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## Tirgan: Respect in the Workplace Policy and Procedures

## INTRODUCTION

Tirgan is committed to providing a work environment reinforced by the organization's Core Values, free from harassment and violence where professional conduct, mutual respect, the dignity and self-esteem of every Team Member is respected.

At Tirgan, workplace harassment in any form, by or against any person in connection with work-related activities on behalf of the organization, is unacceptable and will not be tolerated. All Team Members (as defined in the Scope section below) are encouraged to report workplace harassment so that appropriate action can be taken to stop unwelcome conduct.

Tirgan is committed to its "*Respect in the Workplace Harassment Policy and Procedures*" and will make every reasonable effort to prevent and eliminate conduct that falls within the scope of the Policy to ensure a respectful workplace environment.

## SCOPE

This policy applies to all Team Members, which for the purpose of this policy includes employees, volunteers, visitors, suppliers, board members, participants, stakeholders, artists, independent contractors, and independent contractors of Tirgan. This policy applies not only during working time, but to any activities on or off Tirgan's work premises which could reasonably be associated with the workplace (e.g. social events, fundraisers, festival grounds, etc.). Discrimination or harassment that occurs outside the workplace, but which has an adverse effect on Team Members' safety in the workplace is also prohibited. For example, discrimination and harassment may occur on social media or outside of work hours.

## PURPOSE

Tirgan's commitment to providing a work environment that respects and protects the rights of its team members is in accordance with the ***Ontario Human Rights Code (OHRC)*** and the ***Ontario Occupational Health and Safety Act (OHS Act)***.

Tirgan is committed to proactively preventing, recognizing and addressing discrimination and harassment in the workplace and to providing a safe, healthy and supportive working environment by treating its Team Members with integrity, respect and care, and ensuring they do the same.

The purpose of this policy is to:

- Reinforce our Core Values;
- Ensure the dignity, respect and safety of everyone involved with Tirgan;
- Ensure that all **Team Members** have a workplace free of discrimination or harassment;

- Define, recognize and prevent discrimination and harassment in the workplace;
- Ensure that any discrimination and harassment in the workplace is effectively addressed and resolved; and
- Define the roles and responsibilities of **Tirgan and Team Members** under this policy.

## POLICY

According to the OHRC, every Team Member has a right to freedom from discrimination and harassment in the workplace related to one or more protected ground including: age, creed (religion), sexual orientation, gender identity, gender expression, family status (such as being in a parent-child relationship), marital status (including married, single, widowed, divorced, separated or living in a conjugal relationship outside of marriage, whether in a same-sex or opposite-sex relationship), disability (including mental, physical, developmental or learning disabilities), race, ancestry, place of origin, ethnic origin, citizenship, colour, record of offences (criminal conviction for a provincial offence, or for an offence for which a pardon has been received), association or relationship with a person identified by one of the above grounds, and perception that one of the above grounds applies.

The OHSA extends the Team Members' protections to include freedom from workplace harassment that is personal and does not need to be based on a protected ground (see definition below).

Tirgan is responsible for taking every reasonable precaution to establish and maintain a workplace free of discrimination and harassment. Any complaint of discrimination and harassment will be treated as a serious matter.

### Discrimination

Discrimination is any form of differential treatment based on a protected ground set out in the OHRC (see above), whether by imposing extra burdens or by denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but disadvantage certain groups of people. Discrimination may take obvious forms, or it may happen in very subtle ways. Even if there are many factors affecting a decision or action, if discrimination is one factor, that is a violation of this policy.

### Harassment

Harassment is a series of comments or actions that are unwanted or uninvited, by someone at or from work who knows or should know that the comments or actions are unwanted or uninvited. Harassment can also result from a serious single comment or

action, and it does not matter whether or not the harasser intended to harm the other person.

- a. If the harassment is related to any of the OHRC’s “Protected Grounds,” then the harassment violates the OHRC and this Policy. Examples of this type of harassment include: Inappropriate or insulting remarks, gestures, jokes, innuendoes or taunting about a person based on a Protected Ground; unwanted questions or comments about a team member’s private life pertaining to a Protected Ground; and/or posting or displaying materials, articles or graffiti etc. that is offensive on the basis of a Protected Ground.
- b. If the harassment does not relate to the OHRC’s “Protected Grounds,” then it amounts to harassment as defined by the OHSAA and violates this Policy. Examples of this type of harassment include: making remarks, jokes or innuendoes that demean, ridicule, intimidate or offend; displaying or circulating offensive pictures or materials in print or electronic form; bullying; making repeated offensive or intimidating phone calls, emails and/or texts; yelling; reprimanding in the presence of others; aggressive or patronizing behaviour; excluding or isolating an individual; gossiping or spreading rumours; and/or belittling a team member’s opinions.

