

COLLECTIVE AGREEMENT

THIS COLLECTIVE AGREEMENT made on this 15th day of July Two Thousand Eleven, to take effect from the 01st day of January Two Thousand Eleven, pursuant to the Industrial Disputes Act between

FINLAY PROPERTIES (PRIVATE) LIMITED. having its registered office at No. 186, Vauxhall Street, Colombo 2 (hereinafter referred to as the "Employer") of the ONE PART

AND

FOOD BEVERAGES & TOBACCO INDUSTRIES EMPLOYEES' UNION a registered Trade Union having its office at 513 2/1, Elvitigala Mawatha, Colombo 5 (hereinafter referred to as the "Union") of the SECOND 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) LIMITED. CLERICAL, SUPERVISORY AND ALLIED STAFF COLLECTIVE AGREEMENT OF 2011**

THIS COLLECTIVE AGREEMENT made this 15th day of July Two Thousand Eleven pursuant to the Industrial Disputes Act between **FINLAY PROPERTIES (PRIVATE) 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 :

TITLE: This Agreement shall be known and referred to as **FINLAY PROPERTIES (PRIVATE) LIMITED. CLERICAL, SUPERVISORY AND ALLIED STAFF COLLECTIVE AGREEMENT OF 2011** 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 2004 signed with The Ceylon Mercantile, Industrial and General Workers Union (CMU) on 23rd of September 2004.

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 Twenty Third day of September Two Thousand and Four were covered by the Clerical, Supervisory and Allied Staff Collective Agreement No.36 of 2004 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 Eleven 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 Thirteen. 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 terms 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, the 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 notwithstanding 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 authorise 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 (1½) 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 hereof the following provisions shall govern weekly holidays:-

(i) Subject to sub-clause (iii) hereof the weekly holidays prescribed by the Act shall be the weekly half holiday and the weekly full holiday as defined in Part III hereof.

- (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 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) 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 utilised, 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 allowable 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 maybe 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 (1½) 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 a 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, hospitalisation, infectious disease or similar circumstances, 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 utilising his 21 days sick leave in respect of the year in which he wished to avail himself of the sick leave, if he has not already utilised such 21 days leave.

13. **SALARIES:**

The salaries of all employees who were in employment as at 1st January 2011 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 15% of the salary of an employee as at December 2010 shall be added to the salary with effect from 1st January 2011.
- (ii) Thereafter, a sum of Rs 850/- will be consolidated into the salary of the employee with effect from 1st January 2011.
- (iii) A sum equivalent to 5% of the salary of an employee as at December 2011 shall be added to the salary of an employee with effect from 1st January 2012.
- (iv) Thereafter, a sum of Rs 850/- will be consolidated to the salary of an employee with effect from 1st January 2012.
- (v) A sum equivalent to 4% of the salary of an employee as at December 2012 shall be added to the salary of an employee with effect from 1st January 2013.
- (vi) Thereafter a sum of Rs. 850/- will be consolidated into the salary of the employees with effect from 1st January 2013.

In addition, as a matter of goodwill, an ex gratia payment equivalent to the amount mentioned in (i) above X 8 will be paid to all employees, which will not attract any consequential benefits such as EPF, ETF, over time, etc.

There will be no Cost of living payments either by way of NRCLG or consolidation of salaries during the pendency of this Agreement. Provided however, the employer shall make payment in terms of Clauses (ii) , (iv) and (vi) above in lieu of such payments.

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 Provident Fund 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 Eleven. If the Employer finds it necessary, in his discretion, 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 advise 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 sole 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 to Grade II after completing an year's service in Stage 7 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 hereof.
- (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 be placed at a salary stage in the Higher Grade which will give such Employee a salary not less than that which he would have received had he remained in the grade from which he is promoted and had been advanced one stage in that grade. But where an Employee is promoted on a date other than the normal incremental date, such Employee shall be placed at a salary stage 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 stage 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 express 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 of 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 express 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 disorganisation 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 place, 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 hereof, 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's 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 paragraphs (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(1)(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 Commissioner 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.

(c) In the event of a dispute not being resolved or settled under the preceding paragraphs (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(1)(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 Commissioner 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 a 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.

4. **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 authorisation 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 authorised 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 authorisation shall commence from the pay due immediately after the date of receipt of such authorisation and shall continue thereafter until the authorisation is canceled by a revocation.

(b) As far as practicable, deductions under an authorisation shall cease from the date of receipt of revocation canceling such authorisation. 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 maybe 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:-

Words	Meaning
Industrial Disputes Act	- The Industrial Disputes Act No.43 of 1950.
The Act	- The Shop & 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 Union of 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 & Office Employees Act.

- Weekly half holiday in respect of any week - Shall have the same meaning as "weekly half holiday" in the Shop & 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.

Form No. 1

Name of Employer :

AUTHORISATION

In pursuance of the Agreement entered into between Finlay properties (private) 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 15th day of July Two Thousand and Eleven.



L.ERROL. BERNARD
Director
Finlay Properties (private) Ltd.



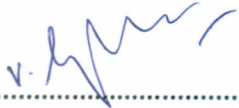
D. W. SUBASINGHE
General Secretary
Food Beverages and Tobacco
Industries Employees Union

Witnesses :



1. Mithraka Fernando
(Name)

Head of HR.
(Designation)



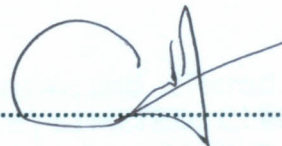
2. Najira Ekanek
(Name)

ADG/EFC
(Designation)



1. P. L. Perera
(Name)

President, Branch Union
(Designation)



2. K.O.S. Silva
(Name)

Secretary, Branch Union
(Designation)