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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 2096/6 - 2018 නොවැම්බර් මස 05 වැනි සඳුදා - 2018.11.05

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PART I : SECTION (I) — GENERAL

Government Notifications

My No. : CI/1571.

Collective Agreement

THE INDUSTRIAL DISPUTES ACT, CHAPTER 131

THE Memorandum of Understanding entered into between Finally Properties (Pvt) Limited, No. 186, Vauxhall Street, Colombo 02 of the one part and the United Tea, Rubber and Local Produce Workers Union, No. 513-2/1, Elvitigala Mawatha, Colombo 05 of the other part on 24th April 2018 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,
26th October 2018.

MEMORANDUM OF UNDERSTANDING No. 16
OF 2018

This Collective Agreement made on this 24th day of April Two Thousand Eighteen, to take effect from the First day of January Two Thousand Seventeen, between Finlay Properties (Private) Ltd, a Company having its registered office at No. 186, Vauxhall Street, Colombo 02, (hereinafter referred to as “the Employer”) of the one part and the United Tea, Rubber & Local Produce Workers' 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 05, (hereinafter referred to as “the Union”) of the other part.

Witnesseth and it is hereby agreed between the parties as follows :



Title

This agreement shall be known and referred to as the “Finlay Properties (Private) Ltd, Manual Workers' Collective Agreement of 2017”.

PART I

Containing terms and conditions of employment and matters incidental thereto and connected therewith

1. Persons covered and bound

This Agreement shall cover and bind the Employer, the Union and all employees who are members of the Union and are employed on monthly contract of employment.

2. Date of Operation and Duration

This Agreement shall be effective from the First day of January Two Thousand Seventeen, and shall thereafter continue to be in force unless it is determined by either party giving one month's notice in writing to the other, subject to the proviso that one party hereto shall not give such notice to the other party to commence before the First day of December Two Thousand Nineteen (2019) and such notice shall not expire before the Thirty First day of December Two Thousand Nineteen.

3. This Agreement shall supersede and replace the provisions of the “Finlay Properties (Private) Ltd. Manual Workers' Collective Agreement 2014”.

4. General Terms and Conditions of Employment

During the continuance in force of this Agreement, the terms and conditions of this Agreement shall be deemed to be included in each contract of service between the Employer and an Employee covered and bound by this Agreement, whether such contract of service be written or oral, which was subsisting on the date hereof or which shall come into being at any time after date hereof during the continuance in force of this Agreement.

Provided the said terms and conditions of employment in respect contract of service of the Employees, may be amended with the consensus of the Trade Union and upon such amendments being agreed upon in writing.

5. Probation

Every employee recruited by the Employer shall serve a period of probation of not more than six (6) months, Provided, however, that if during 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) months and in that event the Employer shall indicate to the Employee in writing, the reasons why the probationary period has been extended. During the period of probation or extended probation, the Employer shall have the right to terminate the services of the Employee without notice. If the Employee's service are not terminated for unsatisfactory service during the period of probation or extended probation and the Employee has not been confirmed by the Employer, the Employee shall be deemed to be confirmed in its Employer's service with effect from the day after the day on which the period of probation, as the case may be ended.

6. Attendance

- 1) Unless otherwise specifically instructed by the Employer an Employee shall present himself for work on every day (other than a holiday) at the usual starting time of the store, factory, mill or job and shall there remain available for work throughout the normal working hours.
- 2) If at a store, factory, mill or job, work is temporarily not available for an Employee in his own occupation, he shall be deemed to be ready and willing to perform work within the capacity and skill in any other occupation at any other work site of the Employer where work is available.
- 3) Irregular attendance or unpunctuality of an Employee shall constitute neglect of duty for which he shall be liable to appropriate disciplinary action.

7. Hours of work

The normal working hours shall be those hours, which are customarily worked at a store, factory, mill or job in the Establishment of the Employer.

8. Forfeiture of wages

Unless for good cause shown to the satisfaction of the Employer an Employee fails to hold himself available for work throughout the normal working hours of each working day, he shall forfeit and his Employer shall be entitled to deduct his wages for the period from the time at which such failure occurs until he is again available for work.

9. Overtime

- 1) If required by his Employer, an Employee shall work reasonable overtime, which has been authorized by the Employer. Refusal to work reasonable overtime in the absence of a satisfactory explanation, which is acceptable to the Employer, shall constitute neglect of duty, for which an Employee shall be liable to appropriate disciplinary action.
- 2) Overtime work (*i. e.* work performed in excess of normal working hours) shall be remunerated at one and one half (1 1/2) time the normal hourly rate ascertained in accordance with the provisions of 16 (a) hereof.

