At least one-half of the total members so nominated shall be women;

b) Members of Internal Committee shall hold office for such period, not exceeding three years, from the date of their nomination as may be specified at the time of nomination.
Appendix “B” of this Policy provides detail of officer order constituting the Internal Committee as notified for each location (workplace).

Appendix “C” of this Policy provides detail of the Internal Committee as notified for each location (workplace).

6. Cessation of Internal Committee Membership

a) If any member of the Internal Committee, who is in employment of BT, leaves the employment or is discharged, dismissed, terminated or suspended from his or her services, then she/he will automatically cease to be the member of the Internal Committee;
b) The Employer shall appoint another person as Member of Internal Committee in place of such Member within 10 (ten) days from the date of cessation of his/her membership.
c) Where the PO or any member of the Internal Committee: -
   i. contravenes the provisions of Clause O of this Policy; or
   ii. has been convicted for an offence or an inquiry into an offence under any law for the time
   iii. being in force is pending against him/her; or
   iv. has been found guilty in any disciplinary proceedings or a disciplinary proceeding is pending against him/her; or
   v. has abused his/her position as to render his/her continuance in office prejudicial to the public interest.

such PO or the Member, as the case may be, shall be removed from Internal Committee and the vacancy so created or any fresh vacancy shall be filled by fresh nomination by the Employer within 10 (ten) days from the date of cessation of his/her membership.

7. Meetings: Internal Committee

a) The meeting of Internal Complaint Committee shall be held once every quarter;
b) The quorum for holding any meeting of Internal Committee shall be more than half of the existing members, provided that in every meeting of Internal Committee the presence of the External Member is mandatory;
c) Members shall be intimated of meetings and agenda in writing and/or by electronic communication by the Member Secretary as least two (2) days in advance;
d) The PO shall call an emergency meeting within two working days of the receipt of a complaint of sexual harassment at workplace; and

e) Minutes of all meetings shall be recorded, confirmed and adopted. The PO shall circulate the minutes of a meeting and the resolutions so passed to all members of
the Internal Committee within seven (7) days of the holding of the meeting or the passing of the resolution.

8. **Complaint Procedure**

a) Any Aggrieved Woman who believes that or who has been subjected to Sexual Harassment by Respondent, shall file a complaint in writing at the earliest point of time and in any case within 3 (three) months of the alleged incident of Sexual Harassment;

b) In a series of incidents, complaint shall be filed within a period of 3 (three) months from the date of the last incident;

c) Where complaint cannot be made in writing, the PO or any member of Internal Committee shall render all reasonable assistance to the Aggrieved Woman for making the complaint in writing;

d) Complaint should be made to the Internal Committee or to any member of the Internal Committee (along with the supporting documents and list of witnesses, if any);

e) Where the Aggrieved Woman cannot make a complaint on account of:

   i. physical incapacity, her relative or friend or co-worker or an officer of the National Commission for Women or State Women’s Commission or any person who has knowledge of the incident, with the written consent of the Aggrieved Woman, may make a complaint; or
   
   ii. mental incapacity, her relative or friend or a special educator or a qualified psychiatrist or psychologist or the guardian /authority under whose care she is receiving treatment or any person who has knowledge of the incident jointly with any of the above may make a complaint; or
   
   iii. death, any person who has knowledge of the incident, with the written consent of her legal heir; or
   
   iv. otherwise for any other reason, any person who has knowledge of the incident, with her consent.

f) On receipt of complaint, the Internal Committee shall forward a copy of the same to the Respondent within 7 (seven) working days;

g) The Respondent shall file his reply to the complaint along with his list of documents and witnesses at the earliest and in any case not later than 10 (ten) working days from the date of receipt of the copy of complaint from Internal Committee;

h) Where the act of Sexual Harassment amounts to an offence under Indian Penal Code, 1860 or any other law in force, then on receiving the complaint, the Aggrieved Woman shall be informed by the Internal Committee of her right to initiate action under the law.
9. **Conciliation**

a) The Internal Committee may, before initiating an inquiry and at the request of the Aggrieved Woman take steps to settle the matter between the Aggrieved Woman and the Respondent through conciliation, provided that no monetary compensation shall be made as the basis of conciliation

b) If the settlement is arrived during conciliation proceedings, Internal Committee will record the settlement so arrived and provide copies of the suitable action as per the settlement, each to the Aggrieved Woman as well as the Respondent and also to the Employer. No further inquiry shall be conducted where a settlement has been arrived post conciliation;

c) If the Aggrieved Woman informs the Internal Committee that any such settlement is not complied with or where no settlement is arrived at, then in such a case, the Internal Committee shall proceed with an inquiry.

