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The Gazette of the Democratic Socialist Republic of Sri Lanka

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No. 2043/8 – MONDAY, OCTOBER 30, 2017

(Published by Authority)

**PART I: SECTION (I) – GENERAL**

**Government Notifications**

My No.: CI/1770.

**THE INDUSTRIAL DISPUTES ACT CHAPTER 131**

The Collective Agreement entered into between South Asia Gateway Terminals (Pvt) Ltd, No. 117, Sir Chittampalam A. Gardiner Mawatha, Colombo 02 of the one part and the Sri Lanka Sevaka Sangamaya, No. 341/21, 4th Floor, Sarana Mawatha and Jathika Sevaka Sangamaya, No. 416, Kotte Road, Pitakotte of the other part on 4th August 2016 is hereby published in terms of section 06 of the Industrial Disputes Act, Chapter 131, of the Legislative Enactments of Ceylon (Revised Edition 1956).

A. Wimalaweera,  
Commissioner General of Labour.

Department of Labour,  
Labour Secretariat,  
Colombo 05.  
23rd October 2017



**COLLECTIVE AGREEMENT No. 26 OF 2016****COLLECTIVE AGREEMENT 2016 - 2019 BETWEEN SOUTH ASIA GATEWAY TERMINALS (PVT) LTD., AND  
JOINTLY WITH SRI LANKA NIDAHAS SEVAKA SANGAMAYA AND JATHIKA SEVAKA SANGAMAYA**

CONTENTS	PAGE
1. TITLE .....	3
2. DATE OF OPERATION AND DURATION .....	3
3. PERSONS COVERED AND BOUND .....	3
4. DECLARATION OF PRINCIPLE .....	3
5. RIGHTS AND RESPONSIBILITIES OF EMPLOYER .....	3
6. GENERAL TERMS AND CONDITIONS OF EMPLOYMENT .....	4
7. VARIATION OF TERMS AND CONDITIONS OF EMPLOYMENT OR BENEFITS .....	4
8. WAGES .....	4
9. WORK PRACTICES .....	4
10. OVERTIME AND WORK ON HOLIDAYS .....	4
11. BONUS / INCENTIVES .....	4
12. DISTRESS LOAN .....	6
13. DEATH MUTUAL BENEFIT SCHEME .....	6
14. EMPLOYEES INSURANCE SCHEME .....	6
15. CHECK-OFF .....	6
16. EMPLOYEES GRIEVANCES PROCEDURE .....	7
17. DISPUTES RESOLUTION PROCEDURE .....	7
18. DECIPLINARY INQUIRY PROCEDURE .....	7
19. TRADE UNION ACTION .....	7
20. CONSEQUENCES OF TERMINATION OF AGREEMENT .....	7
21. BREACHES OF THE AGREEMENT BY THE UNION AND/OR ITS MEMBERS .....	7
22. INTERPRETATION OF AGREEMENT .....	8
23. DEFINITIONS .....	8
SIGNATORIES .....	8
WITNESSES : .....	9
SCHEDULE 1 .....	10
SCHEDULE 2 .....	12

**COLLECTIVE AGREEMENT 2016 - 2019 BETWEEN  
SOUTHASIA GATEWAY TERMINALS (PVT) LTD., AND  
JOINTLY WITH SRI LANKA NIDAHAS SEVAKA SANGAMAYA  
AND JATHIKA SEVAKA SANGAMAYA**

THIS COLLECTIVE AGREEMENT made and entered into on this 4th day of August, Two Thousand and Sixteen between **SOUTH ASIA GATEWAY TERMINALS (PVT) LTD.**, having its Registered office at 117, Sir Chittampalam A. Gardiner Mawatha, Colombo 02 and bearing Company Registered No. PV 326 (hereinafter referred to as the 'Employer') of the **ONE PART** and jointly with **SRI LANKA NIDAHAS SEVAKA SANGAMAYA and JATHIKA SEVAKA SANGAMAYA**, being trade unions duly registered under the trade unions ordinance and having their registered offices at No. 341/21, 4th Floor, Sarana Mawatha, Rajagiriya., and at No. 416, Kotte Road, Pitakotte, respectively (hereinafter referred to as the **Unions**), of the other part, witnesseth:

**WHEREAS** the Unions have shown to the satisfaction of the Employer that they represent a majority of the Operative Grade Employees employed by the Employer **AND WHEREAS** it is the desire of both the Unions and the Employer to enter into an Agreement, which would ensure the peaceful adjustment and settlement of all disputes, which may arise between the Employer and its Employees and /or the Unions and the promotion of industrial peace, productivity, quality and attendance.

**NOW THEREFORE** for and in consideration of the above premises and the mutual terms and conditions hererinafter set out, the Unions and the Employer agree as follows:

1. **Title:** This Agreement shall be known and referred to as **“THE SOUTH ASIA GATEWAY TERMINALS (PVT) LTD COLLECTIVE AGREEMENT 2016 - 2019”**

2. **Date Of Operation And Duration.**– This collective Agreement shall be effective from the First day of April Two Thousand Sixteen and may be terminated by either party with one (01) month's written notice to the other, provided however, that neither party shall give such notice prior to the Thirty First day of March, Two Thousand Nineteen. Any notice of termination of this Agreement given by either party, prior to the Thirty First day of March, Two Thousand Nineteen, shall not be regarded as valid notice and shall be of no avail.

It is the intention of both Employer and the Unions to renew the agreement on the first day of April Two Thousand Nineteen and therefore negotiations for same may commence by the first of January Two Thousand Nineteen.

3. **Persons covered and Bound.**– This Agreement shall cover and bind the employer, the Unions and all the Quay Gantry Crane Operators, Crane Operators, RTG Operators, Controllers Deck/wharf, Controllers yard, Fork Lift Operators, Planning Assistants ,Operations Assistants, Operations Controllers, ITT Coordinators, Receival Delivery officers, Assistant Receival Delivery Officers, Foremen Electrical/ Mechanical/ Cargo Care, Terminal Engineering Assistants Electrical/ Mechanical, Cargo Care Officers, Stores Officers, Assistant stores Officers only who are employed on permanent contracts of employment by the Employer at its work places in Colombo and who are members of the respective Unions.

4. **Declaration of Principle.**–

- (a) Both Employer and the Unions accept the principle that the special consideration affecting the Employer is such that the wage and salary rates are a proper subject for collective bargaining between the Employer and the Union, and that the actions of other employers including Government Corporation and the Government of Sri Lanka in their capacity as employers of labour, regarding the amount and timing of wage increases are not automatically relevant in the context of the Employer except where otherwise provided by legislation.
- (b) In cases in which Government does provide by legislation for benefits including increases in wages, Gratuity, bonus etc., the following shall apply –
  - (i) When such benefits are more favourable than the benefits stipulated, only the difference between such benefits provided by such legislation and the benefits stipulated herein, shall be added to the said benefits stipulated herein,
  - (ii) When such benefits are equal or less favourable to the benefits stipulated herein, they shall not be added to or compounded with the said benefits stipulated herein,
- (c) The Stipulation contained in Para (b) above are without prejudice to the principle contained in Para (a) above.

5. **Rights And Responsibilities Of Employer.**– Selection, placement, distribution, transfer and promotion of personnel, laying down of working hours and working programmes, planning and control of Terminal operations, introduction of new machinery or improved operational methods, expansion of operation facilities, establishment of quality and operations standards, maintenance of efficiency, the consequence thereof, maintenance of discipline in the Terminal and for that purpose taking necessary disciplinary action against workmen within the framework of the existing law, regulations and standing orders, are exclusively the rights and responsibilities of the Employer. Recruitment, selection and placement of employees will depend on Employer's requirement, which will not be based purely on the machinery plan. However, the Management acknowledges that the Unions may raise with the Employer any grievance or dispute in the opinion of the Unions that may have occurred to any of their members.

6. **General Terms And Conditions Of Employment.**— The terms and conditions of this Agreement shall, as from the date hereof, and during the continuance in force of this Agreement be deemed to be included in all the contracts of employment between the Employer and the Employees covered and bound by this Agreement, whether such contract of employment be written or oral or whether employment was subsisting as at the date hereof or shall come into being at any time after the date hereof but during the continuance in force of this Agreement. Provided, that in the event of any conflict or inconsistency between the terms and conditions of this Agreement and any pre-existing terms and conditions or practices, the terms and conditions of this Agreement shall prevail.

7. **Variation Of Terms and Conditions of Employment Or Benefits.**—

- (a) The Union and their members and the Employees covered and bound by this Agreement jointly and severally agree with the Employer that during the continuance in force of this Agreement, they will not seek to vary or add to all or any of the practices, terms and conditions of employment presently applicable to any of the employees covered and bound by this agreement or all or any of the benefits presently enjoyed by any of the workers covered and bounded by this Agreement, other than by mutual agreement in writing.
- (b) This Agreement shall be deemed to be a full and final settlement of all matters covered herein as well as all matters raised by the Unions or incidental thereto and in respect of which negotiations took place between the parties before the conclusion of this Agreement.

8. **Wages.**—

- (a) As from the First day of April 2016 the Employer will grant an increase in wages on the following basis:
- (i) 13% on the consolidated wage applicable to each employee as at march 2016, and thereafter,
- (ii) The wage for April 2016 shall be a consolidated wage.
- (b) As from the First day of April 2017 the Employer will grant an increase in wages of 10% calculated on the consolidated rates as at March 2017 and the said wage for April 2017 shall be a consolidated wage.
- (c) As from the First Day of April 2018 the Employer will grant an increase in wages of 10% calculated on the consolidated rates as at March 2017 and the said wage for April 2018 shall be a consolidated wage.

9. **Work Practices.**— Both the Employer and the unions agree that the work practices are as per the employment contract, existing policies, procedures, practices, job descriptions and the agreed work practices indicated in **Schedule 1** of the Collective Agreement.

10. **Overtime and Work on Holidays.**— If required by the Employer, an Employee shall work reasonable overtime authorised by the Employer in excess of his normal working hours. Reasonable hours will be determined as per Laws applicable. Overtime work or work on holidays shall be remunerated at rates presently in force.

11. **Bonus / Incentives.**—

(a) **Annual Scheme**

Percentage (%) achievement of the net profit against the budgeted amount will be taken as the basis for payment of bonus.

percentage achievement of net profit against the budgeted amount	Bonus Entitlement
100%	3.8 months's basic salary

Bonus entitlement will be calculated proportionately based on the percentage achievement of net profit against the budgeted amount. Example:

percentage achievement of net profit against the budgeted amount	Bonus Entitlement
105%	4.0 months basic salary
100%	3.8 months basic salary
95%	3.6 months basic salary

Bonus entitlement will be rounded off to the first decimal point. Percentage achievement of net profit against the budgeted amount will be communicated monthly. At the end of the financial year, an audit report on percentage achievement of net profit against the budgeted amount of relevant financial year will be issued based on the request of the union.

Bonus deductions shall be based on the current procedure. Provided, however, any absence without pay imposed by way of a decision of the Employer either pending the conclusion of disciplinary inquiry or by way of punishment will not be considered when ascertaining the eligibility of the Employee for the bonus payment.

Subject to the above, other existing conditions and practices governing the payment of bonus shall remain unchanged.

**(b) Year end unutilised leave bonus**

During any calendar year any employee who has an unavailed leave balance of 14 or more days of sick and casual leave, such employee will be granted a bonus equivalent to half a month's basic salary in the month of January in each year. However, any employee who has been placed on no pay leave even for half a day shall not qualify for this bonus payment.

