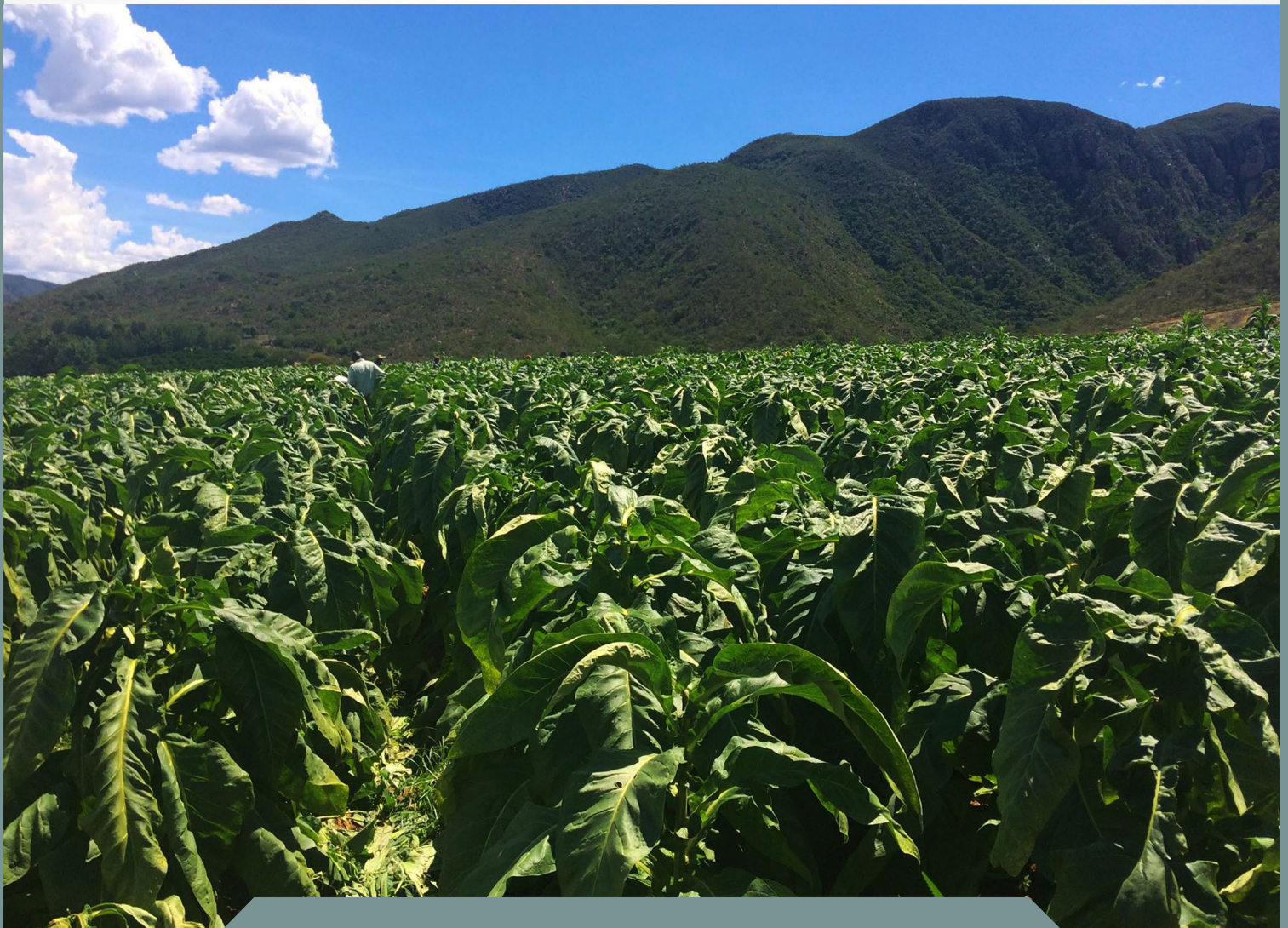




# EXTERNAL ASSESSMENT UNIVERSAL LEAF SOUTH AFRICA

Dark Air Cured farmers in Limpopo, East and West Cape



Agricultural Labor Practices Program

February, 2017

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# EXECUTIVE SUMMARY



EXTERNAL ASSESSMENT  
Universal Leaf South Africa

In February 2017, Philip Morris International (PMI) requested Control Union (CU) to conduct an external assessment of the Dark Air Cured tobacco growing operations of its supplier Universal Leaf South Africa (ULSA) in the Limpopo and Cape regions, South Africa. The assessment evaluated the labor practices at contracted farms, and whether these were meeting the standards of the Agricultural Labor Practices (ALP) Code.<sup>1</sup> CU also evaluated ULSA's internal capacity to implement the ALP Program and their understanding of farm practices, and how issues were being identified, recorded and addressed.

CU interviewed eight ULSA employees, one PMI Region employee, and three stakeholders (Department of Labor at Lephalale, Skills for Africa, and Emcare). Over a three-week period CU visited 20 farms in Limpopo and 19 farms in the Cape<sup>2</sup> and interviewed a total of 40 farmers, 27 family members and 142 external workers. All of the farm visits were unannounced. On 11 farms the farmer was not present at the time of the visit; in these cases CU had to select alternative farms.

An information triangulation methodology was used to evaluate farm practices. The three sources included interviews, documentation, and observation, together with a "Five Whys Analysis" problem analysis. The "Plan, Do, Check, Act" cycle was adopted for analyzing ULSA's management approach.

ULSA started with the ALP Program in 2012, and had included all their contracted farmers in the scope. The contracted farms were mainly large-scale, commercial operations with numerous workers many of whom were living on site. As the total number of contracted farmers was relatively low (77),<sup>2</sup> ULSA only had management team of five whose tasks included ALP implementation. Most of

them had been working in their current positions for about two years. The management team included an ALP Coordinator (appointed in 2016), who did not perform any coordination activities relating to the ALP Program but mainly focused on worker training.

