



Restoring Hopes, Inspiring Actions, Transforming Lives !!!

CHRISTIAN ACTION FOR RELIEF AND DEVELOPMENT

Code of Conducts: Ethical Principles and Disciplinary Procedures

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Section 1.CARD's Mission, Vision and Core Values

Vision

Transformational Christian Development Agency in Africa, Equipped to Transform Vulnerable Community's Lives Wholistically.

Mission

To equip A Transformational Christian Development Agency for the Transformation of Vulnerable Community's Lives Wholistically, Through Integrations of Community Developmental Innovative Programmes, Community Empowerment and Stakeholders Engagement.

Motto

Restoring Hopes, Inspiring Actions, Transformation Lives!!!

Core Values:

Mutual Respect and Dignity.

Its requirement to all staff to recognize the innate worth of all people and the value of and appreciated the diversity, respect opinions, personality of others.

Stewardship

We strive to take good care of the resources, assets we are entrusted with and to sure that they are used accordingly and for the glory of God.

Christian Ethical Values

We are committed to love our neighbours as we love ourselves & care for one another, by willingly sacrifice our own resources for the good of other's, where divine require we go down on knees and pray for God intervention. What is hateful to us, we don't do it to our fellow being. This is the entire core value; all the rest is commentary.

Faith, Hopes with Determination

When hope is crushed, the heart is crushed but a wish come true fills you with joy" (Proverbs 13:12) our faith is built on what we know is there though we cannot see it now but we are sure of getting it. It's by faith that keeps us moving on ward with determination to face the present challenges and hope the future will get better than the present time.

Excellence in Services Delivery.

We are yearning to offer quality products and excellence service that is worth, acceptable, meaningful and relevant to the needs of the people.

Equity, fairness and justice for all.

We are endeavour to equity, fairness, justice for all & equal of opportunity, fairness in wages, justice for everyone, irrespective of race, age, gender, sexual orientation, colour, class, ethnicity, disability and location or religion.

Transparency, Integrity & Accountability

We are committed to integrity and transparency in financial report must be accuracy and completeness and making them accessible to stakeholders. To follow policy and procedures and declare nay personal interests that might conflict with official duties and commit to our morals and legal duty principle to give explanation on demand.

Solidarity with the Vulnerable Groups and Marginalized Community.

We Stand up together for the powerless, vulnerable groups and marginalized community and give them necessary materialistic support they need.

Teamwork

We strongly believe in teamwork, because we know together each one of us does wonders and more, divided we each one of us does less. God has given us different talents so that we must live together and work together as a team

Section 1: Introduction to Ethical Principles and Disciplinary Procedures

Christian Action for Relief and Development-CARD shall be fully committed to the principle of honesty, integrity and fair play in all its businesses and activities. This Code of Conduct and its related principles and standards are based on recommendations from the CARD Board Directors, the UN Global Compact principles¹ and ECHO's Humanitarian Aid Guidelines for Procurement and employment 2011¹. All officials and staff shall ensure that the businesses of the Organization, such as procurement of materials, hiring of staff and termination of staff contract services for activities, are dealt with in an open, fair and impartial manner.

Staff should bear in mind that the Organization is accountable to its donors, board of directors including the government and any private sponsors, and all its members, in the conduct of its activities.

This Code is designed to help employers, employees and their representatives deal with disciplinary and grievance situations in the workplace. This Code of ethic and conduct does not apply to redundancy dismissals or the non-renewal of fixed-term contracts on their expiry.

This Code of Conduct sets out the basic standard of conduct expected of all officials and staff and the

Organization's policy on such matters as acceptance of advantages and declaration of conflict of interest.

This Code also applies to temporary or part-time, fully time staff employed by the Organization. By this Code of Conduct, the Contracting Authority applies ethics to procurement. We expect our employees to act socially, ethically, accountably, transparency, justice and fairness and environmentally responsible and actively work for the implementation of the standards and principles in this Code of Conduct. The Code of Conduct is applicable for all our employee who employed and works to our operations and projects.

1.1 General Conditions

The Code of Conduct defines the ethical requirements and standards for our employees, whom we expect to sign and respect the Code of Conduct, and work actively towards the implementation

¹<http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>
http://ec.europa.eu/echo/partners/humanitarian_aid/procurement_guidelines_en.htm

hereof. By signing the Code of Conduct employee agree to place ethics central to their business activities.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Contracting Authority's standards address the same subject, the highest standard shall apply.

It is the responsibility of the employee to assure that their works, characters comply with the ethical requirements and standards set forth in this Code of Conduct.

The Contracting Authority acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long term commitment for which we also have a responsibility. In order to achieve high ethical standards for work we are willing to engage in dialogue and collaboration with our employee. In addition, we expect our employees to be open and willing to engage in dialogue with administration and management to implement ethical standards for their businesses and share Good news for the poor's.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to termination of contracts between the two parties.

1.2 Human Rights and Labour Rights

All employee must at all times protect and promote human- and labour rights and work actively to address issues of concern. As a minimum they are obliged to comply with the following ethical standards:

1.2. Respect for Human Rights.

(UN Universal Declaration of Human Rights) The basic principles of the Universal Human Rights are that all human beings are born free and equal in dignity and in rights, and everyone has the right to life, liberty and security of the person. Employee must not flaunt their responsibility to uphold and promote the Human Rights toward employees and the community in which they operate.

1.3. Non exploitation of Child Labour

(UN Child Convention on the Rights of the Child, and ILO Convention C138 & C182) Employee must not engage in the exploitation of child labour² and employee must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling.

Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

1.4. Employment is freely chosen

(ILO Convention C29 & C105) employee must not make use of forced or bonded labour and must respect worker's freedom to leave their employer.

² The definition of Child Labour can be found at: <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle5.html> and <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138>

1.5. Freedom of association and the right to collective bargaining

(ILO Convention C87 & C98) employer must recognise workers right to join or form trade unions and bargain collectively, and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).

1.6. Living wages are paid

(ILO convention C131) as a minimum, national minimum wage standards or ILO wage standards must be met by employer. Additionally, a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling and provide a discretionary income³- which is not always the case with a formal minimum wage.

1.7. No discrimination in employment

(ILO Convention C100 & C111 and the UN Convention on Discrimination against Women) employer must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.

1.8. No harsh or inhumane treatment of employees.

The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation may never be practiced by contractors.

1.9. Working conditions are safe and hygienic

(ILO Convention C155) employer must take adequate steps to provide safe and hygienic working environments. Additionally, worker's safety must be a priority and adequate steps must be taken to prevent accidents and injury to health associated with or occurring in the course of work.

1.10. Working hours are not excessive

(ILO Convention C1 & C14) Contractors must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48 hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

1.11. Regular employment is provided

(ILO Convention C143) All Work performed must be on the basis of a recognised employment relationship established through international conventions and national law. Employer must protect vulnerable group's regular employment under these laws and conventions and must provide workers with a written contract.

1.12. Marginalized groups.

³Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid.

The production and sourcing of raw materials for production must not contribute to harm the livelihood of marginalized groups, e.g. by occupying large land areas or other natural resources the groups in question are dependent on.

1.13. International Humanitarian Law

Employee/ employer linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law⁴

Contractors are expected to take a 'do no harm' approach to people affected by armed conflict. Additionally, employee and employer shall not be engaged in any other illegal activity.

1.14. Involvement in Weapon Activities.

The Contracting Authority advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions against cluster bombs. Employee and employer shall not engage in any development, sale, or manufacturing of anti-personnel mines, cluster bombs or components, or any other weapon which feed into violations of International Humanitarian Law or is covered by the Geneva Conventions and Protocols.

1.15. Protection of the Environment

The Contracting Authority wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers, employees, and employer to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration.

As a minimum contractor should address issues related to proper waste management, ensuring recycling, conservation of scarce resources, and efficient energy use.

1.16. Anti-Corruption

Corruption is by the Contracting Authority defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Contracting Authority holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Employee and employers are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws. To fight corruption and promote transparency, employees, employers who are confronted with corrupt practices are advised to file a complaint in the CARD

1.17. Reporting process.

A contractor's involvement in any form of corrupt practice during any stage of a selection process, in relation to the performance of a contract or in any other business context is unacceptable and will lead to the rejection of bids or termination of contracts.

⁴ This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.

Section 2. Workplace Relations

OBJECTIVES OF WORKPLACE RELATIONS

1. To effectively regulate the interaction between the employer and employees, this section outlines mechanisms:
2. To ensure that any action is taken at the lowest possible level
3. To ensure fair and equal treatment and consistent treatment for all employees
4. To facilitate both upward and downward communication.

DISCIPLINARY PROCEDURE

2.1 POLICY STATEMENT

It is management's belief that a formal Disciplinary Procedure is essential for the efficient operation of the business, the safety, fair and consistent treatment of all employees and for ensuring healthy industrial/employment relations. To achieve this aim, the following principles must be observed:

1. Administering discipline is the duty of management.
2. Management will, in the first place, seek to correct an employee's poor performance or conduct through informal counselling by his direct supervisor. The latter will be an attempt to apply discipline promptly at the lowest possible level.
3. Management will apply the formal disciplinary process only when informal counselling has been unsuccessful or the actions of the employee have been such that informal counselling is inappropriate.
4. Management accepts that no employee will be disciplined without a fair hearing and an opportunity to clearly state his case, unless the employee in question waives this right by failing to attend such a hearing through his/her own choice. In such an instance, the hearing can/may proceed in his/her absence.
5. Clear evidence of a breach of the Organisation rules and regulations or unsatisfactory performance must be established prior to dismissal by means of the proper disciplinary procedure.
6. Careful consideration must be given to the circumstances before disciplinary action is taken.

7. Management will strive, whenever possible and with due regard to the circumstances of each case, to be consistent in taking disciplinary action.
8. The contents of any document handed to the employee in terms of this disciplinary procedure shall be explained to him/her.
9. An employee against whom disciplinary action has been instituted in terms of the disciplinary procedure shall not be entitled to invoke the grievance procedure of the CARD should he/she disagrees with the disciplinary action taken by management.

2.2 Disciplinary Procedure

Disciplinary Investigation

In instances where facts of the incidents are unclear an investigation will be arranged to verify the facts of the alleged breach of the Disciplinary Code. No disciplinary action will be taken as a result of the investigation but based on the evidence found it may be decided that a disciplinary hearing should be arranged at a later date.

Handling Discipline in an Informal Way

Informal discipline takes place when the Manager, based on the evidence or information obtained from witnesses or at an enquiry, is of the opinion that it is not so serious to warrant a formal hearing.

Informal discipline is carried out on a consultation basis between the employee and Manager.

Please note that it is still important to keep record of this consultation and to file it in the employees' file unless the employee is found not to be guilty.

To assist managers to manage absenteeism in the workplace a checklist is provided (SUPERVISORS CHECKLIST FOR ABSENTEEISM).

Formal Discipline in a Formal Way

In the event where the Manager who investigates the alleged transgression believes there is sufficient evidence to support his/her case and that it is a serious or repetitive transgression, he/she will initiate a formal disciplinary hearing.

Step 1: Initiating a disciplinary hearing

When a complaint has been received or there is an apparent offence requiring disciplinary action:

The employee must be notified by his Manager or any other person who has the authority to represent Management, that a disciplinary hearing will take place.

1. The notification must be in writing and must state the following: Nature of the alleged offence
2. When and where the hearing will take place, Details of the Chairperson, The employee's rights

It is also important to ensure that it is done in a language that the employee can reasonably understand. Minimum of 48 working hours (2 working days) of the hearing should be given to the employee concerned. The employee should also be advised of his/her right to be assisted by a shop steward or fellow employee. The disciplinary procedure must commence within 5 working days of being notified of the alleged offence and be concluded within 30 days, unless otherwise mutually agreed upon.

Suspension on Full Pay:

In special circumstances where serious misconduct is or appears to be involved, an employee may be suspended pending the disciplinary hearing. This suspension is without prejudice to the employee in any way whatsoever.

Reasons to suspend an employee on full pay before a disciplinary hearing:

1. The employee may change the evidence or interfere with witnesses. This may be the case if an investigation is to begin or is in progress.
2. The employee's presence may affect the productivity of other employees.
3. The nature of the unacceptable behaviours is such that the employee / employer relationship is seriously affected.

Suspension must be done in writing giving the following information:

1. Reason for the suspension.
2. The date the employee must return to work or the date by which he/she will be contacted again. In the case of when the employee will be contacted again, how he/she will be contacted again. Suspension should never be open-ended but may be extended.
3. What access he/she has to his/her workplace during the time of the suspension. From whom he/she must get permission in order to visit his/her workplace. (In the case of a disciplinary hearing he/she may want to contact his/her representative or to arrange witnesses.)

Step 2: Conduct the hearing

The hearing is conducted in accordance with the Checklist.

Step 3: Evaluate the evidence

Assess and evaluate the evidence in terms of which evidence is:

1. Corroborated
2. Not denied

3. Contradicted Materially

Consider the reliability and consistency of witnesses' testimony.

Consider whether the complaints (charges) are appropriate and correct in light of the evidence present.

Consider which version on balance of probability (i.e. Reasonable to believe) is most likely. (Where reasonable doubt exists, this should favour the alleged offender.) Prepare and write down your findings under the following headings:

1. Complaints
2. Alleged offender's submissions and evidence
3. Other evidence put forward
4. Hearing official's conclusions
5. Hearing official's findings: "guilty or not guilty". The Chairperson must give reasons (i.e. why, how, when, where) for arriving at the conclusion.

Inform the employee and his representative of your findings.

Handle queries, but do not debate the findings.

Ask the employee to submit evidence in mitigation.

Adjourn to decide on the sanction to be imposed.

Step 4: Making the Decision on the Sanction to be imposed

The following questions should be evaluated by the Chairperson.

1. Is the act committed by the employee a serious breach of regulations / procedures, or serious misconduct (extent of damage).
2. Does the employee have knowledge of the rule and the consequences of a breach of the rule?
3. Is the rule valid and has it been consistently applied?
4. Consider the following:
 5. Intent
 6. Mitigating circumstances
 7. Employee's performance, service and disciplinary record and personal circumstances.
 8. Potential to rehabilitate employee's behaviour
 9. Assess whether these factors may mitigate against the sanction.
10. Consistency and precedent – has a similar offence been committed by another employee and what action was taken? Were the circumstances in that case similar or different?

11. Determine appropriate penalty: i.e. verbal warning, written warning, final warning or a dismissal.
12. Inform the employee and his representative of the penalty giving reasons for the decision in writing.
13. Handle queries, but do not debate the sanction. Inform the employee that he has the right to appeal to a higher level of authority and identify who this person would be. Such appeal must be in writing clearly stating reasons within 7 working days.

Section 3. Types of Sanction:

3.1. Verbal Warning

A verbal warning is an informal warning of which record must be kept.

Written Warning

A written warning may be given either when a verbal warning has failed or where the offence is of such a nature that a verbal warning would not be adequate.

Final Written Warning

A final written warning may be given either where a written warning is considered inadequate because of the seriousness of the offence or where a written warning has failed. NB: Failure to heed a final warning may result in a dismissal.

Dismissal

Dismissal may occur where a person fails to heed a final written warning or where the severity of the offence warrants dismissal.

1.2. Retention of Warnings on Employee's file

Warnings must be retained on the employee file and are valid for the following time periods.

1. Verbal recorded on file 3 months
2. Written first warning 6 months
3. Final warning 12 months

The full disciplinary records should be on file, inclusive of supporting documentation.

General

1. When dismissals take place due to the severity of the misconduct, the employee may be dismissed without notice pay following a hearing.
2. In the event of other dismissal, the employee is entitled to notice pay.
3. Consultation with Human Resources Manager should take place prior to a dismissal.

3.3. DISCIPLINARY CODE

To ensure orderly behaviour and to regulate the interaction between the employer and employees the CARD has certain standards, rules and regulations. The disciplinary code is intended to provide a

framework of these standards, rules and regulations which ensures that employees know and understand what the CARD is expecting from them and what the employees can expect. The disciplinary code also prescribes the penalties which are likely to be imposed by the CARD should employees transgress the rules. The Disciplinary code provides examples of minor and major transgressions which may lead to disciplinary action and the code is not intended to be exhaustive of possible offences nor prescriptive for the only disciplinary sanction.