- Provided, however, any absence without pay imposed by way of a decision of the Employer either pending the conclusion of disciplinary inquiry or by way of punishment will not be considered when ascertaining the eligibility of the Employee for the bonus payment.

**(c) Leave Encashment**

Employees will be paid for their unutilised sick / casual and annual leave as per the current practice.

**(d) Attendance Incentive**

(i) The Employer will pay a monthly attendance incentive to the Employees subject to the conditions set out herein.

(ii) This incentive will be calculated on a monthly basis and paid once a month, based on the following criteria.

(a) An Employees who reports for all rostered shifts in a calendar month will be paid Rs. 5500/-

(b) An Employee who avails half (1/2) a day's or one (1) day's leave during a calendar month will be paid Rs. 3500/-

(c) An Employees who avails one and half (1 1/2) or two days' (2) leave during a calendar month will be paid Rs.1,100/-

(iii) Unauthorised absence of any form of no-pay leave for any period of time will result in the loss of the total incentive for that month.

(iv) Annual leave will, for this purpose, be reckoned as days present.

(v) Employees will not be eligible for this incentive once they have exhausted their Sick/Casual Leave quota of that calendar year. However, any justifiable reason such as prolonged illness/accidents may be considered an exception, at the discretion of the Employer.

**(e) Travelling Allowance**

The Employer shall pay employees engaged in shift duties a daily transport allowance of Rs. 255/- as per the existing practice.

**(f) Productivity Based Incentive Scheme (PBIS)**

It is agreed by the Employer and the Unions that the Productivity Based Incentive Scheme (PBIS) shall be as per the scheme set out in Schedule 2 hereto.

- (g) A gift voucher of Rs. 12,000/- shall be granted to each employee as per the current practice in the month of December each year for the duration of this Agreement.
- (h) Other than what has been set out in (g) above, there shall be no other payment or gift to employees either in terms of cash or gift vouchers for the duration of this Agreement.

**(i) Government Action On Bonus**

If at any time during the continuance in force of this Agreement, the Government introduces by legislation for any scheme of bonus or payment under any attendance incentive or production scheme, the workmen will not be entitled to the benefits of such scheme in addition to the bonus or bonuses provided for in this Agreement. In the event of such government legislation, the workmen shall be entitled to the more favourable scheme of bonus or incentive or production payments.

12. **Distress Loan.**— Employees may apply for a distress loan amounting Rs.30,000/- for an emergency requirement acceptable to the Employer. The recovery period of such loan will be six (6) months commencing from the date of granting the loan.

13. **Death Mutual Benefit Scheme.**— The Employer shall grant a sum of Rs. 75,000/- to an Employee in the event of a death of his/her immediate family member (namely the spouse, children and parents of the employee) as defined in the existing Death Mutual Benefit Scheme. The Employer shall grant a sum of Rs. 50,000/- to an Employee in the event of a death of his/her father-in-law or mother-in-law. The total employee contribution for such event shall be Rs.75,000/- regulated in terms of Death Mutual Benefit Scheme.

14. **Employees Insurance Scheme.**— Employees will be covered with the following insurance schemes.

- (a) Surgical and Hospitalisation Insurance Cover will be revised for the next 3 years as follows:

Indoor - Rs.220,000/- per annum.

Outdoor - Rs.26,000/- per annum.

- (b) Group Life Insurance Cover  
Rs. 1,500,000/-

- (c) Personal Accident Insurance Cover  
Rs. 500,000/-

- (d) Workmen's Compensation Insurance Cover  
As per the Workmen's Compensation Act

Payments will be made as per the agreement between the Employer and the Insurance Company.

**15. Check off.**—

- (a) This clause shall apply to the employer so long as the Unions maintain a membership in the workplace of the employer of not less than forty percent (40%) of the employees covered and bound by this Agreement and so long as this Agreement subsists.
- (b) The employer shall, on the witten request of an employee, deduct from the wages due to such employee the current monthly union dues as are specified by the employee to be payable monthly by employees to the unions and remit the amount so deducted to the respective unions.
- (c) Every employee who agrees to the deduction of union dues from his wages shall sign an “authorisation” and forward it to the employer.
- (d) Every employee shall be entitled to withdraw his agreement to check off at any time by signing a statement to that effect and forwarding it to the Employer.

16. **Employees' Grievances Procedure.**-

In the event of an employee grievance, the following procedure shall be followed in resolving such grievance.

- (a) The Employee will, in the first instance discuss the grievance with the Departmental Executive.
- (b) If the grievance is not satisfactorily resolved, the employee may then discuss the matter with the Departmental Manager. The Departmental Manager will if necessary in consultation with the Employer's Management endeavour to arrive at a satisfactory solution in respect of the grievance.
- (c) In the event of the grievance not being resolved at the level of the Departmental Manager, the issue in Grievance will then be discussed by the Employee with the Employment Practices Manager/Human Resource Manager of the Employer.
- (d) If no satisfactory solution is arrived at then the issue in grievance will be discussed by the Branch Union and the Employer's Management. At such discussion, the number of representatives from each side shall not exceed four (4).

17. **Disputes Resolution Procedure.**-In the event of a dispute pertaining to a matter not covered by this Agreement, both parties agree that they shall settle such dispute by strictly adhering to the procedure set out below:

- (a) Whenever, there is a dispute, a written statement of the dispute shall be forwarded by the branch union to the Employer, and at least two weeks' time given for the employer to resolve the dispute.
- (b) If no satisfactory solution is found, the matter shall be referred to the parent union and to the Employers' Federation of Ceylon (EFC) for the purpose of attempting to resolve the dispute.
- (c) If after the discussion, the matter cannot be resolved by the intervention of EFC and the parent union, the conciliatory proceedings under the industrial dispute act shall be followed.
- (d) If after conciliation has failed in the Labour Department, the union wishes to take trade union action, written notice of not less than 14 days shall be given to the Employer and EFC prior to initiating such action.

18. **Disciplinary Inquiry Procedure .-**

1. Within Five (5) working days of the date of the Show Cause Notice, the employee shall furnish in writing to the Employer the answer or explanation to the charge or charges preferred against such Employee.
2. The Employer shall allow a member of the Union in employment of the Employer to be present as a representative at the inquiry.

19. **Trade Union Action.**-The Union and the Employees covered and bound by this Agreement jointly and severally agree with the Employer that during the continuance in force of this Agreement they shall not engage in any form of trade Union action in respect of any Dispute related to this Agreement.

20. **Consequences of Termination of Agreement.**- On the termination of this Agreement all terms, conditions, facilities and concessions enjoyed by the Unions and/or their members under this Agreement shall *ipso facto* cease. Employeee benefits as per the Collective Agreement will remain unchanged provided Employees continue with the agreed work practices, terms and condition stipulated in this agreement.

21. **Breaches of the Agreement by the Union and/or its Members .-** If in the opinion of the Employers' Federation of Ceylon, the Unions or their members have committed a breach of this Agreement, then and in such event the Employer reserves the right to withdraw all or any of the facilities or benefits granted to the Employees, or to the Union seven (7) day's after raising such breach with the Union in writing without prejudice to the Employer's right to restore such facilities or benefits upon such terms and conditions as the employer and the Employers' Federation of Ceylon may decide. The Unions will be entitled to dispute the justification of such withdrawal.

If in the opinion of the Unions, the Employer has committed a breach of this Agreement then and in such event, the Union would have the right to refer such matter to the Commissioner of Labour.

22. **Interpretation of Agreement.**- Any dispute over the interpretation of this Agreement shall be settled by voluntary arbitration under section 3 (i) (d) of the Industrial Dispute Act (1950).

23. **Definitions.**- Unless the context otherwise requires the following words shall have the following meaning.


- (a) **"Employee"** or **"Workman"** shall mean an employee in the permanent establishment and covered and bound by this Agreement.
- (b) **"Dispute"** shall have the same meanings as an **"Industrial Dispute"** in the Industrial Dispute Act (1950) as amended or in any Act enacted by the Parliament to replace the Industrial Dispute Act subject to the *proviso* that it shall not include a dispute involving a variation of this Collective Agreement.


Words importing the masculine gender shall include the feminine gender.

Words importing the singular number shall include the plural number and vice versa.


In witness whereof the parties hereto have, by their duly authorized officers, caused this Collective Agreement to be executed on this 4th day of August 2016 at the Employer's Federation of Ceylon Office in Colombo.


FOR AND ON BEHALF OF SOUTH ASIA GATEWAY TERMINALS (PVT) LIMITED:

  
 CHANNA GUNASEKERA  
 CHIEF FINANCIAL OFFICER/ACTG. CEO


  
 CHANDANA WIJAYANAMA  
 GENERAL MANAGER-HR


FOR AND ON BEHALF OF SRI LANKA NIDAHAS SEWAKA SANGAMAYA :

  
 LESLIE DEVENDRA  
 GENERAL SECRETARY

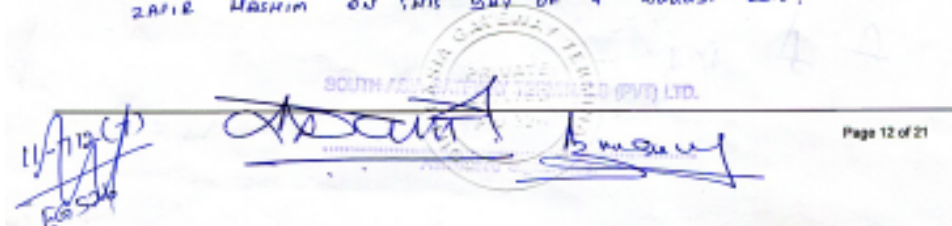
  
 RANJITH HETTIARACHCHI  
 DEPUTY SECRETARY

FOR AND ON BEHALF OF JATHIKA SEWAKA SANGAMAYA:

  
 SURANGA NAULLAGE  
 CHIEF ORGANIZER

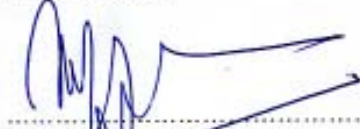
  
 H. GURUSINGHE  
 SENIOR ADMIN. SECRETARY

COMMON SEAL OF SOUTH ASIA GATEWAY TERMINALS PLACED  
 IN THE PRESENCE OF ITS DIRECTORS RAMESH DAVID &  
 ZAFIR HASHIM ON THIS DAY OF 4<sup>th</sup> AUGUST 2016.





**WITNESSES:**



UPUL JINADASA

GENERAL MANAGER- OPERATIONS & IT



EOIN O'MAHONY

GENERAL MANAGER - ENGINEERING



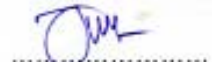
G. K. NIROSHAN ANURADHA

PRESIDENT - SLNSS (SAGT BRANCH)



RKR PRIYANTHA

PRISEDENT - JSS (SAGT BRANCH)



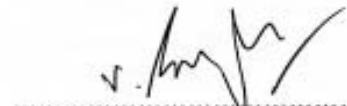
P. A. JAYANTHA

SECRETARY - SLNSS (SAGT BRANCH)



K.G.L.S. KUMARA

SECRETARY - JSS (SAGT BRANCH)



VAJIRA ELLEPOLA

DEPUTY DIRECTOR-GENERAL - EFC

COMMON SEAL OF SOUTH ASIA GATEWAY TERMINALS PLACED IN  
THE PRESENCE OF ITS DIRECTORS ROMESH DAVID & ZAFIR HASHIM  
ON THIS DAY OF 9<sup>th</sup> AUGUST 2016.

