

HANDLING OF COMPLAINTS ON CODE OF ETHICS



REVISION STATUS SHEET

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R1	24 April 2024	Revision due to formation of ECRB in place of Task Force
<u>Preparation & Review Process of R0 version</u>		
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TABLE OF CONTENT

1.0	PREAMBLE – THE CODE OF ETHICS	1
2.0	ETHICS COMPLAINTS RESOLUTION BOARD (ECRB).....	2
3.0	RECEIPT OF COMPLAINTS.....	3
4.0	PROCESS OF HANDLING COMPLAINTS	4
5.0	ADJUDICATION PROCESS.....	6
6.0	DISCIPLINARY ACTION.....	8
7.0	FINAL DECISION BY GC	9
8.0	Annexure-1 FLOW-CHART	11
9.0	Annexure-2 - FORM FOR LODGING AN ETHICS COMPLAINT.....	13
10.0	Annexure-3 UNDERTAKING BY THE COMPLAINANT	15
11.0	Annexure-4 UNDERTAKING BY THE COMPLAINANT/ RESPONDENT	17
12.0	ACKNOWLEDGEMENT	19

HANDLING OF COMPLAINTS ON CODE OF ETHICS

1.0 PREAMBLE – THE CODE OF ETHICS

1.1 Purpose

The Consulting Engineers Association of India (CEAI) framed and introduced a Code of Ethics from inception and revised it in September 2013, with a view to ensure that the Members of CEAI maintain, besides high technical standards, highest universally accepted moral and ethical standards as well. It is mandatory for all Members of CEAI from all categories to follow each and every canon of the Code of Ethics.

The importance of an Ethical Code for a Professional body cannot be underestimated. The Code of Ethics serves as a framework and a guide for Professionals in support of day-to-day decision making regarding Professional conduct. It also serves to clarify the CEAI's mission, values and principles. Its enforcement would result in generating respect for the Profession and enhance its credibility.

1.2 Genesis of Code of Ethics

The Code of Ethics has been developed and maintained as a document to define the boundaries within which Members of CEAI must operate while carrying out their Professional practice. The Code does not contain solutions to specific situations or problems but is designed to provide guidance to Members in performing their tasks in a dignified and Professional manner. It reflects what Professionals value, and establishes expectations based on the principles of duty, fairness and responsibility. It is intended to ensure the welfare, legitimate interests, incorporation of sustainability requirements and duty of care for and of the Society and the Client, and, by doing so to enhance the reputation and integrity of the Profession.

The Code of Ethics is meant to inspire Members to achieve and maintain the highest level of competence, and to behave in a manner that would maintain the highest standards of integrity and ethical principles. The inspirational behaviour is not intended to be discretionary but is expected of all Members. CEAI is committed to the enforcement of its Code of Ethics. Self-regulation is important in order to build trust and respect for the Profession thus, adopting and enforcing the Code provides additional incentives for individuals to choose to do the right thing.

1.3 Fundamental Canons

The Code of Ethics is primarily based on the following canons:

- Responsibility to the Society
- Responsibility to the Profession

- Competence and Continuous Development
- Integrity
- Impartiality
- Relation with other Consultants
- Relation with Clients
- Relation with Employees

1.4 Background

A document for Handling of Complaints on Violations in Code of Ethics was first prepared in November 2017 and after several reviews it was issued for use in May 2020. Thereafter, the document was taken up for review by an Expert Committee and prepared and circulated in March 2022 for the views of its Ethics & Quality members and the Governing Council members. In place of a Task Force to look into complaints, it was decided to form an Ethics Complaints Resolution Board.

2.0 ETHICS COMPLAINTS RESOLUTION BOARD (ECRB)

2.1 Formation of Ethics Complaints Resolution Board

- 2.1.1 With a view to deal with complaints pertaining to the Code of Ethics and enforcing it amongst the Members, an ECRB shall be constituted by the Governing Council (GC). Its tenure will synchronize with the tenure of the GC. It will consist of 3 senior Members with an impeccable record of integrity, honesty, impartiality and knowledge in the practice of the profession. One of the three members shall be designated as Chairman of the ECRB. The integrity of the ECRB cannot be questioned.
- 2.1.2 In the event that any of the ECRB Members has a conflict of interest on a particular matter, he/she will need to declare it and recuse himself/herself from those proceedings. The GC would correspondingly need to take steps to appoint an adhoc Member to the ECRB for the purposes of the proceedings.
- 2.1.3 If the nature of the complaint requires so, an additional Specialist may be nominated to the ECRB for the duration of the subject complaint resolution process as given in clause 5.1.
- 2.1.4 If the ECRB is investigating a complaint the tenure of that ECRB will not be co terminus with that of the GC, but shall continue till the complaint is resolved.