Workplace harassment does not include reasonable action taken by Tirgan relating to the management and direction of Team Members or the workplace. Examples can include changes in work assignments or scheduling; job assessment and evaluation; or reasonable disciplinary action.

It is important to note that simply because a person does not object to harassing behaviour, or they appear to be going along with it, it does not mean that the behaviour is acceptable or appropriate. The individual may not feel comfortable speaking up, and the behaviour could still be considered harassment under this policy.

## Workplace Sexual Harassment

- a. Engaging in a course of vexatious comment or conduct against a Team Member in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; or
- b. Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the Team Member and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; or

- c. Taking or threatening a reprisal against a team member who has rejected a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the Team Member.

This definition of workplace sexual harassment is similar to the prohibitions on sexual harassment and sexual solicitation found in Ontario's *Human Rights Code*.

Sexual and gender-based harassment examples include: conditioning employment on accepting such behavior, using it for employment decisions, making unwelcome sexual remarks, jokes, taunts, or gestures, displaying paternalism, using vulgar language or humor, making unwelcome sexual invitations or requests, discussing sexual activities, engaging in physical contact, displaying sexual objects or images, committing sexual assault, and creating a hostile work environment.

Sexual harassment is a violation of the OHRC and this policy.

## RESPONSIBILITIES

### Responsibilities of Management

Management, including Board Members, is expected to take steps to: (i) minimize the risk of harassment where reasonably possible; and (ii) ensure Team Members are trained to recognize harassment, follow the policies of Tirgan to minimize risk, respond to incidents appropriately, and report and document such incidents. Where a member of Management or the board witnesses an incident of discrimination or harassment or is aware of such behaviour, they must effectively address the matter with the persons involved and follow the appropriate steps in the Complaint Process (see below).

### Responsibilities of All Team Members

It is the responsibility of all Team Members to show respect for others both in the workplace and in any capacity where they are representing Tirgan and to foster a work environment that is free from discrimination and harassment. Team Members are responsible for: (i) their behaviour; (ii) for understanding how others may perceive their conduct in the workplace and the expectation to change their conduct when advised that their behaviour is not acceptable to others; (iii) informing Management of any harassment they experience or witness; (iv) reporting to Management any incidents of harassment according to the procedures set out in this protocol; and (v) attending any training or information sessions provided by Tirgan to reduce harassment.

## COMPLAINT PROCESS

All Team Members are encouraged to raise any concerns about workplace harassment and to report any threats or incidents to a Board member immediately. This includes

harassment involving any Team Members (i.e., employees, volunteers, visitors, suppliers, board members, participants, stakeholders, artists, independent contractors, and independent contractors of Tirgan). If an incident of harassment is reported, the Board member will review safety measures with the affected Team Members and implement additional measures, if necessary, to protect the individual(s). Tirgan is committed to ensuring allegations of discrimination and harassment are addressed in accordance with the complaint process outlined below in a manner that is sensitive to the confidentiality of the parties involved and seeks the earliest resolution in the matter while complying with legislative requirements.

The following procedure sets out the options available and the processes to be followed in the event that an incident or complaint of discrimination or harassment, or is brought to the attention of Tirgan.

The Board member(s) who receives notice of an instance of workplace harassment is responsible for overseeing the management of the complaint pursuant to the steps noted below. As such, the primary point of contact for Team Members is any one or more Board members. Should Team Members have concerns about any particular board member being part of the management of the complaint process, they can advise one or more of the other Board members, who will apply the necessary steps to ensure the matter is addressed appropriately, which will include the exclusion of said particular board member from management of the complaint. The objective is for Team Members to be able to bring forward a complaint to a person who will objectively address the complaint.

## Self-Initiated

A Team Member who believes he or she has been subjected to discrimination or harassment, witnesses discrimination or harassment or, reasonably suspects that a Team Member is being harassed or discriminated against, is encouraged to do the following:

- **Speak to the Offender:** This is a voluntary step. If a Team Member feels able to do so, it is their right to inform the offender that the behaviour is unwelcome by verbal or in written communication to stop the behaviour. In many cases, when the offender is aware their conduct is unwelcome and will not be tolerated, they stop, and the conflict is resolved. As discrimination and harassment negatively affect everyone, bystanders are also encouraged to speak up and ask an offender to stop.
- **Document the Conduct:** Team Members are to take notes of the offensive conduct by writing down what happened, the time and date(s) when it happened and the names of those who were present, including what was said and done by all parties
- **Report the Conduct:** Regardless of whether the offender has been spoken to or not, Team Members should report all instances of discrimination or harassment

to a Board member so Tirgan can continue to ensure it is taking all reasonable steps to provide a safe and respectful work environment.

