

Collective Agreement No. 12 of 2004

COLLECTIVE AGREEMENT - CLERICAL STAFF

This collective Agreement entered into between the Employers' Federation of Ceylon of 385, J 3, Old Kotte Road, Rajagiriya of the First Part, and the Ceylon Estates Staffs' Union of No. 6, Aloe Avenue, Colombo 3 and the National Estates Services Union of No. 60, Sri Jayawardenapura Mawatha, Welikada, Rajagiriya, of the Second part, made and entered into on the Eleventh day of March 2004 witnesseth as follows:

1. **Title.** - This Agreement shall be known as the Plantations Clerical Staff Collective Agreement (Tea, Rubber and Oil Palm Estates).
2. **Employers Covered and Bound.** - This Agreement shall bind the members of the Employers' Federation of Ceylon, whose names are contained in Schedule I hereto and hereinafter referred to as the Employers or Employer, as the case may be according to context, for and in respect of the categories of employees hereinafter described in Clause 3 hereof employed on Tea, Rubber and Oil Palm Estates.
3. **Unioin and Employees Covered and Bound.** - This Agreement shall cover and bind the aforesaid Trade Unions, hereinafter referred to as the Unions or the Union, as the case may be according to context, and members of the Unions who are employed by the members of the Federation referred to in Schedule I on monthly contracts of employment and in respect of whom salary scales are prescribed in Schedule II hereof.
4. **Earlier Agreements.** - The provisions of this Agreement shall supersede and replace any earlier Agreements in respect of these categories and shall be deemed conclusive in relation to all terms and conditions. In the event of there being any dispute with regard to the existence of any other term or condition not contained herein, the same shall be resolved by reference to the Commissioner General of Labour in terms of the Industrial Disputes Act, but the party of the Second Part shall not be entitled to take trade union action on the basis of the existence of any such alleged term or condition.
5. **Date of Operation and Duration.** - Subject to any provisions to the contrary, this Agreement shall be effective from the First day of October 2003 and shall thereafter continue in force unless terminated by either party giving notice of termination in terms of the Industrial Disputes Act, subject to the condition that no party shall give notice to the other before 30th September 2008.
6. **General Terms and Conditions**
 - (i) The terms of this Agreement shall be deemed to be included in all contracts of employment of those covered by this Agreement.
 - (ii) Grading of employees covered shall be at the discretion of the Employer.
 - (iii) Upon completion of 10 years satisfactory service under the same employer, Junior Clerks shall be re-designated as Clerks.
7. **Probation.** - On recruitment every employee shall serve a period of probation of not more than six months, subject to the right of the Employer to extend the probationary period for a further period of three months at his discretion for reasons of unsatisfactory performance, misconduct or other justifiable cause. Confirmation shall be by letter. However, in the event of the probationary period not being extended after the period of 6 months, the employee shall be deemed to be confirmed notwithstanding there being no letter of confirmation. During the period of probation or extended probation the Employer shall have the right to terminate without notice or assigning reasons therefor.
8. **First Appointment.** - No person will be recruited to a grade covered by this Agreement unless he has successfully completed the G.C.E. (Ordinary Level) Examination with English and Arithmetic/Mathematics. This will not apply to those who have experience in the trade.
9. **Attendance at work.** - Unless otherwise specifically instructed by his Empolyer, an employee shall present himself for work on every day other than a holiday due to him, at the usual starting time and at the usual working place and shall thereafter remain available for work throughout the normal working hours.
10. **Promotions**
 - (i) Wherever vacancies exist, all other factors being comparable, seniority shall be given preference. The Employers shall advertise internally vacancies where employees covered by this Agreement may have appropriate skills and qualifications to make them eligible.
 - (ii) Where an employee acts in a senior capacity over a period of 6 months and if he is confirmed in the senior capacity he will not be required to serve a period of probation.
 - (iii) Where an employee is required to act in a senior capacity for a period of more than one month, it should be communicated to him in writing and he shall be paid an Acting allowance of 50% of the difference between his salary and that which was last paid to the holder of such senior position subject to a maximum of Rupees One Thousand (Rs. 1,000) per mensem.