Universal Leaf Tobacco (ULSA's international parent company) has global policies on ALP, and ULSA had also signed local ALP policies. Nevertheless, at ULSA the ALP Program was mainly perceived as a compliance program, implemented to satisfy customer requirements. Accountability was limited, as job descriptions included few ALP responsibilities. Instead of focusing on actual behavioral change at the farm, ALP-related targets focused mainly on the number of farmers reached by initiatives to address issues. Furthermore, Prompt Action reporting and procedures were unclear; Prompt Actions were only reported to a limited extent and only focused on the Limpopo region. While the ALP Coordinator addressed ALP-related topics to some extent during worker trainings, the two Agronomy Managers focused on ALP implementation only with regard to Farm Profiles, farm categorization and ULSA initiatives. Most of their time, however, was dedicated to agronomy. Furthermore, no formal ALP training was provided to the management of ULSA and several gaps in their understanding of ALP were identified. Although legal requirements were understood well by the field team (ALP Coordinator and Agronomy Managers), some gaps were identified regarding the interpretation of the ALP Code.

During the assessment CU noted that ULSA's ALP Program lacked a clear strategy. ULSA was focusing its initiatives mainly on safe work environment and compliance with the law. However, a more robust review of the progress and overall ALP Program performance was needed. Furthermore, continuity

1. The main goal of the ALP Code is to eliminate child labor and other labor abuses progressively where they are found, and to achieve safe and fair working conditions on all farms from which PMI sources tobacco (*see link*). For more information on the background of the ALP Program *see link*.
2. The minimum sample size was 20 farms in Limpopo and 20 farms in the Cape, 20 being the minimum sample size per homogeneous region when the total number of farms within a population is less than 400. At the time of the assessment, ULSA had contracts with 34 farms in Limpopo and 43 farms in the Cape. During the assessment in the Cape region two contracts related to one farm and so the 19 farms were visited covering 20 contracts (20 farmers).

of achieved improvements in the field was not secured as initiatives and when they had ended, were not followed up.

ULSA communicated ALP-related topics to farmers mainly via email, phone and regular farm visits by the field team. ULSA's field team and farmers were generally aware of the legal requirements related to ALP, but were not familiar with the ALP Code itself and lacked understanding of several principles. ULSA had distributed various communication materials to inform farm workers about Green Tobacco Sickness (GTS) and the existence of a support mechanism. The GTS poster clearly described the symptoms and how to avoid it, however, the materials for communicating the support mechanism provided only limited information and did not explain how the mechanism worked. Worker awareness was low for all ALP-related topics and legal rights, including the legal minimum wage, legal benefits, and legal requirements regarding the formalization of employment.

During the assessment the CU team received only limited socio-economic farm information as the electronic data collection system, MobiLeaf, which had been recently introduced at ULSA – was having data warehouse problems. CU identified missing and inaccurate data in the available information. Furthermore, the system was not being used to its full potential.

ULSA's management team had performed a risk assessment based on their knowledge of the market. In addition, they had conducted two farm-by-farm surveys to assess water quality and worker accommodation on each farm. Neither of these studies included a root cause analysis to gain an in-depth insight of the issues identified during the surveys.

ULSA's initiatives addressed only part of the issues identified in their own risk assessment or CU's assessments. Furthermore, the impact of these initiatives in the field was found to be limited with regard to several of the topics addressed.

For example, while training on safety and first aid had been provided and GTS posters had been distributed, awareness on these topics among workers was still found to be low. Similarly, ULSA's initiative to promote corporate permits among farmers to increase formalization of employment had, at the time of the assessment, achieved only limited results. In contrast, ULSA's initiative to provide water purification systems had a clearly positive impact on the farms, as reflected by the positive responses received by the CU assessment team from both farmers and workers.

CU's assessment demonstrates that practices that do not meet the ALP Code and Measurable Standards are present on South African tobacco farms, including the lack of formalization of employment, issues regarding fair treatment of workers, payment conditions and safety measures (among which inadequate worker accommodation and limited use of protective clothing and equipment when required), and limited provision of water for workers in the field.

Feedback received by the CU team from farmers, family members and external workers mainly focused on the initiatives and support from ULSA in general, and not specifically on ALP as only few of the interviewees were aware of the ALP Program. Several farmers mentioned that their knowledge on national legislation, agronomy issues and work safety had improved. ULSA's field team also received feedback from the farmers but had no structured process in place to collect and report this information.

The outcome of this assessment can be used as a tool to facilitate ULSA management to develop a strategy of continuous improvement. CU acknowledges ULSA's commitment to addressing the issues identified and defining areas of improvement through the implementation of an action plan (see Appendix I).

# MARKET AND COMPANY BACKGROUND



EXTERNAL ASSESSMENT  
Universal Leaf South Africa

Dark Air Cured Tobacco growing in South Africa is concentrated in three regions: the Limpopo in the north, and the East and West Cape to the south. In general, tobacco farms in South Africa are large-scale commercial operations with many workers living on site. There are approximately 190 tobacco farmers in the country, employing a total of 8,000 to 10,000 workers. Universal Leaf South Africa (ULSA) focuses on sourcing Dark Air Cured (DAC) tobacco only, while another tobacco company sources Flue Cured Virginia (FCV) only. In 2017, ULSA had 77 contracts comprising 34 farmers in Limpopo and 43 farmers in the Cape. On average, the contracted farmers in Limpopo had larger areas planted with tobacco (18 ha) than those in the East Cape (5.4 ha) and West Cape (3 ha). In 2016, ULSA sourced 85.6% of its DAC tobacco in Limpopo, 7.2% in East Cape, and 7.2% in West Cape. Compared to 2015, the quantity of tobacco bought by ULSA in 2016 was 21% higher in Limpopo and 98% higher in West Cape; while that sourced from East Cape was the same.<sup>3</sup>

ULSA had direct contracts with all farmers, most of whom had been engaged with ULSA for many years. For some farms ULSA had multiple contracts for different fields, involving different family members. Approximately half of the production sourced by ULSA was for PMI, with the remaining volume sold to other customers.