SOUTH ASIA GATEWAY TERMINALS (PVT) LTD.



**SCHEDULE 1****WORK PRACTICES EFFECTIVE****1 APRIL 2016**

**QUAY CRANE OPERATORS, CRANE/RTG OPERATORS, FORKLIFT OPERATORS, CONTROLLERS YARD, CONTROLLERS DECK / WHARF, RECEIVAL DELIVERY OFFICERS, ASSISTANT RECEIVAL DELIVERY OFFICER.**

**FOREMEN ELECTRICAL / MECHANICAL / CARGO CARE, TERMINAL ENGINEERING ASSISTANTS ELECTRICAL/ MECHANICAL, CARGO CARE OFFICERS.**

**PLANNING ASSISTANTS, OPERATION ASSISTANTS, OPERATIONS CONTROLLERS, ITT COORDINATORS, STORES OFFICERS, ASSISTANT STORES OFFICERS.**

**QUAY CRANE OPERATORS**

1. **Work pattern.** - 6 hours in the normal shift 3 hrs in the overtime shift following the normal shift and 6 hrs in the shift after the overtime shift.

2. **Quay Crane Operators agree to:**

- (a) Operate 10 out of 12 cranes during the shift at all times and 1 crane will be parked for maintenance during each shift. Maximum number of cranes available for operational use during a shift would be 11.
- (b) Deploy an 11th crane once in a shift by ensuring necessary changeovers to meet company exigencies. Such operational exigencies of the company shall be conveyed in advance (i.e. to be notified at the commencement of the shift of the date of deployment).
- (c) To designate the crane that is to be parked during the shift for maintenance at the beginning of the shift.
- (d) Operators to change 2 cranes once within the shift if number of cranes used within the shift shall be 9 or less. Such requirement will be notified at the commencement of the shift.
- (e) In the event of machine breakdown, operators agree to take over any other crane which is parked and operate that crane.
- (f) An operator shall not be asked to change cranes within the 3 hour roster allocated to the specific crane. However, this is not applicable if the specific crane breaks down. In such situations the operator shall change the crane immediately.
- (g) Deck/Wharf Controllers who were assigned to specific crane to be changed shall change point of work and resume work at the new crane.

3. An operator shall drive for a maximum of 3 hours continuously in any part of the drive roster and not leave the machine unmanned till the relief driver takes it over.

**CRANE/RTG OPERATORS**

1. Work pattern - 8 hours in the normal shift 4 hrs in the overtime shift following the normal shift and 8 hrs in the shift after the overtime shift. If an operator requires working three consecutive shifts, he shall work 6 hours in the third shift. However if it is found that the employee abuse this work arrangement to create overtime work, the Employer reserves the right to revert to the substantive work arrangement which is 8 hours in the third consecutive shift.
2. Operators shall change from one crane to another as per the requirements and will drive any crane they are allocated to.
3. An operator may drive a maximum number of hours continuously in any part of the drive roster as per the current practice and not leave the machine unmanned till the relief driver takes it over.

### **FORKLIFT OPERATORS**

1. Work pattern - 8 hours in the normal shift 4 hrs in the overtime shift following the normal shift and 8 hrs in the shift after the overtime shift.
2. An Operator may drive for a maximum of 4 hours continuously in any part of the drive roster and not leave the machine unmanned till the relief driver takes it over.
3. The total responsibility for the maintenance of gear stores i.e. ensuring orderliness of gear stores and maintaining the gear. In this regard, they will provide guidance to the assistants.
4. Work any two machines (Forklift machine/ Reach Stackers) during the shift with 3 operators. In case a 3rd machine is required to work due to exigencies the required number of staff will be deployed on overtime.

### **CONTROLLERS - YARD**

1. Work pattern - 8 hours in the normal shift 4 hrs in the overtime shift following the normal shift and 8 hrs in the shift after the overtime shift.
2. Point of Work of the Controller Yard will be changed as per operational requirements.

### **CONTROLLERS - DECK/WHARF**

1. Work pattern - 8 hours in the normal shift, 4 hrs in the overtime shift and 8 hrs after the overtime shift.
2. Point of Work of the Controller Deck/Wharf will be changed as per the requirement and they will work any crane they are allocated to.
3. Work practice described above under QC operators (clause No. 02) shall be applicable to Deck/Wharf Controllers as well.

### **QUAY CRANE OPERATORS, CRANE/RTG OPERATORS, FORKLIFT OPERATORS, CONTROLLERS YARD AND CONTROLLERS DECK/WHARF**

Employees may leave the work premises, having indicated in the register provided for the purpose and sign out after completion of their driving duties/ duties according to the roster, thereby ensuring no machine is left unmanned/continuance of work.

### **OPERATIONS CONTROLLERS**

Work Pattern - 10.5 hours in the normal shift, 6 hrs in the overtime shift following the normal shift and 10.5 hours hrs in the shift after the overtime shift.

### **RECEIVAL DELIVERY OFFICERS**

1. Work pattern - 10.5 hours in the normal shift, 6 hours in the overtime shift following the normal shift and 10.5 hours in the shift after the overtime shift.
2. In the event all six Receival Delivery Officers in the shift are at work two employees may leave the work premises, one employee at 4.30pm/am and the other at 5.00 am/pm having obtained permission from line manager/executive and sign out after completion of their duties according to the roster, thereby ensuring all four gates are manned.
3. In the event five Receival Delivery Officers are at work, only one employee may leave the work premises at 5.00 am/pm having obtained permission from line manager/executive and sign out after completion of their duties according to the roster thereby ensuring all four gates are manned.

### **ASSISTANT RECEIVAL DELIVERY OFFICER**

1. Work pattern - As per the job description 10.5 hours in the normal shift, 6 hours in the overtime shift and 10.5 hours in the shift after the overtime shift.

2. In the event of all six Assistant Receiving Delivery Officers are at work one employee may leave the work premises at 4.30 am/pm or 5.00 am/pm as the case may be having obtained permission from his Line Manager / Executive and sign out after completion of their duties according to the roster, thereby ensuring no work disruption.

**FOREMEN ELECTRICAL / MECHANICAL / CARGO CARE, TERMINAL ENGINEERING ASSISTANTS ELECTRICAL / MECHANICAL, CARGO CARE OFFICERS.**

**PLANNING ASSISTANTS, OPERATION ASSISTANTS, OPERATIONS CONTROLLERS, ITT COORDINATORS, STORES OFFICERS, ASSISTANT STORES OFFICERS.**

1. **Work Pattern.** - As per the job Description / Current Work Practices.

2. In the event all two Planning Assistants are at work one employee may leave the work premises at 4.30 am/pm or 5.00 am/pm as the case may be, having obtained permission from his Line Manager / Executive and sign out after completion of his duties according to the roster, thereby ensuring no work disruption.

3. In the event all three Operation Assistants are at work one employee may leave the work premises at 4.30 am/pm or 5.00 am/pm as the case may be, having obtained permission from his Line Manager / Executive and sign out after completion of his duties according to the roster, thereby ensuring no work disruption.

4. Employees in Engineering Department may work a shift in lieu of the normal shift if they so wish to on requirement of the Employer. In other words, no employee will be forced to change his normal shift. Reduction in number of shifts if any, due to above change will not affect attendance bonus or PBIS.

5. Current Engineering cadre is as follows,

Foremen - 10 (Electrical - 04, Mechanical - 04, Reefer - 01, Condition Based Maintenance and Automation - 1)  
Terminal Engineering Assistant (Electrical) - 24  
Terminal Engineering Assistant (Mechanical) - 24  
Cargo Care Officers - 09  
Stores Officers - 04

**SCHEDULE 2**

**PRODUCTIVITY BASED INCENTIVE SCHEME (PBIS) - 1 ST APRIL 2016**

1. **Average Shift Gate Turn Time (Minutes / Shift) (A).** - Applicable amount will be determined for each shift based on the average gate turn time maintained within the respective shift.

<i>Low</i>	<i>High</i>	<i>Amount</i>
22.01	24.00	52.50
20.01	22.00	80.00
18.01	20.00	132.50
16.01	18.00	185.00
14.01	16.00	307.50
12.01	14.00	360.00
10.01	12.00	412.50
1.00	10.00	470.00

2. **Shift Throughput (Moves / Shift) (B).** - Applicable amount will be determined for each shift based on the number of moves handled at the wharf (ship to shore / shore to ship) within the respective shift.

<i>Low</i>	<i>High</i>	<i>Amount</i>
500	1000	105.00
1001	1250	132.50
1251	1500	157.50
1501	1750	185.00
1751	2000	237.50
2001	2250	290.00
2251	2500	367.50
2501	2750	447.50
2751	3000	525.00
3001	3250	625.00
3251	3500	675.00
3501	3750	725.00
3751	4000	775.00
4001	4250	825.00

3. **Shifting And Shuffling(c).**— Applicable amount for the shift to be determined for total shifting/shuffling done in the yard at the rate of Rs. 0.35 per shift/shuffle move.

4. **Crane Productivity Moves per Hour (D).**— Applicable amount will be determined by taking the average real crane rate for the month.

<i>Low</i>	<i>High</i>	<i>Amount</i>
25.00	26.00	290.50
26.01	27.00	367.50
27.01	28.00	447.50
28.01	29.00	525.00
29.01	30.00	630.00
30.01	31.00	752.50
31.01	32.00	832.50
32.01	33.00	915.00
33.01	34.00	995.00
34.01	35.00	1,072.50

5. **Calculation.**— Monthly payment to be calculated as follows:

$X = \{(A+B+C)\}$  shift days worked

$Y = D * \text{shift days worked}$

PBIS Payments for the month =  $(X+Y)$

6. **Consistent Performance Incentive.**— This payment is for minimum productivity maintained at 28 or more crane moves per month during the previous quarter. Percentage payment will be made as per the following table of the total PBIS earned over the quarter up to the specified maximum limit. This amount will be paid with the last month's PBIS of the quarter. Crane productivity of each month of the quarter shall be at least 28 or more to be eligible for this incentive. The average of the 3 months will be taken for determining the applicable slab for a given quarter.

Low	High	Amount	Maximum CPI Payment per Quater in Rs.
28.01	30.00	10%	10,000.00
30.01	32.00	11%	11,000.00
32.01	34.00	12%	12,000.00
34.01	More	13%	13,000.00

#### 7. *Special Terms.-*

- (i) 1 Hatch lid move equals to 02 container moves.
- (ii) 1 OOG move equals to 02 container moves.
- (iii) Crane boom up times to facilitate berthing of vessels at Passenger Berth or any other berth to be considered as a 'Non-Ops Delays' and will not be included for hourly productivity.

#### 8. *Damage Deductions.-*

- (i) Property of SAGT, Agents or third party is covered under this clause.
- (ii) 50% of total damage cost of reported accidents/incidents will be deducted from the PBIS.
- (iii) 150% of total damage cost will be deducted against un-reported accidents/incidents.
- (iv) 50% of total damage cost will be deducted against accidents/incidents due to negligence of employees.
- (v) Entire month's PBIS will be forfeited from the employee who is directly responsible for the damage.
- (vi) Further, a few months PBIS payment+ disciplinary action will be taken against the employee/group of employees depending on the gravity of the loss. The union may discuss with the Management in the event of a grievance with regard to the damage cost deduction and the punishment given to the employee/s who are directly responsible for the damage. In such instance the Management decision shall be final.
- (vii) 50% will be deducted against losses on account of non-accidental incidents due to negligence of an employee or group of employees.