2.2 Function of Ethics Complaints Resolution Board

The function of ECRB is to provide the required service when a complaint is registered against a Member of the CEAI regarding violation of any of the provisions in the Code.

2.3 Procedure for Management of Complaints

This document outlines the procedure for receiving and resolving complaints related to failure on part of any Members to adhere to ethical practices. The complaint handling process is illustrated in Annexure-1 FLOW-CHART.

3.0 RECEIPT OF COMPLAINTS

3.1 Origin

The complaints can originate from:

3.1.1 A Client with reference to:

- Integrity, corrupt practice, etc.
- Breach of contract
- Competence
- Impartiality
- Confidentiality
- Responsibility to Society/ Nation

3.1.2 Fellow Consultants (CEAI Member or not) relating to:

- Taking over unethically, supplanting or intervening in the Professional work of other Consultants
- Negative feedback/ downgrading other Consultants for winning a project or any other benefits.
- Ignoring normal business practices and procedures accepted by CEAI for its Members for individual gains.

3.1.3 Employees of a Member company relating to:

- Complaint of a nature that can mar the image of the Profession.

3.1.4 Sub Consultants or Associates or Vendors or Contractors

- Unfair treatment or violation of CEAI's Code of Ethics.

3.2 Registration of Complaints

3.2.1 The complaining party is hereinafter referred to as the Complainant. Only Complaints submitted to CEAI in writing, duly signed giving appropriate and adequate details and substantiated with evidence shall qualify for registration. The Ethics Complaint Form is in Annexure-2 - FORM FOR LODGING AN ETHICS COMPLAINT.

3.2.2 Based on the Complainant's understanding at the time, the Complainant must file an undertaking that

- The Complaint is purely of an ethical nature as covered by the Code of Ethics of CEAI.
 - All evidence submitted is true and factual and that no material facts are suppressed.
 - It is understood that the process of adjudication of Complaints before the Ethics Committee is not part of a legal and regulatory process mandated by any legislation. Refer Annexure-3 UNDERTAKING BY THE COMPLAINANT.
- 3.2.3 If the Complaint or substance of any of the submissions is considered by the CEAI as false, frivolous, malafide or suppression of facts or if the Complainant violates any of the undertakings at any time and/ or does not comply with any other condition or conditions that the CEAI may impose upon the Complainant, CEAI could take an appropriate action including imposition of costs as assessed by CEAI.
- 3.2.4 Save for seeking clarifications, CEAI shall not ordinarily involve the ultimate Client, if they are not Members of CEAI, in any disputes among consulting Members, unless the Complaint originates from them, so as not to harm the image and interests of the Profession and other CEAI Members.
- 3.2.5 When a member lodges a Complaint against another Member (hereinafter referred to as the Respondent), the first Member or the Complainant should neither verbally inform nor write to the Client that CEAI is examining the violation of the Code of Ethics on that complaint.
- 3.2.6 While registering a Complaint, the EC must inform the Respondent and ascertain the views of the Respondent.
- 3.3 Before Commencing the Complaint Handling Process**
- 3.3.1 CEAI shall obtain an undertaking from the concerned parties that they shall provide all information relevant to the case as per the timeline that the ECRB may set. If either of the parties does not co-operate, CEAI through the ECRB shall proceed with the review of the Complaint with the available information.
- 3.3.2 Both the Complainant and the Respondent shall also need to ensure that they would not, at any time or place, use any language that may be construed as unbecoming of the Profession, when referring to the other party. Refer Annexure-4 UNDERTAKING BY THE COMPLAINANT/ RESPONDENT
- 3.3.3 The referral to CEAI and subsequent developments shall be kept strictly confidential.

4.0 PROCESS OF HANDLING COMPLAINTS

- 4.1 If CEAI decides to investigate a Complaint lodged against a Member, the concerned parties shall provide fullest co-operation to CEAI. The process from receipt of a Complaint to its logical disposal is illustrated in the form of a Flow-Chart in Annexure 1 of Section 8.

4.2 Handling of Complaints

All complaints shall be addressed to the President and sent through e-mail with a copy to the Director CEAI, to be lodged at (delivered to) the office of CEAI. In case the complaint is against the President, it should be addressed to any one Vice President and copied to the Director. Only complaints which are submitted in a properly completed format as prescribed in Annexure-2 shall be accepted. A simple email will not be accepted.