10. Weekly Holidays

- 1) In respect of each week, an Employee shall be allowed a holiday on the Sunday in that week as the weekly holiday. Provided, however, that if any Employee has not worked for a period of at least twenty eight (28) hours, exclusive of any period of overtime work during that week, he shall be liable to forfeit and his Employer shall be entitled to deduct one day's wage in respect of the weekly holiday for that week computed in accordance with the provisions of Clause 16(b) hereof.
- 2) In computing the period of twenty eight (28) hours referred to in sub-clause (1) the Employer shall include -
 - a) every holiday allowed by the Employer to the Employee as annual holiday.
 - b) every Public holiday granted by the Employer in terms of Clause (II) hereof and
 - c) every day's absence on any ground approved by the Employer.

- 3) The Employer may employ any Employee on a weekly holiday subject to the following conditions :-

I A day within the six days next succeeding such weekly holiday shall be allowed to that employee as a holiday with remuneration. Provided, however, that if any employee who is employed on a weekly holiday is liable to forfeit and his Employer is entitled to deduct one day's wage in respect of that weekly holiday as provided in sub-clause (1), then and in such event that Employee shall forfeit and his Employer shall be entitled to deduct one day's wage computed in accordance with the provisions of Clause 16(b) hereof in respect of the holiday which shall be allowed to that Employee within six (6) days of that weekly holiday. Provided, further that in respect of not more than two (2) such weekly holidays in any one calendar month an Employee may with the consent of the Employee.

- a) instead of allowing an alternate holiday within six (6) days of weekly holiday in respect of which that Employee shall not be liable to forfeit, and the Employer shall not be entitled to deduct one day's wage computed in accordance with the provisions of Clause 16(b) hereof in lieu of such alternate holiday.

or

- b) in case that Employee is entitled to an alternate holiday within six (6) days of the weekly holiday as aforesaid in respect of which alternate holiday he shall be liable to forfeit and the Employer shall be entitled to deduct a day's wage as aforesaid, employ that Employee on the alternate holiday.

- II. That in respect of work done on such weekly holiday, the employee shall be paid as remuneration.

- a) one and one half (1 1/2) times the normal hourly rate ascertained in accordance with the provisions of Clause 16(a) hereof for the number of hours worked during the first nine (9) hours (exclusive of one hour for meal), and
- b) at double the normal hourly rate ascertained in accordance with the provisions of Clause 16(a) hereof for each subsequent hour of work.

The provisions of this Sub-clause shall not apply to Employees engaged on work outside the business premises of the employer for period exceeding twelve (12) days in respect of the duration of each such period.

11. Annual Holidays

Annual holidays shall be allowed to an Employee in accordance with the decisions of the Wages board for the Tea Export Trade, Engineering Trade and Motor Transport Trade, as the case may be.

12. Public Holidays

- 1) Public holidays shall be allowed to an employee in accordance with the decisions of the Wages Board for the Tea Export Trade, Engineering Trade and Motor Transport Trade. Provided however, that an employee may be employed on a Public holiday in accordance with the Decisions of the relevant Wages Board.
- 2) If any Public holiday to which an Employee is eligible under the provisions of sub-clause (1) falls on Sunday, a day either in the six (6) days immediately preceding or in the six (6) days immediately succeeding such Public Holiday shall be granted to the Employee as a weekly holiday in accordance with the provisions of Clause 10 hereof.
- 3) If any Public holiday to which an Employee is eligible under the provisions of sub-clause (1) falls on Saturday, the number of hours constituting the normal working day (inclusive of one hour for meal) on the day immediately preceding such Public Holiday shall be six and one half (6 1/2) hours.

13. Casual Leave

In respect of each year of employment during which any employee has been continuously in employment, that employee shall be entitled to take on account of private business or other reasonable cause, including ill-health, if that Employee's entitlement to sick leave has been fully utilized, leave (hereinafter referred to as "casual leave") with remuneration for the period or an aggregate of period not exceeding seven (7) days and the Employer shall allow such casual leave and shall be liable to pay such remuneration.

Provided, however, that not more than two (2) days' casual leave shall be taken at any time, save and except upon the ground of ill-health, provided further that any worker shall not be entitled to take casual leave immediately preceding or immediately following any period of annual holidays. Provided further that in respect of any Employee's first year of employment, including any period of probation, he shall be entitled to casual leave for that year computed on the basis of one day for each complete period of two months' service.

Casual leave will normally be granted on application without the employee being required to state the reason for the application. Where an 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 it is reasonable in the circumstances to grant him casual leave.

4. Sick Leave

An Employee who has joined the services of the company on or before the 24th April 2018 shall be entitled to sick leave not exceeding twenty-one (21) days. Provided that -

- a) His illness is supported by a Medical Certificate from a Registered Medical Practitioner (unless waived by the Employer) and
- b) The Employee shall not be on probation within the meaning of Clause 5 thereof. Provided, however, that an Employee who has been on probation shall as from the date of

confirmaiton in respect of the remainder of the first year of employment be entitled to sick leave not exceeding ten (10) days if he is confirmed after six (6) months' probation and sick leave not exceeding five (5) days if he is confirmed after nine (9) months' probation.