#### 9. *Minimum Criteria/Special Conditions For PBIS Payment.-*

- (i) Minimum monthly average real crane productivity of 25 moves per hour should be reached to become eligible for full PBIS payment for the month. If the monthly average real crane rate is lower than 25 moves per hour, PBIS will not be paid for that month. Real crane rate used for PBIS is calculated after deducting the crane stand by times, which may occur due to any adverse actions of third parties during the specific ship operations. As an example, any strike action by prime mover drivers resulting in any cranes having to stand by will be deducted from the crane operating hours when calculating the real crane rate. This is the same mechanism applied to calculate the crane rate for PBIS even in the previous scheme.
- (ii) In the event of the 'monthly average real crane rate' drops below 25 moves per hour for reasons beyond the control of the SAGT employees and if the unions wish to raise a grievance in that regard, such grievance shall be raised in terms of the Employees' Grievance Procedure as set out in Clause 16 of the Collective Agreement.
- (iii) Payment will be made according to the number of shifts worked (inclusive of overtime).
- (iv) *Eligibility:* Operations and Engineering employees who get directly involved in productivity.
- (v) Managers and Executives as well as Non-Executives who are not covered by the CA will not be entitled for this payment.
- (vi) Fixed amount to all categories.

10. **No Pay Leave and Suspensions.**- Any employee who goes on no-pay or is suspended for disciplinary reasons loses 5% of the monthly PBIS per each day of no-pay or suspension. Such employees will lose 5% of the consistent productivity allowance per each day or non-pay or suspension.

11. **Validity Period for PBIS.**- This scheme shall be in place for 3 years starting from 1st April, 2016 and no revisions to be made during this period.

11 - 712

My No.: CI/1795.

### THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Collective Agreement entered into between Finlays Colombo Limited, No. 186, Vauxhall Street, Colombo 02 of the one part and the Food Beverages And Tobacco Industries Employee Union, No. 513 2/1, Elvitigala Mawatha, Colombo 05 of the other part on 31st March, 2017, regarding the Clerical, Supervisory And Allied Staff Collective Agreement is hereby published in terms of Section 06 of the Industrial Disputes Act, Chapter 131, of the Legislative Enactments of Ceylon (Revised Edition 1956).

A. WIMALAWEERA,  
Commissioner General of Labour.

Department of Labour,  
Labour Secretariat,  
Colombo 05.  
17th October, 2017.

### Collective Agreement No. 15 of 2017

#### COLLECTIVE AGREEMENT

This Collective Agreement made this 31st day of March Two Thousand Seventeen pursuant to the Industrial Disputes Act between **Finlays Colombo Limited**, a company duly registered under the provisions of the Companies Act and having its registered office at No. 186, Vauxhall Street, Colombo 02, (hereinafter referred to as "the Employer") of the One Part and **Food Beverages and Tobacco Industries Employees Union**, a trade union duly registered under the provisions of the Trade Unions Ordinance and having its registered office at No. 513 2/1, Elvitigala Mawatha, Colombo 5 (hereinafter referred to as "the Union") of the other part witnesseth and it is hereby agreed between the parties as follows:

1. **Title.**- This Agreement shall be known and referred to as Finlays Colombo Limited, Clerical, Supervisory and Allied Staff collective Agreement of 2017 and will supersede all previous Collective Agreements signed between the company and the union or any other unions including "The clerical, supervisory and allied staff collective agreement of 2014 signed with The Food Beverages and Tobacco Industries on Mercantile, Industrial 23rd May 2014.

#### Part I

#### CONTAINING TERMS AND CONDITIONS OF EMPLOYMENT AND MATTERS INCIDENTAL THERETO OR CONNECTED THEREWITH

1. **Persons Covered and Bound.**- This Agreement shall, subject as hereinafter provided, bind the Employer, the Union and all employees as set out in clause 2 below and who are members of the union.

2. **Employees to be Covered and Bound.**- (i) All Clerical, Supervisory and Allied Staff,

(ii) Such Technical, Sales and Allied staff as at the 23rd day of May Two Thousand and Fourteen were covered by the Clerical, Supervisory and Allied Staff Collective Agreement of 2014 only to the extent that they were covered thereby, and

(iii) Such Technical, Sales and allied staff in respect of those provisions of this Agreement and upon and subject to such other terms and conditions as may be mutually agreed between the parties after the date hereof who are members of the Union and who are employed by the Employer, save and except -

(a) Staff holding executive or managerial positions,

or

(b) Staff employed in manual work who are not expressly covered by this Agreement.

3. **Date of Operation and Duration.**- This Agreement shall be effective as from the First Day of January Two Thousand Seventeen and shall thereafter continue in force unless it is determined by either party giving one month's notice in writing to the other. Provided however that neither party hereto shall give such notice to the other party before the Thirtieth day of November Two Thousand Nineteen. Provided further that in the event of a reduction in the par value of the Sri Lanka Rupee under any provision of law, either party shall be at liberty to abrogate this Agreement by giving one month's notice in writing to the other in terms of the Industrial Disputes Act.

4. **General Terms and Conditions of Employment.**- (i) The terms and conditions of this Agreement shall from the date hereof and during the continuance in force of this Agreement, be deemed to be included in all the contracts of service between the Employer bound by this Agreement and an Employee covered and bound by this Agreement, whether such contracts of service be written or oral, which are subsisting as at the date hereof or which come into being during the continuance in force of this Agreement.

(ii) (a) The Union and its members who are employees covered and bound by this Agreement jointly and severally agree with the Employer that during the continuance in force of this Agreement, they will not seek to vary or add to all or any of the items and conditions of the employment presently applicable to any of the employees covered by and bound by this Agreement, or all or any of the benefits presently enjoyed by any of the employees covered and bound by this Agreement other than by mutual agreement.

(b) subject to the terms of this Collective Agreement, that Employer agrees that it shall not seek to vary or add to all or any of the terms and conditions of employment presently applicable to any of the employees covered and bound by this Agreement, or all or any of the benefits presently enjoyed by and of the employees covered and bound by this Agreement other than by mutual agreement.

(c) Any dispute or difference arising from negotiation under provisions of sub clause (a) or (b) may be resolved by voluntary arbitration but only if all the parties concerned agree to submit such dispute or difference for settlement by voluntary arbitration.

(iii) Where existing terms and conditions of employment of an employee covered and bound by this Agreement are more favourable than the terms and conditions provided for in this Agreement then nothing in this Agreement shall in any way affect or prejudice such existing terms and conditions of employment and such terms and conditions of employment shall continue to exist not with standing anything to the contrary contained herein.

(iv) Where an employee was immediately prior to the date hereof entitled or becomes entitled on or after that date under or by virtue of any law or under any contract, agreement, award or custom to any rights or privileges more favourable than those to which he would be entitled under this Agreement, nothing in this Agreement shall be deemed or construed to authorize or permit the Employer to withhold, restrict or terminate such rights or privileges.

5. **Hours of Work.**- The normal working hours shall, during the continuance in force of this Agreement, be those hours which are customarily worked at a store, factory, mill or job in the establishment of the Employer.

6. **OverTime.**-

(i) Any work which is performed in excess of normal working hours shall be remunerated at one and one half (1 1/2) times the normal hourly rate.

(ii) Where it appears that in any establishment of an Employer an Employee on being asked to work overtime, other than on a weekly holiday, is likely to work overtime for a period of more than two (2) hours after the normal working hours, the Employee shall be entitled to an interval of not less than thirty (30) minutes at the end of such normal; working hours before commencing overtime work.



7. **Weekly Holidays.**— Subject to Clause 10 Part I here of the following provisions shall govern weekly holidays.

- (i) Subject to sub clause (iii) here of the weekly holidays prescribed by the Act shall be the weekly half holiday and the weekly full holiday as defined in Part III here of.
- (ii) Work performed on not more than two such weekly holidays in any one calendar month May at the instance of the Employer and with the consent of the Employee, be paid for in the manner set out hereunder and the Employee on being paid in the manner set out hereunder shall not be entitled to a half holiday or a full holiday as the case maybe in lieu:
  - (a) For any work performed after the normal closing time up to 5.00 p.m. on the weekly half holiday, the Employee shall be paid overtime remuneration at double the normal hourly rate for each hour or proportionately for any fraction of an hour.
  - (b) For any work performed after the normal closing time up to 5.00 p.m. on the weekly half holiday, the Employee shall be paid overtime remuneration at double the normal hourly rate for each hour or proportionately for any fraction of an hour.
  - (c) In addition to the remuneration payable under paragraph (a) above or paragraphs (a) and (b) above, the Employee shall be paid the equivalent of the Employee's salary for one half day.
  - (d) For any work performed under and up to four (4) hours before 1.00 p.m. on the weekly full holiday, the overtime remuneration payable to the Employee shall be one thirtieth (1/30th) of the Employee's monthly salary.
  - (e) For any work performed under and up to four (4) hours and up to eight (8) hours before 5.00 p.m. on the weekly full holiday, the overtime remuneration payable to the Employee shall be one thirtieth (1/30th) of the Employee's monthly salary in respect of the excess hours.
  - (f) For any work performed in excess of eight (8) hours or continuing after 5.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at treble the normal hourly rate for each hour or proportionately for any fraction of an hour of such excess.
  - (g) In addition to the remuneration payable under paragraph (d), or paragraphs (d) and (e) or paragraphs (d), (e) and (f) above, the Employee shall be paid the equivalent of the Employee's salary for one day.
- (iii) Where an Employee has performed work on not more than two weekly holidays in any one calendar month and has been paid for such work in the manner set out in the preceding sub-clause, then in respect of work performed on any further weekly holidays in the same calendar month the Employee shall be remunerated in the manner set out hereunder and shall be entitled to and allowed a half holiday and/or a full holiday in lieu of the weekly half holiday and /or the weekly full holiday as the case may be:-
  - (a) For any work performed after the normal closing time up to 5.00 p.m. on the weekly half holiday, the Employee shall be paid overtime remuneration at double the normal hourly rate for each hour or proportionately for any fraction of an hour.
  - (b) For any work performed after 5.00 p.m. on the weekly half holiday, the Employee shall be paid overtime remuneration at treble the normal hourly rate for each hour or proportionately for any fraction of an hour.
  - (c) For any work performed under and up to four (4) hours before 1.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary.
  - (d) For any work performed in excess of four (4) hours and up to eight (8) hours before 5.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary in respect of the excess hours.
  - (e) For any work performed in excess of eight (8) hours or continuing after 5.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at treble the normal hourly rate for each hour or proportionately for any fraction of an hour of such excess.

8. **Casual Leave.**— Leave for private business or for any other reason whatsoever, including ill-health if an Employee's entitlement of sick leave has been fully utilized, shall be allowed in accordance with the Employee's entitlement under the Act up to a maximum of seven (7) days in each year of employment whereof not more than two (2) days at any one time shall be taken, save upon the grounds of ill-health. Such leave shall be known as Casual Leave and shall be additional to all other holidays and leave provisions but an Employee shall not be entitled to take such Casual Leave preceding, or following any period of Annual Leave. Casual Leave shall normally be granted on request without the Employee being required to state the reason for the request. Where the Employer finds it difficult to grant an application for Casual Leave, his difficulty shall be notified to the Employee as soon as possible after the application is made and in such case the Employee may be required to state the reason for the application in order that the Employer may decide whether or not it is reasonable in the circumstances to grant the leave.