The Director, upon receiving the complaint, shall forward it to the Chairperson, ECRB for further action. The discretion to register a Complaint or not shall rest with the Chairperson of the ECRB in consultation with the President and/ or other Members of ECRB.

In case the complaint is against the President or the Organization in which he/she has an interest, then the incumbent President shall not be consulted. However, the matter shall be conveyed to the GC for information.

In case there is a GC Member from any interested organization/ party concerning the complaint, then that Member shall recuse himself/ herself from all connected deliberations.

If a Complaint is not registered, a suitable reply with reasons, as per the directions of the ECRB, shall be sent to the Complainant by the Director, on approval by the GC.

4.3 Guidelines for the Ethics Complaints Resolution Board

Since the matter pertains to enforcement of Ethics, the ECRB shall take due care and demonstrate integrity, competence, fair treatment, professionalism, diligence, transparency, and objectivity.

The ECRB shall convey to each Member and emphasize on the Member's personal responsibility in being a part of effort for the enforcement of the Code of Ethics by monitoring his/ her own actions and those of others.

The ECRB shall ensure carrying out of the adjudication process in an absolutely unbiased manner. All adjudication proceedings shall be undertaken with principles of natural justice fully complied with, in that both Parties should be heard fully and allowed to present their versions.

The ECRB shall not actively initiate investigations, as CEAI does not have investigative powers, hence it cannot force witnesses to testify or produce evidentiary documents. Neither shall an intrusive approach, that could change the relationship that CEAI has with its Members, be adopted.

4.4 Grades of Complaints

The ECRB after thorough scrutiny and completion of the process described hereafter shall determine the Grade and the Complaints Level for which the recommended action could be as given in Table-1.

Table-1: Grades of Complaints

Grade	Complaint Level	Recommended Action to GC
I	Very Low	Ignore
II	Low	Simple warning
III	Medium	Reprimand by GC
IV	High	Suspension for limited period: 6 Months - 2 years.
V	Severe	Termination of CEAI Membership

5.0 ADJUDICATION PROCESS

5.1 Nomination of Specialist for Adjudicating a Complaint

If any specialist needs to be consulted or involved, then the ECRB shall nominate a person, from amongst CEAI Members in the first instance or in the second instance from non-Members after taking the person's consent and an undertaking that the person is not associated with any of the parties to the dispute. The non-member shall sign the CEAI's Code of Ethics.

5.2 Process of Adjudication

The process of adjudication of Complaints is designed to ensure fairness and to follow a defined process. Individuals/ companies accused of violating the Code of Ethics, i.e., the Respondent(s) shall be provided an opportunity to respond to the allegations made and to seek further review or appeal against adverse decisions. In keeping with the right to due process, CEAI shall not accept anonymous Complaints, nor shall it agree to keep confidential and not to disclose the identity of the individual/ company filing the Complaint (i.e., the Complainant), to the person/ organisation against whom the written Complaint is lodged. The intent is to obviate frivolous or malicious complaints being filed, since the identity of the Complainant would be made known. It would also become much easier for the ECRB to determine the veracity and credibility of the evidence submitted, since the source of the evidence would be known.

5.3 Setting of Meetings

Meeting with Complainant(s) and/ or Respondent(s) shall be fixed by the ECRB through written correspondence, e-mail, or any other means, so that trail of documentary evidence, which is traceable and retrievable, is available. The meeting shall be fixed for a particular date and time, along with the meeting venue to suit the mutual convenience of those concerned albeit within a specified time-frame. If the

meeting is fixed on phone or via SMS or any other messaging facility, it shall subsequently, be confirmed in writing by a letter and/ or email.

5.3.1 Venue

The venue can be any place except the offices of the Complainant or the Respondent. As far as possible, a neutral venue shall be chosen. Once the meeting is fixed, the Complainant shall be requested to send expeditiously, well ahead of the meeting, any additional documents in support of the complaint. The documents shall be shared with all the Members of the ECRB and a meeting of the ECRB shall then be arranged within the next few days and, in any case, ahead of the scheduled meeting with the Complainant. If a meeting is not possible, the Chairperson of the ECRB shall at least share the ideas with all the ECRB Members, so that they are all aware.

5.3.2 Schedule of Meetings

- Meeting # 1

With the Complainant for clear understanding of the grounds for complaints and to ask for any further clarification or substantiation on any point. Communication shall then be sent to the Respondent giving details of the Complaint and asking for explanation on various items of the Complaint and requesting a response with all supporting documents within a week or such other time-frame, which may be specified by the ECRB.