In addition to growing tobacco, farmers in Limpopo often owned and managed large areas for game<sup>4</sup> and various types of vegetables (total area of the farms up to 4,000 ha). For East Cape farmers, the main source of revenue was from citrus production, while in West Cape many of the farmers raised ostriches.

An important difference between the regions is the length of the tobacco growing season. In the East and West Cape the season (from planting to sale) around 12 months, while in Limpopo it is 16 months, due to the difference in climate.

3. Based on information provided by ULSA during the opening meeting of the assessment.

4. Areas for hunting.

## Chapter 1

# IMPLEMENTATION OF THE ALP PROGRAM



**EXTERNAL ASSESSMENT**  
Universal Leaf South Africa



## 1.1. Commitment to the ALP Program

On their global website Universal Leaf Tobacco (ULT), the parent company of ULSA, committed publicly to the elimination of child labor and the improvement of working conditions in tobacco crop production. The website provided information about the company's policy on sustainability and supply chain integrity,<sup>5</sup> their commitment to the ALP Code,<sup>6</sup> and their membership of the ECLT foundation, which advocates the elimination of child labor.<sup>7</sup>

In addition, ULSA had a local STP and Child Labor policy signed<sup>8</sup> by their Managing Director. The latter policy states that no children under 18 years old should work in tobacco production, with the exception that children 15 years and older are allowed to do light work and help on family farms. The STP policy includes statements on health and safety and child labor, and mentions that ULSA commits to monitoring and assessing farmers' compliance with South African labour legislation and the standard of living conditions.

ULSA's staff mainly referred to the ALP Code requirements in terms of the importance of meeting customer demands for continuity of the tobacco business. The ALP Program was primarily perceived as a compliance program.

## 1.2. Strategy and objectives

At the time of the assessment, ULSA focused on the following ALP-related topics: (1) worker accommodation, (2) personal protective equipment (PPE) for green tobacco sickness (GTS), (3) support mechanism, and (4) worker training. However, ULSA had no formal process in place for setting the strategy and objectives for ALP implementation. A basic risk assessment of the issues identified had

been conducted and several initiatives had been, or were being, implemented (see 1.6). The risk assessment was based solely on the experience of the ULSA management in the tobacco industry, but not on information collected systematically from the farms.

ULSA response:

*"ULSA is in the process of reviewing the ALP strategy, to have the program aligned with the organizational objectives. This is expected to be completed by the end of October 2017."*

ULSA's risk assessment<sup>9</sup> identified the following practices as high risk:

- Wages of all workers (including for temporary, piece rate, seasonal, and migrant workers) do not meet the minimum wage
- Workers do not have access to a fair, transparent and anonymous support mechanism
- Farmers do not provide a safe and sanitary working environment, and do not take all reasonable measures to prevent accidents, injury and exposure to health risks.
- Workers involved with topping or harvesting tobacco or loading barns have not been trained on avoiding green tobacco sickness (GTS).
- Workers involved with the use, handling, or application of crop protection agents (CPA) or other hazardous substances, such as fertilizers, have not received adequate training and do not use the required personal protection equipment (PPE).
- Accommodation does not meet the basic needs of workers, and does not comply with national legislation.

5. [http://www.universalcop.com/Resources/Policies/Sustainability\\_and\\_Supply\\_Chain\\_Integrity\\_Policy.pdf](http://www.universalcop.com/Resources/Policies/Sustainability_and_Supply_Chain_Integrity_Policy.pdf)

6. [http://www.universalcop.com/Resources/Policies/ULT\\_ALP\\_CODE.pdf](http://www.universalcop.com/Resources/Policies/ULT_ALP_CODE.pdf)

7. [http://www.universalcop.com/Resources/Policies/ECLT\\_Foundation\\_Members\\_Pledge.pdf](http://www.universalcop.com/Resources/Policies/ECLT_Foundation_Members_Pledge.pdf)

8. Internal documents not publicly available.

9. The risk assessment used was based on PMI's global template for GAP assessments. This template required ULSA to identify the potential risks associated with each Measurable Standard, their probability and severity, to determine the risk level.

- Farmers and workers have not entered into written employment contracts and/or workers have not received a copy of the contract.
- Terms and conditions of employment contracts contravene national legislation.

These risks are all in line with CU's findings. However, CU identified additional risks concerning illegal deductions from workers' salaries, shortcomings in the provision of legal benefits, lack of clean drinking and washing water and sanitary facilities near the workplace (see chapter 2).

ULSA performed two in-depth surveys to map the situation in the field: (i) a study on water quality (2015) which was related to their initiative to provide farmers with water purification systems, and (ii) a study on the state of the housing provided to workers (2016), recording all facilities and their quality.