3.3. Introduction to the Disciplinary Code and Procedure

1. The implementation of the disciplinary code and procedure by the CARD is important to ensure the effective functioning of the organization, and to achieve the set goals and objectives. The disciplinary procedure is therefore the instrument by means of which the organization can maintain effective discipline in the workplace.
2. The disciplinary code and procedure is intended to provide a framework of these standards, rules and regulations which ensures that employees know and understand what the CARD is expecting from them and what the employees can expect in terms of disciplinary action should an employee transgress any rule or deviate from appropriate behaviour.
3. The CARD may exercise disciplinary action against an employee for good cause not stipulated in the Disciplinary Code.
4. Every employee has the right, if he so wishes, to be assisted in any disciplinary action by a colleague or co-worker of his choice. The representative may present evidence, cross-question witnesses and raise questions.
5. Unless the action of misconduct warrants summary dismissal as per the disciplinary code, an employee will not be dismissed without having had the benefit of a disciplinary hearing.
6. Employees should be given at least 48 hours' prior notice of the holding of a disciplinary enquiry.
7. The CARD shall apply the provisions of the Labour Relations Act and any other related amendments to the Act, if so effected.
8. The Disciplinary Code as reduced in matrix form is only to serve as a guideline in terms of the appropriate disciplinary penalty. Although this is the recommended disciplinary action, a degree of flexibility should be maintained in order to apply the appropriate degree of discipline.
9. The Disciplinary Code and Procedure is not intended to and does not set out all the grounds on which disciplinary steps may be taken and the common-law grounds for

discipline and termination of employment exist hand-in-hand with this disciplinary code and procedure. Where there are not specific regulations set out, integrity, ethical behaviour and responsibility should be a guide.

10. The Human Resources Manager may be requested to give guidance or assistance at any stage of the of the disciplinary

3.4. Definitions

1. "Management" shall include employees from supervisory level upward for the purpose of discipline.
2. "Management" is defined as those capacities with authority to discipline and counsel and is specifically described as: Supervisors, Managers, and Chief Executive Officer.
3. "Day" shall mean, for the purpose of this procedure, a normal working day and including Sunday, Saturday and Public Holidays.
4. "Conduct" (misconduct) by an employee is interpreted to be the unauthorised and / or inappropriate action by the employee in contravention of the rules and regulations of this code.
5. "Capacity" (incapacity) shall be defined as the sub-standard performance of an employee in contravention of the organisation code by reason of incapacity due to illness / poor performance.
6. "Disciplinary Hearing" refers to a formal meeting, chaired by a manager of the CARD or any of the CARD's subsidiaries, to obtain the relevant facts of the allege misconduct, and to take the necessary corrective action.
7. "Operational Requirements" is defined as the functional demand of the operation by reason of technological, economical and practical restructuring.
8. "Employee Representative" shall mean a colleague or co-employee.
9. "Appeal" refers to a meeting, chaired by an independent senior manager, to review the case on the merits, where the employee feels that a disciplinary hearing/enquiry has not been properly conducted, that all evidence has not been taken into account or that certain mitigating circumstances exists, which were not taken into account by the chairperson of the disciplinary hearing.

3.5. GENERAL RULES

Disciplinary action should strive to be corrective or constructive.

1. Discipline and dismissal are regarded as part of Management's responsibility (as per the Disciplinary Code) which will be exercised:
 - a) Where the work performance or behaviour of employees deviates from the accepted standards.
 - b) Where the work performance or behaviour of employees is unsatisfactory.
 - c) Where the employee fails to meet his/her terms and conditions of employment.
 - d) To prevent/resolve conflict in the establishment.
2. The severity of disciplinary action will depend upon the circumstances of each case and mitigating factors will be given proper attention. Importantly, the penalties set out in the code are intended to act as guidelines. Circumstances may therefore justify the imposing of a penalty more or less severe than that recommended in the guidelines.
3. Although contravention of the code may also constitute criminal acts, the CARD shall not be precluded from acting in terms of this procedure where criminal steps against the employee have been taken or from initiating criminal steps against the employee at any time.
4. As the offences stated in the code are not intended to be exhaustive, the CARD may exercise disciplinary action against an employee who has committed an offence, which has not been stated in the disciplinary code.
5. The managers responsible for exercising disciplinary action will use their discretion and on occasions may prefer to give a verbal warning for a minor transgression.
6. A verbal and written warning shall remain valid for a period of six working months.
7. A third offence, or unrelated offences, warranting a written warning could result in dismissal pending the outcome of the disciplinary enquiry save for the final written warning which will remain valid for a period of twelve working months.
8. The signing of a verbal/written warning by an employee means that he/she acknowledges receipt thereof, and not acceptance of the contents. Should he/she deny the allegations contained therein, it must nevertheless be signed by the applicable employee. An appeal may be lodged against said given warning. If an employee refuses to sign a written warning, the written warning shall nevertheless be valid and operative.
9. Warnings to employees are cumulative only if warnings issued are in the same offence category as per the Code. Written warnings will be kept in the employee's personal file even after expiration only in order for "The CARD" to retain a comprehensive history of each employee's performance during the employment contract.

10. Employee representative are required to obtain permission to be absent from their places of work in order to act in terms of this procedure, which permission shall not be unreasonably withheld. The employee representative, with the consent of the employee concerned, shall be entitled to have sight of the disciplinary record of the employee.
11. If a manager referred to herein is unavailable, the CARD may designate another manager to deal with the matter.
12. The employee shall be entitled to appeal internally in respect of a disciplinary enquiry, consequent to which the employee was dismissed.
13. As the disciplinary process is an in-CARD procedure, neither party will be represented by a person who is not an employee of the CARD. This shall not, however, preclude the CARD appointing a person who is not an employee as chairperson of any hearing in terms of this disciplinary code and procedure.
14. The Disciplinary Code forms part of the terms and conditions of employment and applies to all employees of "The CARD".
15. "The CARD" is entitled to suspend an employee on full pay pending an investigation into any breach of the Disciplinary Code or the Employment Contract.
16. An employee should be willing to submit himself/herself to a breath test and/or a blood test by a qualified doctor should his/her behaviour / performance necessitates this.
17. Where the employment of an employee is terminated with notice, Management may pay the employee in lieu of the appropriate notice period and may require the employee to physically leave the place of employment and "The CARD"s" premises immediately.
18. Summary dismissal means termination of employment without notice and without payment in lieu of notice.
19. Management may, as an alternative sanction to dismissal (which is regarded as the ultimate sanction) suspend and employee without pay for a period commensurate with the severity of the particular disciplinary offence.
20. In the event that an employee wishes to challenge a finding after the exhausting of the procedure, the employee may refer the issue to the Commission for Conciliation, Mediation and Arbitration for conciliation and/or arbitration or to the Labour Court or any other body agreed upon by the parties.

Section 4. Disciplinary Procedures

1. Discipline should be initiated as soon as reasonable practicable after the alleged transgression comes to the attention of management.
2. Management shall be required to determine whether the alleged transgression constitutes misconduct or is more properly dealt with as incapacity or poor performance, in which regard it would be more appropriate in the first instance to counsel an employee in an endeavour to have the employee meet the standards required by the CARD.
3. It should be noted that in this process relating to incapacity or poor performance (which is not the subject matter of this Disciplinary Code and Procedure), it may be appropriate to warn the employee formally (and in appropriate circumstances, progressively) so that the employee is aware that continued incapacity or poor performance could result in the termination of the employee's services.
4. Management shall in all circumstances be required to determine the appropriate level of disciplinary action to be initiated against the employee by having regard to the provisions of the code and the circumstances of the alleged offence.
5. It is envisaged in terms of this procedure that an employee shall be entitled to representation by a fellow employee or shop steward if one is chosen.
6. Prior to taking disciplinary action an employee is to be informed of the fact that formal disciplinary action is to be initiated and the nature of the allegations against the employee as well as the employee's right to representation.
7. Where possible, disciplinary action should be taken by the transgressing employee's direct line manager.
8. Any party to the disciplinary process is entitled during this process to obtain guidance from senior management in respect of the procedures contemplated in the disciplinary process as well as in respect of previous decisions taken by the CARD in respect of the particular allegation facing the employee.

4.1. Suspension

During an investigation into any offence allegedly committed by an employee and/or pending the institution and/or finalisation of disciplinary action, a manager may decide that in the interests of the employee and/or the CARD, the employee should be suspended from work on full pay until the conclusion of the investigation or enquiry.

Step 1

4.2. Warnings.

It shall not be necessary to give an employee written notice of the allegations an employee or to provide advance notice of the allegations when it is anticipated that only a verbal or written warning could result.

Verbal Warning

In cases or minor breaches of discipline the employee's line manager, if necessary, issue a formal verbal warning to an employee in the presence of the employee's representative, if one is chosen by the employee, with a view to correcting the situation.

Written Warning

If it is believed that an employee has committed an offence and a verbal warning is inappropriate, the line manager shall make it clear to the employee that the first formal step in the disciplinary procedure is being taken.

1. At a meeting between the parties the complainant and/or line manager of the employee shall advise the employee of the charges and allow the employee and his representative if one has been chosen a fair and reasonable opportunity to make representations and/or to call any witnesses.
2. If the line manager is satisfied that a written warning is the appropriate disciplinary action, the line manager shall record an account of the offence on a warning form, indicate that the warning is a written warning, state the date the warning was issued.
3. The line manager shall request the employee to sign if after its contents have been explained to the employee.
4. If the employee refuses to sign the written warning, the written warning shall nonetheless be valid and operative.
5. The line manager shall indicate on the written warning that the employee refused to sign.
6. The employee shall be given a copy of the written warning by the line manager.
7. The written warning form shall be submitted by the line manager for filing to the Human Resources Department.
8. A written warning shall lapse after 6 months and a lapsed warning shall not be taken into account in deciding subsequent disciplinary action.

Step 2

Final Written Warning and Dismissals

If a final written warning/dismissal is the disciplinary action which appears to be appropriate, a line manager shall decide whether a disciplinary enquiry is necessary and/or whether the suspension of the employee is appropriate.

In addition, the complainant shall furnish the details of the incident complained of to the Human Resources Department, of the purpose of drafting a notification to attend a disciplinary enquiry. Before any employee is dismissed or issued with a final written warning for a breach of CARD rules or ethics, a disciplinary enquiry shall be convened.

4.3. Disciplinary Enquiries

Disciplinary enquiries should be chaired, where practical, by a manager no less senior than the employee being disciplined.

At the hearing, the following people will be present:

1. The employee charged with misconduct (the accused);
2. The representative of the accused (if s/he chooses to have one); an independent chairperson;
3. The Human Resources Manager of the CARD.
4. The representative of the employer, putting the charges to the employee (prosecutor);
5. Witnesses from both parties; a note-keeper (optional); and interpreter (optional).

The employee's rights

Every employee has the following rights which will be observed during disciplinary proceedings/enquiries:

1. To be given advance warning of any charge against him/her (at least 48 hours)
2. To be advised of the charge
3. To be given time to prepare his/her defence.
4. To be allowed a formal hearing or enquiry.
5. To be present at a formal hearing or enquiry.
6. To be represented at a formal hearing or enquiry by a representative of his/her choice, such representative being an employee of "The CARD".
7. To cross-examine any person giving evidence and to ask questions of any evidence produced.
8. To call witnesses to testify on his/her behalf
9. To an interpreter – if necessary – who is an employee of the CARD (if possible)?
10. To appeal within five working days against any penalty which may be imposed to a higher level of management.

The order of proceedings

At the beginning of the hearing, the prosecutor will put the charge to the employee. The employee will have the opportunity to plead guilty or not guilty. If the employee pleads guilty, the chairperson

may continue to determine an appropriate penalty (after hearing submissions from parties about mitigating and aggravating factors). If the employee pleads not guilty, evidence should be presented.

The prosecutor has to present the case of the employer with the aim of proving on a balance of probability that the accused is guilty. The employee (or his/her representative) will then get an opportunity to cross-examine (question) the witnesses of the employer. Hereafter, the prosecutor has an opportunity to re-examine the CARD witnesses to clear up any confusion.

The employee then gets an opportunity to state his/her case. The employee testifies first and may then be cross-examined by the prosecutor.

The employee's representative may ask him/her some questions in re-examination to clarify any uncertainties, which arose during cross-examination. The employee's witnesses are allowed to testify next. The may also be cross-examined by the prosecutor and may then be re-examined by the employee or his/her representative.

At the end of the hearing, the chairperson decides whether the employee is guilty or not guilty. Should the decision be that the employee is not guilty, it is the end of the matter? Should the verdict however, be that the employee is guilty, the chairperson should state his/her decision and then allow both parties (the employee or his/her representative) and the prosecutor an opportunity to state mitigating or aggravating factors and what the sanction should be in their view.

The chairperson of disciplinary committee then has to decide on the sanction (penalty). This may be given there and then, after a short break or within a reasonable time (not more than five days). The chairperson's decision should be given in writing, with reasons for his decision.

The employee should be informed that s/he has a right to appeal. If the CARD does not provide for an appeal (which is not compulsory by law), the employee must be reminded that he/she could take the case further in a bargaining board the or in another agreed way (e.g. private arbitration).

4.4 Mitigation

The chairperson of the disciplinary enquiry may request the complainant and/or the manager responsible for personnel administration to furnish evidence in mitigation/aggravation or as to severity of the offence, if any.

Examples of mitigating factors include:

Length of service;
Past disciplinary record;
Provocation (e.g. in the case of an assault charge);
Other circumstances;
Remorse

The chairperson of the disciplinary enquiry shall only decide on the penalty after he has considered mitigating and/or aggravation.

The chairperson shall keep or facilitate that minutes of the enquiry proceedings are kept and shall record decisions made on the disciplinary enquiry form and shall hand the minute to a representative of the appropriate Human Resources Department, or filing.

4.5 Step 3

Appeals

1. A former employee or employee who regards any disciplinary action taken as unjustified may appeal against the disciplinary action in writing, within 5 days of being informed of the disciplinary action.
2. An appeal hearing shall be considered by a manager more senior than the manager who imposed the discipline. If a higher level does not exist or is not appropriate, a manager of the same level as the manager who imposed the discipline shall hear the hearing.
3. An employee wishing to lodge an appeal shall fill out an appeal form, including a statement outlining the grounds for appeal and shall hand it to the Human Resources Department for recording and for arranging an appeal hearing.
4. An appeal hearing in respect of a dismissal is not a rehearing of the disciplinary enquiry. The appeal chairperson shall hear the appeal by reading the documentation from the enquiry, including the record of the disciplinary enquiry and hearing arguments by or on behalf of the employee and the CARD.
5. The chairperson conducting the appeal shall exercise his/her discretion regarding whether new or additional evidence will be received from the employee of the CARD and whether or not any witnesses should be recalled.
6. The appeal chairperson may either approve, reject, increase or vary the disciplinary action already imposed and may, in his/her discretion, refer the matter to the disciplinary enquiry or new disciplinary enquiry into the same or similar allegations.

APPEALS

4.6 Procedure

Should the employee wish to appeal against the Chairperson's disciplinary sanction he/she must inform the Human Resources Department of his/her intention.

The Human Resources Department will forward the Appeal Form to the employee and will advise him/her to complete and return it within five (5) working days of the discipline taken.

The Human Resources Department will inform the complainant and alleged offender (employee) of the time, date and venue of the hearing and who the Chairperson will be in the Confirmation of an Appeal Hearing Form, once all the arrangements for the hearing have been finalised.

This hearing has to take place within three (3) working days after the appeal was lodged and concluded within 30 days, unless otherwise mutually agreed upon.

All relevant documentation, pertaining to the appeal case must be given to the Chairperson and the employee (if requested) 24 hours in advance.

Trade union representation may be allowed during the appeal stage. The Chairperson must use the Appeal Checklist and Guidelines in handling the appeal.

Findings will be made available to the employee in writing within seven (7) working days. In situations where the Chairperson has upheld the decision to dismiss, the Chairperson must inform the employee that he/she can refer the dispute to the board of Directors. The appeal hearing will be the final internal dispute resolution procedure to an employee before he can refer the dispute to the Labour Law

Section 5. Disputes

5.1. What is the CCMA?

CCMA stands for Commission for Conciliation, Mediation and Arbitration and is an external dispute resolution body, independent of the state, any political party, trade union, employer and employer's organisation

The Commission is a tripartite body, made up of representatives from the state, business and labour and they all have local offices in each of the provinces.

5.2. Functions of the Commission

The Commission educates, advises, arbitrates and conciliates between two disputing parties. In our situation the dispute would be between the company and the employee.

5.3. The Dispute Resolution Process

The employee must refer the dispute to the Commission within 30 days after services have been terminated. The Commission further requires proof that a copy of the referral has been sent to the employer. The Commission will appoint a Commissioner who will attempt to resolve the dispute through Conciliation, if the latter is unsuccessful he can then either refer the dispute for arbitration or Labour Court – depending on the nature of the dispute.

The onus is on the employee to prove that a dismissal took place. If this is proved then the onus is on the employer to prove that the dismissal was fair.

Section 6. Sexual Harassment

6.1. Introduction

The CARD is committed to providing a work environment that is free of any form of unfair discrimination or harassment. This includes any acts or threats that interfere with the performance at work or in study of any individual or group on account of race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language or birth.