An Employee who has joined the services of the company on or after 24th April 2018 shall be entitled to sick leave not exceeding seven (7) days provided that -

- a) Any absence on the ground of illness over and above two consecutive days is supported by a Medical Certificate from a Registered Medical Practioner (unless waived by the Employer) and
- b) The Employee shall not be on probation within the meaning of Clause 5 hereof. Provided, however, that an Employee who has been on probation shall as from the date of confirmation in respect of the remainder of the first year of employment be entitled to sick leave not exceeding three (3) days if he is confirmed after six (6) months' probation and sick leave not exceeding two (2) days if he is confirmed after nine (9) months' probation.

15. Monthly consolidated wages

- 1) Subject to the provisions of Clause 16 thereof, the salaries of employees covered and bound by this Agreement will be revised as follows :
 - a) The employer shall increase the salaries of employees covered by this agreement, by 9% with effect from 1st January 2017 on the salaries as at December 2016.
 - b) Each employee shall thereafter be placed on the corresponding point of the salary scale set out in the First Schedule hereto in the grade applicable to him. If there is no corresponding point, he shall be placed on the next highest point on the same scale.
 - c) Thereafter salaries will be increased by a further 5% with effect from 1st January 2018 on the salaries as at December 2017.
 - d) The salaries will be increased again by a further 5% with effect from 1st January 2019 on the salaries as at December 2018.

e) In addition, with effect from 1st January 2017 the employee who are so eligible will receive increments on the following basis.

Current annual increment rates are Rs.

- 50/- (Manual worker - tea export/
engineering unskilled)
- 75/- (Engineering Skilled)
- 60/- (Engineering Semi Skilled)
- 80/- (Drivers 0-5 years of service)
- 100/- (Drivers 5-10 years of service)
- 120/- (Drivers over 10 years of service)

- 2) The scales of the consolidated wages set out in Schedule I hereto include all statutory allowances as at the date of this agreement.
- 3) This Agreement shall not have the effect of changing the incremental date of an Employee.
- 4) In lieu of the consolidation of salaries, based on the Colombo Consumer Price Index (CCPI), hitherto prevailed, with effect from Frist day of January 2017 a sum of Rs. 550/- will be added and the scales of consolidated wages set out in the First Schedule hereto shall be revised by addition to and by consolidation of the salary at such stage of each grade of each employee.

In a similar manner a further sum of Rs. 550/- will be added with effect from Frist day of January 2018 and again a further sum of Rs. 800/- will be added with effect from First day of January 2019 and the scales of consolidated wages in the First Schedule hereto shall be revised by addition to and by consolidation of the salary at such stage of each grade of each employee.

The Employer also agrees to make a payment to each employer covered by this Agreement by way of Notional arrears, (for the period January 2017 to January 2018)

However, parties agree that such payments made by way of notional arrears for the period January 2017 to January 2018, shall not attract consequential benefits such as EPF/ETF, etc.

- 5) If during the continuance in force of this Agreement, the Government of Sri Lanka

a) Prescribes increase in wages by any written law and applicable to categories covered by this Agreement, legally obliging the Employer to make such payment, the Employer shall pay such increase in wages prescribed by such written law and in terms of such written law.

b) Recommends increases in wages, such recommendations will not be applicable to the Employer, irrespective of whether or not such recommendation are applicable to categories covered by this Agreement.

16. Wages for period less than one month

For the purpose of this Agreement, the wages of an Employee for periods less than one month shall be computed in the following manner.

- a) For one hour - the monthly wage divided by two hundred (200)
- b) For one day - the monthly wage divided by twenty six (26)
- c) For one-half day - a day's wage ascertained as (either morning above divided by two (2) or Afternoon)
- d) For one week - a day's wage ascertained as above multiplied by seven (7)

17. Production Bonus in lieu of NRCLG

The employer, the Union and the employee agree that a payment guaranteeing a minimum amount of Rs 27,000/- per annum (Rs. 2,250/- per month) will be paid to each employee covered and bound by this agreement provided however, that the quantum of this payment (subject to the minimum payment of Rs. 27,000 per annum) will be calculated in accordance with the under-noted formula and subject to the provisions of the succeeding sub clause of this paragraph.