ULSA response:

*"With the improved internal focus on ALP and the farmers understanding of the ALP program, future risk assessments will be based on data gathered from farm monitoring and other surveys. The risk assessment will be conducted annually henceforth in the month of September.*

*This will allow the organization to have a risk assessment that is based on the identified issues and support the action plans to focus on the actual root causes."*

ULSA had not conducted root cause analyses for the risks identified in the annual risk assessment, nor for the risks identified in the additional survey on accommodation. For the risks identified with

regard to the payment of wages and provision of contracts, ULSA only mentioned in the annual risk assessment that farmers should be required to comply with legislation, without further actions from ULSA. However, ULSA did develop initiatives for improvement with regard to some of the risks and set the following targets:

- **Improve housing for workers:** Two pilot farms in 2017 where ULSA plans to support the building of new accommodation facilities.
- **Improve safety by engaging the NGO Skills for Africa<sup>10</sup> for training:** Targets were set for 2016 to provide training to 200 workers<sup>11</sup> on different topics (40 workers trained on CPA handling, 40 on pest control, 80 on tractor safety, and 40 on work area safety). No targets had been set for 2017 at the time of the assessment.
- **Improve safety by engaging Emcare<sup>12</sup> (Limpopo) and Klein Karoo Event Medics<sup>13</sup> (West Cape) for first aid training:** Target to train one First Aid representative for every 25 workers per farm. Targets were set to train 146 workers to provide all farmers with the necessary trained workers.
- **Promote corporate permits<sup>14</sup> amongst farmers with foreign labor:** For this initiative ULSA defined the target as a significant improvement in labor legalization, without quantifying the target.
- **Provide water purification systems for clean drinking water:** In 2015, ULSA ran an initiative in Limpopo to provide farmers with water purification systems, where necessary based on the water quality survey. This scheme was completed in 2015, but was not available to the two new farmers contracted by ULSA after 2015.

10. <http://skillsforafrica.co.za/>

11. Total number of workers on farms within scope was 1467 (source: ULSA).

12. <http://www.emcare.co.za/>

13. Only a facebook page is available online: <https://www.facebook.com/KleinKarooEventMedics/>

14. A corporate permit is a temporary work authorisation granted to a corporate entity (e.g. a farmer), rather than the foreign employee, to employ a specific number of skilled, semi-skilled and/or unskilled workers. The permit enables a corporate applicant to employ a number of foreign nationals determined by the Department of Home Affairs (see Appendix III for more detailed legal information).

Targets were not achieved for either of the safety training initiatives; only 47% of the targeted 200 workers were trained by Skills for Africa, and only 77% of the targeted workers were trained by Emcare/Klein Karoo. According to ULSA, this was because farmers did not send sufficient workers to the training sessions. Partly because workers without South African identity documents did not qualify and farmers mentioned that they did not want to send in workers as they were needed on the farm to work. The two-farm pilot to improve housing was met and buildings were under construction at the time of the assessment.

For the risks related to the payment of wages and provision of contracts, ULSA only mentioned that farmers should be required to meet requirements of legislation without further actions.

Although ULSA had started the above initiatives, continuity was not guaranteed as they were not embedded in the company’s strategy, and after completion of a project ULSA focused on other topics. However, initiatives such as the provision of water purification systems continue to be also relevant for the new farmers who joined ULSA after 2015.

ULSA response:

*“...ULSA will focus its ALP program on inculcating behavioral change at farm level and ensure that the ALP policies reflect such.”*

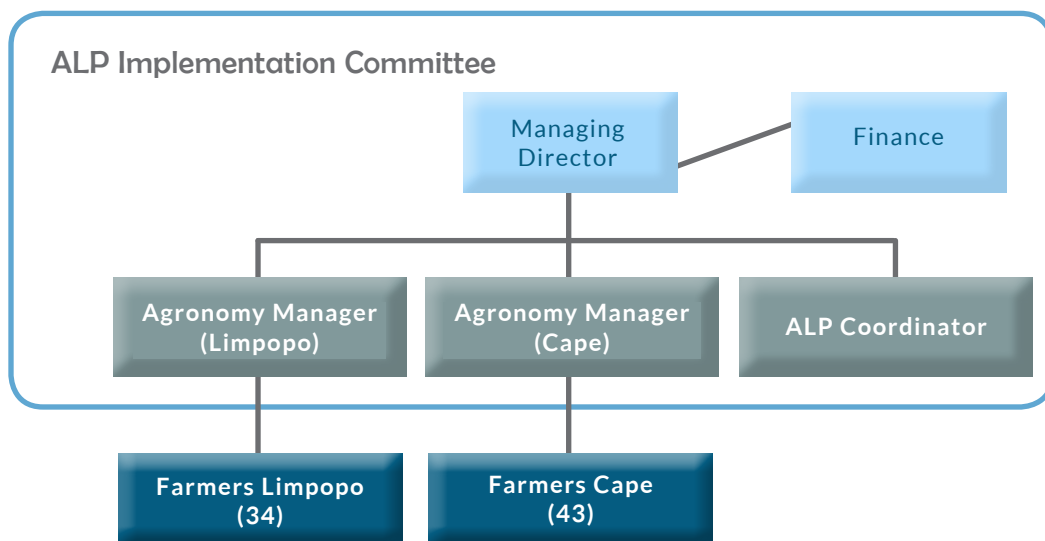
ULSA’s targets were mainly focused on a targeted number of farms or workers rather than a change of practice or behaviour. The targets were reviewed once a year in the STP report which is signed by the Managing Director. The 2016 report was reviewed by CU and further details on the various initiatives and targets are presented in 1.6.

### 1.3. Internal capacity

#### 1.3.1. Dedicated organizational structure

ULSA created an ALP Implementation Committee including the Managing Director, Finance and a field team consisting of two Agronomy Managers and one ALP Coordinator. The field team provided a direct link between the management and the field. Furthermore, ULSA worked closely together with PMI Region and received regular guidance on the implementation of the ALP Program.

**Internal structure for ALP implementation**



### 1.3.2. Roles and responsibilities

In addition to his core task of managing the company, the Managing Director also coordinated the ALP Program. However, ALP coordination was not included in his job description, nor in any of the job descriptions of other managers. The person presented as the ALP Coordinator, who worked for several years at ULSA and joined the ALP team in September 2016, was mainly focused on worker training in one region (Limpopo) and played no role in the actual coordination of the ALP Program. No one was assigned to oversee, supervise and provide ALP training in the Cape region, while communication responsibilities were delegated to the Agronomy Manager for this region. Although the Agronomy Manager for the Cape region was responsible for the MobiLeaf system, this was not included in his job description.