- Meeting # 2

With the Respondent for clearly understanding the arguments put forth by the Respondent. Once the information from the Respondent is received, it shall be shared with all the Members of the ECRB and the Complainant.

- Meeting # 3

With the Complainant and the Respondent together with a view to hear both the parties and provide them an opportunity to clarify the matter in full detail. An attempt shall then be made to resolve the issue to the satisfaction of both the parties.

Before the joint meeting with the Complainant and the Respondent all relevant documentation shall be made available to both parties.

5.3.3 If a resolution cannot be arrived at during the first joint meeting, two or more meetings may be held depending on the complexity of the matter.

5.3.4 The Chairperson, ECRB shall keep the President, CEAI informed—about the developments on a regular basis, except in the case where the President is deemed to be an interested party. After the process is completed, the Chairperson shall discuss the matter with the entire ECRB. The final recommendation by the ECRB shall be made to the GC.

5.3.5 If one of the parties fails to turn up for the scheduled and agreed meeting twice or fails to provide appropriate information as sought, the ECRB may conclude the

matter based on whatever information is available with it and communicate the matter to the GC for a final decision.

5.4 Adjudication and Findings

The ECRB shall only consider the evidence provided by the Complainants and the Respondents to reach a decision. No information about the Complaint shall be provided by anyone to any individual, organization or any other agency, while it is being adjudicated or at any point of time even later. If the ECRB determines that there is insufficient evidence to support the findings that a Code of Ethics violation has occurred, the Respondent and the Complainant shall be notified about the situation and the matter shall be considered as closed. In case, a violation of the Code is established, the ECRB shall communicate its findings to the Governing Council (GC) to determine what action needs to be taken, commensurate with the grade of the Complaint.

5.5 Possible Solutions

On scrutiny of all relevant information, if the ECRB concludes that the dispute does not involve any breach of the Code of Ethics of the CEAI, it shall advise the two parties to opt for Arbitration as per clause 5.5.1.

5.5.1 Arbitration

If the parties at any point of time after a Complaint is registered, decide to go for arbitration, the ECRB shall cease to look further into the Complaint. Thereafter, it shall be left to the two parties to take the matter for arbitration in the manner they deem fit, and CEAI, and its ECRB shall not be involved with the Complaint any further, and due intimation shall be sent to both the parties and the GC.

5.6 Disposal of the Complaint

5.6.1 This shall be done as early as possible, but generally within 6 months of the registration of the Complaint, depending on the seriousness and complexity of the Complaint.

5.6.2 Reference to Court

If at any stage, any party takes the matter to Court, the ECRB shall satisfy itself that the dispute involves legal as well as ethical issues. In such a case it may continue its proceedings on ethical issues only. However, if the ECRB decides that the issues involved are only ethical and yet one of the parties has taken the matter to Court, the adjudication process shall be stopped, and the matter shall be closed with due information to the GC and the concerned parties.

6.0 DISCIPLINARY ACTION

As provided in the Flow-Chart, if no disciplinary action needs to be taken, the ECRB may recommend to the GC to issue just a warning letter to the Respondent or to the Complainant as the case may be. However, if disciplinary action is indicated, an effort shall be made for arriving at a settlement/ agreement between the two parties.

If a settlement is reached, it shall be communicated through the ECRB to the GC for its approval, but if a settlement/ agreement cannot be reached, the case shall be referred/ presented to the GC for its final decision. Disciplinary action shall be guided by actions recommended in Clause 4.4 Grades of Complaints

7.0 FINAL DECISION BY GC

7.1 On recommendation of the ECRB, the GC shall take the final decision and the Respondent/ Complainant shall be notified appropriately as follows:

→ No violation of the Code of Ethics has been conclusively established but a note of caution to be more careful in future to avoid such occurrence shall be given to the Respondent.