## Reporting an Incident or Making an Internal Complaint

Any Team Member who feels their rights under this Policy have been violated, witnesses discrimination or harassment of a team member, or reasonably suspects that a team member is being or has been harassed or discriminated against contrary to this Policy, and is not comfortable to speak directly to the offender or has and the behaviour continues, is encouraged to:

- Report the incident to a Board member. The role of Tirgan's board of directors is to hear complaints of discrimination and harassment from Team Members, either formally or informally, and explain to the complainant the processes available for resolution.
- Making a complaint signifies that the Team Member is requesting that Tirgan investigate their claim appropriate to the circumstances. The complaint must be completed in writing and submitted to a Board member and include:
  - The name of the complainant (the person making the complaint);
  - The name of the respondent (the alleged offender);
  - The time and date of all events being complained about;
  - A description of the nature of the complaint including detailing the circumstances surrounding the incident;
  - The names of any witnesses to the events;
  - Attached copies of relevant documents;
  - The specific section of the Policy the complaint falls under;
  - Avenues of resolution exhausted, if any; and
  - Desired resolution.



## RESOLUTION FRAMEWORK

The Board member will conduct a thorough investigation that is appropriate in the circumstances into reported incidents and complaints of discrimination or harassment. The Board member will be responsible for managing the appropriate resolution except in an instance where the incident involves that particular Board member, in which case, that Board member must notify the other members of the Board of Tirgan, who will jointly carry out these responsibilities absent the particular Board member(s) involved.

In each case a preliminary review will be undertaken to:

- Provide the complainant with a copy of the Policy and respond to inquiries;
- Obtain the written complaint of the complainant, including any attempts to resolve the matter;
- Ascertain whether the concern raised falls within the jurisdiction of the Policy and, if it does not, advise the person of other available avenues of redress if any;
- Inform the alleged offender of the allegations, provide them with a copy of the Policy, respond to inquiries about the process, and obtain their account;
- Consider the viability of an informal process in the particular circumstances of the matter by discussing the **Informal Resolution** opportunities with the parties, explaining and offering these options and seeking their voluntary participation in an informal process. Unless the particular facts of the matter dictate otherwise, Tirgan encourages Informal Resolution (below) processes, recognizing that more formal processes are adversarial and can compromise working relationships in ways that may not serve the individual who is alleged to have been harassed or discriminated against;
- Assess whether a Formal Investigation (below) is appropriate and necessary;
- Team Members will be informed, in writing, of the results of the preliminary review and of any corrective action that has or will be taken as a result of this stage.

### Informal Resolution

Informal Resolution processes are used to resolve concerns and complaints to move working relationships forward constructively. They are not engaged in to assess blame or seek punitive actions against an alleged offender. In some cases, Tirgan may determine that the matter is too serious to be dealt with informally and may require a Formal Investigation. Informal Resolution processes include but are not limited to:

- Board Intervention – where a board member speaks on behalf of the Complainant to the person believed to be involved in harassing or discriminating like behaviour with the goal of resolving the issue;

- Mediation or Relationship Coaching – in both cases a neutral person meets with the complainant and respondent and assists in arriving at a solution to the conflict;
- Training – in some circumstances training (such as sensitivity awareness training, leadership development or group harassment/discrimination awareness training) can be provided to individuals or the relevant workgroup including the person who initiated the complaint and the alleged offender.

Tirgan is committed to explaining these options in more detail so that Team Members can request the option which will provide the quickest and most effective resolution to the complaint subject to any legal requirements to investigate. Tirgan nevertheless maintains the right to determine the appropriate course of action to resolve the complaint.

## Formal Investigation

A Formal Investigation will be undertaken if the Informal Resolution process is unsuccessful or Tirgan determines that a Formal Investigation is appropriate. A Formal Investigation involves a neutral individual investigating the complaint to determine whether harassment or discrimination has occurred.

