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# Performance and Misconduct Policy Template

# PERFORMANCE AND MISCONDUCT POLICY

## 1. Commencement of Policy

- 1.1 This Policy will commence from [Insert Date]. It replaces all other performance and misconduct policies of [Insert Company] ("**the Company**"), whether written or not.

## 2. Application of the Policy

- 2.1 This Policy may be used as guidance for the process or manner in which the Company may discipline an employee because of their poor performance or inappropriate conduct in any circumstances that can be connected to, or impact upon, the Company.
- 2.2 Consequently, employees need to ensure that they exhibit appropriate out-of-work conduct where the circumstances or event can be connected to the Company, such as a work-related function.
- 2.3 A work-related function is any function that is connected to work and includes events such as work lunches, dinners, conferences, Christmas parties and client/customer functions. This Policy also applies when employees go to other workplaces in connection with work, for example, when visiting a supplier, client or customer.
- 2.4 This Policy does not form part of any employee's contract of employment.

## 3. Grounds for disciplinary action

- 3.1 Disciplinary action may be taken in response to any:
- a) unsatisfactory performance;
  - b) unacceptable conduct; and
  - c) wilful or serious misconduct.

## 4. Disciplinary procedure

- 4.1 The procedures outlined below are intended as a guide only to the disciplinary procedures which may be implemented by the Company.
- 4.2 In every case, the Company will determine the actual disciplinary procedure to be adopted in its discretion and in consideration of the circumstances of the case as a whole. Nothing in this Policy prevents the Company from issuing a final warning at any stage of the process. Similarly, nothing in this Policy prevents the Company from dismissing an employee at any stage of the procedure set out in this Policy if the Company deems this action is warranted, for example in circumstances involving an employee committing serious or wilful misconduct.

## 5. Investigation

- 5.1 Depending on the circumstances, it may be necessary to conduct an investigation into certain incidents and/or allegations that have been raised. This may involve collecting relevant data and interviewing the relevant employee as well as material witnesses (such as the employee's co-workers or supervisors, or even customers and suppliers with whom the employee has had contact).

## 6. Disciplinary interview

- 6.1 If on the basis of the investigation, the Company believes that there is a case to be answered by the employee, the employee may be asked to attend a formal interview meeting to address the area(s) of concern.
- 6.2 An example of a procedure that may be adopted by the Company in these circumstances may involve:
- a) the employee being given notice of the meeting;
  - b) the employee being given a reasonable opportunity to have a support person present at the meeting;
  - c) putting the issue(s) of concern or allegations to the employee;

- d) giving the employee an opportunity to respond to the concerns or allegations;
- e) the Company considering the employee's response;
- f) the Company determining whether the concern(s) or allegations have been substantiated on the balance of probabilities; and
- g) if it is determined that all or some of the concerns or allegations are substantiated, the Company will make a decision about what, if any, disciplinary action is appropriate in the circumstances.

## **7. Disciplinary action**

7.1 Any disciplinary action taken by the Company against an employee will vary from case to case. This may include a consideration of whether the employee has received any prior verbal or written warnings in relation to their performance or conduct.

7.2 Examples of disciplinary action which may be taken by the Company include, but are not limited to, the following:

- a) training;
- b) informal counselling;
- c) verbal warning;
- d) written warning;
- e) final written warning; and
- f) dismissal, including summary dismissal in circumstances of serious or wilful misconduct.

## **8. Confidentiality**

8.1 Disciplinary discussions and meetings (and their outcomes) are confidential. They are not to be discussed with co-workers. Failure to maintain the confidentiality of performance management discussions or meeting is a breach of this policy and may result in disciplinary action.

## **9. Suspension**

9.1 In some instances, poor performance or misconduct may be serious enough to present a risk to the Company's operations, employees or customers. In these circumstances, an employee may be suspended from employment on ordinary pay whilst an investigation into the poor performance is undertaken.

## **10. Variations**

10.1 The Company reserves the right to vary, replace or terminate this Policy from time to time.

## **11. Employee acknowledgment**

I acknowledge that I have received and understood this Performance and Misconduct Policy:

Your name:

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Signed:

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Date:

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