The only ALP-related responsibility included in the general job description for the two Agronomy Managers was to update records and MobiLeaf data accurately and regularly. The general job description for the Financial Manager, who was also presented as a member of the ALP Implementation Committee, did not include any specific ALP-related responsibilities.

Furthermore, responsibilities such as drafting the annual risk assessment, managing Mobileaf, or sending the quarterly ALP report to PMI were not included in any of the job descriptions of the members of the ALP Implementation Committee.

Finally, the element used by ULSA to evaluate individual performance of the management team were not linked to the targets mentioned in the job descriptions.

ULSA response:

- *"...ULSA through the human resources department and management, will review the key performance indicators and job description of the agronomy operations implementation team to clearly define the ALP performance goals. This is expected to be completed by October 2017."*
- *"With the support of the HR Department, the job descriptions of all the ALP Implementation Committee will be aligned to include the relevant ALP responsibilities and ensure that individual performance monitoring is aligned with their responsibilities."*

### 1.3.3. Training and knowledge of the ALP Program

ULSA's management staff received guidance on ALP from PMI's Africa Region office. The Managing Director had participated in one formal training session provided by PMI in the United States in 2011, while the ALP Coordinator had participated in an ALP training provided by Verité and PMI in Malawi in 2016. Apart from these, management had not received any formal training on ALP. Although the Agronomy Managers and the Financial Manager mentioned that they had received an explanation of the ALP Program from the Managing Director, no training materials or records were available.

For the field team,<sup>15</sup> the following gaps in their understanding of the ALP Code Principles were identified:

1. **Child labor:** All three members of the field team were aware that 15 was the legal minimum age for working with tobacco and that children aged 15 to 18 years should

15. The field team consisted of two Agronomy Managers and the ALP Coordinator responsible for training workers in the Limpopo region.

be given light tasks only. The definition of hazardous work was not clearly understood: one member (33%) of the field team only mentioned operating machinery as hazardous, while another (33%) mentioned, in addition, that workers must wear proper protective equipment. Only one (33%) of the field team gave a full description of the definition of hazardous work. Nevertheless, none considered the application of suckercide for topping as hazardous work.

2. **Income and work hours:** This ALP Code Principle was well understood by the field team. All mentioned the correct legal minimum wage and regular working hours, and were aware of the legal benefits that should be provided. Two mentioned the correct rate for overtime hours.
3. **Fair treatment:** The field team understood that workers must be treated fairly. Two of the field team (67%) showed a more thorough understanding and mentioned that there should be no discrimination, abuse or harassment. However, none of them mentioned that farmers must be available to workers who want to discuss potential grievances.
4. **Forced labor:** All three members of the field team related the withholding of identity documents and financial deposits to forced labor. One member (33%) related working more than the regular hours to forced labor, while this issue is covered by the ALP Code Principle of income and work hours. Withholding payments or indirect payments were not mentioned by any of the field team as a risk of forced labor.
5. **Safe work environment:** The field team had a good understanding of the required safety measures for tobacco farms, such as the use of PPE, CPA storage, provision of adequate accommodation, and keeping the environment clean. However, none of them mentioned CPA re-entry periods and the provision of clean

drinking and washing water. Furthermore, the application of suckercide for topping was not considered hazardous.

6. **Freedom of association:** All of the field team had an adequate understanding of this ALP Code Principle and mentioned that workers should be free to join unions if they wanted to.
7. **Compliance with the law:** All of the field team mentioned that farmers should comply with the law, and all were aware of the requirement to have employment contracts in place. In addition, two (67%) mentioned that farmers should inform workers about their legal rights.

The concept of Prompt Actions was not well understood by the field team even though this is an important aspect of the ALP Program. Prompt Actions were considered to be any urgent situation not meeting the ALP Code standards, but no one could give a clear description of what should be considered an urgent situation in this context.

**ULSA response:**

*"ULSA will implement intervention plans in the 2017/18 crop year that will focus on improving the knowledge of the country team through:*

- *ALP coordinator will attend the ULT Regional ALP Training Programs and participate in the regional ULT STP committee.*
- *ALP coordinator to liaise with other ULT ALP coordinators in the region to leverage on their experience and benefit from cross market visits.*
- *ALP coordinator to use the gained knowledge to formalize training for the ULSA ALP team to improve their overall knowledge on the ALP program.*
- *Align the ALP training material to coincide with the crop calendar to ensure that training is focused on issues that are more prevalent during that period."*

### 1.3.4. Internal communication

ULSA operated with a small field team (see 1.3.1) and communication was mainly informal via email and phone. In addition, their agenda included a slot on Fridays to hold a conference call meeting when necessary. However, no minutes were taken for these meetings. Furthermore, quarterly meetings were held to discuss ALP and STP issues (among other topics), but no minutes were available of these meetings either.

PMI Region visited ULSA regularly, and received a quarterly report including an ALP update with statistics on ALP communication to farmers, a Prompt Action summary, and planned tasks. ULSA also compiled an STP report for 2016 covering seven projects, including the status and targets set for the 2017 crop season.

#### ULSA response:

*"To improve on internal communication and ensure that there's traceability of all the ALP discussions and other STP topics, ULSA will develop a formal meetings guideline for all the STP meetings by Oct of 2017. Furthermore, a STP meeting will be formalized to occur on a monthly basis, at which the ALP program will also be discussed."*

## 1.4. Communication of the ALP Code requirements to farmers

### 1.4.1. Communication strategy and tactics

ULSA informed farmers on ALP topics mainly during regular farm visits, as well as by email and phone. Furthermore, ULSA organized group meetings, locally referred to as study groups, on a quarterly basis. Although the focus of these meetings was mainly on agronomy related topics, ALP topics were sometimes discussed as well. All farmers joined a Whatsapp group to communicate with the Agronomy Managers, nevertheless only two

farmers mentioned that they had received ALP related information through this channel.