The formula :

<i>Bulk Range -MT</i>	<i>Rupees</i>	<i>TB Range -MT</i>	<i>Rupees</i>	<i>Packet Range -MT</i>	<i>Rupees</i>
Less than 10	20	Less than 40	600.0	Less than 100	500
11-20	30	41-45	637.5	100-150	625
21-30	50	46-50	712.5	151-200	875
31-40	70	51-55	787.5	201-250	1125
41-50	90	56-60	862.5	251-300	1375
51-60	110	61-65	937.5	301-350	1625
61-70	130	66-70	1012.5	351-400	1875
71-80	150	71-75	1087.5	401-450	2125
81-90	170	76-80	1162.5	451-500	2375
91-100	190	81-85	1237.5	501-550	2625

- (i) The calculation on the above formula will be on a monthly basis and will be subject to a maximum payment of Rs. 3,500/- per month
 - (ii) The above payment shall be payable by the Employer to an Employee who is eligible to receive the same by virtue of his service under the Employer during a part of the year by reason of the fact that he is not in the Employer's service when the payment becomes due in January of any year of he joined the Employer's Service during the course of the qualifying year. (Qualifying period will be from January to December)
 - (iii) The above payment shall not be payable to an Employee in respect of any period for which he received no wages for whatever reason.
 - (iv) The formula referred to above is based on the number of machines available and the capacity of the factory at present. Acquisition of new machinery in the future by the employer, parties agree to amend the formula referred to above.
 - (v) No Provident Fund, Trust Fund, Overtime or any other payment shall be due or calculated on the above payment.
- #### 18. Provident Fund
- 1) An Employer and Employee shall contribute to the Provident Fund at rates prescribed by the Employees' Provident Fund Act, No. 15 of 1958.

2) Subject to the provisions of the Employees Trust Fund Act, No. 46 of 1980, where an Employer and 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.

First day of January Two Thousand Seventeen as long as this Agreement continues in force.

3) As and by way of terminal benefits the Employer shall pay an Employee a sum equivalent to one month's wages for each year of service less the Employer's contribution to the Provident and Trust Funds but excluding interest thereon.

19. Skills Allowance

An allowance of Rs. 400/- per months will be paid to the employees who are identified for placement as Electricians and Mechanics, Similary, Machine Operators, Forklift Operators and Quality Checkers will be paid an allownace of Rs. 350/-, Thereafter when the Employees acquire vocational qualifications prescribed by the company, subject to them been placed in the relevant grade and re-designated, they will become entitled to a further increase of Rs. 475/-, and Rs. 400/- respectively. The total amounts of Rs. 875/- (Electricians and mechanics) and Rs. 750/- (Mechine Operators, Forklift Operators and Quality Checkers) respectively will be consolidated in to the salary of each employee and the allowance will be discontinued forthwith.

4) The wage on which the said terminal benefits under sub-clause (3) hereof shall be payable will be the last monthly wage receivable by an employee on which Provident Fund is payable and shall not include any production bonus payment made in lieu of NRCLG.

5) For the purpose of calculating terminal benefits under this Clause, an year of service shall be a period of not less than six months.

6) The terminal benefits provided for in this Clause shall be payable to an Employee on the cessation of his services arising from death or any other cause whatsoever, Provided, however, that if at the date of cessation of an employee's services there is due to this Employer from the Employee any sum on account of fraud, misappropriation or any other account and the same cannot be recovered from the amount to the Employee's credit in the Provident Fund the same shall be recovered from the terminal benefits provided for herein.

These employees who have already been entitled for the aforementioned payments previously will be paid the difference as indicated below and the following amount will be consolidated to the salary with effet from 01st January 2017.

- Electricians and Mechanics : Rs. 300/-

- Machine Operators, Forklift Operators and Quality Checker Rs. 200/-

The above training will be conducted by the company or by an Institute recommended by the Company. The Company agrees to bear the course fee, if any

7) The provisions of this Clause shall not apply to Employers who operate a more favourable scheme of terminal benefits.

8) On the death of an Employee whilst in service, who is eligible to receive terminal benefits under this Clause, his Employer shall pay such terminal benefits in the manner and to the persons hereinafter set forth-

20. Terminal Benefits

1) Employer will, subject as hereinafter provided, pay terminal benefits to Employees in accordance with the scheme of terminal benefits set out in this Clause.

2) The scheme shall apply to every Employee in the servce of an Employer on the First day of January Two Thousand Seventeen or who joins the service of an Employer on any day after the

a) If there is a valid nomination in force for the purpose of the deceased Employee's Provident Fund at the date of his death, to the nominee or nominees of such Employee in conformity with the form of nomination where such nominee is surviving and of full age.

b) Where there is no valid nomination or in the event of the nominee or in one or more of the nominees having pre-deceased, the Employee or in the event of a nominee being minor at the time that the payment of the terminal benefits become due, the Employer shall make payment only after the person or persons entitled to the payment have established their claim in law and furnished proof thereof.

9) In the event of any written law providing for the payment of gratuity or terminal benefits, the more favourable scheme shall apply but not both.

10) No employee shall be entitled to any gratuity or terminal benefits in addition to the terminal benefits provided for in this Clause or by any written law as the case may be.