6.2 Objectives

The CARD will provide policy and procedures for resolving complaints of sexual harassment to: Promote a safe secure work environment in which the dignity of all persons is respected and which is free from sexual harassment; Provide an internal procedure for dealing with issues and complaints of sexual harassment which may arise; meet the requirements the Employment Equity Act and Labour Relations Act, Code of Good Practice on the Handling of Sexual Harassment cases

6.3. General

CARD is committed to maintaining an environment within the CARD that is free from sexual harassment.

Sexual harassment is seen as unacceptable behaviour.

Sexual harassment is a serious issue, which undermines morale and can adversely affect the ability of staff to achieve their full potential within the CARD.

The CARD is committed to taking action to deter sexual harassment, to increase awareness that such behaviour is unacceptable and to ensure that complaints are dealt with fairly and promptly.

6.4. Definitions

Sexual harassment is defined in our legislation as “unwanted conduct of a sexual nature”. The distinguishing characteristics of sexual harassment are that it is conduct with a sexual component, which is unwelcome, unsolicited and unreciprocated.

Sexual attention becomes sexual harassment if:

1. The behaviour is persisted in, although a single incident of harassment can constitute sexual harassment, and or the recipient has made it clear that the behaviour is considered

offensive and or the perpetrator should have known that the behaviour is regarded as unacceptable.

2. It is not only the intention of the alleged harasser that is the issue, but also the complainant's reasonable perception and experience of the alleged harasser's behaviour.

6.5 Forms of Sexual Harassment

Sexual harassment may include physical, verbal and non-verbal conduct, which includes, but is not limited to:

Physical

Unwanted and deliberate physical contact;

Verbal

1. Unwelcome verbal comments of a sexual nature; Subtle or explicit demands for, or offers of, sexual favours; Verbal sexual harassment such as
2. Unwelcome innuendos, suggestions and hints;
3. Comments with sexual overtones;
4. Sex-related jokes or insults or unwelcome graphic comments about a person's body made in his/her presence or directed to him/her;
5. Unwelcome and inappropriate enquiries about a person's sex life;
6. And unwelcome whistling directed at a person or group of persons.

Non-verbal

1. Gratuitous display of sexually explicit written or audio-visual materials;
2. Transmission or display of offensive email,
3. Screen savers or pornographic computer images;
4. Offensive gestures or actions of a sexual nature including indecent exposure or "flashing";
5. Persistent unwanted attention: following or stalking behaviour.

Sexual favouritism exists where a person who is in a position of authority favours those who respond to his/her sexual advances, whilst other deserving employees who do not respond to sexual advances are disadvantaged or denied opportunities for example in relation to promotion, nominations for merit awards, training opportunities, etc.

Some forms of sexual conduct, which are considered innocuous by some people, may be considered offensive by others. In addition, different social or cultural backgrounds may lead persons to perceive the same conduct differently. All staff is expected to respect the sensitivities of others especially where there may be variations in the interpretation of acceptable behaviour and accordingly cultural differences may not be used as an excuse or justification for sexual harassment.

Quid pro quo harassment, occurs where an employer, supervisor, member of management or co-employee, undertakes or attempts to influence the process of employment, promotion, training,

discipline, dismissal, salary increment or other benefit of an employee or job applicant in exchange for sexual favours. Accordingly, the CARD has concerns where sexual harassment:

1. Implicitly or explicitly imposes a condition on staff recruitment, selection, appraisal or career progress;
2. Interferes with work performance;
3. Creates an intimidating or offensive working environment and undermines social functioning.

6.6 Responsibilities of all Staff

All staff has the responsibility for upholding the CARD's sexual harassment policy. Line managers shall have a particular responsibility to ensure that areas within their jurisdiction are free from sexual harassment. This includes:

1. Ensuring that staff are aware of appropriate and acceptable standards of behaviour;
2. Making known the CARD's policy, including the procedures for resolving complaints;
3. Taking early corrective action to deal with behaviour that may constitute sexual harassment;
4. Promoting awareness programs designed to prevent sexual harassment in the CARD.

6.7 Procedures for Resolving Complaints

The CARD has instituted a set of procedures, which aim to ensure that:

Complaints of sexual harassment are considered seriously and sympathetically and are dealt with promptly and confidentially; complainants are protected against victimisation or retaliation for lodging complaints; the rights of both the complainant and the alleged harasser are respected.

Where possible and appropriate, complaints should be resolved at the lowest level with a minimum of formal processes.

A person who believes she or he has experienced sexual harassment should attempt to resolve the matter by stating an objection directly to the alleged harasser. If the person feels unable to do this, or if this approach does not result in the cessation of the behaviour, the person may choose to activate the CARD's internal procedure.

A victim of sexual assault has the right to press separate criminal and/or civil charges against the alleged harasser and these rights are not limited by this policy.

Proceeding

Employees do not have to take formal proceedings if they do not wish to do so and it is suggested that attempts be made to resolve the problem informally in the first instance. This can be done by the employees concerned clearly explaining to the person engaging in the unwanted conduct that the

behaviour in question is not welcome, that it offends him or her, or makes him or her uncomfortable, and that it interferes with his or her work.

NOTE: the employee may at this stage ask for support or for the initial approach to be made by the Human Resources Manager.

Should there be no resolution to the complainant's satisfaction, formal proceedings will be instituted which will necessitate that the complaint be submitted, in writing, to the Human Resources Manager. The alleged offender will in turn be invited to state his or her case, in writing.

Complaints will be investigated within two (2) working days in as confidential a manner as possible. Management will ensure that any victimisation, which may result from lodging such a complaint, will be dealt with in the utmost severity. Likewise, management will not tolerate false accusations.

Any employee found to be guilty of having harassed another employee would be subject to appropriate disciplinary action up to and including termination of employment. Depending on the nature and consequences of the sexual harassment, disciplinary steps may include redeployment, relocation or transfer, written warning, and dismissal.

A harasser may further be required to attend relevant counselling.

A non-employee who subjects an employee to sexual harassment in the workplace will be informed of CARD Harassment Policy. Other action, deemed appropriate, may be taken (e.g. informing the harasser's employer of the unwanted conduct).

The complainant may withdraw the complaint at any stage. Should the complaint not be resolved satisfactorily through internal procedures, either party may, within thirty days of the dispute having arisen; refer the matter to the Gender Based violent or call on the provided number in the office

6.8 Confidentiality

At all stages the utmost care will be taken to ensure confidentiality.

Complainants and respondents will be advised at all stages of the internal procedure to maintain confidentiality and to discuss the complaint only with those who have an official responsibility for dealing with it.

The CARD will disclose to either party, such information as may be reasonably necessary to enable the parties to prepare for any proceedings contained in this document.

Allegations of sexual harassment are potentially defamatory because they impact on the reputation of the alleged harasser. However, allegations made in good faith and through appropriate channels pursuant to this policy and procedures are unlikely to be defamatory. In particular:

1. It is not defamation for a person who thinks that they have been sexually harassed to write and deliver a letter to the alleged harasser or speak privately to the alleged harasser about the alleged harassment;

2. Statements made in the context of receiving counselling or legal advice are likely to receive the protection of „legal privilege“ and hence fall outside the scope of defamation;
3. Allegations that are untrue, motivated by ill-will or malice, or inappropriately conveyed to people who have no legitimate interest in knowing them are likely to breach defamation laws;
4. Untrue or malicious counter allegations against the complainant are also likely to be construed as defamation if they are conveyed to persons who have no legitimate interest in the matter.

During the process, limited information (preferably non-identifying) may need to be given to a third party for the purpose of working out a resolution, for example a head of Department Manager.

This may be done with the agreement of the complainant and respondent as part of the process. Such limited information should only be provided on a strictly „need to know“ basis to those who have a genuine and official role in dealing with and resolving the matter. The person who is provided with such information is required to preserve confidentiality.

Information may also be disclosed where there is an imminent physical threat of danger to a person.

Records of proceedings of formal cases will be kept in sealed, confidential files and then disposed of in accordance with the approved disposal schedules utilised by the Human Resources Department.

6.9. Malicious Complaints

If the complaint is found to be vexatious, action against the complainant may be taken under the CARD's disciplinary procedures.

6.10 Representation

In any proceedings under this policy, either one or both of the parties may be assisted or represented by a fellow employee.

Section 7. Staff under the Influence of Intoxicants

DURING WORKING HOURS / WHILE ON CARD PREMISES POLICY

7. 1. Objective of Policy

In order to ensure the safety and care of patients, staff and visitors, no staff member may be permitted to work, or be on the premises of the organisation, while under the influence of intoxicants such as drugs and alcohol. Please make use of the checklist as per CHECKLIST FOR HANDLING A CASE OF PRESUMED INTOXICATION.

7.2. Procedure to be followed when it is suspected that an employee is under the Influence of Alcohol

The following procedure is to be followed when it is suspected that an employee is under the influence of alcohol:

1. The person who suspects that an employee is under the influence of alcohol must immediately contact the alleged offender's Manager, or Department Head. Alternatively, if this person is not available, a senior member of Management should be contacted.
2. Should such an incident occur on Night Duty, over a weekend, or on a public holiday, the executive Director should be contacted.
3. The Manager, Departmental Head or, alternatively the CEO (as mentioned above), must then call the alleged offender to his/her office, in order to determine if the allegations are correct. In doing so, the Checklist for Assessing Intoxication must be completed.

Note: It is essential that a witness and an employee representative nominated or agreed to by the employee, be present at such time.

If, after the abovementioned observations have been taken, it is felt that the employee is under the influence of alcohol, he/she should be given the option to take a breathalyser test.

Should the person refuse to take such a test, this should be noted down and the person sent home. Transport must be arranged, or a family member, or friend, contacted to collect him/her.

Should the person agree to take such a test, the following procedure is to be followed:

1. The person must be qualified to conduct the test.
2. Breathalyser tests can be obtained from Pharmacies or a hospitals casualty department.
3. Ensure that the witnesses repeat, confirm and observe the readings on the instrument.

4. Witnesses present for the employee and management should then sign the record of the outcome of the test.
5. The breathalyser test should then be sealed and locked away in the Unit or in the HR Department.
6. Should the reading be positive, the employee is to be sent home? Transport must be arranged, or a family member, or friend, contacted to collect him/her.

7.3 Procedure to be followed when it is suspected that an employee is under the influence of drugs:

The person who suspects that an employee is under the influence of drugs must immediately contact the alleged offender's Manager, Unit manager or Department Head. Alternatively, if this person is not available, a senior member of Management should be contacted.

Should such an incident occur on Night Duty, over a weekend, or on a public holiday, the CEO should be contacted.

The Manager, or Departmental Head or, alternatively the Senior Person in Charge, or CEO, must call the alleged offender to his/her office, in order to determine if the allegations are correct.

Note: It is essential that a HR Representative be present as a witness. An employee representative nominated by the employee, should also be present at such time.

If after the abovementioned observations have been taken, it is felt that the employee is under the influence, he/she may be requested to take a blood test and urine sample.

Should the person refuse to take such a test, this should be noted down and the person sent home. Transport must be arranged, or a family member, or friend, contacted to collect him/her.

Should the person agree to take such a test, the following procedure is to be followed:

The Casualty Department / Pathology Lab should be contacted to conduct the test.

Once this has been done the doctor is to be asked for a written statement, the results of the blood / urine test sealed in an envelope, and locked away. In addition, ensure that all parties concerned have signed the checklist.

Note: Do not lay a charge or attempt to arrange or conduct a hearing while the employee is still under the influence of alcohol or drugs.

Inform the Human Resources Department of the incident as soon as possible in order that the necessary arrangements may be made, i.e. scheduling a hearing.

Section 8. Grievance Procedure

8.1 Guide to the grievance procedure:

A grievance is any dissatisfaction or sense of injustice, or unfairness felt by an employee in connection with his/her work or employment situation that is brought to the attention of the person(s) in charge of the employee, other than in terms of the Conditions of Service and other than arising from disciplinary action.

This grievance procedure is intended to facilitate the effective handling of grievances that may from time to time present themselves in the working environment. A grievance may be resolved between parties at any of the five steps of the procedure.

The CARD accepts that it is in the mutual interest of the CARD and its employees that a formal procedure exists to bring grievances to the attention of the management without fear of discrimination or victimisation.

It is intended that grievances be resolved as expeditiously as possible and as close as possible to their sources. It is incumbent upon supervisors and officials at all stages of the procedure to indicate whether they are empowered to resolve the grievance or whether it should be referred immediately to a stage where it can be resolved.

The aim of the procedure is to deal with grievances in a systematic manner, by endeavouring to establish all the facts. This will require a thorough investigation of the issues at stake.

The procedure also endeavours to standardise the measures for conveying individual and collective grievances through the correct channels.

Experience has shown that a standardised approach to grievances generally improves working relationships among staff at all levels.

Timing is extremely important. Grievances should be handled in accordance with times indicated under each step.

Due to the multilingual nature of our employee complement, it is important that an interpreter is involved where necessary. The interpreter's services may be arranged by the employee involved in the grievance.

This grievance procedure applies to all employees, as defined.

8.2 Principles of the Grievance Procedure:

Responsibility The responsibility to handle and resolve the grievance rests with line management. Human Resources Department should advise both parties of their rights and responsibilities and be impartial at all times.

Expectations Management should not attempt to prescribe or restrict the nature of grievances. However, the following do not fall under this procedure:

Appeal against disciplinary action, as there is provision for this in the disciplinary procedure, unless such disciplinary action is informal then this procedure will apply.

Any issues which do not relate directly to the working environment or the employer/employee relationship e.g. personal, social or family problems.

8.3 The Grievance Procedure

The procedure to be adopted is as follows:

Informal:

Depending on the nature of the grievance, employees should first try and follow the informal procedure.

Your Manager should be notified of your grievance, and the grievance should be discussed with him/her.

Should you feel that the matter has not been adequately settled, the formal procedure must be followed.

Formal:

Step 1

An employee should bring the grievance to the attention of his/her immediate Manager by filling in the Grievance Report Form. This form is available from the Human Resources Department.

The Department Manager shall attempt to resolve the grievance within three working days (or longer if agreed to by the employee) and shall record such attempt on the grievance report form. If the grievance is resolved, this is recorded on the form and both the Manager and employee must sign the form. The form is then filed.

Step 2

If the grievance is not resolved at step 1, or the employee is unhappy with the outcome, the form is then handed to the next level of authority. (Line Manager/Departmental Head).

The Line Manager/Departmental Head shall attempt to resolve the grievance within three working days (or longer if agreed to by the employee) and shall record each attempt on the grievance report form.

If the grievance is resolved, this is recorded on the form and both the Manager and employee must sign the form. The form is then filed.

Step 3

If the grievance is not resolved at step 2, the General Manager, on receipt of the grievance form, shall attend to the grievance within three working days (unless agreed to otherwise by both parties).

If the grievance is resolved, this is recorded on the form and both the Manager and employee must sign the form. The form is then filed.

Step 4

If the grievance is not resolved at Step 3, the Executive Director or nominee, on receipt of the grievance form, shall attend to the grievance within three working days (unless agreed to otherwise by both parties). All attempts at resolution shall be recorded on the form. If the grievance is resolved, this is recorded on the form and both the Manager and employee must sign the form. The form is then filed. The final decision will be recorded on the form, which is then filed.

Step 5

If the employee is not satisfied with the outcome, he/she may refer the dispute (“Grievance”) to the Board of Directors).

Section 9. Code of Good Practice: Dismissal

9.1. Introduction

1. This code of good practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.
2. This Act emphasises the primacy of collective agreements. This Code is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum.
3. The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

9.2. Fair reasons for dismissal

1. A dismissal is unfair if it is not effected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.
2. This Act recognises three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.
3. This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187. The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.
4. In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on

the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

9.3. Misconduct

Disciplinary procedures prior to dismissal

1. All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business. In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.
2. The courts have endorsed the concept of corrective or progressive discipline. This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employees' behaviour through a system of graduated disciplinary measures such as counselling and warnings.
3. Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call for a final warning, or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

Dismissals for misconduct

1. Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or wilful damage to the property of the employer, wilful endangering of the safety of others, physical assault on the employer, a fellow employee, client or customer and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.
2. When deciding whether or not to impose the penalty of dismissal, the employer should in addition to the gravity of the misconduct consider factors such as the employee's circumstances (including length of service, previous disciplinary record and personal circumstances), the nature of the job and the circumstances of the infringement itself.
3. The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under consideration.

9. 4. Fair procedure

1. Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal enquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the enquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of that decision.
2. Discipline against a trade union representative or an employee who is an office-bearer or official of a trade union should not be instituted without first informing and consulting the trade union.
3. If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a Board of Directors with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.
4. In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with pre-dismissal procedures.

9.5. Disciplinary records

Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions.