ULSA's field team paid regular visits to the farms, and each farmer reported being visited at least on a monthly basis. These visits focused mainly on agronomy-related topics to ensure a good tobacco crop. To improve communication on ALP-related topics, ULSA started employing an ALP Coordinator in 2016, to support the Agronomy Manager in the Limpopo region. However, in practice this ALP Coordinator mostly spent time on worker training to reduce Non-Tobacco Related Material (NTRM); only 13 of the 40 farm trainings held in Limpopo in 2016 dealt with safety topics. In the Cape region, the Agronomy Manager worked on his own (i.e. without help from the ALP Coordinator) and did not conduct any ALP-related trainings. One farmer in this region reported understaffing, while the Agronomy Manager himself confirmed he did not have sufficient time to provide the 43 farmers in the Cape with adequate support on Agronomy, STP projects and ALP.

ULSA provided its farmers with information and documents via email including information regarding the ALP Program and ALP Principles. However, many farmers mentioned that they had not read the materials.

ULSA produced communication materials regarding GTS<sup>16</sup> and the support mechanism, and distributed these among their farmer base (see Appendix V):

- **GTC poster:** Had a clear description of the symptoms of GTC and how to avoid it. The poster was distributed to farmers and was seen hanging at many of the farms visited (see Appendix V).
- **Support mechanism poster and business cards:** The poster and business cards were handed out to farmers and their workers to promote the support mechanism and increase awareness of the telephone number. The materials were distributed at the beginning of 2017 (see Appendix V).

16. Locally referred to as Green Tobacco Condition.

Five farmers visited (13%) were familiar with the term ALP and could recall several ALP Code Principles. However, most of the farmers, when asked specific topics, had a limited awareness (see table below). Two farmers (5%) could not relate any topics to the ALP Code Principles.

Topics that were mentioned most often by farmers included safe work environment, income and work hours, and child labor. These topics were also best known among farmer family members, who in most cases were involved with farm office tasks. Among external workers, awareness was low for all topics related to the ALP Code Principles.

Level of awareness of ALP Code Principles*			
	Farmers (T=40)**	Family members (T=27)	External workers (T=142)
Child labor	19 (48%)	14 (52%)	13 (9%)
Income and work hours	20 (50%)	14 (52%)	19 (13%)
Fair treatment	17 (43%)	7 (26%)	13 (9%)
Forced labor	12 (30%)	4 (15%)	3 (2%)
Safe work environment	27 (68%)	16 (59%)	18 (13%)
Freedom of association	6 (15%)	3 (11%)	3 (2%)
Compliance with the law	17 (43%)	9 (33%)	0 (0%)

\* Interviewees could not recall the exact ALP Code Principles, however, they could name related topics.

\*\* On one of the 39 farms visited ULSA had contracts with two farmers, hence T=40.

Farmers mentioned being informed about ALP-related topics in study group meetings, and several referred to the ULSA emails and regular visits by the ULSA field team. Both knowledge transfer between the farmers and workers on ALP and the impact of worker trainings by the ALP Coordinator seem to have been limited, even though several workers reported they had been trained by the ALP Coordinator.

Means of communication through which ALP-related information was received*	
	Farmers (T=40)
Study group meetings	22 (55%)
Emails from ULSA	11 (28%)
During regular visits by the ULSA field team	10 (25%)
Department of Labor	4 (10%)
Whatsapp from ULSA	2 (5%)

\*Farmers could be informed in multiple ways.

### Means of communication through which ALP related information was received\*

	Family members (T=27)	External workers (T=142)
Verbally from the ULSA field team	14 (52%)	5 (4%)
Emails from ULSA	5 (19%)	-
Department of Labor	2 (7%)	-
Verbally from the farmer	1 (4%)	7 (5%)
ULSA training by ALP Coordinator	-	9 (6%)
From other external workers	-	2 (1%)
Newspaper	-	2 (1%)
Labor acts displayed at the farm (no ULSA initiative)	-	2 (1%)
Poster	-	1 (1%)

\*External workers and family members could be informed in multiple ways.

For 12 (27%) of the foreign migrant workers in Limpopo, communication with the farmer was a challenge as they did not speak the same language as the farmer. In these cases workers spoke mainly Tswana, Shona and Northern Sotho, but were not able to speak English, and the farmer often had to talk through his foreman.

#### ULSA response:

*“ULSA will review and update its ALP training materials before the end of December 2017. Prevalent ALP topics and updates will be discussed during all ULSA and farmer meetings, including detailed discussion on the contents of the ALP documents with each farmer before handing it to them to sign. The MobiLeaf electronic data collection tool will be used as validation to confirm document handouts. The frequency of training of farm workers on ALP topics will be increased, monitored and*

*documented on MobiLeaf on a monthly basis. The training and communication will be aligned to farmer categorization, assessing performance against benchmarks and the associated benefits. ALP training material will be aligned to coincide with the crop calendar to ensure that training is focused on issues that are more prevalent during that period. Best practices from other ULT markets in the region will be evaluated continuously to establish their application on ULSA farms.”*



### 1.4.2. Farmers' responsibilities

ULSA included three clauses<sup>17</sup> in the growing contract, stating farmers' responsibility to meet the ALP-related requirements of the law regarding child labor, income and work hours, fair treatment and employment of foreign labor. Also, in 2014, farmers had to sign an ALP declaration including statements on all seven ALP Code Principles (see Appendix VIII).

ULSA implemented a farmer categorization (see 1.5.2) to incentivize them to comply with/adopt the ALP Code ranked from A to D, and linked this to a financial benefit. The categorization included seven ALP related topics. Farmers were provided with an overview by email to notify them of their categorization.