9. **Statutory and Customary Holidays.**— Subject to Clause 10 of Part I hereof, the following provisions shall govern statutory and customary holidays –

- (i) The following holidays shall be allowed each year as paid holidays:

New year's Day  
 Thai Pongal Festival Day  
 Independence Day  
 Sinhala & Tamil New Year (Two Days)  
 Good Friday  
 Holy Saturday (Half Day)  
 May Day  
 The Day following Wesak  
 Prophet Mohammed's B'day  
 Christmas Eve (Half Day)  
 Christmas Day  
 Boxing Day

- (ii) (a) If any of the above days is a statutory holiday and if it falls on a weekly half holiday, an additional half day shall be granted on the working day immediately preceding it; and if it falls on a weekly full holiday, a substitute holiday shall be granted on a working day either in six (6) days preceding or in the six (6) days succeeding such weekly full holiday. No substitute holiday shall be allowed for any day specified above which is not a statutory holiday, if such day falls on a weekly half holiday or a weekly full holiday.
- (b) If any of the above days is a statutory holiday and some other day not specified above is declared a statutory holiday in substitution for such day, then such day shall be treated as a normal working day.
- (iii) Muslim Employees shall normally on application be granted leave on the day following the end of Ramazan and on the Hadji Festival Day; and Hindu Employees shall normally on application be granted leave on the Deepavali Festival Day; and such leave shall be set off against any paid leave entitlement or if all such paid leave entitlement for that year shall be exhausted, such leave may be granted as an un-paid holiday.
- (iv) (a) Where the Employer requires an Employee to work during either of the half holidays set out in sub clause (i) hereof (i.e. after the normal working hours for that day) the Employer shall pay the Employee either -
- (i) On the basis set out in paragraphs (a), (b) and (c) of Clause 7(ii) of Part I hereof and the Employee shall not be entitled to a half holiday in lieu
- or
- (ii) On the basis set out in paragraphs (a) and (b) of Clause 7(iii) of Part I hereof and the Employee shall be entitled to and allowed a half holiday in lieu.
- (b) Where the Employer requires an Employee to work on any of the holidays set out in sub Clause (i) hereof and provided that if such holiday is a statutory holiday the Commissioner of Labour has given his permission for the Employee to work on such holiday, the Employer shall pay the Employee either –

(i) On the basis set out in paragraphs (d), (e), (f) and (g) of Clause 7(ii) of Part I hereof and the Employee shall not be entitled to a holiday in lieu

or

(ii) On the basis set out in paragraphs (c), (d) and (e) of Clause 7(iii) of Part I hereof and the Employee shall be entitled to and allowed a holiday in lieu.

(v) **An employer may discuss with the Union the possibility of removing one or more of the customary holidays on terms which may be mutually agreed to by the parties.**

10. **Supervisory Staff.**- The provisions of Clauses 7 and 9 of Part I hereof regarding weekly holidays and statutory and customary holidays shall not apply to Storekeepers, Assistant Storekeepers, Overseers, Foremen and other like or similar categories whose work involves the supervision of staff employed in manual work (hereinafter referred to as "supervisory staff") but in respect of such supervisory staff the following provisions shall apply:-

- (i) **Weekly half holiday:** For any work performed in excess of the normal working hours on the weekly half holiday, the Employee shall be remunerated at one and a half (1 1/2) times the normal hourly rate and such Employee shall not be entitled to any holiday in lieu for any overtime work so performed on a weekly half holiday.
- (ii) **Weekly full holiday:** For any work performed on the weekly full holiday, the Employee shall be remunerated as follows:
  - (a) (i) For any work performed under and up to four (4) hours before 1.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary.
  - (ii) For any work performed in excess of four (4) hours and up to eight (8) hours before 5.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary in respect of the excess hours.
  - (iii) In respect of any work performed in excess of eight (8) hours or continuing after 5.00 p. m. on the weekly full holiday, the Employee shall be paid overtime remuneration at treble the normal hourly rate for each hour or proportionately for any fraction of an hour of such excess.
  - (iv) In addition to the remuneration payable under paragraph (i) above or paragraphs (i) and (ii) or paragraphs (i), (ii) and (iii) above, the Employee shall be paid the equivalent of the Employee's salary for one (1) day.

Where any work is performed on the weekly full holiday and the Employee is remunerated in the manner set out above, the Employee shall be entitled to any holiday in lieu.

or

- (b) (i) For any work performed under and up to four (4) hours before 1.00 p. m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary.
- (ii) For any work performed in excess of four (4) hours and up to eight (8) hours before 5.00 p. m. on the weekly full holiday, the Employee shall be paid overtime remuneration at one thirtieth (1/30th) of the Employee's monthly salary in respect of the excess hours.
- (iii) In respect of any work performed in excess of eight (8) hours or continuing after 5.00 p.m. on the weekly full holiday, the Employee shall be paid overtime remuneration at treble the normal hourly rate for each hour or proportionately for any fraction of an hour in respect of such excess.

Where any work is performed on the weekly full holiday and the Employee is remunerated in the manner set out above, the Employee shall in addition be entitled to and allowed a holiday in lieu.

(iii) **Statutory and Customary Holidays:** Supervisory staff shall be entitled to such statutory and customary Holidays as they have hitherto enjoyed prior to the coming into force of this Agreement notwithstanding anything to the contrary contained in this Agreement and for any work performed on such Statutory or Customary Holidays the Supervisory Staff shall continue to be remunerated in the manner in which they were remunerated prior to the coming into force of this Agreement notwithstanding anything to the contrary contained in this Agreement. Provided however that the Supervisory Staff shall have the same holidays as may from time to time be enjoyed by the staff employed in manual work supervised by such supervisory staff and that the total of such holidays shall not be less than the total of the Statutory and Customary Holidays enjoyed by the Supervisory Staff as at the date hereof.

(iv) Nothing in this Agreement shall be construed in any way as bringing the Supervisory staff within the provisions of the Act.

11. **Annual Holidays.**— Annual holidays shall be as prescribed by the Act and an Employee may opt to set off absence due to ill health in excess of the entitlement provided under Clause 12 of Part I hereof against his annual leave entitlement.

12. **Sick Leave.**—

(i) An Employee shall be entitled to not less than twenty one (21) days leave exclusive of weekly or other holidays, in any one year in case of sickness, on full pay, subject to the conditions in sub-clause (ii) hereof

(ii) The Employer will be entitled to refuse to grant pay for any days of absence on grounds of sickness not supported by a certificate from Registered Medical Practitioner:

(a) where such period of absence exceeds two(2) days.

or

(b) Where the number of days already allowed on full pay on grounds of sickness, uncertified by a Medical Practitioner, is in excess of ten (10) days in any one year and the Employer has reasonable cause for suspicion of the bona fides of the application of the Employee,

or

(c) Where the absence of the Employee on grounds of sickness immediately follows or precedes any holiday allowed under Clauses 8, 9, and 11 of Part I hereof.

Provided further that any Employee who has abused the concession conferred by paragraph (a) above shall be liable to forfeit the same and the Employer may by agreement with the Union accordingly withdraw such concession.

(iii) An Employee who takes less than twenty one (21) days sick leave in any one year as prescribed above shall be entitled to avail himself of the balance of his entitlement for such year in any succeeding year or years subject to the following provisions:—

(a) In no case shall the entitlement to sick leave on full pay in any one year by reason of such accumulation of sick leave entitlement exceed ninety (90) days.

(b) The accumulated sick leave which an employee is entitled to take in terms of sub clause (iii) (a) hereof may be availed of on account of prolonged illness, hospitalization, infectious disease or similar circumstance, but shall not be used for casual illness.

(c) An Employee who avails himself of accumulated sick leave in any year shall support such absence with a certificate from a Registered Medical Practitioner unless this requirement is waived by the Employer.

(d) An Employee who is entitled to accumulated sick leave in terms of this sub clause iii (b) before utilizing his/her 21 days sick leave in respect of the year in which he/she wished to avail himself of the sick leave, if he has not already utilized such 21 days leave.

13. **Salaries.**- The salaries of all employees who were in employment as at 1st January 2017 and continue to be in employment as at the date of signing of this Agreement shall be revised as follows:

- (i) A sum equivalent to 10% of the salary of an employee as at 31st December 2016 shall be added to the salary with effect from 1st January 2017.
- (ii) Thereafter, a sum of Rs. 1,000/- will be consolidated into the salary of the employee with effect from 1st January 2017.
- (iii) A sum equivalent to 5% of the salary of an employee as at 31st December 2017 shall be added to the salary of an employee with effect from 1st January 2018.
- (iv) Thereafter, a sum of Rs. 1,000/- will be consolidated to the salary of an employee with effect from 1st January 2018.
- (v) A sum equivalent to 5% of the salary of an employee as at 31st December 2018 shall be added to the salary of an employee with effect from 1st January 2019.
- (vi) Thereafter a sum of Rs. 1,000/- will be consolidated into the salary of the employees with effect from 1st January 2019.

14. The salary ranges and increments applicable to the different categories of employees covered and bound by this Agreement will be as follows:

Minor Staff - Rs. 14,000/- to Rs. 26,000/-	Minimum increment of Rs. 200/- going up to Rs. 400/-
Grade 1 - Rs. 14,250/- to Rs. 28,500/-	Minimum increment of Rs. 300/- going up to Rs. 600/-
Grade 2 - Rs. 14,500/- to Rs. 30,000/-	Minimum increment of Rs. 350/- going up to Rs. 650/-
Higher Grade - Rs. 15,000/- to Rs. 32,000/-	Minimum increment of Rs. 425/- going up to Rs.700/-
Special Grade - Rs. 15,500/- to Rs. 34,000/-	Minimum increment of Rs. 500/- going up to Rs. 800/-

15. **Salaries For Periods Less Than One Month.**- For the purpose of this Agreement salaries of any Employee for periods less than one month shall be computed in the manner following:

- (a) For one hour - the salary for a month divided by two hundred and forty (240);
- (b) For one day - the salary for a month divided by thirty (30);
- (c) For one half day (either morning or afternoon) - a day's salary ascertained as above divided by two (2);
- (d) For one week - a day's salary ascertained as above multiplied by seven (7).

16. **Provident Fund.**-

- (i) The Employer and Employee shall contribute to the Mercantile Services Provident Society at rates prescribed by the Employees' Provident Fund Act, No. 15 of 1958.
- (ii) Subject to the provisions of the Employees' Trust Fund Act No. 46 of 1980 where the employer and an Employee as at the date hereof were contributing to a Provident Fund at rates more favourable than those prescribed by the Employees' provident Fund Act, the more favourable rates of contribution will continue.