9.6. Dismissals and industrial action

1. Participation in a strike that does not comply with the provisions of Chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be determined in the light of the facts of the case, including-
2. the seriousness of the contravention of this Act; attempts made to comply with this Act; and whether or not the strike was in response to unjustified conduct by the employer. (Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

9.7. Guidelines in cases of dismissal for misconduct

Any person who is determining whether a dismissal for misconduct is unfair should consider-

1. Whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace; and
2. If a rule or standard was contravened, whether or not-
3. The rule was a valid or reasonable rule or standard;
4. The employee was aware, or could reasonably be expected to have been aware, of the rule or standard;
5. The rule or standard has been consistently applied by the employer; and dismissal was an appropriate sanction for the contravention of the rule or standard.

9.8. Incapacity: Poor work performance

1. A newly hired employee may be placed on probation for a period that is reasonable given the circumstances of the job. The period should be determined by the nature of the job, and the time it takes to determine the employee's suitability for continued employment. When appropriate, an employer should give an employee whatever evaluation, instruction, training, guidance or counselling the employee requires to render satisfactory service. Dismissal during the probationary period should be preceded by an opportunity for the employee to state a case in response and to be assisted by a trade union representative or fellow employee.
2. After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has-
 - A. Given the employee appropriate evaluation, instruction, training, guidance or counselling; and
 - B. After a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.
1. The procedure leading to dismissal should include an investigation to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.
2. In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

9.9. Guidelines in cases of dismissal for poor work performance

Any person determining whether a dismissal for poor work performance is unfair should consider-

1. Whether or not the employee failed to meet a performance standard; and
2. If the employee did not meet a required performance standard whether or not-
3. The employee was aware, or could reasonably be expected to have been aware, of the required performance standard;
4. The employee was given a fair opportunity to meet the required performance standard; and
5. Dismissal was an appropriate sanction for not meeting the required performance standard.

9. 10. Incapacity: Ill health or injury

1. Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the

possible alternatives short of dismissal. When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

2. In the process of the investigation referred to in subsection (1) the employee should be allowed the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.
3. The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for an employer to consider.
4. Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

9.11. Guidelines in cases of dismissal arising from ill health or injury

Any person determining whether a dismissal arising from ill health or injury is unfair should consider-

1. Whether or not the employee is capable of performing the work; and
2. If the employee is not capable-
3. The extent to which the employee is able to perform the work;
4. the extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted; and
5. The availability of any suitable alternative work.

Section 10. Industrial Action

10.1 INTRODUCTION

The CARD recognises the embodiment in the constitution of South Sudan of the right of employees to strike, and the entrenchment of the right to strike in the Labour Relations Act. The CARD also recognises its ' recourse to lock-out. The CARD employee confirm their commitment to sound Industrial Relations and as such their resolve to resort to Industrial Action only as an extreme method to be utilised in accordance with the rules set out hereunder.

The objectives of this policy are to:

1. Ensure that patient's care is not compromised.
2. Arrive at a settlement acceptable to both the CARD and the striking employees in the shortest possible time.

3. Attempt to contain the Industrial action as much as possible so that there is minimum disruption.
4. Restore order and workflow.
5. Prevent injury to persons and damage to property
6. Diffuse management/employee tensions

10.2 POLICY STATEMENT

Industrial Action

The CARD belief that to avoid confusion and deal with industrial action in a professional and controlled manner, it is important to:

Spell out the responsibilities and authority of designated persons; and

Spell out the various aspects and factors that have to be taken into consideration in managing industrial action.

The CARD belief that industrial action by both the employees and the CARD should be a "measure of last resort", and that the preferred approach to dispute resolution should be negotiation, followed, in need, by other dispute resolution mechanisms such as conciliation, mediation and, where appropriate, arbitration.

10.3 Definitions

1. **Strikes.** The Labour Relations Act defines a strike as: "the partial or complete concerted refusal to work, or the retardation or obstruction of work, by persons who are or have been employed by the same employer or by different employers, for the purpose of remedying a grievance or resolving a dispute of any matter of mutual interest between employer and employee, and every reference to "work" in this definition includes overtime work, whether it is voluntary or compulsory". South Sudan Labour Laws 2017, No 64, defined strikes as a total or partial stoppage of work by employees if the stoppage is to compel their employer or any other employer to accept, modify or abandon any demand that may form the subject matter of a dispute of interest; while
2. **Lock-out.** Lock-out is defined in the Act as: "the exclusion by an employer of employees from the employer's workplace for the purpose of compelling the employees to accept a demand in respect of any matter of mutual interest between employer and employee, whether or not the employer breaches those employees' contracts of employment in the course of or for the purpose of that exclusion".
3. **Secondary Strikes.** The Labour Relations Act defines a secondary strike as: "a strike, or conduct in contemplation or furtherance of a strike, that is in support of a strike by other employees against their employer but does not include a strike in pursuit of a demand that has been referred to a board of Director if the striking employees, employed within the registered scope of that Board of Directors, have a material interest in that demand".

4. **Picketing.** “Picketing” means the action whereby employees outside a place of work intend to persuade or prevent other employees from entering the place of employment during labour unrest.
5. **Conciliation.** Conciliation involves attempts by the parties to a dispute to settle their differences prior to industrial action. Conciliation is an extension of the negotiation process and is an integral part of the dispute-settlement procedure. The aim of the conciliation process is to allow the parties to settle the dispute between themselves without the direct intervention of external agents.
6. **Mediation.** Mediation involves the active intervention of a third party or parties for the purpose of achieving settlement of a dispute between the parties. The role of the mediator is to negotiate, advise, act as intermediary and suggest possible solutions to both parties. A mediator has no decision-making power and cannot impose a settlement on either party.
7. **Arbitration.** Arbitration involves third party adjudication in a dispute. The arbitrator actively intervenes in the dispute and makes a decision on the terms of settlement of the dispute. The arbitrator's decision is final and binding on the parties concerned.
8. **Dispute of Interest.** A dispute of interest involves a dispute in which a party has a distinct interest but no clear right, such as the allocation of an interest related resource, i.e., improved wages and conditions of employment. Disputes of interest are most often resolved through mediation or, ultimately, a trial of strength such as strike or lock-out action aimed at inducing the other party to moderate its position to achieve agreement.
9. **Dispute of Right.** A dispute of right involves a dispute in which established or existing rights of either party are interfered with or ignored. Such rights may accrue through a contract of employment, legally determined conditions of employment, and procedures, i.e., industrial legislation, and unilateral changes to accepted or customary practices. Disputes of rights, therefore, are suitable for third party adjudication.

10.4 Limitations to the right to strike

In accordance to South Sudan Labour Act 2017, No 64, 97. No employee may take part in a strike, or in any conduct in contemplation or furtherance of a strike, if the employee is bound by a collective agreement that prohibits a strike in respect of the issue in dispute. Employees may also not take protected strike action where they are bound by a collective agreement that requires the issue in dispute to be referred to arbitration, or where the dispute is one that the employee or union has the right to refer to arbitration or to the Labour Court in terms of the Act if that person is engaged in an essential service or a maintenance service.

Employees may not take part in a secondary strike, unless the strike that is to be supported complies with the provisions of the Act, and unless the employer of the employees taking part in the secondary strike or, where appropriate, the employers' organisation of which that employer is a member, has received written notice of the proposed secondary strike at least

seven days prior to its commencement. Employees may not take part in a secondary strike unless the nature and extent of the secondary strike is reasonable in relation to the possible direct or indirect effect that the secondary strike may have on the business of the primary employer.

The CARD as a secondary employer may apply to the Labour Court for an interdict to prohibit or limit a secondary strike that is not reasonable in relation to the possible direct or indirect effect that the secondary strike may have on the business of the primary employer.

According to South Sudan Labour Law Act 2017, No 64 striking Employee not to be replaced (1) an employer shall not employ or otherwise engage any person to perform the work of any employee participating in a protected strike or during lockout. (2) An employee may refuse to perform the work of another employee engaged in a protected strike or during lockout. However, CARD as Christian organisation don't in anyway encourage public strike any employee engage in strike may not restate to his/her position such employee will pay his/her dues as per agreement signed between two parties.

10.5 Protected Strikes

In order for a strike to be protected, the strike must take place after all dispute settlement procedures detailed in the Labour Relations Act, or in any bargaining Board of Directors or recognition/collective agreement which may exist between the parties, have been exhausted. Should employees fail to follow the relevant dispute settlement procedures, the strike will not be protected, and the CARD can seek certain remedies through the Act.

These remedies include the CARD applying to the Labour Court for an interdict in order to restrain the union and its members, and applying to the Labour Court to award the payment of just and equitable compensation in respect of the strike. Should employees not follow the required procedures in exercising their right to strike, this may constitute a fair reason for dismissal.

The CARD will not remunerate an employee for services that the employee does not render during a protected strike. Therefore the "no work no pay" rule will apply.

South Sudan Labour Law 2017, Act No 64, Right to Strike and Recourse to Lockout

- (1) Subject to the provisions of this chapter, every employee has the right to Strike and every employer has the right to Lockout action for the purposes of seeking to resolve a dispute regarding any matter of mutual interest to which an employee or employer is a party.
- (2) Before exercising the right under sub-section (1) above, an employee or employer shall: (a) Take all reasonable steps to resolve the dispute in good faith; (b) Take all reasonable steps to resolve the dispute through conciliation and arbitration in accordance with chapter X of this Act;
- (c) Give the other party or parties to the dispute not less than seven-day written notice of the intended strike or lockout.

(3) The requirements of sub-section (2) above shall not apply to a strike or a lockout if the: (a) Strike or lockout conforms to the procedures in a Collective Agreement; (b) Strike is in response to a lockout that does not comply with the provisions of this chapter; (c) Lockout is in response to a Strike that does not conform with the provisions of this chapter, or (d) Employer fails to comply with the requirements of sub-section (4) of this section below.

(4) Where a dispute concerns a unilateral change to the terms and conditions of employment, the employee or trade union party may, upon reporting the dispute to the Commission in accordance with chapter X of this Act, request the employer not to unilaterally implement the change or to restore any change so implemented, until such time a certificate is issued in accordance with section 103(7) of this Act.

10.6 Unprotected Strikes

Unprotected strikes occur in the absence of, or prior to, the exhausting of agreed dispute settlement procedures, or those contemplated in the Labour Relations Act.

10.7 Recourse to Lock out

The Labour Relations Act gives every employer resource to lock-out provided certain requirements are met. For a lock-out to be protected the issue in dispute must have been referred to the Board of Directors and a certificate stating that the dispute remains unresolved has been issued.

Employers will also have recourse to lock-out if a period of 30 days has elapsed since the receipt of the referral by the Board of Director, or after any extension of that period agreed to between the parties to the dispute. However, these provisions need not be adhered to should the lock-out be in accordance with an applicable collective agreement, or if the employer locks out the employees in response to their taking part in a strike which fails to conform to the provisions of the Act.

10.8. Lock-outs

A lock-out can be described as 'protected' with the effect that the CARD will not commit a delicate or breach of contract by conducting such lock-out, or taking part in any conduct in contemplation or furtherance of a lock-out. The term 'protected' also implies that the various procedural requirements have been complied with. The CARD is not obliged to remunerate an employee for services which the employee is unable to provide during a protected lock-out.

10.9. Limitations on the Right to Strike and Recourse to Lockout

South Sudan Labour Law 2017, ACT No 64, (1) No person may take part in a strike or a lockout or in any conduct in contemplation or furtherance of a strike or a lockout if that person is:

- (a) Bound by a Collective Agreement that prohibits a strike or lockout in respect of the issue in dispute;
- (b) Bound by a Collective Agreement that requires the issue in dispute to be referred to arbitration;
- or (c) Is engaged in an essential service.

(2) Subject to the terms of a Collective Agreement, no person may take part in a strike or a lockout, or in any conduct in contemplation or furtherance of a strike or a lockout, if any arbitration award or Collective Agreement that regulates the issue in dispute binds that person.

10.10. Picketing

“Picketing” means the action whereby employees outside a place of work intend to persuade or prevent other employees from entering the place of employment during labour unrest. Any CARD don't encourage her staff to get involve in picketing strikes Any employee to a dispute about work related issue may report such dispute in writing to the Commission: (a) An allegation that the effective use of the right to picket is being undermined; (b) An alleged material contravention of sub-section (1) or (2) of labour Law Act, 2017 An alleged material breach of an agreement concluded in accordance with subsection (4) or (d) an alleged material breach of a rule established in accordance with sub-section (5) of labour Law Act, 2017. The party reporting a dispute to the Commission shall satisfy the Commission that a copy of the report has been served on all the other parties to such dispute. The Commission shall attempt to resolve the dispute through conciliation. And if the dispute remains unresolved, any party to such dispute may apply to the Labour Court

10.11. Disputes Regarding Matters of Mutual Interest

South Sudan Labour Law 2017, No 64 defined “Matter of Mutual Interest” as a matter involving the introduction or proposed introduction of new or changed conditions of employment, benefits or rights of employee, or the introduction or proposed introduction of new or changed relations between one or more employers or Employers' Associations and one or more trade unions

Any party to a dispute about a matter of mutual interest may report the dispute in writing to the Office of the Labour Commissioner for conciliation in accordance with Section 102 of this Act. (2) If the dispute remains unresolved following conciliation, any party to the dispute may request that the dispute be resolved by arbitration in accordance with Section 102 of this

10.12. Initiation of Collective Agreement Negotiations

Collective Agreements refer to a written agreement concerning terms and conditions of work or any other matter of mutual interest concluded by one or more registered trade unions with their respective employers

Bound by a Collective Agreement that prohibits a strike or lockout in respect of the issue in dispute; (b) Bound by a Collective Agreement that requires the issue in dispute to be referred to arbitration; or (c) Is engaged in an essential service. (2) Subject to the terms of a Collective Agreement, no person may take part in a strike or a lockout, or in any conduct in contemplation or furtherance of a

strike or a lockout, if any arbitration award or Collective Agreement that regulates the issue in dispute binds that person

10.13. Disputes Regarding Collective Agreements

(1) If there is a dispute regarding interpretation or application of a Collective Agreement, any party to such dispute may report the dispute in writing to the Commission for conciliation in accordance with Section 104 of this Act if:

(a) The Collective Agreement does not provide for a procedure as required under paragraph (a) of sub-section (1) of section 90 of this Act; (b) The procedure provided for in the Collective Agreement is not operative; (c) Any party to the Collective Agreement has frustrated the resolution of the dispute in terms of the Collective Agreement. (2) If the dispute remains unresolved, any party to the dispute may request that the dispute be resolved through arbitration in accordance with Section 102 of this Act

10.14. During Industrial Action

During the Industrial action each Department will have certain tasks and responsibilities:

1. Employees should try to ignore striking employees, stay calm and be prepared to help in other departments in the CARD, if necessary. Employees may also be required to work overtime in the event of a strike. During the strike no staff member must give anybody any information concerning the strike.
2. Each Departmental Manager should keep a diary of events and inform the Strike Handling committee of any occurrences.
3. All acts of sabotage or damage caused must immediately be reported to the Strike Handling committee.
4. Brief staff about the daily situation and instruct them what reaction is expected of them.
5. No employee may be dismissed for refusing to do the work of a striking employee, unless the situation is one of an emergency.

Section 11. Departing Employees

11.1 DEPARTING EMPLOYEES OBJECTIVES

1. To ensure that employees leaving the CARD are treated in a fair and equitable manner.
2. To ensure that all departing employees receive the correct compensation and documentation.

3. To ensure that the employer receives all necessary outstanding monies and items from departing employee.
4. To determine reasons for departure and to document and follow up where the relationship has terminated for a specific reason.

11.2. RESIGNATION

During the first month of service, the notice period for termination shall be 1 week. For the balance of the probationary period and up to 12 months' service such notice shall be two week's written notice.

Resignations are accepted in writing, on the 1st day of the month and subject to the following:

1. It is expected that employees serve their full notice period.
2. Notice of resignation will not be acceptable during a period of paid absence, sick leave or leave, unless with the approval of the Regional/Departmental manager and vice-versa.
3. Leave may not be taken during notice period unless with the approval of the Department Manager.

The notice period may only be waived with the authorisation of the CEO and Human Resources Manager.

Upon receiving the notice of resignation from the line/unit manager, the Human Resources Department should complete the letter of Acceptance of Resignation form and the Employment Clearance Form (as per Termination Documentation Policy). The letter of Acceptance should then be forwarded to the employee and the Employment Clearance Form to the Departmental Manager.

All documentation relating to termination should be forwarded to payroll so final payment arrangements can be made, and arrangements made to recover monies where applicable.

11.3. Exit Interviews

An exit interview must be conducted in all cases where employees have resigned in order to systematically analyse staff turnover, employee morale, attitude, etc. and to take the necessary action once the information is available.

The Human Resources Department is responsible for arranging and conducting an Exit Interview on receipt of a signed letter of resignation or as soon as possible thereafter.

The Exit Interview form should be used as a guideline to conduct the interview (**EXIT INTERVIEW FORM**).