10. **Inquiry into Complaint**

a) The Internal Committee shall, where the respondent is an employee, proceed to make inquiry into the complaint in accordance with the provisions this policy;

b) The Internal Committee shall conduct the inquiry according to the principles of natural justice;

c) The Internal Committee shall give both the parties an opportunity of being heard and copy of the findings shall be made available to both the parties enabling them to make representation against the findings before the Committee.

d) While conducting inquiry, the Internal Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—
   i. summoning and enforcing the attendance of any person and examining him on oath;
   ii. requiring the discovery and production of documents.

e) No legal practitioner can represent any party at any stage of the inquiry procedure;

f) While conducting the inquiry, Presiding Officer and External Member must be present;

g) The entire record of the inquiry proceedings including statements of the parties, necessary, cross- examinations, averments and arguments made during the inquiry shall be reduced in writing and all parties present at the inquiry shall sign the same and be given a copy thereof for their records;

h) The Internal Committee shall be free to adopt its own procedure for carrying out the inquiry on the basis of natural justice, equity and fair play so that no prejudice is caused to either party. Keeping in mind the sensitive nature of proceedings, the same shall be conducted expeditiously and without any unreasonable delay and in a neutral venue.
i) The inquiry shall be completed within a period of ninety days.

11. Termination of Inquiry

a) The Internal Committee shall have the right to terminate the inquiry or give ex-parte decision, if complainant or respondent respectively is absent for 3 consecutive hearings, without reason;
b) 15 day written notice to be given to the party, before termination or ex-parte order.

12. Interim Measures

During pendency of the inquiry, on a written request made by the complainant, the committee may recommend to the employer to:—

a) Transfer of the Aggrieved Woman or the Respondent to any other office of BT; or
b) Grant leave to the Aggrieved Woman up to a period of 3 (three) months or grant such other relief to the Aggrieved Woman as may be appropriate; and
c) Restrain the Respondent from reporting on the work performance of the Aggrieved Woman or writing confidential report, and assign the same to another employee of BT.

Once the recommendations of interim relief are implemented, the employer will inform the Internal Committee regarding the same.

13. Complaint against Non-Employee

In case where the person against whom the Aggrieved Woman makes a complaint of sexual harassment is not an employee, BT, through the Internal Committee shall:—

a) Cause to initiate action, under the Indian Penal Code or any other law for the time being in force, in the workplace at which the incident of Sexual Harassment took place;
b) Take all necessary steps and shall make reasonable efforts to assist and support the Aggrieved Woman;
c) Ensure that the Aggrieved Woman is immediately distanced from the non-employee and the harassment comes to an immediate end.

14. False Complaints/Malicious Allegations

a) Employees cannot be permitted to abuse the law and this Policy for personal gains, settling scores and revengeful tactics. Making a complaint of Sexual Harassment is an extremely serious matter and it affects the life, career and reputation of the parties involved, hence BT takes such issues with utmost seriousness and sincerity;
b) The Internal Committee may recommend to take action against the Aggrieved Woman or any other person where the Internal Committee arrives at a conclusion that the:—
   i. Allegation against the Respondent is malicious; or
   ii. Aggrieved Woman or any other person making the complaint, has made the complaint knowing it to be false; or
   iii. Person has produced any forged or misleading document.

c) Mere inability to substantiate a complaint or provide adequate proof need not attract action against the Aggrieved Woman;

d) The malicious intent on part of the Aggrieved Woman shall be established after an inquiry by the Internal Committee before any action is recommended.

15. Inquiry Report and Action

a) On the completion of an inquiry, the Internal Committee shall provide a written report of its findings and conclusions to the Employer within a period of ten (10) days from the date of completion of the inquiry and a copy of the report shall be given to the Aggrieved Woman and Respondent.

b) The Employer shall act upon the recommendation within 60 (sixty) days of its receipt;

c) Where the Internal Committee 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 against the Respondent;

d) Where the Internal Committee arrives at the conclusion that the allegation against the Respondent has been proved, Internal Committee shall recommend to the Employer to take action against the Respondent for Sexual Harassment as a misconduct as explained hereinafter:—

(I) Minor Misconduct
   i. Verbal or written warning, written apology reprimand, or censure; and/or
   ii. Withholding of one or more increments for a period not exceeding one year; and/or
   iii. Withholding of promotion; and/or
   iv. Suspension from service for a limited period; and/or
   v. Transfer; and/or
   vi. Undergo a counseling session or carrying out community service.

(II) Major Misconduct
   i. Removal from an administrative position; and/or
   ii. Disbarment from holding an administrative position; and/or
   iii. Compulsory retirement; and/or
   iv. Dismissal from service.
e) A second or repeated offence, shall, on the recommendation of Internal Committee, attract dismissal from service. Further, the penalty awarded shall be recorded in Respondent’s Confidential Record.