- (iv) Where the acting period, other than in over looking positions, continue for 6 months the employer shall prior to the expiry of 6 months inform the employee in writing whether he is confirmed in the post or reverted to his substantive post.

11. *Salaries, Cost of Living Allowance and Arrears*

- (1) The salaries payable to the employees covered and bound by this Agreement with effect from 01.10.2003 shall be in accordance with the salary scales set out in Schedule II hereof.

- (i) With effect from 01.10.2003 the salaries of all employees in employment at the date hereof shall be increased by a sum equal to 12 1/2% of the monthly salary payable to such employee as at September 2003 and he shall thereafter be placed on the corresponding point in monetary terms on the salary scale applicable to his grade as set out in Schedule II hereof. In the event of there being no such corresponding point, the employee shall be placed on the next higher point on such scale, save and except in respect of employees in grades which provide for an annual increment of Rs. 200/- or more. In the case of such employees, they shall in the event of there being no corresponding point be placed on the nearest point on the applicable scale.

The conversion of salary points is set out at Schedule III hereof.

- (ii) With effect from 01.10.2005, the salaries of each employee in employment for a period of not less than 12 completed months as at such time shall be increased by a sum equal to 5% of the monthly salary payable to each such employee as at September 2005 and each such employee shall thereafter be placed on the corresponding or next higher/nearest point on the salary scale set out at Schedule II hereof in the same manner as provided at sub clause (i) above.
- (iii) With effect from 01.10.2007, the salaries of each employee in employment for a period of not less than 12 completed months as at such time shall be increased by a sum equal to 10% of the monthly salary payable to each such employee as at September 2007 and each such employee shall thereafter be placed on the corresponding or next higher/nearest point on the salary scale set out at Schedule II hereof in the same manner as provided at sub clause (i) above.

- (iv) The salaries payable to employees have been consolidated at the CCPI figure of 1456. The Cost of Living payment applicable for the month of September 1997 which was based on the cost of living figure 2109 was frozen for 100 points *i.e.* till the CCPI reached the figure of 2209 and was thereafter payable again at Rs. 1/64 per point increase.

The employees will continue to receive the Cost of Living Allowance on the above basis during the period of this Agreement.

The cost of living payment for September 1997 was Rs. 1,070.92.

- (v) In the case of Stenographers/Clerks and Storekeepers/Clerks who are presently entitled to an allowance on account of work as a Stenographer or Storekeeper, as the case may be, such employee shall continue to receive their allowances at the rate of 10% of the salary drawn by them. The allowances shall not be payable if the additional duties are not performed or not deemed necessary. Contributions to EPF and ETF shall be made in respect of this allowance.
- (vi) An employee covered by this Agreement who is in employment as at the date of signing of this Agreement and who has also been in service on the 30th September 2003 will be entitled to a sum representing the immediate increase received by the employee in terms of sub clause (i) above multiplied by five (5) by way of notional wage arrears in respect of the period 1st October 2003 to 29th February 2004. Contributions to the EPF and ETF and to the medical fund in respect of each employee shall however, be made in respect of this notional payment. This payment shall not be taken into account for any other consequential benefits.
- (vii) (a) With effect from the date hereof, employees who are entitled to a payment in lieu of staff quarters being provided to them shall receive the following allowances, depending on the grade to which they belong.

Junior Clerk	-	Rs. 850/-
Clerk	-	Rs. 900/-
Senior Clerk	-	Rs. 1,050/-
Chief Clerk	-	Rs. 1,150/-
Special Grade Chief Clerk/ Administrative Officer	-	Rs. 1,200/-

- (b) In the event of any person not occupying quarters provided by the Employer, such person shall be liable to disciplinary action.

12. **Overtime.** - If required by his Employer, an Employee shall work reasonable overtime which has been authorized by the Employer. Overtime work shall be remunerated at one and a half times the normal hourly rate.

13. **Weekly, Statutory and Poya Holidays.** - An employee will be entitled to holidays as provided for in the Shop and Office Employees Act. Payment for work on such days shall be remunerated at the prescribed statutory rates.