Information obtained during the interview should be conveyed to the Departmental Manager and their comments recorded on the form. A summary on a monthly basis to Human Resources Manager stating:

1. Employee Name
2. Occupation
3. Supervisor
4. Reason for Departure
5. Comments

11.4 DISABILITY

Where an employee is disabled to the extent that he/she is unable to perform his/her own occupation, and such disability is in compliance with the relevant Employee Benefit Fund rules, then the following procedure should be applied:

1. Counselling as to the problem concerned, evaluation of alternatives available, and if returning to work is not an option then employment shall be terminated as per Incapacity Procedure. Application for disability payments may be made in an effort to assist the incapacitated employee.
2. The employee should be assisted and counselled as to:
 1. Procedure to lodge claim
 2. How and when payment will be made
 3. How to claim UIF benefits
 4. Consequences of claim being rejected Other monies outstanding
 1. The last date of active work must be identified.
 2. The necessary documentation relating to the Provident Fund including full medical evidence should be obtained.
3. The completed documentation should be submitted by the Human Resources Department to the Employee Benefits Administrators as soon as possible.
4. In the event of the disability arising from the place of work assistance should also be given to the employee in lodging a claim with the Workman's Compensation
5. Should further information be required by the relevant fund, assistance must be given to the disability claimant to provide such information as soon as possible to avoid any possible delay in payment.
6. The disability claimant is to be placed on a three-month waiting period effective from the last active date at work. This period allows time for documentation to be processed. This three month waiting period is to be on full pay.
7. At the end of the 3 month waiting period the employee should be provided with:
 1. Any leave monies outstanding
 2. Certificate of Service
8. If at the end of the waiting period the claim has not been finalised any further salary payments will be at the discretion of the CEO. Any further payments made should be made as a lump sum or at 75% of basic salary and must be reclaimed from the relevant fund. Where an advance payment is given an acknowledgement of debt must be signed, to authorise the Administrators to deduct advances from the monies due to the claimant.

9. Should such disability claimant be found capable to work again, there will be no expectation from him/her that the CARD has to offer his/her a position, however an application may be lodged for consideration for any advertised vacancy. This must be confirmed in writing at the time of incapacity termination.
10. In the event of the claim being accepted the CARD must continue to pay their share of medical aid contributions and the claimant must make the necessary arrangements for their portion to be paid.

11.5. DISMISSAL

In cases of serious misconduct and only as a last resort, provided the disciplinary procedure has been followed, an employee may be dismissed.

Depending on the circumstances the dismissal may be with or without notice. Examples of this are:

1. Poor work performance (with notice)
2. Theft (without notice)

Where dismissal occurs with notice, such employee may at the discretion of the CEO/Head of Department, not be required to work the notice period but may still be paid for such period. If the dismissal occurs without notice, then the employee is to be paid up to and including the date of dismissal. Dismissal without notice generally occurs in cases of serious misconduct.

All other monies due to the employee are to be paid out e.g. leave monies.

For dismissal cases, no exit interview is required but details must still be completed on termination summary form and forwarded to Regional Human Resources.

11.6. DESERTION

Desertion occurs when an employee is absent without permission for a period of more than seven consecutive days. Where an employee is absent the following procedure should be followed:

1. The employer should attempt to contact the employee, using personal messages with other staff members or telegrams.
2. If the employee fails to respond a final notice should be sent to the employee to return to duty.
3. If the employee fails to respond to the final notice, the services may be terminated due to desertion.
4. A hearing should be held for all desertion cases, however these are generally held in absentia.
5. The termination should be confirmed by means of a telegram and registered letter to last known address (on personnel file).
6. Where desertion takes place, no notice pay is due to the employee.
7. All other monies outstanding, i.e. pay due since last pay-day, leave monies, etc should be paid to the employee.
8. A cheque for monies referred to above should be sent to the employee together with Certificate of Service.

9. Where an employee returns to work during the above process, such employee must be subject to a disciplinary hearing.

11.6. TERMINATION DOCUMENTATION

For all forms of termination, standardised documentation should be completed. Such documentation is to be generated by the Human Resources Department and copies must be kept on the departing employee's file.

11.7. Resignations

All resignations should be in writing, and upon receipt of such, the Letter of Acceptance of Resignation form should be completed by the Human Resources Department.

This Letter of Acceptance should be sent to the employee concerned.

11.8. Employment Clearance Form

This form should be prepared by the Human Resources Department for all terminations, and given to the Departmental Manager as soon as possible.

This form should be fully completed by the Departmental Manager prior to final payment being made by the Salaries Department.

The Human Resources Department must ensure that the employee received his/her final payment and Certificate of Service.

All employees are to leave a forwarding address, for provident pay-outs and in the event of queries arising from such payments.

11.9. Exit Interview

For all terminations, other than dismissal, an exit interview form must be completed using the following guidelines:

1. The Human Resources is responsible for arranging and conducting the Exit Interview prior to the last working day of the employee concerned.
2. The Exit Interview Form should be used as a guideline. All relevant comments made by the employee must be noted.
3. The completed form will then be sent to the respective Department Manager who will respond to any comments made on the Form.
4. The form should then be returned to the Human Resource Department for further action if necessary and then filed in the employee's file.

11.10. References

Where an employee leaves the employ of CARD, a Certificate of Service (as above) will be issued. To safeguard the CARD and its employees against indemnity claims, no additional information or any other document pertaining to a person's employment may be issued.

In the event that a Manager wishes to give some form of additional reference, it must be in a personal capacity. The reference given must be factual and may be given verbally or in writing. Written references may not be given on CARD letterheads.

Section 12. Organisation E-Mail and Internet User Policy

12.1. Introduction

This policy describes Christian Action for Relief and Development 's guidelines with regard to:

1. Use of CARD owned or sponsored personal computers, laptops, notebooks, and related hardware and CARD owned software;
2. Access to and disclosure of electronic mail messages sent or received by employees or contractors of the CARD with use of the CARD's e-mail system.

12.2 Management's Right to Access Information

Christian Action for Relief and Development respects the individual privacy of its employees. However, employee privacy does not extend to the employee's work-related conduct or to the use of CARD provided equipment or supplies. You should be aware that the following guidelines may affect your privacy in the workplace.

The electronic mail system has been installed by Christian Action for Relief and Development to facilitate business communications. Although each employee has an individual password to access this system, it belongs to the CARD and the contents of e-mail communications are accessible at all times by Christian Action for Relief and Development 's management for any business purpose.

These systems may be subject to periodic unannounced inspections, and should be treated like other shared filing systems. All system passwords and encryption keys must be available to CARD management, and you may not use passwords that are unknown to your supervisor or install encryption programs without turning over encryption keys to your supervisor.

All e-mail messages are CARD records. The contents of e-mail, properly obtained for legitimate business purposes, may be disclosed within the CARD without your permission. Therefore, you should not assume that messages are confidential. Back-up copies of e-mail may be maintained and referenced for business and legal reasons.

12.3. Personal Use of E-Mail and Internet Facilities

Because Christian Action for Relief and Development provides the electronic mail and internet system to assist you in the performance of your job, you should use it for official CARD business. Incidental and occasional personal use of e-mail is permitted by Christian Action for Relief and Development, but these messages will be treated the same as other messages. Christian Action for Relief and Development reserves the right to access and disclose as necessary all messages sent over its e-mail system, without regard to content. Since your personal messages can be accessed by Christian Action for Relief and Development 's management without prior notice, you should not use e-mail to transmit any messages you would not want read by a third party.

For example, you should not use the Christian Action for Relief and Development 's e-mail for gossip, including personal information about yourself or others, for forwarding messages under

circumstances likely to embarrass the sender, or for emotional responses to business correspondence or work situations.

In any event, you should not use these systems for such purposes as soliciting or proselytizing for commercial ventures, religious or personal causes or outside organizations or other similar, non-job-related solicitations. If Christian Action for Relief and Development discovers that you are misusing the e-mail system, you will be subject to disciplinary action, which may include dismissal.

12.4 Forbidden Content of E-Mail Communications or Internet

You may not use Christian Action for Relief and Development 's e-mail or internet system in any way that may be seen as insulting, disruptive, or offensive by other persons, or harmful to morale. Examples of forbidden transmissions, software, programmes or websites include sexually-explicit messages, cartoons, or jokes; unwelcome propositions or love letters; ethnic or racial slurs; or any other message that can be construed to be harassment or disparagement of others based on, inter alia, their sex, race, sexual orientation, age, national origin, or religious or political beliefs.

Use of the CARD-provided electronic communication systems in violation of this guideline will result in disciplinary action, which may include dismissal.

12.5 Password and Encryption Key Security and Integrity

Employees, other than designated Network Supervisors, are prohibited from the unauthorized use of the passwords and encryption keys of other employees to gain access to the other employee's e-mail messages.

12.6 Organisation Policy Guideline

12.6. Acceptable uses of the Internet and CARD e-mail

The CARD provided Internet and e-mail access is intended to be for business reasons only. The CARD encourages the use of the Internet and e-mail because they make communication more efficient and effective. However, Internet services and e-mail are CARD property, and their purpose is to facilitate CARD business. Every staff member has a responsibility to maintain and enhance the CARD's public image and to use CARD e-mail and access to the Internet in a productive manner. To ensure that all employees are responsible, the following guidelines have been established for using e-mail and the Internet. Any improper use of the Internet or e-mail is not acceptable and will not be permitted.

12.7. Unacceptable uses of the Internet and CARD e-mail

The CARD e-mail and Internet access may not be used for transmitting, retrieving or storage of any communications of a discriminatory or harassing nature or materials that are obscene or X-rated. Harassment of any kind is prohibited. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference

shall be transmitted. No abusive, profane or offensive language is to be transmitted through the CARD's e-mail or Internet system. Electronic media may also not be used for any other purpose which is illegal or against CARD policy or contrary to the CARD's best interest. Solicitation of non-CARD business or any use of the CARD e-mail or Internet for personal gain is prohibited.

12.7. Communications

Each employee is responsible for the content of all text, audio, programmes or images that they place, retrieve or send over the CARD's e-mail/Internet system. No e-mail or other electronic communications may be sent which hides the identity of the sender or represents the sender as someone else or someone from another CARD. All messages communicated on the CARD's e-mail/Internet system should contain the employee's name.

Any messages or information sent by an employee to another individual outside of the CARD via an electronic network (e.g., bulletin board, online service or Internet) are statements that reflect on the CARD. While some users include personal "disclaimers" in electronic messages, there is still a connection to the CARD, and the statements may be tied to the CARD.

All communications sent by employees via the CARD's e-mail/Internet system must comply with this and other CARD policies and may not disclose any confidential or proprietary CARD information.

12.8. Software

To prevent computer viruses from being transmitted through the CARD's e-mail/Internet system, there will be no unauthorized downloading of any unauthorized software. All software downloaded must be registered to the CARD. Employees should contact the designated Network Supervisor if they have any questions. Christian Action for Relief and Development is not responsible for material viewed or downloaded by users from the internet, users accessing the internet do so at their own risk.

12.9. Copyright Issues

Copyrighted materials belonging to entities other than Christian Action for Relief and Development may not be transmitted by employees on the CARD's e-mail/Internet system. All employees obtaining access to other companies' or individuals' materials must respect all copyrights and may not copy, retrieve, modify or forward copyrighted materials, except with permission of the designated Network Supervisor. Failure to observe copyright or license agreements may result in disciplinary action up to and including termination.

12.10. Security

The CARD routinely monitors usage patterns for its e-mail/Internet communications. The reasons for this monitoring are many, including cost analysis/allocation and the management of the CARD's gateway to the Internet. All messages created, sent, or retrieved over the CARD's e-mail/Internet are the property of the CARD and should be considered public information. The CARD reserves the

right to access and monitor all messages and files on the CARD's e-mail/Internet system. Employees should not assume electronic communications are totally private and should transmit highly confidential data in other ways.

12.11. Violations

Any employee, who abuses the privilege of CARD facilitated access to e-mail or the Internet, will be subject to corrective action up to and including termination. If necessary, the CARD also reserves the right to advise appropriate legal officials of any illegal violations.

The following general guidelines may be used for the purposes of taking disciplinary action against employees.

12.12. Email Signatures

All email messages are required to have the following standard signature and disclaimer attached to all outgoing messages.

Name of Sender Designation of Sender

Telephone Number:

Facsimile Number:

Email address:

"The information contained in this communication is confidential and may be legally privileged. It is intended solely for the use of the individual or entity to whom it is addressed and others authorised to receive it. If you are not the intended recipient you are hereby notified that any disclosure, copying, distribution or taking action in reliance of the contents of this information is strictly prohibited and may be unlawful. Christian Action for Relief and Development is neither liable for the proper, complete transmission of the information contained in this communication nor any delay in its receipt."

12.13. Queries and Clarification of Policy

Where an employee is uncertain as to the content of this policy, or requests further clarification issues which are addressed in this policy they are required to contact the designated Network Supervisor for clarification.

12.14. Virus Protection

All employees are to ensure that their computer is enabled with the Organization approved virus protection software. To avoid the transmission of viruses, employees should first scan diskettes or CD-ROM's for resident viruses prior to accessing information on the diskettes or CD-ROM's.

Where an employee's suspects that an email message or an attachment, diskette or CD-ROM may contain a virus he/she is required to contact the designated Network Supervisor.

12.15. Use of Personal Computers, Hardware and Related CARD Assets

Personal computers, hardware, software and related CARD assets, must be safeguarded against environmental hazards (dust, excessive heat, damp, lightning etc) and unauthorised use at all times.

As with other CARD assets, no computer hardware or software may be removed from the CARD's premises without authorisation from the employee's supervisor.

Laptops and other moveable computer devices must be locked away or secured when the employee is away from his/her work area. While an employee is away on extended absence from the workplace, not making use of such devices or on leave must be handed to the Supervisor for safekeeping.

Purchases of all computer hardware, software, and peripheral hardware must be approved by the employee's Departmental Manager and the CEO in accordance with CARD purchasing procedures.

All computer, hardware and software problems must be reported to the designated Network Supervisor for resolution.

All employees who use CARD e-mail and internet must sign **ANNEX 3F – ORGANISATION E-MAIL AND INTERNET USER AGREEMENT.**

Section 13. Code of Business Conduct and Ethics

This Code of Business Conduct and Ethics applies to all employees and officers of the subsidiaries and affiliates of CARD. Service Private Limited, which are referred to in this Code as CARD or the CARD.

The CARD is proud of its reputation for integrity and honesty and is committed to these core values. Personal responsibility is at the core of the CARD's principles and culture. The CARD's reputation depends on you maintaining the highest standards of conduct in all business endeavours. You have a personal responsibility to protect this reputation, to "do the right thing," and to act with honesty and integrity in all dealings with customers, business partners and each other. You should not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice.

The principles set forth in this document describe how you should conduct yourself. This Code does not address every expectation or condition regarding proper and ethical business conduct. Good common sense is your best guide. It does not substitute for CARD policies and procedures. In every business-related endeavour, you must follow the ethics and compliance principles set forth in this Code as well as all other applicable corporate policies and procedures.

You are accountable for reading, understanding and adhering to this Code. Further, compliance with all laws, rules and regulations related to CARD activities is mandatory and your conduct must be

such as to avoid even the appearance of impropriety. Failure to do so could result in disciplinary action, up to and including termination of employment.

If you are uncertain about what to do, refer to the relevant section of this Code. If you are still unsure, speak with your supervisor or, if you prefer, communicate with any of the other points of contact indicated. If you have any doubt, ask for help.

13.1. In the Workplace

CARD is committed to providing a diverse and inclusive work environment, free of all forms of unlawful discrimination, including any type of harassment.

13.2 Dignity & Respect at work place

Its compulsory for staff to treat people with dignity and Respect, this is the basis right for all social relationships. The recognition of client's innate dignity, worth, equality, basic rights, and needs Regardless of client's individual qualities arising from heredity, environment, behaviour, or any other source. Bullying or insulting behaviour, including verbal and non-verbal aggression, abusive, threatening or derogatory language and physical abuse or intimidation towards other employee are unacceptable they have no place in organization. Since working in partnership is vital to the CARD's continued success, mutual respect must be the basis for all work relationships. Engaging in behaviour that ridicules, belittles, intimidates, threatens or demeans, affects productivity, can negatively impact the CARD's reputation. You are expected to treat others with the same respect and dignity that any reasonable person may wish to receive, creating a work environment that is inclusive, supportive and free of harassment and unlawful discrimination.

13.3 Equal Employment Opportunity

The talents and skills needed to conduct business successfully are not limited to any particular group of people. CARD has a long-standing commitment to a meaningful policy of equal employment opportunity. The CARD's policy is to ensure equal employment and advancement opportunity for all qualified individuals without distinction or discrimination because of race, colour, religion, gender, sexual orientation, and age, national origin, disability, covered veteran status, marital status or any other unlawful basis. As part of this commitment, the CARD will make reasonable accommodations for applicants and qualified employees.