17. **Bonus.**-

- (i) Without prejudice to existing bonus schemes, Employer will continue to pay ex-gratia to Employees bonuses which will not be less than the quantum of bonus payments paid to them in accordance with prevailing practice prior to the First Day of January, Two Thousand and Sevnteen if the Employer finds in necessary, in his descretion, to reduce the quantum of bonus payments in respect of any year, the Branch Union in the establishment of the Employer concerned may canvass the question of the reduction with the Employer. If the Branch Union is not satisfied by the Employer in the matter, the Union may pursue the matter with the Federation. Thereupon, the Federation will consider the matter and advice the Employer in such manner as the Federation deems fit in the circumstances. If the Union is not satisfied in regard to the quantum of bonus payments finally decided by the Employer in the light of the advice given by the Federation, the Union will not pursue the matter further by any form of trade union action or otherwise during the pendency of this Agreement.
- (ii) Payment of bonus higher than the quantum of bonus payments in the past will be in the sole discretion of the Employer, and the payment of such higher bonus shall not be subject to any dispute.
- (iii) The provisions of sub clauses (i) and (ii) above will mutatis mutandis apply to existing bonus schemes.
- (iv) The Employer and the Union reserve the right to review the provisions of this clause in the event of profit sharing or Employee participation in profits becoming compulsory by virtue of any law. Any dispute arising there from shall be dealt with as provided in clause 26(i) of Part I hereof.

18. **Promotions.**-

- (i) The following shall be the principles which will guide the Employer on the question of promotion:-
  - (a) Mere length of service shall not be the solve criterion for promotion and the Employer shall be entitled to take into account other factors such as efficiency, educational qualifications and character. Where suitability is comparable, seniority shall be given preference.
  - (b) An Employee in Grade I in the Clerical or Supervisory Staff will normally be promoted of to Grade II either before or after completing a maximum period of 7 years service in Grade 1 unless his work is of a mechanical or routine nature not involving a degree of skill or responsibility or unless his inefficiency has been established after due inquiry as provided in Clause 23 of Part I here of.
  - (c) Promotion of Clerical and Supervisory Staff from Grade II to the Higher Grade will depend on vacancies and employees who have shown the necessary capacity will be eligible for promotion to the Higher Grade.
  - (d) Promotion of Clerical and Supervisory Staff to the Special Grade will be from the Higher Grade and will depend on merit.
- (ii) The number of Employees in the Higher or Special Grade of the Clerical and Supervisory Staff of any establishment will be determined having regard, inter alia, to -
  - (a) the nature of the undertaking;
  - (b) the strength of the work force;
  - (c) the work involved in a post; and
  - (d) the merit of the Employees available for promotion.
- (iii) Where an Employee is promoted at the normal incremental date from one grade to another, such Employee shall received a salary not less than that which he would have received had he remained in the grade from which he is promoted. But where an Employee is promoted on a date other than the normal incremental date, such Employee shall be placed at a salary point in the higher grade which will give him a salary not less than that which he would have received if he had remained in the grade from which he is promoted. Provided however, that if an Employee is standing at the end of a grade when he is promoted to the next grade, such Employee may be placed at any point in the higher grade to which he is promoted which will give him a higher Salary than the maximum salary in the grade from which he is promoted.

19. **Transfers.**-

- (i) Where it is a term of Employment either express or implied that an Employee is liable to be transferred from one locality of an establishment to another, such Employee will not be entitled to any additional remuneration if, in consequence of a transfer from one locality to another, there is an increase in the number of hours of work.
- (ii) Where it is not a term of employment either expressed or implied that an Employee is liable to be transferred from one locality of an establishment to another, such Employee will be entitled to receive and the Employer shall be liable to pay additional remuneration in order to compensate for any increase in the number of hours work arising from a transfer from one locality of an establishment to another. The amount of such additional remuneration, which will depend on the extent to which the hours of work have been increased, shall be mutually agreed upon between the Employer and Employee or the Union on his behalf. Provided however, that if the Employee is re-transferred to the locality in which he was previously employed and / or the hours of work previously worked by him are restored to such Employee the additional remuneration granted to him shall be withdrawn with effect from the date of such re-transfer or restoration.
- (iii) Where it is not a term of employment either expressed or implied that an Employee is liable to be transferred from one locality of an establishment to another and the transfer of such an Employee will cause him substantial domestic disorganization such as may arise in consequence of a transfer from one station to another such transfer shall be effected of mutual consent between the Employer and such Employee even if :-
  - (a) such transfer will not involve a change in the number of hours of work, or
  - (b) he is offered additional remuneration in terms of sub-clause (ii) above.
- (iv) Nothing in the preceding sub-clauses of this Clause shall prejudice the right of an Employee to make representations to the Employer against any order of transfer. If the Employer requires an Employee to comply with an order of transfer notwithstanding such representations, the Employee shall comply with the order of transfer but without prejudice to the right of an Employee to make representations to the Employer against any order of transfer. If the Employer requires an Employee to comply with an order of transfer notwithstanding such representations, the Employee shall comply with the order of transfer but without prejudice to the right of the Employee or the Branch Union or the Union on his behalf to dispute such transfer with the Employer thereafter as provided in this Agreement.
- (v) If the Executive Committee of the Union considers that any order of transfer of an Employee by an Employer is calculated to threaten or undermine the existence or the legitimate activities of the Union or its members or is grossly unfair or seriously detrimental to the interests of the Union, the Union shall notify the Employer and the Federation thereof in writing and may, if in the opinion of the Executive Committee of the Union the circumstances so warrant, instruct the Employee to refrain from complying with the order of transfer pending settlement of the dispute as provided in this Agreement. If the Union instructs the Employee to refrain from complying with the order of transfer as aforesaid, the Union shall notify the Employer and the Federation thereof in writing and in that event the Employer shall be entitled to suspend the Employee immediately without pay. Provided however, that if the Employer subsequently agrees or if an Arbitrator holds that the order of transfer was not justified the Employee shall be entitled to his salary for the period of suspension. If on the other hand, an Arbitrator holds that the order of transfer was justified, the Employee shall comply with the order of transfer and he shall not be entitled to his salary for the period of suspension. The refusal of an Employee to comply with an order of transfer or instructions from the Union after the union notifying the Employer and the Federation as aforementioned shall not be deemed to be an act of insubordination by the Employee and the employee shall not be liable to disciplinary action by the Employer for such refusal.

20. **Carrying out Employer's Instructions as to Duties.**- (i) If an Employee considers that any duty which he is required to perform by the Employer does not fall within the scope of his employment under the Employer, the Employee shall be entitled to bring such matter to the notice of the Employer. If notwithstanding such notification the Employer requires the Employee to carry out such instructions, then the Employee shall be entitled to request the Employer to give him instructions in writing.

- (ii) If the Employer gives the Employee such instructions in writing, the Employee shall carry out the same but without prejudice to the right of the Employee or the Branch Union or the Union on his behalf to dispute such matter with the Employer thereafter as provided in this Agreement.

- (iii) If the Employer refuses to give such instructions in writing, the Employee shall be entitled to refuse to carry out such instructions and in that event the Employer shall have no right of action against the Employee.
- (iv) If the Employer gives such instructions in writing but the Employee fails to carry out the same, the Employer shall be entitled to suspend the Employee immediately without pay and to take disciplinary action against him without prejudice to the right of the Employee or the Branch Union or the Union on his behalf to dispute such suspension or such disciplinary action as may be taken against the Employee as provided in this Agreement.

21. **Suspension.**— (i) An employee may, subject as hereinafter provided, be suspended without pay by the Employer:-

- (a) Pending an inquiry to be held by such Employer on a charge or charges of misconduct where such charge or charges relate to:
  - (i) Fraud, theft, misappropriation or a like offence by the Employee in the course of his employment;
  - (ii) Abuse, threat or gross insubordination by the Employee of or to a member of the executive or managerial staff of the Employer;
  - (iii) A breach of peace or damage to property or disturbance of the business of the Employer.

Provided however, that the Employer shall suspend an Employee under Paragraph (iii) above only for so long as the Employee's continuance in employment will or is likely to be undesirable or to be prejudicial to the proper investigation of the charges or the Employer carrying on his business;

- (b) As a punishment for misconduct for a period not exceeding seven (7) working days, after due inquiry;
- (c) If an Employee refrains from complying with any order of transfer in terms of Clause 19 of Part I hereof or fails to carry out the Employer's written instructions in terms of Clause 20 of Part I hereof.
- (ii) At the time of suspension or within twenty four (24) hours thereof, the Employer shall provide the Employee with a written order or suspension specifying the reasons for such suspension.
- (iii) Nothing in the preceding sub-clause shall prejudice the right of an Employees or a Branch Union or the Union on his behalf to dispute an order of suspension thereafter as provided in this Agreement.

22. **Probation.**—

- (i) Every Employee recruited by the Employer shall serve a period of probation of not more than six (6) months. Provided however that if at the expiry of the six (6) months probationary period the Employer is not satisfied with the progress of such Employee, the probationary period may be extended for a further period of Three (3) and in that event the Employer shall indicate to the Employee in writing the reasons why the probationary period has been further extended. During the period of probation or extended probation, the Employer shall have the right to terminate the services of the Employee without notice.

23. **Disciplinary Action.**— Where the Employer proposes to proceed against an Employee then –

- (i) irrespective of whether an Employee has been suspended under Clause 21(i) of Part I hereof or not, the Employee shall be furnished with a show cause notice which shall set out the particulars of the charges of misconduct alleged against such Employee and such show cause notice shall give the Employee not less than five (5) clear working days in which to give the answer or explanation to the charges preferred.
- (ii) Within five (5) clear working days after the date of the show cause notice, the Employee shall furnish in writing to the Employer the answer or explanation to the charges preferred against such Employee. Provided however, that if in the circumstances it is reasonable, the Employee may ask the Employer for an extension of time within which to furnish the written answer or explanation to the show cause notice and where such request is made by an Employee to the Employer, the Employer shall grant such request for such further period of time as is deemed necessary in the circumstances of the case.



- (iii) If the Employer is satisfied with the written answer or explanation of the Employee, the Employee shall, if he is under suspension, forthwith be reinstated and shall be paid all emoluments and entitlements due during the period of such suspension.
- (iv) If the Employer is not satisfied with the written answer or explanation of the Employee to the show cause notice and such answer or explanation is rejected by the Employer, the Employer shall commence an inquiry within fourteen (14) working days from the date of receipt by him of the written answer or explanation to the show cause notice.
- (v) After holding such inquiry the Employer shall notify the Employee of the findings on each of the charges in the show cause notice and the punishment, if any, imposed by the Employer. Provided that if an Employer fails to make an order, except for reasons beyond the control of the Employer, on the charges in the show cause notice within thirty (30) working days from the conclusion of the inquiry into such charges the Employee shall not be liable to be punished thereafter in respect of such charges and no inference adverse to the Employee in respect of such charges shall be drawn from such charges.
- (vi) If the Employee is under suspension and the Employer, after such inquiry, makes order that
  - (a) The Employee shall not be dismissed, then the Employee shall resume employment forthwith and shall, subject to Clause 21(i)(b) hereof, be paid all emoluments and entitlements due during the period of suspension irrespective of such other punishment less than dismissal that may be imposed by the Employer on the findings as to the charges in the show cause notice:
  - (b) The Employee shall be dismissed, the Employee's dismissal shall take effect as from the date of the Employee's suspension and accordingly the Employee shall not be paid for the period of such suspension.
  - (c) In view of the serious or involved nature of the charges in the show cause notice against the Employee, the Employer is unable to make a final order as it is necessary and desirable that the matter be referred to the Police or other authorities for further investigations or inquiries and that the matter be therefore referred to the Police or other authorities or if in view of the serious or involved nature of the charges preferred against the Employee the matter had been previously referred to the Police or other authorities for investigations or inquiries that the outcome of such investigations or inquiries be awaited, then in either of such circumstances, the Employee may remain suspended without pay.
- (vii) If in any case where an Employee is suspended as provided for herein the Employer fails to make an order under paragraphs (a) to (c) of the preceding sub-clause for any reason other than that of the Employee's own seeking within thirty (30) working days from the date of the Employee's suspension, the Employee shall be entitled to half his normal remuneration for the period of thirty (30) working days from the date of such suspension and to his full remuneration for the period of suspension in excess of thirty (30) working days up to the date on which the Employer makes an order under paragraphs (a) and to (c) of the preceding sub-clause, irrespective of the outcome of the inquiry.
- (viii) In any case where an Employee is suspended as provided herein, the Employer shall make an order under paragraphs (a) to (c) of sub-clause (vi) hereof within ninety (90) days of the date of suspension of the Employee, unless he is prevented from so doing by reason of the Employee's own seeking or for reasons beyond the control of the Employer or it is agreed between the Federation and the Union that in the circumstances of the case the period of ninety (90) days be extended for such further time as may be agreed.
- (ix) The Employer shall not be required to hold an inquiry as referred to in sub-clause (iv) and (v) hereof where the Employer proposed to warn an Employee or where the Employee admits to the charge or charges. Provided however that if the Union disputes the warning or the punishment imposed on the Employee by the Employer and requests the holding of an inquiry the Employer shall comply with such request and the provisions relating to the holding of an inquiry shall then apply subject to the exception that the fact that the inquiry had not commenced within fourteen (14) working days after receipt of the Employee's explanation shall not be material or relevant.