ULSA response:

- *"ULSA will continue to categorize all contracted growers according to individual production yield and quality, as well as including key ALP related issues into the process. All contracted farmers will receive an ALP rating on formalized employment agreement that comply with all applicable laws and ALP principles (including corporate permits), recycling of CPA containers, compliant worker accommodation, first aid trained employees and PPE availability and use. Farmer categories will be linked to benefits such as crop advances and premium prices for tobacco purchases. Category A to C farmers will receive a pre-sale advance on their estimated crop size while Category D farmers will not qualify for this benefit. The purpose of the program is to motivate farmers rather than penalizing them, encouraging them to achieve the intended behavioral changes at*

*farm level. Farmers with recurring noncompliance and failure to take corrective actions are more likely not to be contracted the next season. ULSA started implementing this aspect of the action plan in June 2017 and the target is to complete the implementation to 100% of all the contracted farms for the 2017/2018 season."*

- *"The farmers' contracts will be amended to include the clause that the employer will not hire any labour without verifying the ID, passport, birth certificate and/or asylum documents to validate age by June of 2018. This will be monitored by field staff during their routine visits and unannounced visits henceforth."*

### 1.5. Internal monitoring: data collection, accuracy, and addressing issues

ULSA was collecting three types of ALP-related data about their farms: socio-economic information (Farm Profiles; see 1.5.1); situations not meeting the standard (see 1.5.2); and Prompt Action reports (see 1.5.3). Even though the data was in line with PMI's approach and was compiled in a quarterly report shared with PMI's Region Team, limited actual analysis was done to investigate the root causes of identified situations not meeting the standard.

The Agronomy Managers were tasked with obtaining all Farm Profile data, however, several items were missing, incomplete and/or inaccurate (see Appendix VI). Due to its recent introduction at ULSA the MobiLeaf<sup>18</sup> system was not yet running smoothly and most data was still being collected in Excel. At the time of the assessment, information in MobiLeaf was not accessible due to problems with the data warehouse. In addition, ULSA mentioned that there were challenges to adapt the MobiLeaf

17. ALP clauses in ULSA's growing contract: "b. Compliance with the agricultural labour practices as set out in the South African Basic Conditions of Employment Act of 1997 and the Buyer's STP program. (1) The Seller shall neither hire nor use people under the age of 18 years in any activity connected with any of the stages of Tobacco production. The buyer will not purchase any tobacco from a Seller who uses the work of people younger than 18 years. (2) Compliance with applicable laws relating to employment, the payment and fair treatment of workers. (3) The Seller will obey the South African legislation with regards to the employment of migrant foreign labour."

18. This handheld system is used worldwide by Universal to collect farm data.

system to the South African market and its large-scale farms, where the dynamics are different compared to markets with smallholders (for which MobiLeaf was originally designed).

These challenges resulted in ULSA not having a reliable data source with which to fully understand all risks and issues and to implement effective initiatives to address them.

### 1.5.1. Socio-economic data: Farm Profiles

Socio-economic information for Farm Profiles was collected by the Agronomy Managers during the year using two systems in parallel: MobiLeaf and Excel. The Mobileaf information has been used as the basis for the assessment, as this was reported by ULSA to be the most updated. The problems with the database as mentioned in 1.5 meant that only limited information on Farm Profiles was available during the assessment. Therefore ULSA provided file extracts of the Farm Profile information from MobiLeaf in Excel.<sup>19</sup> CU verified this Mobileaf data and identified missing information for 18 (45%) of the profiles and incorrect information for 11 (28%) of the profiles (see Appendix VI). Furthermore, the information provided covered only a limited number of the topics of the original PMI Farm Profile. Information on the following topics was not provided: (1) family members on the farm (except for spouse information), (2) ALP Communciation to farmer and (3) living conditions.

### 1.5.2. Systematic monitoring: situations not meeting the ALP Code standards

At the time of the assessment, ULSA had not yet started with farm-by-farm monitoring, and did not yet closely monitor farm practices throughout the entire season to analyze whether these met the ALP Code standards. However, in 2017 ULSA did start recording farmers' performance on several

agronomy topics and seven ALP topics<sup>20</sup> to assess whether farmers were meeting the requirements in relation to ULSA's farm categorization. For each of these topics ULSA recorded whether or not the farmer met the requirements, however, no additional qualitative information was added. Based on the agronomy and ALP topics together, farmers were graded from A (best) to D (worst), which determined the price premium they would receive for their tobacco. At the time of the assessment the Agronomy Managers were still using Excel to collect this information, however, ULSA stated that they planned to integrate data collection for farm categorization into Mobileaf as an additional survey.

CU verified the information recorded in the categorization Excel files. For all farms the categorization data was available, however, for three Limpopo farms (16%) and seven Cape farms (39%) the categorization records did not fully match with the situation on these farms (see Appendix VI).

#### ULSA response:

*"ULSA is in the process of improving the systematic farm monitoring process, with specific focus on improving the accuracy of data that is being collected to ensure 100% of farm profile data accuracy. ULSA will also be addressing the current challenges that are being experienced with Mobileaf and is working on having it fully operational and adopted to the commercial farms setup by end of Aug 2017. To achieve this ULSA will:*

- *Assign the task of fine-tuning the Mobileaf system to one of the agronomy managers who has a background of information management systems and who will henceforth be the MBL coordinator for the organisation.*
- *Implement a process to monitor MobiLeaf user's operational efficiency individually.*

19. Topics included in the Farm Profile information provided to CU: (1) Name and birthdate of spouse, (2) Hectares and kilos of tobacco, (3) Number of laborers, according to type (temporary, permanent and migrant) (4) Type of contract per type of laborer.

20. ALP topics included in the farmer categorization: Hand in CPA Container, Labour Contract, Corporate Permit, Legal Accommodation, First Aid Trained, CPA PPE, GTC PPE.