14. **Leave.** - 1. Annual leave and casual leave shall be granted as prescribed in the Shop and Office Employees Act. All employees with more than 20 years service and Heads of Departments shall be entitled to three weeks paid annual leave as a special benefit; this right shall not extend to any employee recruited after 1st September 1993.

2. (i) **SICK LEAVE** - Leave on full pay shall be granted up to a maximum of 21 working days in a year. Sick leave will be granted up to two days at a time without the submission of a Medical Certificate. For leave of three days and over, a medical certificate from an approved Medical Practitioner or a Government Hospital shall be considered necessary, subject to the right of the Employer to call for a medical certificate as aforementioned, where he deems it appropriate.

(ii) In the event of an employee not availing himself of his full quota of sick leave, he may carry forward his leave, which he could use in the event of hospitalisation or a prolonged illness in a succeeding year, subject to the condition however that he cannot avail himself of more than 90 days on that account.

(iii) In the case of an employee whose terms presently permit him a higher quantum of sick leave he shall be permitted to continue to enjoy such concession as personal to him.

3. **CASUAL LEAVE** - All employees shall be entitled in each year to a maximum of seven (7) days Casual Leave with full pay, not more than three (3) days being taken at a time. Casual leave not taken in any one year will not be carried over to the next year.

15. **Gratuity.** - Gratuity shall be payable in accordance with the payment of Gratuity Act, No. 12 of 1983.

16. **Age of Retirement.** - (i) Unless the letter of appointment specifies a higher retiral age, the age of retirement shall be 58 years.

(ii) However, an employer may retire an employee at the age of 55 years, subject to unsatisfactory work performance, conduct or state of health of the employee. For this purpose "unsatisfactory work performance" shall include any act of misconduct in respect of which disciplinary action has been taken.

(iii) An employer who decides to retire an employee at the age of 55 years on grounds stated at (ii) above shall give such employee one year's notice in writing or pay one year's salary in lieu of such notice. Where such notice is not given and the employee concerned is found guilty of misconduct during such one year period which misconduct would have otherwise resulted in his retirement at 55 years the employee shall be retired on reaching 55 years notwithstanding the fact that notice has not been given or payment made in lieu.

(iv) Extensions beyond the age of 58 years may be granted on application made in writing by the employee at least 6 months before reaching the age of retirement or the date of expiry of the given extension. Extensions granted shall not exceed a year at a time and shall not be available beyond the age of 60 years.

17. **Suspension as a Measure of Punishment.** - 1. Punishment for offences in the case of an employee may include suspension, provided however that such suspension shall not exceed fourteen days without pay and shall be in writing.

2. Punishment in excess of three days suspension without pay shall only be after a domestic inquiry.

18. **Suspension Pending Disciplinary Inquiries.** - 1. An employee may be suspended from work without pay for a period not exceeding one month pending a disciplinary inquiry when there is a prima facie evidence, in the opinion of the Employer, of a charge or charges of misconduct against him. Such suspension shall be in writing.

2. Suspension of an employee on the ground referred to in sub-clause (1) above for any period in excess of one month shall be on half pay.

3. The provisions contained in sub - clauses (1) and (2) above shall not apply to the suspension of an employee pending inquiries by the police, by other public Authorities or Audit Verifications.

19. **Administrative Transfers.** - 1. Transfers not involving hardship in relation to schooling of children or employment of a spouse, will, subject to the exigencies of the service and the requirements of the Employer, be made at the discretion of the Management with one month's notice in writing.

2. Transfers from one estate to another or from one division to another which are likely to cause hardship on account of childrens' schooling or the spouse's employment shall generally be made at the end of the year with three months' notice in writing.

3. No employee covered by this Agreement shall be transferred, except on disciplinary grounds in the last year prior to his retirement.

4. The provisions of sub-clauses (1), (2) and (3) above shall not apply to transfers on disciplinary grounds, but the Management shall give reasonable notice, depending on the circumstances of each case.

20. **Annual Increments.** - 1. Annual increments shall be granted automatically on completion of an year's service. The increments will be awarded in accordance with the practice prevailing on each estate. Where increments are awarded on a uniform date to all employees, in the event of an employee being confirmed in service within six months of the date on which increments are awarded, he shall not be entitled to any increment and will become eligible only from the following year.