21. Bouns

1) Without prejudice to existing bonus schemes and without prejudice to the Employer's claim that bonus payments in the past and as provided in this Agreement are ex-gratia, the Employer will, subject as hereinafter provided, continue to pay to each of his Employees who have not been on unatuhorized absence, a bonus which will not be less than the sum of money paid to him as his bonus for the year immediately preceding the signing of this Agreement. In exceptional circumstances to be determined by the management on a case by case basis, an employee who had been on unauthorized absence may be considered for payment of bonus. If in any year the Employer, at his discretion, reduces the bonus to an amount less than the sum of money paid to each of his Employees as bonus for the year immediately preceding the signing of this Agreement, the Union may canvass such reduction of bonus with the Employer. If the Union is not satisfied by the Employer in this matter, the Union may pursue this matter with the Federation. If the dispute as to the reduction of bonus is not settled with the Federation, the same shall be referred to a Committee of three persons (hereinafter referred to as "a Bonus Committee") which shall be constituted in accordance with the provisions of sub-clause (2) for settlement in the manner hereinafter set forth.

2) At the written request of the parties to the dispute, as to the reduction of the bonus, the Commissioner General of Labour will constitute a Bonus Committee, which shall consist of three Senior Accountants nominated by the Council of the Chartered Accountants of Sri Lanka.

The said Chartered Accountants shall be persons with at least 10 years' post qualifications experience, The slection of the three Chartered Accountants will be communicated by the Institute of Chartered Accountants to the Commissioner General of Labour to the Employer, the Union and the Federation.

Thereupon the Commissioner General of Labour will communicate in writing to each member of the Bonus Committee so constituted, a Statement of Principles and Procedure by which the members of the Bonus Committee shall be bound in settling the dispute as to the reduction of bonus.

3) Upon receipt of the submissions and the Statement of the Principles and Procedure from the Commissioner General of Labour, the Bonus Committee shall, in accordance with the said Principles and Procedure, decide whether the reduction of the bonus by the Employer was justified and if the reduction was not justified to what extent, if any, the bonus should be reduced, The Bonus Committee shall communicate the decision in writing to the Federation and the Union and the Commissioner General of Labour.

If the decision of the Bonus Committee is unanimous, such decision shall be final and binding on the parties to the dispute and the Union and/or its members shall not pursue the matter further by any form of Trade Union action or otherwise during the continuance in force of this Agreement. If, however, the Bonus Committee is divided in its decision, then the decision of the Commissiner General of Labour on the matter shall be final and binding on the parties to the dispute and the Commissioner's decision shall be communicated in writing by the Commissioner General of Labour to the Federation, and the Union/or its members shall

not pursue the matter further by any form of Trade Union action or otherwise during the continuance in force of this Agreement.

- 4) The Bonus Committee shall not be entitled nor be competent to decide that in any year the Employer should pay his Employees a bonus exceeding the sum of money paid as bonus in the year immediately preceding the signing of this Agreement.
- 5) The fees payable to the members of each Bonus Committee shall be borne equally by the parties to the dispute as reduction of bonus and be payable on demand by the Commissioner General of Labour.
- 6) The payment of bonus exceeding the sum of money paid as bonus to Employees in the year immediately preceding the signing of this Agreement shall be at the sole discretion of the Employer and shall not be called in question by the Union or any of its members nor shall the Employer's failure or refusal to pay such bonus be the subject of any dispute.
- 7) The provisions of sub-clauses (1), (2), (3), (4) (5) and (6) shall *mutatis mutandis* apply to the existing bonus scheme.

At the request of the Commissioner General of Labour, the Council of the Institute of Chartered Accountants of Sri Lanka will nominate three Chartered Accountants without less than 10 years of post-qualification experience drawn from a professional Accountancy Firm to serve on the Bonus Committee.

22. Annual Increments

The annual increments provided in each grade of the scales of consolidated wage in the First Schedule hereto shall be automatic unless as a matter of punishment for general inefficiency including irregular attendance or unpunctuality or disciplinary action on account of serious misconduct, an increment is suspended, stopped or deferred, in which case where and increment is –

- a) deferred - the loss of increment shall be continuous throughout the year.

- b) stopped - the loss of increment shall only be for the period of stoppage during the year.

- c) suspended - the increment is suspended pending a decision to defer to stop an increment, such decision being dependent upon a consideration of the factors giving rise to the suspension. Where on such decision an increment is neither stopped nor deferred, then the suspension shall be treated as waived and the full increment from the date of suspension thereof shall accrue to the Employee concerned.

Deferred, stoppage or suspension of an increment shall only be effected in cases where the Employee has been notified in writing of a complaint against such Employee and has been found guilty after due inquiry of inefficiency, fraud or misconduct which, in the circumstances, does not merit termination of employment.

23. Warning

If in the opinion of the Employer an offence warrants a warning, the same shall be conveyed to the Employee by letter, a duplicate of which shall be signed by the Employee. If the Employee refuses to sign the duplicate, the warning may be given to the Employee orally by the Employer in the presence of two witnesses.

24. Suspension

- 1) An employee may be suspended without pay by his Employer–

- a) Pending an inquiry to be held by such Employer on a charge or charges of misconduct which warrants dismissal.

- b) In order to avoid a breach of the peace or damage, the property or disturbance of the business of the Employer.