13.4. Business Conduct Certification Program

The responsibility for maintaining the CARD's reputation for integrity and compliance rests in large measure on associates who guide its operations and others in particularly sensitive positions. The Business Conduct Certification Program is designed to have you affirm your compliance with the standards contained in this Code and to help identify situations that may in fact, or in appearance, involve conflicts of interest or other improper conduct. If you are required to complete or update a Business Conduct Certificate, you must do so in a timely and forthright manner with accurate responses. Above all, you must remember that any act that gives the appearance of being improper can damage CARD's reputation and impair the public's confidence in the CARD. All such acts must be avoided.

You must acknowledge that you have read and understand this Employee Code of Business Conduct and Ethics. In addition, management-level associates must periodically disclose on Business

Conduct Certificate information that is considered to be directly relevant to avoiding problems with compliance obligations, self-dealing and impropriety. In certain circumstances, disclosure is required even if appropriate approval is obtained. An investigation may be conducted to resolve potential problems. All associates are required to cooperate in reaching a resolution of any issues found.

13.5. Corporate Opportunities

You owe a duty to CARD to advance its legitimate interests. You are prohibited from competing with the CARD and from using corporate property, information or position for personal opportunities or gain.

13.6. Outside Activities - Officer or Director of another business

You may not serve as a director, officer, trustee, and partner or in any other principal position of another for-profit or publicly held organization or CARD without the prior approval of CARD's Chief Executive Officer (or a designee). You should obtain approval from CARD's Chief Executive Officer (or a designee) before agreeing to serve on the board or in a principal position of a trade or professional association or of a non-profit organization. In any event, these outside activities must not impact in any way your daily job responsibilities in your current position.

13.7. Second Job

Unless the CARD otherwise consents in its sole discretion, you will devote your entire resources and full and undivided attention exclusively to the business of the CARD during the term of your employment with the CARD and shall not accept any other employment or engagement (honorary or otherwise).

13.8. Vendors, Suppliers and Consultants

All vendors, suppliers and consultants shall be approved in accordance with CARD policies and procedures. CARD's business relationships must be totally based on their ability to competitively meet the CARD's business needs. If your association with a current or prospective CARD vendor, supplier or consultant is of a nature that gives rise, or potentially gives rise, to a conflict of interest, the CARD may have to refrain from entering into the relationship and, in any event, you must not be involved in any way with approving, managing or influencing the CARD's business relationship.

13.9. Reporting of Any Illegal or Unethical Behaviour; Points of Contact

If you are aware of any illegal or unethical behavior or if you believe that an applicable law, rule or regulation or this Code has been violated, the matter must be promptly reported to your supervisor or CARD executives.

Your supervisor is normally the first person you should contact if you have questions about anything in this Code or if you believe CARD or an associate is violating the law or CARD policy or engaging in conduct that appears unethical. Under some circumstances, it may be impractical or you may feel uncomfortable raising a matter with your supervisor. In those instances, you may contact the head of your department or any other CARD executives. Furthermore, you should take care to report violations to a person who you believe is not involved in the alleged violation. All reports of alleged

violations will be promptly investigated and, if appropriate, remedied, and if legally required, immediately reported to the proper governmental authority.

You will be expected to cooperate in assuring that violations of this Code are promptly addressed. CARD has a policy of protecting the confidentiality of those making reports of possible misconduct to the maximum extent permitted by law. In no event will there be any retaliation against someone for reporting an activity that he or she in good faith believes to be a violation of any law, rule, regulation, internal policy or this Code. Any supervisor intimidating or imposing sanctions on someone for reporting a matter will be disciplined up to and including termination.

13. 10. General Administrative Matters

Working days

The working days at the CARD will be from Monday through Friday.

Unless otherwise stated, work hours would be as follows:

Days	Monday – Friday
Timings	0900 hrs To 1800 hrs.
Lunch-break	60 minutes

Owing to work exigencies, an employee's working hours maybe different from the timings mentioned above.

Weekly off

Saturday and Sunday will be the weekly holidays.

Owing to work exigencies, an employee may also be required to work either on a weekly off or a public holiday. In such a case, and after obtaining due approval from his/her immediate manager, the employee is entitled to take any of the weekdays in the following week as a compensatory off in lieu of the day of the weekly off/public holiday.

Late arrival

Employees are expected to arrive at work and for meetings on time. If an employee anticipates late arrival, he/she must inform the immediate manager (or a colleague in case the immediate manager is not available) in advance to allow for schedule changes and to handle coverage of working hours. Repeat challenges with late arrivals will be recorded as misconduct in the employee's file. All employees working with customers must ensure that all meeting commitments are met on time. Lapses in punctuality will not be acceptable.

Absence from office

1. Any employee, who is outside the office during working hours, should ensure that the immediate manager (or a colleague, if the immediate manager is not available) is aware of his/her whereabouts.
2. Unauthorized absence from office, or absence from office without prior approval from the immediate manager, will be recorded as misconduct in the employee's file.
3. Unauthorized absence will be treated as Loss of Pay (LOP).

Section 14. Gifts and Entertainment

The occasional exchange of inexpensive gifts and modest forms of entertainment that have no special significance attached and are reasonable in nature, frequency and cost, are normal in business and help build strong and trusting relationships with customers, suppliers and other business partners. However, receiving such gifts or entertainment must never affect your judgment or decision-making, nor should they be offered in return for favourable treatment from others.

What constitutes good business practice with respect to gifts and entertainment varies by industry, business unit and location. Gifts from agents to individual insurance clients of other than de minimums value are generally regarded as “rebates” and as such are prohibited. No gifts to you valued at more than SSP 500 would be allowed. Gifts to you valued between SSP1,000 and SSP 1,500 or forms of business entertainment that exceed reasonable and customary practices should be politely declined, unless approved in advance by your functional head for sound business reasons.

14.1 Prevention of Bribery Ordinance.

No employee of CARD should accept the bribery Ordinance; an employee who solicits or accepts an advantage in relation to his employer's business or affairs without the latter's permission may commit an offence. The term “advantage” is defined in the Ordinance and includes almost anything of value, except entertainment, such as money, gift, commission, loan, fee, reward, office, employment, contract, service or favour.

14.2 Acceptance of Advantages.

It is the policy of this Organization to prohibit all staff from soliciting any advantage from any persons having business dealings with the Organization (e.g. suppliers, contractors, members, activity participants). Officials and staff who wish to accept any advantage from such persons Should seek special permission from the management Committee/ (post of designated officer) prior to the acceptance.

14.3. No employee shall accept any gifts offered voluntarily

To the officials or staff in their official capacity are regarded as gifts to the Organization and they should not be accepted without permission. Officials and staff should decline the offer if the acceptance could affect their objectivity in conducting the Organization's business, or induce them to act against the interest of the Organization, or lead to perception or complaints of bias or impropriety.

14.4. For gifts which are presented to officials or staff in their official capacity and of nominal value (below \$100), the refusal of which could be seen as unsociable or impolite (e.g. a plaque presented to an official or a staff member during a seminar in which he is invited to be the guest speaker), the

management committee has given a blanket permission for the officials and staff to accept these gifts.

In other circumstances, the officials and staff should apply in writing to the management Committee/ (post of designated officer) for permission to accept the gifts. Each application should be carefully considered by the management Committee/ (post of designated officer).

14.5. Proper records of these applications should be kept showing the name of the applicant, the occasion of the offer, the nature and estimated value of the gift, and whether permission has been granted for the applicant to retain the gift or other directions have been given to dispose of the gift. Possible ways of disposal of such gifts are listed at Appendix 2. There is however no restriction on the acceptance of advantages, in the official's or staff's private capacity, from any person who does not have any official dealings with the Organization.

In case of doubt, the officials and staff should refer the matter to the management Committee/ (post of designated officer) for advice and instruction before accepting such offer of advantages.

14.6. Gifts and bequests

The Committee may accept any legitimate gift or bequest, whether subject to any special trust or not, for any one or more of the objectives and purposes of the agency.

14.7. Management of Funds

The funds of the agency are to be used to carry out the objects of the agency as determined by the committee and donors. All cheques and other relevant documents must be signed by any 2 members of the committee or employees of the agency, who are authorized to do so by the board of directors.

14.8. Entertainment

As defined above the Prevention of Bribery Ordinance, "entertainment" refers to food or drink provided for immediate consumption on the occasion, and any other entertainment provided at the same time. Although entertainment is an acceptable form of business and social behaviour and is not an "advantage", officials and staff must not accept lavish or frequent entertainment from persons with whom the Organization has official dealings (e.g. suppliers or contractors, clubs/persons to which the Organization may allocate resources or job assignments), so that they will not be placed in a position of obligation to the offered

Section 15. Conflict of Interest

A conflict of interest situation arises when the “private interests” of the official and staff compete or conflict with the interests of the Organization. “Private interests” means both the financial and personal interests of the official and staff or those of their connections including:

Family and other relations; personal friends; other companies or business interests which they hold or own (both in part and in whole); other clubs and societies to which they belong; and any person to whom they owe a favour or are obligated in any way. Officials and staff should avoid using their official position or any information made available to them in the course of their duties for the Organization to benefit themselves, their relations or any other persons with whom they have personal or social ties, or business connections. They should avoid putting themselves in a position that may lead to an actual or perceived conflict of interest.

15.1. Signing Declaration of Impartiality and Confidentiality in Annex Gen 2-1 procurement manual.

It requirement for All procurement committee must sign Declaration of Impartiality and Confidentiality Procurement Committee Members

15.2. Interest with the Organization.

Failure to avoid or declare any conflict of interest may give rise to criticism of favouritisms, abuse of authority or even allegations of corruption, which are to the corporate disgrace of the Organization. In particular, officials and staff involved in the procurement process should declare conflict of interest if they are closely related to, or have or will likely be perceived to have, beneficial interest in any company which is considering submission of quotation/tender to the Organization or is being considered for selection as the Organization’s supplier of goods or services. Appendix 3 provides some examples of conflict of interest situations which may be encountered and should be avoided by officials and staff.

15.3. Declaration in written conflict of interest

When called upon to deal with matters of the Organization for which there is an actual or perceived conflict of interest, the officials and staff should make a declaration in writing to his supervisor or the management Committee/ (post of the designated officer). He should then abstain from dealing with the matter in question, and follow the instruction of his supervisor or the management Committee/(post of the designated officer) who may (or may not) reassign the task to other officials or staff.

15.4. Violations of the Conflicts of Interest Policy.

If employee committee, suspects a violations of the Conflicts of Interest Policy, he or she must bring the matter to the attention to the board or committee, which shall deal with it as follows: If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose. If, after hearing the member’s response and after making further investigation as warranted by the circumstances, the governing

board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

15.5. Disclosure Statements.

Each employee, independent contractor, director, principal officer and member of a committee with governing board delegated powers shall annually sign and any potential director before election shall sign a statement that affirms such person: Has received a copy of the conflicts of interest policy; Has read and understands the policy; Has agreed to comply with the policy, and ; Understands the Organization is humanitarian and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

To ensure the Organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, the Board of Directors or its designee(s) shall conduct periodic reviews. The periodic reviews shall take place at least biennially, and, at a minimum, include the following subjects

15.6. Misuse of Official Position

Officials and staff who misuse their official position for personal gains or to favour their relatives or friends or to benefit their business connections are liable to disciplinary action by the Organization or even prosecution by the appropriate authorities. Examples of misuse include an official or a staff member responsible for the selection of suppliers giving undue favour or leaking tender information to his own or his relative's company with a view to awarding the contract to the latter, or placing it in an advantageous position ahead of other competitive bidders.

Other examples include reserving tickets for popular events for relatives and friends without prior permission and without going through the proper ticket allocation procedures by the Organization, and unfair allocation of resources (e.g. venue) to other parties for personal gain.

15.7. Handling of Classified or Proprietary Information

Officials and staff are not allowed to disclose any classified or proprietary information to anybody without prior authorization by the Organization as state in the charter. Officials and staff who have access to or are in control of such information should at all times provide adequate safeguards to prevent its abuse or misuse. Examples of misuse include disclosure of information in return for monetary rewards, or use of information for personal interest or business benefit. It should also be noted that unauthorized disclosure of any personal data may result in a breach of the Personal Data (Privacy) Ordinance.

15.8. Property and Other Resources of the Organization.

Officials and staff given access to any property or other resources of or acquired by the Organization (such as venue) should ensure that it is properly used solely for the purpose of conducting the Organization's business. Misappropriation or unauthorized use of such property or resources, such as for personal use or personal gain (e.g. resale or unauthorized leasing) is strictly prohibited.

15.9. Sponsorship

The Organization is accountable to its donors for the use of their project. Officials and staff should ensure that any project item is used solely for the purpose for which it is provided. Consent from the donor should be obtained if it is to be used for a purpose that deviates from the stated purpose for which it is obtained. Officials and staff should also ensure adequate transparency on the use of project items to the donor, and ensure that the Organization can account for the use of their donor.

15.10. Gambling.

Officials and staff must not engage in frequent or excessive gambling with persons who have business dealings with the Organization as well as among colleagues, particularly with subordinates. If on social occasions where refusal of gambling (provided that the activity is legal) is considered unsociable, the amount of money involved should not be significant. Gambling in the Organization's premises, government venues, and locations where activities of the Organization take place is strictly forbidden

15.10. Cash and Checks Received Outside the Office:

In event employees is given cash and checks at meetings or events held outside the office. Any checks and cash received outside the office are brought back to the office by the employee who received them, and given to the finance assistance

15.11. Compliance with the Code.

It is the personal responsibility of every official and staff to understand and comply with the Code of Conduct, in particular by conscientiously avoiding any conflict of interest, and making declaration and seeking prior permission from the Organization in accordance with this Code in any case of exception. The Organization Management will ensure that officials and staff understand and comply with the standards and requirements stated in the Code of conducts. Any problems encountered as well as any suggestions should be channelled to disciplinary management Committee/ (post of designated officer) for consideration and advice.

15.12. Implementation of Disciplinary Action

Any official and staff who violates any provision of the Code will be subject to disciplinary action, or termination of appointment/employment where warranted. In cases of suspected corruption or other criminal offences, a report will be made to the management or the appropriate authorities.

Section 16. Termination of Employment Contract

16.1. Basic Requirements of Employment Contracts

(1) In accordance to Labour Law Act 2011, Subject to this section, an employment contract may be oral or written and may be for:

- (a) A definite period;
- (b) An appropriate period or
- (c) The performance of a specific task.

(2) CARD may require an employee to serve a probationary period of 3 months and it shall not exceed 3 months.

(3) If, upon the expiration of a contract for a definite period, an employee continues working without the express dissent of CARD, the contract shall be deemed to be renewed on the same terms and conditions as the expired contract.

(4) Where an employee's employment continues in accordance with sub-section (3) of this section for a total period of two years, the employee shall be deemed to be employed under an employment contract for an indefinite period.

16.2. Terms of Employment Established by Employment Contracts

(1) Every employment contract shall contain all such particulars as necessary to define the rights and obligations of the parties including:

(a) Name of CARD and place of employment;

(b) Name of the employee, place of employment and, place of origin and any other particulars necessary for identification;

(c) Nature of the employment and position to be held;

(d) Duration of the employment;

(e) appropriate period of notice to be given by the party wishing to terminate the contract, which shall not be less than the minimum period of notice provided for in section 72 of this Act;

(f) Rates of remuneration and method of calculation, the manner and periodicity of payment of wages and advances of wages, if any and the manner of payment of any such advances;

(g) Measures to be taken to provide for the welfare of the employee and any member of family accompanying the employee under the terms of contract;

(h) Conditions of repatriation, where applicable; and

(i) Any special conditions of the contract.

(2) Where there is no written contract between CARD and the employee, this section shall be deemed to be the contract between them.

(3) No employment contract shall provide less favourable conditions for the employee than those provided for under this Act and any applicable law, regulation or Collective Agreement.

(4) Except as expressly provided under Labour Law Act 2011, a provision of an employment contract that purports to exclude or nullify any provision of this Act shall be null and void.

16.3. Statement of Terms of Employment ⁵

(1) CARD shall provide an employee with information in a form an employee can understand:

(a) Fundamental rights of employment as set out in chapter II Labour Law Act 2011, 2017 No. 64.

(b) Particulars of the employment contract as set out in section 43 of Labour Law Act 2011; 2017, and

(c) Other minimum conditions of employment as provided in Labour Law Act.

(2) The Minister may prescribe the information or types of information that CARD shall give to an employee for the purposes of sub-section (1) above.