2. An increment may be suspended, stopped or deferred by way of punishment or for general inefficiency, after the employee has been notified in writing of such fact. In the case of deferment, the loss of increment shall be continuous, whereas stoppage would be only for the period relevant to the stoppage.

21. **Disciplinary inquiries.** - 1. An employee may be suspended without pay by his Employer pending an inquiry on a charge which warrants dismissal or where, in the opinion of the Employer, a Breach of the peace, damage to property or disturbance of business needs to be avoided. Where an employee is suspended without pay he shall be notified in a general manner of the reasons for such suspension within 3 days of the actual suspension.

2. An employee may also be suspended with pay pending a disciplinary investigation and inquiry, where the Management deems that such measure is necessary.

3. An employee is entitled to be furnished with a 'show cause' notice setting out the charges of misconduct alleged against him and the employee shall be granted not less than seven (7) clear working days in which to give the answer or explanation. Where necessary the employee may request further time and the Employer shall permit a reasonable amount of time depending on the nature of the charges, but not exceeding a total of 14 working days, other than in exceptional circumstances.

4. If the Employer is satisfied with the written explanation, the employee shall be exonerated of the charge or charges and where appropriate he shall be summoned to report back for work. Where the explanation is unsatisfactory, the Employer shall hold a disciplinary inquiry within a reasonable length of time and shall commence such inquiry within 30 working days from the date on which the explanation to the 'show cause' letter is received, unless circumstances prevent the employer from doing so.

5. An employee shall be permitted to have a Union member to defend him at the Inquiry. Such representative shall not be a professional. If the employee wishes to have the benefit of such representation he shall inform the Superintendent of the name of the person defending him at least 48 hours before the Inquiry is due to commence. The superintendent may object to the individual selected, in which event the accused employee may nominate another representative. The failure of an employee to be defended by a representative shall not vitiate the inquiry.

6. The Employer shall endeavour to give the findings and convey the punishment, if any, within a period of 30 working days from the date on which the inquiry is concluded, unless there is justification for the delay. In no case shall the findings be delayed beyond 90 working days from the date of conclusion of the inquiry, save and except in the case of a pending criminal investigation. If no findings are given within 90 working days and the above exception does not apply, the accused employee shall be exonerated of the charges.

7. Notwithstanding the above provisions, an Employer may, where the circumstances so warrant, terminate and employee summarily. In such event the letter of termination shall set out the reasons for termination, including the justification for summary termination. In such event, the Union may appeal to the Employer or to the appropriate forum.

22. **Variations of Terms and Conditions of Employment and Disputes.** - 1. Parties hereto agree that during the continuance in force of this Agreement, they will not seek to vary, alter or add to any of the terms and conditions of employment, except by mutual consent.

2. Any employee enjoying a benefit, which is over and above the normal entitlement, shall continue to enjoy the same as personal, but this benefit shall not extend to any other employee. The above provision shall not apply to the consumption of electricity, where a limit is fixed for all employees.

3. Any dispute or issue of interpretation of this Agreement shall be resolved by reference to the Commissioner General of Labour under the Industrial Disputes Act, and if no settlement could be reached, by voluntary arbitration thereafter.

4. It is agreed by and between parties that the Unions, collectively or independently, or their members, shall not resort to any form of trade union action on any matter covered by this Agreement or is connected therewith.

23. **Duty Leave.** - 1. Subject to the approval of their respective Employers, the President and one other office bearer of the Parent Union will be permitted such duty leave as their Union duties require.

2. Where any dispute arises with regard to duty leave of the President and the nominated office bearer of the Parent Union, as specified in sub clause (I) above, the Federation will attempt to effect an amicable settlement between parties.

3. By mutual arrangement with the Employer, the Treasurer of the Parent Union shall be allowed twelve days duty leave in any one year.

4. By arrangement with their respective Employers, Branch Chairman of the Union shall be allowed twelve days duty leave which may be shared with the respective Branch Secretaries, on condition that the total leave availed of jointly by these two Office Bearers shall not exceed twelve days in any one year.

PART II

1. The employer undertakes to discuss with unions to resolve any issues relevant to employees in a situation of amalgamation of estates or divisions.