- c) As a punishment for misconduct for a period not exceeding seven (7) working days after due inquiry.

- 2) At the time of suspension under sub-clause (1)(a) or within twenty four (24) hours thereof the Employer shall provide the Employee with a written order of suspension specifying the reasons for such suspensions and thereafter hold

an inquiry into the charge or charges in terms of Clause 25 thereof.

25. Disciplinary Action

Where an Employer proposes to proceed against an Employee, then –

- 1) irrespective of whether an Employee has been suspended under Clause 24 hereof or not, the Employee shall be furnished with a show-cause, which shall set out the particulars of the charge or charges of misconduct alleged against such employee and such show-cause notice shall give the Employee not less than three (3) clear working days in which to give the answer or explanation to the charge or charges preferred.
- 2) within three (3) 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.
- 3) 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 wages and entitlements due for the period of such suspension.
- 4) 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 ten (10) working days from the date of receipt by him of the written answer or explanation to the show-cause notice.

5) 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 any 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 Employer 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.

- 6) 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 the provisions of sub-clause 24(1)(c) hereof be paid all wages and entitlements due for 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 dismissed - The Employee's dismissal shall take effect from the date of the Employee's suspension and accordingly the Employer shall not be paid for the period of such suspension.
 - c) In the 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 investigation or inquiries that the outcome of such investigation or inquiries be awaited, then in either such circumstances, the Employee may remain suspended without pay.

7) If in any case where an Employee is suspended as provided for herein, an Employer fails to make an Order under paragraph (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 remunerations for the period of thirty (30) days from the date of such suspension and to his full remuneration for the period of suspension in excess of thirty (30) days up to the date on which the Employer makes an order under paragraphs (a) to (c) of three preceding sub-clause irrespective of the outcome of the inquiry

8) 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 (6) 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 any of the Unions that in the circumstances of the case the period ninety (90) days be extended for such further time as may be agreed.

9) An Employer shall not be required to hold an inquiry as referred to in sub-clause (4) and (5) hereof where the Employer proposes to warn the Employee or where the Employer admits to the charge or charges, Provided, however, that if the Union disputes the warning or 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 (10) working days after receipt of the Employee's explanation shall not be material or relevant.

26. Retirement

On reaching the age of fifty five (55) years an Employee shall, *ipso facto*, retire and cease to be employed and there shall be no obligation on the Employer to give the Employee any notice of such retirement. Provided, however, that an employee who

has retired may, at the discretion of the Employer, be employed after his retirement on a temporary basis on such terms as may be mutually agreed.

27. Termination of Service

1) Every contract, whether oral or written, for the hire of any Employee by the Employer, except for work usually performed by the day or by the job, or by the journey, shall (subject to provisions of Clause 5 hereof or unless otherwise expressly stipulated) be deemed and taken in law to be a contract for hire and service for the period of one month and to be renewable from month to month and shall be deemed and taken in law to be so renewed unless one month's previous notice is given by either party to the other of his intention to determine the same such month has expired.

2) Where an Employee is engaged for a particular job or period, such as casual or temporary work, he shall be informed thereof at the commencement of his employment, and his contract of service will terminate on the completion of the job or period or on the failure of the employee to complete the job within a reasonable time.

28. Union Recognition

The Union shall be competent to make representations on behalf of its members who are employed in any work place of the Employer in regard to issues of general application or to the effect of principle such as matters affecting general terms and conditions of employment, either in the work place or the trade as a whole, the following provisions shall apply :-

1) When the Union is representative of not less than forty per centum (40%) of the employees, whose membership subscription is not in arrears, the Employer will recognize the Union for the purpose of general claims and matters and negotiate with it on that basis. If there is any other Union which is also representative of not less than forty per centum (40%) of such Employees, the Employer will be at liberty to require that general claims and matters be discussed and negotiated with all the Unions competent to make general demands by virtue

of the requisite membership and not separately with each such Union.

- 2) When the Employer carries on more than one type of business or has more than one work place and the claim or matter is restricted to one type of business or one work place but is applicable or capable of being applicable to other Employees in the service of the Employer, the competence of the Union to make such claim or raise such matter shall be determined by reference to the duly qualified members of the Employees in the service of the Employer in Sri Lanka.
- 3) If it becomes necessary to decide the question whether at the establishment of the Employer, the Union is competent to make general claims or raise general matters, 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 Employer and that Union and the parties hereto.

29. Disputes Procedure

- 1) In the first instance, the Union shall submit any demand on behalf of its members to the Employer and give the Employer at least ten (10) working days time within which to reply. If, in the Union's opinion, the Employer's reply is unsatisfactory, the Union and the Employer shall explore the possibility of reaching a settlement.
- 2) Where the Union concludes that negotiations with the Employer have been abortive, it shall ask the Department of Labour to intervene and give the Department not less than ten (10) working days to arrange Conference and/or discussions with a view to a settlement of the dispute. Negotiations under the aegis of the Department of Labour shall then proceed until the Department of Labour reports failure.
- 3) Subject to the provisions of Clause 32 thereof, all disputes between the Union and the Employer shall be settled in accordance with the provisions of the Industrial Disputes Act and the regulations made thereunder.
- 4) Any party to this Agreement shall not instigate support or engage in any unfair labour practice during the currency of this Agreement.