16. Compensation for damages

a) Where the Internal Committee arrives at the conclusion that the allegation against the respondent has been proved, it shall recommend to the employer to deduct, notwithstanding anything in the appointment letter, consultancy agreement etc applicable to the Respondent, from the salary or wages of the Respondent such sum as it may consider appropriate to be paid to the Aggrieved Woman or to her legal heirs;

b) For the purpose of determining the sum to be paid, the Internal Committee shall consider:
   i. The mental trauma, pain, suffering and emotional distress caused to the Aggrieved Woman; and/or
   ii. The loss in career opportunity due to the incident of Sexual Harassment; and/or
   iii. Medical expenses incurred by Aggrieved Woman for physical or psychiatric treatment; and/or
   iv. The income and financial status of the Respondent; and/or
   v. Feasibility of such payment in lump sum or in installments.

c) In case BT is unable to make such deduction from salary or wages of the Respondent due to being absent from duty or cessation of employment or retainership, Internal Committee may direct the Respondent to pay such sum to the Aggrieved Woman.

17. Appeal

Any person aggrieved from the recommendations made by the Internal Committee or non-implementation of such recommendations may prefer to appeal in the court or tribunal in accordance with the provisions of the governing law.

18. Employer Obligations

The obligations of the BT towards employees are as under:

a) formulate and widely disseminate an internal policy for prohibition, prevention and redressal of sexual harassment at the workplace intended to promote gender sensitive safe spaces and remove underlying factors that contribute towards a hostile work environment against women;
b) provide a safe working environment at the workplace which shall include safety from the persons coming into contact at the workplace;

c) display at any conspicuous place in the workplace, the penal consequences of sexual harassment and the order constituting Internal Committee;

d) declare the names and contact details of all members of the Internal Committee

e) organize workshops and awareness programmes at regular intervals for sensitising the employees with the provisions of the Act

f) Treat Sexual Harassment as misconduct and initiate actions for such misconduct.

The obligations of the Employer towards Internal Committee are as under:

a) provide all necessary facilities to the Internal Committee for dealing with the complaint and conducting an inquiry;

b) make available such information to the Internal Committee as it may require having regard to the Complaint made under para 6.1(i) of this Policy;

c) assist in securing the attendance of Respondent and witnesses before the Internal Committee;

d) monitor the timely submission of reports by the Internal Committee;

e) organize/carry out orientation programmes and seminars for the members of the Internal Committee;

f) conduct capacity building and skill building programmes for the members of the Internal Committee.

19. Submission of Annual Report

The Internal Committee shall in each calendar year prepare an annual report and submit its Annual Report by 31st December each year to Human Resource Division which in turn will be responsible for submitting the Annual Report to the District Officer as required under the governing law.

Appendix “D” of this Policy provides the format for submission of Annual Report.

20. Confidentiality

a) Notwithstanding anything contained in the Right to Information Act, 2005, contents of the complaint, the identity and addresses of the Aggrieved Woman, Respondent and witnesses, any information relating to conciliation and inquiry proceedings, recommendations of the Internal Committee and the action taken by BT shall not be publish, communicated or made known to the public, press and proceedings media in any manner.

b) Any person contravening the confidentiality clauses is subject to disciplinary action as prescribed in the governing law.
21. Governing Law

This policy follows the Act of Parliament and its notification and is as per provision of “The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and Rules 2013”. 
The following acts of behavior which may be found to constitute sexual harassment in the workplace.

a. any unwelcome sexually determined conduct whether physical, verbal or non-verbal, including but not limited to, sexual advances, demands or requests for sexual favors, molestation, sexually nuanced gestures, comments, remarks or jokes either verbal, textual, graphic or electronic or by any other means or action.

b. Physical contact and advances or forcible physical touch or molestation of a female staff.

c. Sexually coloured remarks to a female staff.

d. Showing pornography or other offensive or derogatory pictures, cartoons, pamphlets or sayings to a female staff.

e. Jokes causing or likely to cause awkwardness or embarrassment to a female staff.

f. Unwelcome sexual overtone in any manner such as over telephone (obnoxious telephone calls) and the like to a female staff.

g. Touching or brushing against any part of the body and the like of a female staff.

h. Physical confinement of any a female staff and/or any other act likely to violate her privacy.

i. Repeatedly asking to socialize during off duty hours or continued expressions of sexual interest against a person’s wishes.

j. Persistent watching, following, contacting a person.

k. Giving gifts or leaving objects that are sexually suggestive.

l. Harassment through sexual innuendos and taunts, physical confinement against one’s will or any such act likely to intrude upon one’s privacy.

m. Any act or conduct by a male person in authority or peer which denies or would deny equal opportunity in pursuit of career development or otherwise making the environment at the workplace hostile or intimidating to a female staff, only on the ground of sex.