2. **ELECTRICITY.** - Free electricity would be granted to members of staff on the following basis, irrespective of what they had been enjoying in the past.

Elevation below 4,500 feet (Factory Elevation)

Senior staff	-	140 units
Junior staff	-	100 units
Other/minor staff	-	75 units

Elevation below 4,500 feet (Factory Elevation)

Senior staff	-	170 units
Junior staff	-	130 units
Other/minor staff	-	105 units

Recoveries for any excess usage will be made once in 6 months on the accumulated figure at the rate that costs each estate.

Kerosene - Employer shall provide 15 litres kerosene per mensem to those employees resident on estates/divisions without electricity.

3. **TEA ALLOWANCE.** - the employer shall provide free tea, on the following basis, to members of estate staff (including future recruits in those categories presently entitled) irrespective of what they had been enjoying in the past.

Senior staff	-	2 kgs
Junior staff	-	1 1/2 kgs
Others/minor staff	-	1 kg

The staff members could purchase in addition to the above free tea, the same quantities at the rate of 75% of the NSA or COP whichever is lower.

Staff members who had been entitled to three or more kilos of tea at a concessionary rate before June 1992 would be entitled to purchase a maximum of 3 kgs at a concessionary rate of 35% of COP or NSA whichever is lower with effect from 1st June 2003.

4. **DEATH GRANT-**

1. With effect from the date hereof, on the death of a staff member, the dependants will be paid a sum of Rs. 10,000/- as funeral expenses.
2. The dependants of the deceased staff member will be paid 50% of the sum equivalent to 3 months salary within one month upon the death of the employee and the balance at the time the dependants hand over the staff quarters.
3. If quarters are not provided to the deceased staff member, the dependants will be paid the sum equivalent to 3 months' salary within one month of the death of the staff member.
4. **Medical Aid Scheme.** - A staff member who is a member of the staff medical aid scheme will be paid the total balance lying to his/her credit in the fund inclusive of the company's contribution to such fund, at the time of retirement/death or termination of his/her employment from the estate.

24. INTERPRETATION

<i>Word</i>	<i>Meaning</i>
Union	— means one of the Unions referred to as the party of the Second part in this Agreement.
Dispute	— shall have the same meaning as in the Industrial Disputes Act.
Employer	— means a company who has subscribed to this Agreement and is referred to in Schedule I hereof.
Week	— means the period between midnight on any Saturday and midnight on the succeeding Sunday night.
Year	— means a continuous period of 12 months.
Gender	— a reference to the masculine gender shall include the feminine as well.

IN WITNESS WHEREOF THE PARTIES AFORESAID HAVE HEREUNTO SET THEIR HANDS AT COLOMBO ON THIS ELEVENTH DAY OF MARCH TWO THOUSAND AND FOUR.

LALITH OBEYSEKERA
Chairman
Plantation Services Employers' Group

K. A. P. DHARMARATNE
President
Ceylon Estate Staffs' Union

G. K. B. DASANAYAKA
Director General
The Employers' Federation of Ceylon

GAMINI SARANANDA DE SILVA
President
National Estates Services Union

WITNESSES

1.

V. GOVINDASSAMY

1.

Mr. NATH AMARASINGHE
General Secretary
Ceylon Estates Staffs' Union

2.

M. ALUWIHARE

2.

Mr. M. S. A. H. MOHIDEEN
General Secretary
National Estates Services Union

SCHEDULE I

Agalawatte Plantations Limited
Agarapatana Plantations Limited
Balangoda Plantations Limited
Bogawantalawa Plantations Limited
Elpitiya Plantations Limited
Hapugastenna Plantations Limited
Horana Plantations Limited
Kahawatte Plantations Limited
Kegalle Plantations Limited
Kelani Valley Plantations Limited

Kotagala Plantations Limited
Madulsima Plantations Limited
Malwatta Valley Plantations Limited
Maskeliya Plantations Limited
Maturata Plantations Limited
Nemunukula Plantations Limited
Pussellawa Plantations Limited
Talawekelle Plantations Limited
Udapussellawa Plantations Limited
Watawala Plantations Limited