30. How Anomalies in the course of Implementing this Agreement shall be dealt with

Any anomaly arising from the implementation of this Agreement shall be settled by negotiation between representatives of the Federation and the Union and if the matter cannot be settled by negotiation, the matter shall be settled in accordance with the provisions of the Industrial Disputes Act and the regulations thereunder.

31. Trade Union Action

The Union and its 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 shall not engage in any strike or other form of Trade Union action against the Employer in respect of any Trade Union action against the Employer in respect of any dispute between the Employer on the one hand and the Union and/or its members and/or any employees covered and bound by this Agreement on the other hand, whether or not such dispute is related to this Agreement, except where such dispute has been caused by an act of an Employer which, in the opinion of the controlling body (by whatsoever name called) of the Union is mala fide or vindictive or calculated to threaten or undermine the existence or the legitimate activities of that Union and/or its members or is grossly unfair or seriously detrimental to the interests of the Union and or its members.

Provided, however, that at least seven (7) days' notice in writing shall be given by the Union to the Employer concerned, the Federation and the Commissioner General of Labour before the date of commencement of any intended strike or other form of Trade Union action consequent to an act of an Employer which in the opinion of the controlling body (by whatsoever name called) of the Union is mala fide or vindictive or calculated to threaten or undermine the existence or the legitimate activities of the Union and/or its members or is grossly unfair or seriously detrimental to the interest of that Union and/or its members.

32. Variations of Terms and conditions of employment benefits

- 1) The Union and its members and the Employees covered and bound by the Agreement jointly and severally agree with the Employer that during

the continuance in force of this Agreement, they will not seek to vary, alter 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 as amended or altered in terms of 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.

- 2) The Employer agrees with the Union and its members and the Employees covered and bound by this Agreement that he shall not seek to vary, alter or withdraw all or any or the benefits presently enjoyed by the employees covered and bound by this Agreement other than by mutual agreement.
- 3) Any dispute or difference arising from negotiations under the provisions of sub-clauses (1) or (2) 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.

PART II

Containing the facilities and concessions granted by the Employee to the Union

1. Breaches of Collective Agreement

If in the opinion of the employer the Union commits a breach of any of the terms of this Collective Agreement, then and in any such event the Union shall cease to be entitled to enjoy the facilities and concessions granted by the Employer in the succeeding clauses of this Part and the same shall stand withdrawn without prejudice to the Employer's right to restore such facilities and concessions upon such terms and conditions as the Employer may decide.

2. Domestic Inquiries

If an Employee who is furnished with a show-cause notice in terms of Clause 25 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 a member of such Union

(hereinafter referred to as 'Observer') to be present as an Observer without loss of wages 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 question 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 part of an inquiry for any reasons whatsoever shall not vitiate such inquiry nor the proceedings there at nor the findings pursuant thereto.

3. Union Meetings

The following provisions shall apply to meetings of the Union :

- a) In respect of each meeting, which the Union desires to hold at the Employer's premises, an application for permission shall be previously made to the Employer.
- b) If the Employer decides to grant permission, the Employer shall be entitled to impose, inter alia, one or more the under-noted conditions.
 - I. That no person other than an Employee in the services of the Employer shall be present at a meeting of the Union.
 - II. On occasions such as the Annual General Meeting of the Union, the Office Bearers of the Parent Union may, with the previous approval of the Employer, attend.

III. Fix a time limit within which a meeting of the Union shall be concluded or adjourned.

- c) It shall be the duty of the Union and its Office Bearers to ensure that the terms on which permission to hold a meeting of such Union is granted, are duly complied with.
- d) It shall be the duty of the Union and its Office Bearers to ensure that no damage is caused in the course of or in connection with a meeting of the 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.

4. Duty Leave

The following provisions shall apply to duty leave :

- 1) Without prejudice to the right of the Employer to refuse to grant permission if, at his discretion the exigencies of the circumstances warrants refusal, the Employer will generally grant permission for not less than two Office Bearers of the Union
- a) to be present at the Conference held under the aegis of the Employer or the Employers' Federation of Ceylon or the Department of Labour in connection with a dispute between the Union and the Employer.
- or
- b) to attend inquiries before Industrial Courts, Arbitrators or Labour Tribunals without loss of wages for such absence.
- 2) The Employer will, in his discretion, grant leave without remuneration to an Employee to attend a trade union course of seminar or conference either in Sri Lanka or abroad unless the Employee concerned is entitled to Annual or other holidays which he wishes to utilize for the purpose.