Explanation: Where any act is committed against any female staff and such person has a reasonable apprehension that it can be humiliating, or it will lead to discrimination, as for instance, when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or recruitment or promotion and it would result in adverse consequences if she does not consent to the unwelcome conduct or raises any objection, it shall be deemed to be act of sexual harassment.

a. Any act of a person in charge of the management using the authority to exploit the sexuality or sexual identity of a subordinate a female staff in a manner which prevents or impairs the staff’s full utilization of employment benefits or opportunities. It also includes behavior that covertly or overtly uses the power inherent in the status of the person to affect negatively a female staff’s work experience or career opportunities and/or to threaten, coerce or intimidate staff to accept sexual advances or making employment decision affecting the female staff or create an intimidating, hostile or offensive working environment that may be humiliating and may constitute a health and safety problem.

b. Any unwelcome sexually determined behavior, whether directly or by implication or request for sexual favor, or other verbal or physical conduct with sexual overtones directly or by implication, particularly when submission to or rejection was capable of being used for effecting the employment of female staff and unreasonably interfering with her work performance and had the effect of creating an intimidating working environment for her.
Conduct Involved in Sexual Harassment

- Verbal harassment, e.g., epithets, derogatory comments, slurs, kidding, teasing, jokes commenting about another's body or appearance, offensive sexual flirtations, sexual advances or propositions, gender based comments and ridicule, inquiries into one's sexual experiences, discussion of one's sexual activities, threats, insults, name calling, whistles or catcalls, sexually explicit or offensive language.

- Physical harassment, e.g., assault, stalking, staring, trick or horse play, impeding or blocking movement, physical contact such as patting, pinching, hugging or brushing against another's body.

- Visual and nonverbal forms of harassment, e.g., derogatory posters, sexually oriented cartoons or drawings, the display of sexually suggestive objects or pictures, such as calendars and screen savers, or demeaning graffiti, demeaning or sexually suggestive gestures.

II. APPENDIX ‘B’

PROCEEDINGS OF THE Chief Executive Officer, BREAKTHROUGH, New Delhi, PIN - ...

Sub:- Sexual Harassment of women at work place (Prevention, Prohibition and Redressal) Act, 2013 - Internal Committee BREAKTHROUGH for the period from ..... to .... - Constituted - Orders issued.

Ref:- 1. Section 4(1) of the Sexual Harassment of women at Work place (Prevention, Prohibition and Redressal) Act, 2013.
2. Proceedings Order No. BT/SH/../2013 dated .....of Chief Executive Officer, BREAKTHROUGH, New Delhi.

ORDER NO. BT/SH/..../202 dated......

In exercise of the powers conferred on the undersigned under Section 4(1) of the Act referred to (1) above, an Internal Committee was constituted as per Proceedings Order ... cited in BT/SH/..../2013 for a period of three years from .... to .... to deal with the complaints on sexual harassment. As the tenure of the internal complaints committee constituted as per the reference 2nd cited BT/SH/..../2013 is over by the afternoon of ..... the Internal Committee has to be reconstituted from .... for period of three years from ... to ... as mandated in the enactment referred to (1) above.

Accordingly, the Internal Committee at BREAKTHROUGH Delhi is reconstituted with the Presiding Officer and Members, for locations .... Respectively, to look into and proceed on the complaints of sexual harassment at workplace.

The Presiding Officer and other three Members of the Internal Committee shall hold the office for a period of three years from ... to .... The Presiding Officer will convene the meeting of the committee as and when required and the proceedings thereon will be recorded as minutes of the committee and that will be made available to the undersigned for perusal and further action as provided in the above Act and the Rules.

Sd/-
Chief Executive Officer,
### III. APPENDIX ‘C’

Internal Committee ("IC"), which serves its offices for Delhi and Haryana

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Internal Committee ("IC"), which serves its offices for Uttar Pradesh and Jharkhand

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<tr>
<th>Name</th>
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<tr>
<td>Independent Thought</td>
<td>Email: <a href="mailto:bhaumik.soumya@gmail.com">bhaumik.soumya@gmail.com</a> Mobile: +91 9811472549</td>
<td>NGO, External Member</td>
</tr>
</tbody>
</table>

IV. APPENDIX ‘D’

ANNUAL REPORT under Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013
<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Particulars</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Number of complaints of sexual harassment received in the year</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Number of complaints disposed off during the year</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Number of cases pending for more than 90 days</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Number of workshops or awareness programme against sexual harassment carried out</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Nature of action taken</td>
<td></td>
</tr>
</tbody>
</table>