A Formal Investigation will be generally undertaken as follows:

- The Board Member will conduct the investigation or appoint a third-party external investigator.
- The investigation will include separate interviews with the complainant and the respondent. The investigator will also interview any witnesses the investigator deems appropriate.
- The investigation will be undertaken and completed in a neutral, thorough, fair and timely manner (generally within 90 days) with clear timelines provided to all parties.
- The investigator will make findings of fact by determining what was more likely than not to have taken place and will further assess whether or not these constituted harassment or discrimination.
- The investigator will prepare a written report of his or her findings of fact, assessments and conclusions, and forward the report to the Board member overseeing the complaint, who will pass it on to the Team Member.
- The investigator may conclude that there has been conduct constituting harassment/discrimination, determine that there is insufficient evidence to make such a finding, or conclude that findings of fact did not amount to workplace harassment/discrimination.

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- If it is concluded that there has been conduct constituting harassment/discrimination, the Board member shall pass on the report to the Board of Tirgan, except to any Board members involved in the complaint, and the Board of Tirgan shall determine the appropriate corrective action to be taken as a result of the investigation, with deference given to the recommendations provided by the investigator, if any.
- The investigation file will be maintained post-investigation. Where a complaint is substantiated, a written record of the outcome of the investigation will be retained and included in the respondent's personnel file. Where a complaint is not proven, a record of the complaint will be retained by Tirgan, to show due diligence but will not be placed in the respondent's file.
- Within ten days of the completion of the Investigation Procedures, the Board member overseeing the investigation will meet with the complainant and the respondent to advise on the outcome and provide a letter containing the outcome of the investigation and any actions taken by Tirgan.
- Any complainant who is not satisfied with the outcome of their complaint and the investigation, may at any time file a complaint directly with the Ontario Human Rights Tribunal or under OSHA, as applicable. If the complainant seeks to file a grievance while an Investigation under this policy is ongoing, Tirgan will nevertheless complete the Investigation.
- There is no specified timeline for filing a complaint. However, Team Members are encouraged to raise a complaint as soon as possible. The longer the period of time between an incident and reporting of the incident, the greater the chance that witnesses may be unavailable or will not recall the events and the respondent will be able to assert that the delay has compromised the ability to respond to the complaint properly. The Ontario Human Rights Tribunal requires that, in most cases, an application to the Tribunal must be filed within a year from the incident of discrimination.

## COOPERATION EXPECTED

Everyone has an obligation to ensure that the workplace is free from discrimination and harassment. Tirgan expects that every Team Member will cooperate and participate fully and in good faith in any investigation or conflict resolution process under this policy that he or she is requested to participate.

## RIGHT TO WITHDRAW COMPLAINT

A complainant has the right to withdraw a complaint at any stage of the process. However, Tirgan may continue to act on the issue identified in the complaint to comply with its obligations under this policy and its legal obligations.

## PROTECTION FROM REPRISAL, RETALIATION OR THREATS

It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for having: pursued his/her rights under this policy; participated or co-operated in an investigation under this policy; or been associated with someone who has pursued their rights under this policy. Anyone engaged in such conduct may be subject to reprimand and discipline.

## UNSUBSTANTIATED CLAIMS

If a person, in good faith, makes a complaint or discloses an incident with respect to discrimination, harassment or bullying or that is not supported by evidence gathered during the subsequent investigation, the complaint (or disclosure) will be dismissed and no record of it will be placed in the complainant's or respondent's file. However, complaints or disclosures that are made to purposely annoy, embarrass or harm a respondent, or are frivolous, vexatious or an abuse of the process (i.e., made in bad faith), may result in reprimands and disciplinary measures against the complainant.

## CONFIDENTIALITY

All parties involved in a discrimination or harassment complaint or incident are expected to respect the privacy and confidentiality of all other parties involved and to limit discussion to those that need to know. Tirgan will strive to maintain confidentiality in its handling of any incident or complaint of discrimination or harassment, however, confidentiality cannot be guaranteed. Information obtained about an incident or complaint of discrimination or harassment, including identifying information about any individuals involved will not be disclosed unless the disclosure is necessary for investigating or taking corrective action concerning the incident or complaint, or is otherwise required by law.

Confidentiality does not mean anonymity. The alleged harasser will be informed of the identity of the individual who made the allegations in both the informal and formal stages of resolution. Also, it is often necessary for the identity of the complainant to be identified to third parties for the successful completion of an investigation.

If Tirgan determines that the safety of an individual is at risk, the procedures outlined in this policy, including confidentiality, may be set aside.

## POLICY AND PROGRAM REVIEW

Tirgan will review this Policy and Procedures on an annual basis.