5. Check - off

- 1) This Clause shall apply to the Employer if in his Company the membership of the Union is not

less than forty per centum (40%) of the employees covered and bound by this Collective Agreement.

- 2) The Employer shall, on the written 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 the Employee to the Union and remit the amount as deducted to the Union, in accordance with the procedure and upon and subject to the conditions here in after set forth.
- 3) Every Employee who agrees to the deduction of Union dues from his wages shall sign a statement to that effect in the form set out in Form No. 1 (hereinafter referred to as an "Authorisation") as set out in the First Schedule hereto.
- 4) 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 (hereinafter referred to as a "Revocation") as set out in the First Schedule hereto.
- 5) As far as practicable deduction under an authorisation shall commence from the wages due immediately after the date of receipt of such authorization and shall continue thereafter until the authorization is cancelled by a revocation.
- 6) As far as practicable deduction under an authorization shall cease from the date of receipt of a revocation cancelling such authorization. Provided however
- a) that an employer shall not be liable in any manner whatsoever to the Union or the Employee concerned for failure to comply with sub-clauses (5) or (6).
- b) that, at his discretion, the Employer shall be entitled not to make deductions by way of check-off in any month in which the deduction by way of check-off, will together with all other deductions from the Employee's wages in that month exceed the deductions permitted by law.
- 7) The Employer shall not lesser than the tenth day of each month remit the Union dues deduction

from the wages of the employees in the month immediately preceding to the Treasurer of the Union in accordance with the tenor of each authorisation by a cheque payable to the Treasures thereof and crossed "Account Payee".

8) The cheque shall be sent at the risk of the Union and the employees concerned by post in a pre-paid envelope, addressed to the treasurer of the Union at its address for the time being.

9) The Treasurer of the Union shall promptly acknowledge receipt of the cheque.

10) The Employer shall not be liable to pay the the Union or to the Treasurer on its behalf, as aforesaid, any sum other than the Union dues actually deducted.

FORM No. 1

Name of Employer

Authorisation

As I am an employee covered and bound by the Collective Agreement affecting Employees employed in a manual or labouring capacity in theTrade and bearing No..... of 2017 and I desire to avail myself of the facility for check-off contained in the Collective Agreement to which I am eligible as a member of theUnion.

Please deduct from my wages each month a sum of Rupees (Rs.....) in respect of my current monthly membership dues to the said Union and remit same to the said Union on my behalf. The first payment should please be made from my wages next due, immediately following the date hereof.

.....
Date of Signing

.....
Signature of Employee

.....
(Full name of Employer)

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 wages any further membership dues in favour of Union with effect from the wages next due to me, immediately following the date hereof.

.....
 Date of Signing

.....
 Signature of Employee

.....
 (Full name of Employer)

Received on

.....
 (To be filled by employer)

PART III

Containing Definitions of Certain Words

In parts I and II of this Agreement, unless excluded by the subject or content, the following words shall have the meaning set opposit to them :

<i>Words</i>	<i>Meaning</i>
Branch Union	The Branch Union of the United Tea, Rubber & Local Produce Workers' Union covered and bound by this Collective Agreement.
Check - off	The act of the Employer deducting at the request of the Union, subscription payable to the Union by an Employee from the latter's pay with his concurrence.
Dispute	Shall have the same meaning as in Industrial Disputes Act.
Employee (for convenience sometimes)	An employee covered and bound by
Referred to as he or its grammatical variations)	This Agreement
Industrial Disputes Act	The industrial Disputes Act, No. 43 of 1950
Normal Incremental Date	The date on which an employee would normally receive an increment.

<i>Words</i>	<i>Meaning</i>
Union	United Tea, Rubber & Local Produce Workers' Union
Wage	The monthly wage according to the scales of consolidated wages in the First Schedule hereto.
Week	The period between midnight on any Saturday night and midnight on the succeeding Saturday night.
Year	A continuous period of twelve (12) months.

Words importing the masculine gender shall include the feminine, Words importing the singular number shall include the plural and *vice versa*.

In Witness whereof the parties aforementioned have hereunto set their hands at Colombo. G. S. Jayasinghe, Executive Director for & on behalf of Finlay Properties (Private) Ltd, and D. W. Subasinghe, General Secretary for & on behalf of United Tea Rubber & Local Produce Workers' Union on this 24th day of April Two Thousand Eighteen.

.....
G. S. Jayasinghe
Executive Director
Finlay Properties (Pvt.) Ltd

.....
D. W. Subasinghe
General Secretary
United Tea Rubber & Local Produce Workers' Union

.....
Coralie Pietersz
Executive Director
Finaly Properties (Pvt.) Limited

Wintesses :

1. Name : 1. Dhaniskka Dharmarathe
Designation : Manager - HR
2. Name : 2. Chaminda Waduge
Designation : Manager Production

1. Name : K. M. S. N. Rathnayake
Designation : Branch President
2. Name : S. Y. A. S. Silva
Designation : Branch Secretary

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