→ or

→ The Code of Ethics has been violated with reference to its clauses:

XXXXXXXXXXXXXXXXXXXXXX

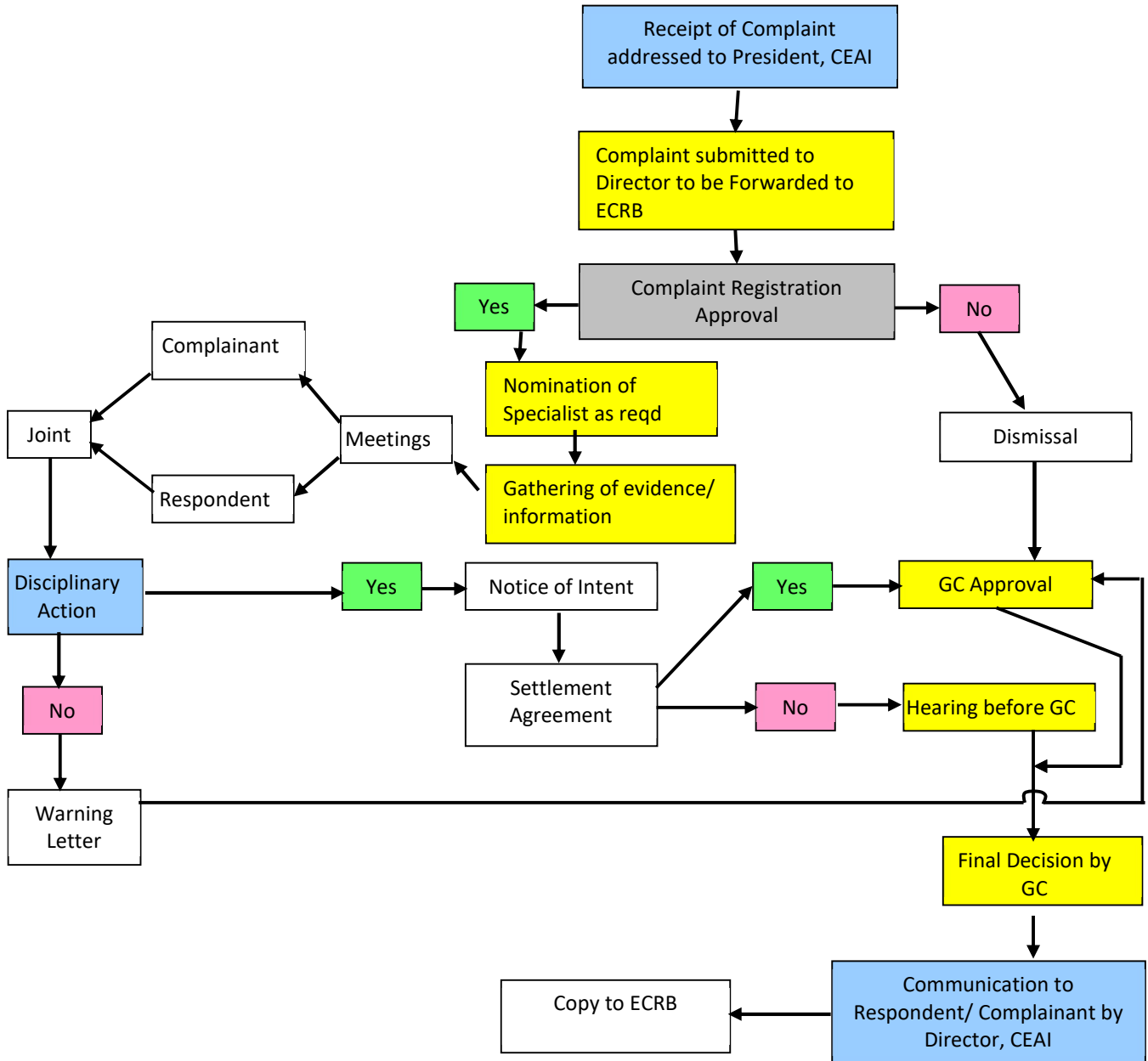
XXXXXXXXXXXXXXXXXXXXXX

→ The level of violation is reckoned as Grade # - for which the sanction is as follows: XXXXXXXXXXXXXXXXXXXX

7.2 If the ECRB has arrived at a conclusion against the Complainant/ Respondent, the same shall be informed to the concerned party, and a final opportunity of representation to the Office Bearers of the GC shall be granted to the party, where such party shall be allowed to submit its arguments and submission in writing, within two weeks of receipt of such communication. After perusal, CEAI shall consider any action against the Complainant/ Respondent.

7.3 The GC's final decision in writing for each violation, duly signed by the Chairperson of the ECRB and the President, CEAI, as being the decision shall be communicated to Complainant/ Respondent formally by the Director, CEAI and the matter shall be deemed to be closed thereafter. The GC shall monitor and ensure that its final decision is correctly and promptly implemented.