24. **Retirement.** - An Employee has the option of retiring at the age of fifty five (55) years or at any time thereafter and shall retire on attaining the age of sixty (60) years. Provided however that if the Employer requires to retain the services of an Employee who has attained the age of sixty (60) years, the Employee shall be offered fresh employment on a temporary basis so long as the Employer requires the services of such employee.

25. *Trade union Action.*-

- (i) The Union hereby undertakes in respect of all the terms and conditions of employment covered by this Agreement not to seek to vary or alter any such terms or conditions other than by negotiation during the currency of this Agreement and hereby expressly undertakes, subject to Clause 26 (iv) (d) of Part I hereof, not to engage in a strike or other form of trade union action in respect of a dispute but will have such dispute settled in accordance with the procedure set out in Clause 26 of Part I hereof.
- (ii) In Case the Union decides to call for a general stoppage of work by its members in establishment of the employer on any matter not covered by this agreement, the Union will give written notice to the Employer in whose establishment the work stoppage is to take plac, and will give its reasons therefor. The Union will give at least one week's notice to the employer of the date of the stoppage, or even longer notice, between the date of the Union's decision to call for a general stoppage of work and the date fixed for the stoppage, in the circumstances in which such a stoppage may be decided upon. In such case, the Union will also instruct its Branch Union to exempt an agreed number of members from the work stoppage, in order to provide the employer on a written request made by the employer, with a skeleton staff, in order to maintain essential services.

26. *Disputes Procedure.*- Save and except any difference arising out of bonus which shall be dealt with as provided in Clause 17 of Part I here of, it is hereby agreed that the procedure to be followed for the settlement of a dispute shall be as set out in sub-clause (i) or (ii) hereof.

- (i) (a) Where a dispute is between an employee, and the employer the employee shall, in the first instance, raise the matter through such employee's Branch Union with the employer and both parties shall endeavour to effect an amicable settlement. Provided however, that if the exigencies of the circumstances warrant the Union acting immediately in accordance with the succeeding paragraph (b) it shall not be necessary for the employee Branch Union to raise the matter as herein provided before the Union acts under the succeeding paragraph (b).
- (b) In the event of a dispute not being settled under paragraph (a) above, or in the case of a dispute between the branch Union and the employer, the Union may, if it so desires, raise the matter with the Federation and thereupon all steps shall be taken that may be reasonable by the Union and the Federation for an amicable settlement of the matter in dispute utilising if desired, the good offices of the Conciliation Division of the Department of Labour.
- (c) In the event of a dispute not being resolved or settled under the preceding paragraph (a) or (b), the parties shall agree a statement of the matters in dispute and such matter shall be referred to an Arbitrator or Arbitrators under section 3(I)(d) of the Industrial disputes Act for settlement by arbitration, or by mutual agreement decide on a reference to a qualified mediator or body of mediators, if and when it may be feasible. Provided however that should the parties fail to agree on a statement of the issue of the dispute for purposes of arbitration, each party shall furnish the Commissioner of Labour with a statement setting out the issues in dispute and thereafter the Comissioner of Labour shall set out the issues in dispute to be referred to the Arbitrator or Arbitrators.
- (ii) (a) The Union may notify the Federation in writing with a Statement of the matter in dispute that such dispute should be dealt with under the sub-clause. As soon as possible after such notification by the Union to the Federation, a Special Disputes Committee of the Federation shall endeavour to settle the dispute. If no settlement is effected within seven (7) days from the date of the Union notifying the Federation, the dispute shall, as soon as possible, be referred to the Commissioner of Labour for settlement by arbitration as provided in sub - clause (i) (c) above, or if the Union or the Employer so requests, the dispute shall be referred immediately to a Special Arbitrator for settlement by arbitration.
- (b) If a dispute arising from the dismissal or discharge of an Employee by the Employer is referred to a Special Arbitrator as aforesaid and he is unable to make an award within twenty one (21) days of the date of receipt of the reference, the Special Arbitrator shall be competent, but not bound, either of his own motion or at the instance of the Union, to make an interim award after duly considering all the relevant facts and circumstances for his failure to make an award within twenty one (21) days of the date of reference, directing the Employer to pay the Employee a sum not exceeding the equivalent of one half of the Employee's normal remuneration for the first thirty (30) days from the date of cessation of employment and for such period thereafter but not later than the date of the award on the reference a sum not exceeding the equivalent of the Employee's full remuneration. The parties shall be bound by and comply with the terms of any such interim award.

- (iii) Subject to Sub - clause (iv) hereof, the procedure for the settlement of a dispute shall be as set out in Sub - clause (i) hereof.
- (iv) The procedure for the settlement of a dispute in respect of the matters enumerated in the succeeding paragraphs (a), (b) or (c) shall, subject to the succeeding paragraph (d), be as set out in Sub-clause (ii) (a) hereof
- (a) A dispute in connection with the interpretation or implementation of this Agreement arising from an act of the Employer, which in the opinion of the Executive Committee of the Union is calculated to threaten or undermine the existence or the legitimate activities of the Union.
- (b) A dispute not connected with the interpretation or implementation of this Agreement arising from an act of the Employer which in the opinion of the Executive Committee of the Union is calculated to threaten or undermine the existence of the legitimate activities of the Union or its members or is grossly unfair or seriously detrimental to the interests of the Union or its members. Provided however that the disputes shall be referred to an Arbitrator or Arbitrators under the Industrial Disputes Act or to a Special Arbitrator as the case may be, if no settlement is effected within seven (7) days from the date of the Union notifying the Federation in terms of sub-clause (ii) (a) hereof, only if the Union so desire.
- (c) A dispute arising from the dismissal or discharge of an Employee by the Employer on disciplinary grounds, which dismissal or discharge is in the opinion of the Executive Committee of the Union vindictive or in bad faith and is calculated to threaten or undermine the existence or the legitimate activities of the Union. Provided however that the dispute shall be referred to an Arbitrator or Arbitrators under the Industrial Disputes Act or to a Special Arbitrator as the case may be, if no settlement is effected within seven (7) days from the date of the Union notifying the Federation in terms of sub-clause (ii) (a) hereof, only if the Union so desires.
- (d) If the Union does not, however, desire to refer a dispute for settlement by arbitration under the provisions of the preceding paragraphs (b) or (c), the Union reserves to itself the right to engage in or authorise a strike or other form of trade Union action and the Employer reserves the right to take such steps as it may deem fit in the circumstances.
- (v) (a) In respect of a dispute arising between the parties hereto where arbitration is provided for under this Agreement, it is agreed that the parties to the dispute shall determine at the date thereof whether the dispute shall be settled by arbitration by one Arbitrator or three Arbitrators. Provided however that disputes arising over dismissals shall normally be referred to one Arbitrator and disputes arising over the proper interpretation or implementation of this Agreement if involving matters of principle or matters of general importance shall normally, if possible, be referred to a panel of not less than three Arbitrators.
- (b) For the purposes of this Agreement, an Arbitrator or Special Arbitrator shall be jointly selected by the parties. If the parties fail to agree on an Arbitrator or Special Arbitrator, he shall be selected by the Commissioner of Labour.
- (c) Where a dispute over a dismissal has been referred for settlement by arbitration under the provisions of this Agreement and the award contains a finding that the dismissal of the Employee by the Employer was not justified, then it is hereby agreed between the parties that normally in such a case the Arbitrator or Special Arbitrator shall order that the Employee shall be reinstated in his employment with the Employer and it is hereby further agreed that in any such arbitration the Arbitrator or the Special Arbitrator shall take note of this paragraph in making any such award.
- (d) A Special Arbitrator shall be competent, but not bound, to make order in his award as to the manner in which the costs of the arbitration excluding the legal expenses of either party shall be borne by the parties.
- (e) An award of an Arbitrator or Special Arbitrator made as herein provided shall be final and binding on the parties hereto.
- (f) (i) Where the Union seeks to settle a dispute by arbitration as provided for in this clause, such request for arbitration shall be communicated to the Federation within six months calculated from the date on which negotiations fail.

- (ii) Either party shall be entitled at any stage to inform the other that negotiations have failed.
- (iii) The Employer shall not be under any obligation to refer to arbitration any dispute where the request for arbitration is not made within the period of six months specified in this sub-clause.
- (g) (i) Where the Union seeks to settle a dispute relating to the termination of the services of an employee by arbitration as provided for in this clause, such termination should have been disputed by the Employee with the Employer, or by the Branch Union with the Employer, or by the Union with the Employer, or by the Union with the Employer within three (3) months of the date of termination.
- (ii) The Employer shall not be under any obligation to refer to arbitration a dispute relating to the termination of the services of an Employee where it has not been disputed as aforementioned within the period of three (3) months from the date of termination of services.
- (iii) The date of termination for the purposes of this sub-clause shall be the date on which the written communication is sent to the Employee terminating his services and not the date on which the termination of services takes effect under Clause 23 (vi) (b) hereof.

## PART II

### CONTAINING THE FACILITIES AND CONCESSIONS GRANTED BY THE EMPLOYER TO THE UNION

1. **Domestic Inquiries.** - If an Employee who is furnished with a show cause notice in terms of Clause 23 of Part I hereof is a member of the Union, the following provisions shall apply to the inquiry held by the Employer pursuant to such show cause notice.

- (a) The Employer will, subject as hereinafter provided, allow another member of the Union (hereinafter referred to as "an observer") to be present as an observer without loss of salary for absence from work.
- (b) If the Employee who is served with a show cause notice desires an observer to be present at the inquiry to be held pursuant to such show cause notice, he shall forty eight (48) hours at least before the time appointed for the commencement of the inquiry submit to the Employer the name of such observer.
- (c) An observer may answer any questions which the person who conducts the inquiry may ask him, but an observer shall not be entitled to represent the Employee who is served with a show cause notice or otherwise partake in the inquiry.
- (d) The person who conducts an inquiry shall be entitled to require an observer who obstructs such inquiry in any manner whatsoever to withdraw therefrom and an observer shall forthwith comply with such requirement.
- (e) The absence of an observer from the whole or any part of an inquiry for any reason whatsoever shall not vitiate such inquiry, nor the proceedings thereto, nor the findings pursuant thereto.