(3) Notwithstanding the preceding provisions, CARD may comply with this section by:

⁵ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

- (a) Making a written employment contract with an employee and providing an employee with a copy of the contract or
- (b) Making an oral contract with an employee and:
 - (i) Providing an employee with a written statement that contains the required information or
 - (ii) If the terms of the oral contract are the same as those applying to other employees, posting a notice in the workplace which contains the required information in such languages as may be appropriate for an employee concerned.
- (4) CARD shall keep a copy of the written contract or the written statement referred to in sub-section (3) above throughout the employee's employment and for a period of three years after the termination of the employment.
- (5) CARD shall make a copy of the written contract or the written statement referred to in sub-section (3) above accessible to employees at the workplace.
- (6) In accordance to South Sudan labour Law Act 2011, 2017, if in any legal proceedings, CARD fails to produce a copy of a written contract or written statement referred to in sub-section (3) above, the burden of proof to the contrary shall be on such CARD.
- (7) If an employee is illiterate or cannot understand the language or provisions of the information to be provided under this section, CARD shall explain the information, or have it explained to him or her in the presence of a witness chosen by the same. Failure by CARD to explain the provisions of the employment contract shall result in the invalidity of provisions unfavourable or contested by such employee.

16.4. Transfer of Employment Contract

- (1) Except as provided for in sub-section (2) above, an employment contract shall not be transferred from one employee to another without prior written consent of the employee.
- (2) Unless agreed to otherwise between the transferee and transferor in writing, if a trade or business is transferred in whole or in part, all employment contracts in force on the date of such transfer shall automatically be deemed to be transferred to the transferee with all rights and obligations contained in such contracts and to continue as if concluded between an employee and the transferee.

16.5. Security for Employment of Foreigners

- (1) The Office of the Labour Commissioner may require CARD that employs foreigners to provide security by bond in the prescribed form to the office of the Labour Commissioner.
- (2) The amount of the security payable under sub-section (1) of this section shall be such sum as is reasonably determined by the office of the Labour Commissioner.

16.6. Disputes regarding Employment Contracts

- (1) If there is a dispute about the interpretation or application of any provision of this Chapter, any party to the dispute may refer the dispute in writing to the Commission for conciliation in accordance with Section 102 of this Act.
- (2) If the Commission fails to resolve the dispute within a period of one month from the date of reference, any party to the dispute may apply to the Labour Court for adjudication.

16.7. Notice of Termination

- 1. An employment contract may be terminated by either party:

- A. After continuous service by the employee for one year or more, one month notice to the other party;
 - B. After continuous service by the employee for six months or more, but less than one year on two week notice to the other party;
 - C. After continuous service by the employee for less than six months, one week notice to the other party.
2. Subject to sub-section (3) (d) an employment contract for a definite period or for a specified task shall come to an end upon expiry of the defined period or completion of the specified task without either party giving notice to the other party.
 3. Notwithstanding the provisions of this section nothing shall prevent:
 - a) The parties agreeing to a longer period of notice of termination;
 - b) CARD waiving the right to receive notice of termination upon the request of an employee;
 - c) The employee accepting payment, instead of notice of termination, equivalent to the total wages/salaries and other entitlements to which the employee shall have been entitled for the period of notice required;
 - d) Termination without notice for gross misconduct in accordance with section 76 of this Act of Labour Law 2017.

16.8. Reason(s) for Termination by CARD⁶

1. CARD may terminate an employment contract based on any or more of the following reasons:
 - a) Incapacity of an employee to perform work as required by the employment contract;
 - b) Repeated failure by an employee to perform work as required by the employment contract to a satisfactory standard;
 - c) Gross misconduct of an employee at work or in circumstances which have a real and substantial connection to the employment with CARD; or
 - d) Changes in the operational requirements of CARD of which the employee has no capacity to operate.

An employment contract shall not be terminated for the following reasons:

1. If an employee is a member of or participant in any activity of trade union outside working hours or with the consent of CARD within working hours;
2. If an employee is seeking office as or acting or having acted as representative of other employees at workplace of CARD;
3. If employees are filing a complaint or grievance or participating in proceedings against CARD involving an alleged violation of this Act, other laws or regulations or the terms of a Collective Agreement or award;
4. Any of the grounds of discrimination prohibited by section 6 of Labour Act 2017.
5. Absence of an employee from work for reasons acceptable according to the provisions of this Act or authorization by CARD or

⁶ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

6. CARD shall provide an employee with any entitlements provided for under Labour Law Act 2017 or any other applicable law, Collective Agreement or arbitration award.
7. CARD shall provide an employee with a written statement of the reason for termination:
8. at the time of giving notice of termination to an employee; or
9. In circumstances where no notice can be served at the time of termination of the employment contract.

16.9. Termination for Incapacity

CARD may terminate employment contract where an employee is incapable of performing work required by his or her employment contract due to an illness or injury certified by the South Sudan Medical Commission to be permanent.

16.10. Termination for Unsatisfactory Performance

- 1) CARD shall not terminate employment contract for reasons relating to the repeated failure by an employee to perform work as required by the employment contract to the satisfactory standard, unless CARD has:
 - a) Notified an employee of the possibility of termination for such a reason;
 - b) explained the way or ways in which the performance of an employee is not meeting the standard of work required;
 - c) provided an employee with a reasonable opportunity to make defence relating to the reasons for failure to meet the standards and given due consideration to defence so made; and
 - d) (d) Provided an employee with a reasonable opportunity to improve employee's performance.
- 2) For the purposes of meeting the requirements of paragraph (d) of sub-section (1) above, CARD shall provide an employee with such time, training and support as is reasonable in light of all relevant circumstances, including:
 - (a) The extent to which an employee has failed to meet the standard of work required and the consequences of that failure for CARD;
 - (b) The length of employment contract with an employee; and
 - (c) Any reason or reasons given by an employee for his or her unsatisfactory performance in accordance with paragraph (c) of sub-section (1) above.

16.11. Termination for Gross Misconduct

1. CARD shall not terminate the employment of an employee for reasons relating to misconduct of an employee at work, or in circumstances which have a real and substantial connection to the employment contract, unless:
 - a) The employee misconduct constitutes gross misconduct;
 - b) CARD has previously notified an employee of the possibility of termination in the event of gross misconduct by the employee; and
 - c) CARD has established that the employee has committed an act of gross misconduct, having first:

- I explained the grounds on which an employee is alleged to have committed an act of gross misconduct;
 - II provided the employee with the evidence on which the allegation is made;
 - III allowed the employee an opportunity to consider and respond to the allegation and evidence on which the allegation is based;
 - IV Given due consideration to all circumstances and available evidence relevant to the allegation, including any response given by an employee under clause (iii) of paragraph (c) above.
- 2) Employee misconduct shall constitute gross misconduct where it is of such gravity as to make it impossible to continue or to resume the necessary relationship of mutual trust between:
- a. the employee and CARD or
 - b. (b) The employee and other employees.
- 3) Notwithstanding sub-section (2) above, an employee commits gross misconduct for the purposes of this section if the employee is found to have:
- a. Been rendered unable to perform his or her work effectively due to the consumption of alcoholic drinks, narcotics, psychotropic substances or addictive substances in workplace;
 - b. been absent from work for a period of more than 72 hours without cause or satisfactory explanation;
 - c. Violated the fundamental rights of another employee as set out in chapter II of this Act, including, but not limited to, having sexually harassed another employee within the meaning of section 7 of this Act;
 - d. Assaulted or battered any co-employee or CARD at workplace or in circumstances which have a real and substantial connection to the employment contract with CARD;
 - e. Negligently or intentionally destroyed or let property of CARD be destroyed, resulting to losses to CARD;
 - f. Negligently or intentionally exposed any of employee's-employees or other personal place of work to risks in contravention of any section of chapter XI of this Act;
 - a. (g) Breached employee's obligation to protect and keep secure confidential information of CARD unless such breach has been obliged by law upon an employee or caused by CARD or to protect public interest.
- 4) An employee shall be entitled to have a representative present during any discussions regarding an allegation of gross misconduct.
- 5) Where CARD has established the gross misconduct of an employee in accordance with this section, CARD may terminate the employment contract without giving notice as required by section 72 of the Labour Act 2017.

16.12. Termination for Redundancy ⁷

1. This section shall apply when CARD intends termination of not less than ten employees within a period of three months for reasons of redundancy due to changes in the operational requirements of CARD
2. CARD may not terminate an employment contract on account of redundancy unless CARD has:

⁷ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

(a) notified the Labour Office, not less than two months prior to the intended date of termination, of the intention to reduce the number of employees, disclosing all relevant information including:

- I Reasons for the intended redundancy;
- II Any measure adopted or to be adopted in order to minimize the intended retrenchment;
- III The method for selection of employees to be retrenched;
- IV Schedule for the reduction; and
- V Severance pay in respect of the reduction;

(b) if an employee to be affected by the reduction is a member of a registered trade union, notified that trade union, and any workplace representatives of that trade union, of the reasons for and the extent of such reduction not less than a (30) days prior to the intended date of termination on account of redundancy.

3. Subject to sub-section (4) below, an employee whose employment is terminated on account of redundancy, after continuous service of one year or more, shall be entitled to receive, in addition to any other entitlements due to such employee upon termination, severance pay equal to two week wages/salaries for each completed year of continuous service with CARD.
4. In the event of redundancy due to the insolvency of CARD, the Insolvency Act 2011 shall govern an employee claim for wages/salaries, severance pay and other entitlements.
5. Following consultation with registered trade unions and CARD, the HR Manager may issue regulations establishing additional requirements, or detailing the procedures to be followed, in cases of redundancy.

16.13. Termination due to Death

1. The death of an employee shall cause the termination of an employment contract.
2. An employment contract shall come to end one month from the date of the death of an employee, unless it is otherwise legally determined.
3. If, on the death of Employer, an employee continues to be employed by the legal representative or trustee of the deceased, an employee shall be deemed to continue with the same employment contract uninterrupted.
4. Upon coming to an end of an employment contract due to death of an employee, the heirs or legal representatives of such employee shall be entitled to wages/salaries and any other remuneration due to the employee before employee's death.

16.14. Termination and Expiry of Work Contract

Termination of the Work Contract by Notice when the project come to an end

(1) The work contract shall be terminating by notice for any of the following reasons:

- a) in case of disability of the worker to perform his or her work or if he or she is so ill that ceases to work even if after the completion of his or her annual sick leave whether this leave

with or without pay provided that the illness of the worker is proved by Medical Commission;

- b) The completion of the work contracted for, or expiry of period of the contract;
- c) The total destruction of the establishment;
- d) Attaining the age of sixty years, unless the parties agreed otherwise, such period shall be considered continuous service;
- e) The dismissal of the worker, or his or her desertion of the work during probationary period;
- f) Agreement of the parties in writing to terminate the contract work;
- g) Liquidation the establishment provided that is prove by an official certificate issued by competent authority;
- h) The resignation of the worker;
- i) The death of the worker.

(2) Except in cases where the work contract provides for longer period of notice. The work contract shall terminate for reasons mentioned in subsection

(1) By a written notice by either party, or the period of notice shall be as follows –

- a. one month, where the worker works in the basis of the monthly wage;
- b. two weeks, where the worker is appointed on the basis of pay every two weeks and he or she completed less than five years of continuous service;
- c. one week where the worker is appointed on the weekly wage and has completed less than two years of continuous service, and two weeks, if he or she has completed two years and less than five years of continuous service;
- d. Where the worker is appointed on the basis of the daily wage, the period of notice shall be as follows:
 - I if he or she has not completed three months of continues service at the of any working day;
 - II one week, if the worker completed between three months and two years of continuous service;
 - III Two weeks, if the worker completed between two and five years of continuous service.
 - IV (e) One month if the worker is appointed on a daily, weekly or the basis of daily wage and has completed not less than five years of continuous service.
 - V (f) Six months, directly before the expiration of the contract by reason of reaching the age pension.

(3) If either party does not notify the other of the expiry of the work contract under subsection

(2) The injured party shall be paid compensation equivalent to wage for the period of notice.

(4) The worker may after the expiration of half of the notice, leave the work for fetching other work, provided that he or she is paid full wages for the remaining period of the notice.

(5) If the worker at the expiry of the work contract is entitle to his or her annual leave, the period of such leave shall not be calculated in the period of notice.

(6) For the purposes of pension, the age shall be proved by any of the following means and according to the following order-

- (a) The admission of the age recorded by CARD in document of social security, pension or life insurance signed by the worker;
- (b) The original birth certificate,

(c) Certificate of birth or by assessment issued by the Medical Commission.⁸

16.15. Terminate the Work Contract in the Case of Repeated Contravention

(1) in the case of repeated contraventions, if the is notified of dismissal where all or a maximum of penalties prescribed are exhausted, CARD in the case of any succeeding breach, may terminate the indefinite work contract by notice, the duration of which shall be fixed according to the provision of section 50 (2) of the Labour Act 2011, 2017 by issue the worker a letter showing the reasons of the termination of the work contract, CARD shall pay worker all his or her entitlements. (2) If the worker has received any notice for final dismissal and has not committed any contravention during the year subsequent to the date of notice shall automatically laps thereto.

16.16. Appeal

(1) Any of the two parties may appear to the competent against the termination of the work contract under the provisions of Se within a period of two weeks starting from the date of notification.

(2) The competent authority shall issue its decision within a period of two weeks starting from the date of receiving the application the application of appeal.

(3) If the competent authority proves the termination of the contract, CARD shall pay to the workers all his or her entitlements. If the competent authority does not approve the termination, it shall order the return of the worker to his or her work provided that all his or her entitlements for the period of suspension shall be paid to him or her .in case CARD did not carry out the decision made all his or her legal entitlements, including his or her wave during the period of suspension plus compensation equal to the salary of six months.

16.17. Termination of the Work Contract without Notice to the Worker

CARD may be terminating the work contract without notice in the following cases:

1. if the worker assumes the personality of another, or if he or she presents for purpose of work forged papers;
2. if the worker makes a mistake resulting in gross negligence that causes heavy financial loss to CARD;
3. if the worker in spite of being notified in writing does not comply with any instructions made for the safety of the workers and of the establishment, provided that such instructions shall be in writing and be fixed in conspicuous place;
4. if the worker deliberately omits to perform his or her obligations under the work contract;
5. if the worker discloses any industrial or commercial secrets which come to his or her knowledge in the course of his or her duties, save what the permits;
6. if the worker is convicted of an offense concerning honour or honesty or morality or immoral act committed in the workplace;
7. if the worker commits an assault on his or her CARD or the responsible manager which is punishable by law or if in the course of or during work commits any grievous assault to any of his or her superiors or any other worker;

⁸ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

8. If the worker is found in an obvious state of drunkenness or under the influence of an intoxicating drug; provided that the medical practitioner so decides.

16.18. Terminate The Work Contract Without Notice CARD.

The worker may be terminate the work contract without giving notice to CARD in the following cases:

- (a) If CARD or the person on his or her behalf cheats the worker in regarding work contract;
- (b) If CARD has not satisfied his or her obligations towards the worker in accordance with the provisions of this Act or the terms of the work contract;
- (c) If CARD or the person acting on his or her behalf commits an assault punishable by law;
- (d) If there is a serious endangers threatening the safety of the worker or affecting his or her health; provided that CARD knows the danger and does not take the measures and procedures necessary to prevent the same.

16.19. Referring of Dispute to the Competent Authority

1. In all the cases specified in section 52 and 53 the work contract of Labour Law Act 2011 and 2017 shall not be terminated before referring the dispute to the competent authority and obtain approval, the competent authority shall make the appropriate investigations concerning that case or cases and it shall make its decision thereon within a maximum period of two weeks starting from the date of referring the dispute thereto.
2. In case of proof of any of the cases specified in section 52, CARD may suspend the worker until the competent authority makes its decision.
3. When CARD to terminate the work contract before referring the dispute to the competent authority makes its decision, the following shall take place
 - a. The worker shall be returned to his work together with payment of full wage for the period during which he was suspended;
 - b. Payment of all entitlements of the worker including his or her wage for the period of suspension plus the payment of compensation equal to six months' basic salary.
4. If the work leaves the work before referring the dispute to the competent authority or before the competent authority makes its decision. No wage is to be paid to him or her for the days during which he or she leaves the work.
5. If the competent authority is not convinced with reasons of termination of the work contract under section 52, the competent authority shall issue its decision that the work contract is to continue in force and the worker shall start his work and shall be paid all his or her entitlements for period during he or she was suspended. If the decision is the termination of the work contract under section 52, CARD may terminate the work contract and shall pay the worker not less than three quarters of the gratuity entitled thereto in addition to his or her other entitlements, except his wage for period of notice.
6. If CARD does not comply with the decision of the competent authority to return the worker, he or she shall pay him or her entitlements including his or her wages for the

period of suspension in addition to compensation equal to six months of the basic salary.⁹

16.20. Reduction of the Number of Employees for Economic and technological Reasons

- 1) CARD may apply to the competent authority for reduction of number of workers or closing of the workplace for economic or technological reasons.
- 2) The competent authority shall present the application of CARD for reduction of number of workers or for closing the place of work to the competent commission to make its evaluation and recommendation.
- 3) The competent authority shall issue a decision within a period of three weeks from the date of receiving the application taking into consideration the recommendation of the Commission referred to in subsection (2).
- 4) If the Executive Director and HR Manager approves the application for the closing of the work place or reduction of number of workers, CARD may execute the decision of the governor provided that such execution do not prejudice the right to make the reduction according to what is specified in his or her application, if he or she does not receive the direction from the date of receiving the application by CEO, provided that not harm shall ensue to the reduce workers in relation to their rights.
- 5) If CARD reduces the number workers without regard to the procedures specified in this Section and contrary to the decision of the CEO on or before the issuance of his or he decision on or before presenting the application, the following shall take place-
 - a. The worker shall be returned to his or her work together with payment full wage for the period of suspension;
 - b. Payment of all entitlements of the worker including his or her wage for the period of suspension plus the payment of compensation equal to six months from the basic salary.
- 6) The competent authority shall form three committees to be constituted of number of the government bodies, in addition to CARDS and workers' organizations in equal numbers to evaluate and make recommendation concerning applications for closing workplaces and reduction of workers in accordance with the provisions of this Act and the regulations made issued hereunder.