8.0 Annexure-1 FLOW-CHART



9.0 Annexure-2 - FORM FOR LODGING AN ETHICS COMPLAINT

The President
Consulting Engineers Association of India
CEAI Centre, OCF Plot No. 2, Pocket 9, Sector B,
Vasant Kunj, New Delhi-110070, E-mail: president@ceai.org.in

Dear Sir/Madam,

We are submitting the complaint as under for consideration of CEAI.

1.	<i>Name of Complainant:</i>		
	<i>Address:</i>		
	<i>Email:</i>	<i>Mobile:</i>	<i>Tel:</i>
2.	<i>Name(s) and address of the CEAI Member(s) against whom this Complaint is being filed:</i>		
3.	<i>Description of conduct involved. (If the space provided here is not sufficient, please continue on a separate sheet of paper. Please attach all relevant documents supporting the alleged unethical conduct.)</i>		
4.	<i>State the specific canon(s) of the CEAI Code of Ethics which you believe the above conduct to have violated:</i>		
	<i>By my signature here, I certify that the information provided here and in any attachments are true and accurate to the best of my knowledge and belief.</i>		
	Signature		Date:

Please submit this form and all attachments to:

The Director, Consulting Engineers Association of India, Tel: +91 9871166102

E-mail: ceai.ceai@gmail.com

10.0 Annexure-3 UNDERTAKING BY THE COMPLAINANT

I,,
(Name and Designation of Individual/ Complainant),

for and on behalf of

.....
(Name of Organization of the Complainant)

hereby agree that the

- The Complaint is purely of an ethical nature as covered by the Code of Ethics of CEAI.
- All evidence submitted is true and factual and no material facts are suppressed.
- It is understood that the process of adjudication of complaints before the ECRB is not part of a legal and/or regulatory process mandated by any legislation.

Name and Signature of Individual:

Name of Organization:

11.0 Annexure-4 UNDERTAKING BY THE COMPLAINANT/ RESPONDENT

I,,
(Name and Designation of Individual/ Complainant/ Respondent)

for and on behalf of

.....
(Name of Organization/ Complainant/ Respondent)

hereby undertake that,

- I/ We shall provide all information relevant to the case as per the timeline that the ECRB may set.
- I/ We will not, at any time or place, use any language that may be construed as unbecoming of the Profession, when referring to the other party.
- I/We shall keep strictly confidential all matters pertaining to referral to CEAI and subsequent developments.

Name and Signature of Individual:

Name of Organization:

12.0 ACKNOWLEDGEMENT

Revision 1: Handling of Complaints on Code of Ethics

*We gratefully acknowledge the eminent Task Force headed by **Mr. AP Mull**, Fmr President CEAI who undertook the first Revision of the document 'Handling of Complaints on Violation of Code of Ethics'.*

The Task Force comprised members from outside the CEAI Governing Council and those already connected with Ethics, so as to bring in a fresh and different perspective. The Task Force comprised the following:

- **Dr. N Krishnamurthy**, Founder, Centre for Workplace Safety and Health – Mysore, Expert well versed with ethics, based in Singapore;
- **Mr. Vasudevan Suresh**, fmr CMD of Housing and Urban Development Corporation Ltd (HUDCO), fmr Chairman of IGBC Policy and Advocacy Committee;
- **Mr. Vinay V Joglekar**, Business Excellence Assessor; fmr Vice President - Strategy and Business Excellence, Tata Consulting Engineers Limited, and ex VP -Voltas Production Engineering and Quality Services

With valuable inputs from ASCE Headquarters

The document was prepared in March 2022 and duly reviewed by the Ethics and Quality Committee

Members twice and circulated thereafter to the GC in Dec 2023. It was finalised after incorporating comments received from GC members in March 2024.

Revision 0 :

1. The preparation of the procedure / process for 'Handling of Complaints on Violation of Code of Ethics' has been through the painstaking efforts of **Mr. Umesh Shrivastava**, GC Member 2017-2018 with the support & suggestions from:

• Ms. Sayona Philip	• Mr. A P Mull	• Mr. Mahendra Raj
• Mr. Srikumar Ghosh	• Mr. Pankaj Vatsa	• Mr. Alok Bhowmick
• Mr. R S Sharma	• Mr. Sudhir Dhawan	• Mr. Raju Gogia
• Mr. Amitabha Ghoshal		

2. Review Committee Members:

The Members of the Review Committee were:

• Mr. Srikumar Ghosh	• Mr. Sudhir Dhawan	• Ms. Sayona Philip
• Mr. Amitabha Ghoshal	• Mr. Alok Bhowmick	

Their patience and cooperation are gratefully acknowledged.

3. This document was published after obtaining the views of a Legal Expert