2. **Union Meetings.** - (i) The following provisions shall apply to meetings of Branch Unions:-

- (a) In respect of each meeting which a Branch Union desires to hold at the Employer's premises, an application for permission shall be previously made to the Employer.
- (b) If the Employer decided to grant permission the Employer shall be entitled to impose, inter alia, one or more of the undernoted conditions:-
  - (i) That no person other than an Employee of the Company shall be present at a meeting of the Branch Union;
  - (ii) On occasions such as the Annual General Meeting of the Branch Union office bearers of the Union may with the previous approval of the Employer attend;
  - (iii) Fix a time limit within which a meeting of the Branch Union shall be concluded or adjourned.

- (c) It shall be the duty of the Branch Union and its office bearers to ensure that the terms on which permission to hold a meeting of the Branch Union is granted are duly complied with.
- (d) It shall be the duty of the Branch Union and its office bearers to ensure that no damage is caused in the course of or in connection with a meeting of the Branch Union to the Employer's property or any other persons at the Employer's premises and the Union shall indemnify the Employer and keep the Employer indemnified against any such damage.
- (ii) The following provisions shall apply to meetings of the General Council of the Union :-
- (a) Without prejudice to the right of the Employer to refuse to grant permission if in his discretion the exigencies of the circumstances warrant refusal, the Employer will generally grant permission to a member of the General Council of the Union in order to attend a meeting of the General Council, to leave office not earlier than 3 o' clock in the afternoon on not more than one occasion in a month without loss of salary for such absence if an application for permission to attend is made at least forty eight (48) hours before the time appointed for holding the meeting of the General Council.
- (b) For the purpose of paragraph (a) above the Union shall forthwith furnish the Employer in whose service there are members of the General Council of the Union with a list of such members and keep the Employer informed of all changes therein which may be made from time to time.
- (iii) The provisions of the preceding sub-clauses (i) and (ii) shall not be in derogation of any existing concessions or facilities granted by the Employer to the Branch Union regarding Union meetings.

### 3. Duty Leave :-

- (i) The following provisions shall apply to duty leave :-

Without prejudice to the right of the Employer to refuse to grant permission if in his discretion the exigencies of the circumstances warrant refusal, the Employer will generally grant permission for not less than two office bearers of the Branch Union -

- (a) To be present at conferences held under the aegis of the Employer or the Employers' Federation of Ceylon or the Department of Labour in connection with dispute between the Branch Union and the Employer, or
- (b) To attend inquiries before Industrial Courts, Arbitrators or Labour Tribunals without loss of salary for such absence.
- (ii) The Employer will in his discretion grant leave to an Employee to attend a Trade Union course or seminar or conference either in Sri Lanka or abroad on no pay leave unless the Employee concerned is entitled to annual leave, customary or statutory holidays which he wishes to utilise for the purpose.

### Check Off.-

- (i) (a) In this clause "Employer" shall mean the employer bound by this Agreement and in whose establishment the membership of the Union is not less than forty per centum (40%) of the persons employed by him in the categories covered and bound by this Agreement.
- (b) If, for the purpose of this sub-clause, it becomes necessary to decide the question whether in the establishment of the Employer bound by this Agreement the membership of the Union is not less than forty per centum (40%) of the persons employed by him in the categories covered by this Agreement, the same shall be determined by a referendum which shall be held by the Department of Labour and the result of such referendum shall be binding on the parties hereto and the Employer.
- (ii) The Employer shall on the written request of an Employee deduct from the pay due to such Employee the current monthly Union dues as are specified by the Employee to be payable monthly by the Employee to the Union and remit the amount so deducted to the Union in accordance with the procedure and upon and subject to the conditions hereinafter set forth.

- (iii) Every Employee who agrees to the deduction of Union dues from his pay shall sign a statement to the effect in the form set out in Form No. 1 in the fourth Schedule hereto and hereinafter referred to as "an authorisation".
- (iv) Every Employee shall be entitled to withdraw his agreement to check-off at any time by signing a statement to that effect in the form set out in Form No. 2 in the Fourth Schedule hereto and hereinafter referred to as "a revocation".
- (v) No variation in the monthly deductions by way of check-off shall be made by the Employer except by mutual agreement with the Union and Employee concerned. In the event of any variation being agreed, each Employee will need to signify his agreement to the revised amount being deducted by way of check-off by signing a fresh authorization to that effect in the form set out in Form No. 3 in the Fourth Schedule hereto.
- (vi) Entrance or readmission fees or special levies authorized by the Union's constitution or contributions to the Union's political fund shall not be deducted by way of check-off.
- (vii) (a) As far as practicable, deductions under an authorization shall commence from the pay due immediately after the date of receipt of such authorization and shall continue thereafter until the authorization is cancelled by a revocation.
- (b) As far as practicable, deductions under an authorization shall cease from the date of receipt of revocation cancelling such authorization. Provided however -
- that the Employer shall not be liable in any manner whatsoever to the union or the Employee concerned for failure to comply with paragraphs (a) or (b) above, that, in his discretion, the Employer shall be entitled not to make deductions by way of check-off in any month if the deduction by way of check-off will together with all other deductions from an Employee's pay in that month exceed the deductions permitted by law.
- (viii) (a) The Employer shall once each month within fifteen (15) days after the regular pay day remit to the Treasurer of the Union the total sums deducted by way of check-off by a cheque drawn payable to "Food Beverages and Tobacco Industries Employees Union" and crossed Account Payee.
- (b) The cheque shall be sent, at the Union's risk, by post in a pre-paid envelope addressed to the "The Treasurer, Food Beverages and Tobacco Industries Employees Union, No. 513, 2/1, Elvitigala Mawatha, Colombo 5".
- (c) The Treasurer of the Union shall promptly acknowledge receipt of the cheque.
- (d) The Employer shall not be liable to pay to the Union or to the Treasurer on its behalf as aforesaid any sum other than the actual deductions made.
- (ix) The Employer may suspend the operation of this clause as hereinafter provided by notice in writing to the Union:-
- (a) If the Union or a Branch Union resorts to a strike or any other form of trade union action in breach of the terms or provisions of Part I of this Agreement the Employer may suspend the operation of this clause for such time as may be decided by the Employer but not exceeding the duration of such strike or other form of trade union action. Before such a decision is made the Employer and the Union shall endeavour to effect an amicable settlement.
- (b) If the Union fails to maintain itself as a properly registered Trade Union under the Trade Unions Ordinance the Employer may decide to suspend the operation of this clause for such time as may be decided by the Employer.
- (c) If a decision is made by the Employer under paragraphs (a) or (b) above, the Employer shall be absolved of complying with the provisions of this clause in accordance with the tenor of such decision.

**Part III**

**CONTAINING DEFINITIONS OF CERTAIN WORDS**

In Parts I and II of this Agreement unless excluded by the subject or context the following words shall have the meaning set opposite to them:–

<i>Words</i>	<i>Meaning</i>
Industrial Disputes Act	– The Industrial Disputes Act No. 43 of 1950
The Act	– The Shop and Office Employees (Regulations of Employment and Remuneration) Act No. 19 of 1954
The Federation	– The Employers’ Federation of Ceylon
The Union	– The Food Beverages and Tobacco Industries Employees Union
Branch Union	– The Branch the Food Beverages and Tobacco Industries Employees Union in the establishment of the Employer
Employer (for convenience sometimes referred to as “he” its grammatical variations)	– The Employer bound by the Agreement
Employee (for convenience sometimes referred to as “he” or its grammatical variations)	– An Employee covered and bound by this Agreement
Week	– The period between midnight on any Saturday night and midnight on the succeeding Saturday night.
Weekly full holiday in respect of any week	– Shall have the meaning as “weekly holiday” under the Shop and Office Employees’ Act
Weekly half holiday in respect of any week	– Shall have the same meaning as “weekly half holiday” in the Shop and Office Employees’ Act
Two such weekly holidays	– Two full holidays or four half holidays or any combination of full or half holidays which does not exceed two full holidays
Salary	– The monthly salary according to the scales of consolidated Salaries
Normal Incremental date	– The date on which the employee would normally receive an increment
Dispute	– A dispute or difference between the Employer and an Employee or between the Branch Union and the Employer or between the Union and the Employer on any matter covered by this Agreement or affecting the Employees covered by this Agreement in relation to their employment under the Employer covered by this Agreement
Check-off	– The act of the Employer deducting, at the request of the Union, subscriptions payable to the Union by an Employee from the latter’s pay with his concurrence.

Words importing the masculine gender shall include the feminine.

Words importing the singular number shall include the plural and vice versa.

32A

**I කොටස: (I) ඡේදය - ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ අති විශේෂ ගැසට් පත්‍රය - 2017.10.30**

PART I: SEC. (I) - GAZETTE EXTRAORDINARY OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA - 30.10.2017

**Form No. 1**

Name of Employer : .....

**AUTHORISATION**

In pursuance of the Agreement entered into between Finlays Colombo Limited, and Food Beverages and Tobacco Industries Employees' Union of which I am a member, please deduct from my pay each month the sum of Rupees ..... (Rs.....) and remit the same to the said Union on my behalf in respect of my current monthly membership dues. The first payment should please be made from my next pay following the date hereof.

.....  
(Date of Signing)

.....  
(Signature of Employee)

.....  
(Full Name of Employee in Block Capitals)

..... (Address of Employee)

Received on : .....  
(To be filled by Employer)

**Form No. 2**

Name of Employer : .....

**REVOCATION**

With reference to the authorisation submitted by me, please cease to deduct from my pay any further membership dues in favour of The Food Beverages and Tobacco Industries Employees Union with effect from the next pay due to me immediately following the date hereof.

.....  
(Date of Signing)

.....  
(Signature of Employee)

..... (Full Name of Employee)

..... (Address of Employee)

Received on : .....  
(To be filled by Employer)



**Form No. 3**

Name of Employer : .....

**AMENDMENT OF AUTHORISATION**

With reference to the authorisation submitted by me, please deduct from my next pay following the date hereof Rupees ..... (Rs. ....) instead of Rupees ..... (Rs. ....) as heretofore and remit the same to Food Beverages and Tobacco Industries Employees Union on my behalf in respect of my current monthly membership dues.

..... (Date of Signing) ..... (Signature of Employee)

..... (Full Name of Employee)

..... (Address of Employee)

Received On : .....  
 (To be filled by Employer)

In witness whereof the parties aforesaid have hereunto set their hands at Colombo on this 31<sup>st</sup> day of March Two Thousand and Seventeen.

 _____ GIHAN JAYASINGHE Executive Director Finlays Colombo Limited	 _____ D. MALAVISURIYA Deputy General Secretary Food Beverages and Tobacco Industries Employees Union
 _____ CORALIE PIETERSZ Executive Director Finlays Colombo Limited	
Witnesses :	
 _____ 1. <u>Dhanishka Dhamarathne</u> (Name)	 _____ 1. <u>Jeyaraja Weeraratna</u> (Name)
_____ 2. <u>Charvinda Weerage</u> (Name)	_____ 2. <u>W. S. M. Sahan Samarakpala</u> (Name)
_____ (Designation) _____ 2. <u>Manager Production &amp; Shipping</u> (Designation)	_____ (Designation) _____ 2. <u>Secretary</u> (Designation)