16.21. Termination of the Work Contract with Notice by the Worker

The worker, in cases other than specified in section 53 may terminate the work contract by notice according to the provisions of section 49 (2) and (3).

16.22. Termination of the Work Contract When The Worker Is On A Journey Or Voyage

Connected With His Or Her CARDS Business If the worker is engage in land or sea journey connected with the business of CARD and the period of service connected for expired or that the worker notifies CARD of the termination of the work contract for the purpose of completing such journey, CARD may extend the period of service for another period not exceeding one month, starting from the date of expiry of the work contract ,in such case the worker shall be entitled to the

⁹ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

quarter of the wage in addition to the wage agreed upon in the work contract ,for any additional period of service.

16.23. Certificate of Service

CARD shall give the worker whose service has expired or terminated a certificate showing the name of CARD, work performed by the worker, the period he or she spent in his or her wage without mentioning the reasons led to the expiry or termination of the work contract.

16.24. Summary Termination

1. If an employee leaves employment because the conduct of CARD made it no longer reasonable to continue in employment, CARD is taken, in the absence of proof to the contrary, to have terminated an employee's employment contract.
2. Summary termination shall take place when CARD terminates the service of an employee without notice or with less notice than that to which the employee is entitled by any statutory provision or contractual term.
3. CARD is entitled to dismiss summarily an employee and the dismissal shall be termed justified, where the employee has, by his or her conduct indicated that he or she has fundamentally broken his or her obligations arising under the employment contract.
4. Subject to this section, CARD has NO right to terminate a contract of service without notice or with less notice than that to which the employee is entitled by any statutory provision or contractual terms.¹⁰

16.25. Severance Pay

Subject to Labour Law Act, 2017 CARD shall pay severance allowance where an employee has been in his or her continuous service for a period of six months or more and where any of the following situations apply:

- a) The employee is unfairly dismissed by CARD;
- b) The employee dies in the service of his or her CARD;
- c) The employee terminates his or her contract because of physical incapacity;
- d) The contract is terminated by reason of the death or insolvency of CARD; a
- e) Such other circumstances as the Minister may by regulations provide.

No severance allowance shall be paid in circumstances where an employee:

- a) Is summarily dismissed with justification;
- b) Abandons his or her employment, or absconds from his or her place of work without leave for a period of more than seven days without any explanation being provided to CARD; and
- c) Contract which is terminated is a probationary contract.

Calculation of severance pay shall be negotiable between CARD and the employees or the trade union that represents them.

316.26. Gratuity Pay

1. An employee who completes a period of not less than one year of continuous service shall be entitled to a gratuity pay to be calculated as follows;

¹⁰ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

2. if he or she has completed a period of not less than one year, and not more than ten years, he or she shall be entitled to one-month gross salary in respect of each year of service;
3. if he or she has completed more than ten years, he or she shall be entitled to one and a half of month's gross salary in respect of each year; and
4. If he or she has completed more than fifteen years, he or she shall be entitled to one and three quarters of a month's gross salary in respect of each additional year of service, provided that the gratuity shall not exceed 36 months' gross salary.
5. Notwithstanding sub-section (1) above, gratuities shall be calculated on the basis of the last month gross salary.
6. After the service, gratuity for the production employee shall be calculated on the basis of the average gross income during the last three years.

16.27. Cancellation of Termination

If, after the day on which a notice of termination expires, CARD requests an employee to remain in employment, or an employee continues working without the express dissent of CARD, the notice of termination shall be deemed to be null and void and the employment contract shall still be valid.

16.28. Disputes regarding Termination of Employment Contract

1. If there arises any dispute about termination of employment contract, employee may report the dispute in writing to the Commission for conciliation in accordance with Section 102 of the Labour Act;
2. A dispute under this section shall be reported to the Commission within thirty days from the date of the termination or, if it is a later date, within thirty days of CARD making a final decision to overturn or uphold the termination.
3. On application by an employee, the Commission may extend the time for reporting a dispute regarding termination of employment where a genuine impediment prevented the employee from reporting the dispute in the time limit set by sub-section (2) above.
4. Where an employment contract is terminated by notice, an employee may report the dispute to the Commission once the employee has received that notice.
5. If the dispute remains unresolved following conciliation, an employee may apply to the Labour Court.¹¹
6. An application to the Labour Court under sub-section (5) above shall be made within 30 days from the date on which the Labour Commissioner issues a certificate under section 103 of Labour Law Act, 2017.
7. The reporting of a dispute to the Commission shall be free of charge.
8. This section shall not apply to employees serving under probationary period in accordance with Section 42(2) of Labour Law 2017.

16. 29. Burden of Proof in Disputed Termination Proceedings

¹¹ LAWS OF SOUTH SUDAN LABOUR ACT, 2017 Act No. 64 Juba, 24th October 2017

1. In proceedings before the Labour Court concerning a dispute under chapter 9 of Labour Law 2017 in which an employee alleges that the termination was for an invalid reason, the employee shall establish the existence of a termination.
2. If the existence of the termination is established, CARD shall prove that the termination was effected:
3. in accordance with the requirements of Chapter 9 of Labour 2017 or
4. (b) For a valid reason and in accordance with fair procedure, taking into account all relevant circumstances.
5. Where CARD fails to satisfy the requirements of sub-section (2) above, the employee may apply to the Labour Court.
6. In other cases, the Labour Court shall make decision of unfair termination if:
7. an employee establishes that a termination was effected other than in accordance with the requirements of this Chapter; and
8. (b) CARD fails to prove that the termination was otherwise effected for a valid reason and in accordance with fair procedure.

16.30. Remedies for Unfair Termination

- 1) CARD may accept to:
 - a) to reinstate an employee in the position held by an employee or relocate an employee in a reasonably comparable position and on the same terms and conditions enjoyed by an employee prior to the termination;
 - b) To treat the employment contract as having continued without interruption on an employee period of continuous service, where reinstatement or re-engagement is ordered;
 - c) To pay an employee an amount equivalent to any wages/salaries lost by such employee as a result of the termination, where reinstatement or re-engagement is ordered;
 - d) to pay an employee an amount by way of compensation as determined by the Labour Court in accordance with sub-section (3) below.
- 2) The Labour Court shall order reinstatement or re-location under paragraph (a) of subsection (1) above, unless CARD proves that:
 - (a) It is not possible to resume the necessary relationship of mutual trust and confidence between the:
 - I Employee and CARD; or
 - II Employee and other employees of CARD.
 - III The organisation of work in the enterprise has so substantially changed that:
 - IV The position held by an employee prior to the termination no longer exists;
 - V There is no reasonably comparable position available for the employee.
- 3) For the purposes of determining the amount of an order for compensation under paragraph (d) of sub-section (1) above, the Commissioner or Labour Court shall determine, a fair and equitable amount taking into account:
 - a) The circumstances in which the termination took place, including the extent to which an employee caused or contributed to the termination;
 - b) The length of service by an employee with CARD;
 - c) The reasonable expectation of an employee as to the length of time for which employment might have continued but for termination;

- d) Any opportunity available to an employee for securing comparable or suitable employment with another CARD;
 - e) Any reasonable expense incurred by an employee as a consequence of the termination;
 - f) Any failure by an employee to mitigate the losses attributable to the unfair termination and secondment;
 - g) Any compensation, including ex-gratia payment, in respect of termination paid by CARD and received by an employee.
- 4) No order shall be made for the recovery of costs incurred by a party to an unfair termination arbitration or adjudication, unless the Labour Court is satisfied that the dispute was reported, pursued or defended by the other party in a manner that was frivolous or vexatious.

16.31. Deduction of Registered Trade Union Subscriptions

- 1) Any registered trade union shall authorise CARD in writing to deduct subscriptions from its employee's wages/salaries.
- 2) Notwithstanding sub-section (1) above, CARD shall remit total deduction to the trade union.
- 3) With each monthly remittance, CARD shall give the registered Trade union:
- 4) A list of names of every member from whose wages CARD has made the deduction and remittance; Details of the amounts deducted and remitted and the period to which such deductions relate.

16. 32. Recognition as Exclusive Bargaining Agent of Employees

- 1) A registered trade union that represents the majority of employees in an appropriate bargaining unit is entitled to recognition as the exclusive bargaining agent of employees in that bargaining unit for the purpose of negotiating a Collective Agreement.
- 2) CARD shall not recognise a trade union as an exclusive bargaining agent under this Act unless it is a registered trade union under the Workers Trade Unions Act, 2013.
- 3) A registered trade union may seek recognition as an exclusive bargaining agent of an appropriate bargaining unit by delivering a request to:
 - a) CARD to recognise it as the exclusive bargaining agent of a bargaining unit consisting of employees or some of its employees;
 - b) CARD to recognise it as the exclusive bargaining agent of a bargaining unit consisting of employees of its members.
 - c) Within thirty days after the receipt of the request, CARD or CARD shall notify the trade union in the prescribed form either that:
 - 1) It recognises the trade union as the exclusive bargaining agent of employees in the bargaining unit as proposed by the trade union or agreed to by the trade union and CARD;
 - 2) (ii) It refuses to recognise the trade union because it disputes the appropriateness of the proposed bargaining unit or that the Trade union does not represent the majority of employees as proposed to be the bargaining unit.
 - 3) If CARD or CARD' Employee fails or refuses to notify the trade union as required under sub-section (4) above or notifies its refusal to recognise the trade union, the trade union may apply to the Commission for an order recognising the trade union as the exclusive bargaining agent.
 - 4) If, upon application by a registered trade union, the Commission is satisfied that the trade union represents the majority of the employees in the agreed bargaining unit or that the Commission

considers the bargaining unit to be appropriate, the Commission may make an order declaring the trade union to be recognised as the exclusive bargaining agent of the employees in the agreed or appropriate bargaining unit.

- 5) In determining the appropriateness of a bargaining unit for the purposes of sub-section (6) above, the Commission shall:
 - a) Take the organisational structure of CARD into account; and
 - b) Promote orderly and effective collective bargaining with a minimum division of CARD's structure.
- 6) If CARD has recognised a registered trade union as an exclusive bargaining agent and the trade union no longer represents the majority of an employees in the bargaining unit, CARD shall:
 - a) Give the trade union notice in the prescribed form to acquire a majority within three months;
 - b) Withdraw recognition from that trade union if it fails to acquire that majority at the expiry of the three-month period.
- 7) On application by a trade union affected by action taken under sub-section (8) above, the Commission may, subject to the principles set out in sub-sections (6) and (7) above, make an order:
 - a) Declaring that the trade union represents a majority of employees in the bargaining unit;
 - b) Giving the trade union a further opportunity to acquire a majority;
 - c) Altering the bargaining unit;
 - d) Withdrawing recognition of the trade union as the exclusive bargaining agent of the employees in the bargaining unit.
- 8) A registered trade union, which has been recognised as an exclusive bargaining agent in respect of the bargaining unit in question has a duty to represent the interests of every employee falling in that bargaining unit, whether or not employees are members of that trade union.

16.33. Calculation of the Gratuity ¹²

(1) Subject to the provisions of the Social Insurance law or any other beneficial scheme, the worker who complaints a period of not less than three years of continuous service shall be entitle to a gratuity for period of his or her service to be calculated as follows: (a) if he or she has completed a period of not less than three years and not more than ten years shall be entitled to one month basic salary in respect of each year of service; (b) if he or she has completed more than ten year, he or she shall be entitled to one and half month basic salary in respect of each year after the succeeding five year and if he or she has completed more than fifteen years, he or she shall be entitled to one and three quarter of a month basic salary in respect to each additional year of service, provided that the gratuity shall not exceed thirty six months basic salary.

(2) The gratuities are calculated on the basis of the last monthly base salary. ¹³

(3) The after service gratuity for the production worker is calculated on the basis of the average actual income during the last three years.

16.34. Termination of the Work Contract by the Worker

¹² file:///C:/Users/pc/Desktop/LabourBill2012.pdf

(1) A worker who has spent a period of not less than three years' continuous service and who terminates his or her work contract in accordance with the provisions of Section 57 of Labour Law Act 2011 shall be entitled to pay to be calculated as follows:

(a) if the worker has spent five years of service he or she shall be entitled to quarter of the gratuity pay he or she entitle to receive;

(b) if the worker has spent of five years of continuous service and less than fifteen years, he or she shall be entitled to one and half of the gratuities pay he or she entitle to receive;

(c) if the worker has spent a period of continuous service of fifteen years and less than twenty, he or she shall be entitle to three quarters of the gratuity pay he or she is entitle to;

(d) If the worker has spent twenty years or more in service he or she shall be entitled to full gratuity pay.

(2) Under this section, gratuity pay means the pay that the worker is entitled to receive according to section 60.

16.35. Gratuity of Seasonal Workers

(1) Each worker doing seasonal work for duration which is not less than three months is entitled for gratuity provided that the total actual days of service with the same CARD are not less than three years.

(2) The gratuity is calculated in accordance with the provisions of Section 60 on basis that the season being estimated as one whole year.

(3) For the purposes of this Section, monthly salary is to be calculated based on his or her actual income from the same CARD during the last three years divided by (36) thirty-six months.

(4) The provisions of this Section shall be applied to one season from the commencement of the Labour Law Act 2011. Addition of the Period of the previous Service. CARD may, at the request of the worker who is re-appointed add the previous service of that worker to his or her succeeding service and shall be considered continuous service, or he or she agreed with CARD on the manner of refunding the gratuity without satisfactory his or her obligation to refund the same.

General Provisions 63.¹⁴

16.36. Work Regulations and Penalties

(1) CARD shall make basic regulations and penalties regulations to be fixed in a conspicuous place in the place of work; provided that the basic regulations shall include at least the hours of work and its time.

(2) CARD shall deposit the basic regulations with the competent labour office. The penalties regulations shall not be valid unless they are approved by that office.

(3) CARD after consultation with the General Union and the General Federation of Trade Unions shall make standard penalties regulations, according to the nature of every work for CARDS as a guide in drafting their regulations.

(4) The money obtained from fines shall be spent to the benefit of the workers according to such terms and conditions as the Minister may prescribe after consultation with the General Federation of Workers and the General Federation of Trade Unions.

¹⁴ LAWS OF SOUTH SUDAN LABOUR BILL, 2011

16.37. Keeping Particulars of Workers

CARD shall keep a record of every worker including particulars of wages, deductions, annual and sick leaves, dates, number and other conditions provided for the in work contract and any other particulars required by the regulations issued under this Bill, provided that such particulars shall be kept for at least one year after termination of work contract, and CARD shall present any of these particulars when required by the competent authority.

16.38 Validity of the Work Contract with the Successor

If another person replaces CARD contracted with the worker for the reason of enterprise being sold or transferring the ownership by means of inheritance, or gift or will, or by the reason of transferring the power of supervision and administration, the workers contract shall be valid with such other person.

16.39. Prohibition of Enforcing Certain Contracts

Take any contract under which the worker undertakes to pay CARD whole or part of any amount which has paid or agreed to pay in connection with employment of such worker shall be void and shall not be enforced by courts.

16.40. Exemption from Judicial Fees

(1) In all stages of litigation, suits raised by a worker or members of his or her family, or the worker's union, in respect of dispute connected with the provisions of this Bill shall be exempted from judicial fees.

(2) In the case that the judgment is not in favour of the worker, the court may order the worker to pay all or part of such fees.

16.41. Lapse of Right by Prescription

The right of the worker to raise a claim in respect of the acquired entitlement, according to the provisions of this Bill, shall not lapse in the gratuities, wage or other entitlements.

Conditions of Service for the Better Benefits this Bill shall not be interpreted in such a way so as to prevent CARD from making conditions more beneficial to the worker than the conditions of service and benefits prescribed by this Bill.¹⁵

¹⁵ LAWS OF SOUTH SUDAN LABOUR BILL, 2011