- *Implement a periodic process to validate data accuracy using the droidSurvey\* data application at the farms.*
- *Use the data captured in the central database to conduct regular analysis that will identify and address blind spots.*
- *Identify ALP code standards not meeting targets and have them discussed during STP ALP committee meetings.*
- *All farms to receive a minimum of 5 visits during a crop year as part of monitoring.”*
- *“droidSURVEY is a business application compatible with Android devices to assist with the collection of field online/offline data and its synchronisation with an internal database.”*

### 1.5.3. Prompt Actions

The ALP Coordinator was responsible for recording Prompt Actions for the Limpopo region. This meant that no Prompt Actions were reported from the Cape region. At the time of the assessment, ULSA was not yet using MobiLeaf for recording Prompt Actions, and hence provided Prompt Actions for November 2016 in an Excel format. Furthermore, the ALP Coordinator could not yet enter information into MobiLeaf as he was still using a ‘trainee version’ which did not allow this.

Prompt Actions were not discussed or communicated with the farmers. In total, eight Prompt Actions were reported in November 2016 of which five related to workers harvesting without gloves and three to workers topping without gloves. For all these Prompt Actions the listed ‘recommended action’ in Excel was to offer workers training on GTS. However, this overlooked the fact that, for topping, the risk of working without gloves is not only related to GTS but also to the application of chemicals (i.e. suckercide). Furthermore there was no list provided with recommended actions in case other types of Prompt Actions were identified.

Compared to the range of situations not meeting the standard as identified during the CU farm visits, the number of reported Prompt Actions by ULSA was low. Situations identified by CU included the following: pregnant women involved with topping, no drinking and/or washing water available, CPA containers being reused for water storage or other domestic needs, wrong CPA storage, and working at height without safety equipment. Furthermore, while ULSA only reported Prompt Actions for the Limpopo region, CU also identified Prompt Actions in the Cape.

No clear escalation process was described regarding the reporting of Prompt Actions, although the field team did mention that they directly informed their superior (the Managing Director) in case they identified a Prompt Action. Furthermore, no clear overview was available of the follow-up actions required in case of a reported Prompt Action.

Furthermore, as mentioned in 1.3.3, the meaning of Prompt Actions was not well understood by the field team. They defined Prompt Actions as all situations not meeting the standard in case the situation was considered to be urgent. However, there was no list available of situations that should be considered Prompt Actions, no clear description of when exactly a situation should be considered urgent, and no clear definition of the period for follow-up.

CU verified six of the reported Prompt Actions on the farms visited, and in four cases (67%) identified the same incidents during the visit, even though they were marked as ‘completed’ in the list. Furthermore, in all cases the column ‘reported to farms’ was marked ‘yes’, while none of the farmers were aware of the reported Prompt Actions. The ALP Coordinator confirmed that farmers were not informed.

ULSA response:

*"ULSA acknowledges the finding of CU on the collection of prompt action data and realizes that it is an area of improvement that requires a systematic change to the process and an investment in the knowledge of the field team. To do that, ULSA will be focusing on the following:*

- *Working with the regional ULT team to have a standardized Prompt action guideline that will be addressing the process for opening and closing PA's, follow up, escalation and repeated offenders which is expected to be completed by end of Sep 2017.*
- *Ensure that all the field team members are trained on the PA guideline by the ALP coordinator by the end of Oct 2017.*
- *Ensure that prompt actions are discussed with farmers and action plans are agreed on.*
- *All prompt actions will be pre-loaded and collected through the MobiLeaf system from end of Jun 2017.*
- *Prompt actions will be reviewed periodically for realignment of priorities during the season. 100% of Prompt Actions to receive a follow up visit and to check for re-occurrence."*

#### 1.5.4. Data management and analysis

ULSA stored farm data either in Excel or MobiLeaf. As 2016 was the first year of ULSA using MobiLeaf, several functions of MobiLeaf were not utilized at the time of the assessment, such as farm-by-farm monitoring and Prompt Action reporting. The Agronomy Managers were responsible for inputting Farm Profile data into Mobileaf (see 1.5.1). However, they still recorded the categorization data (see 1.5.2) in Excel, and provided this to the Managing Director via email. The ALP Coordinator was responsible for reporting Prompt Actions and also used Excel to collect and report this data. The person responsible for checking data was the Managing Director.

#### 1.5.5. Improvement plans for individual farms

ULSA did not agree with farmers on improvement plans for their farms. Although ULSA had drafted STP improvement plans, including ALP topics, for the previous crop season (2016), these had not been updated; there had been no tracking of the progress, nor had there been any follow-up to these plans. The main reason for this was that the action of producing improvement plans was considered completed and focus had shifted to other initiatives (see 1.6). As mentioned above, Prompt Actions were not being communicated to farmers so it was not possible to agree on an improvement plan based on these.

ULSA response:

*"ULSA field staff conducted a farm by farm ALP review during April 2017 to review current ALP conditions per individual farm. ULSA will draft individual farm improvement action plans by the end of October 2017."*

#### 1.6. Address systemic and/or widespread issues

Based on the risks and issues identified (see 1.2), leaf tobacco suppliers are expected to address systemic and/or widespread issues through operational (STP) initiatives, community programs (possibly supported by PMI's Contributions) and engagement with key stakeholders.

At the time of the assessment, ULSA had implemented the following operational initiatives:

- **Accommodation pilot:** Acknowledging that worker housing in general was not meeting the law or ALP standard, ULSA started an initiative in 2016 to improve farm accommodation for workers. South African law sets out legal requirements for paid housing only, i.e. in case housing deductions are made from workers'

salaries. ULSA stated that from 2017 onwards, they will apply these same requirements to housing that farmers provide to workers for free.

At the beginning of 2017, ULSA started with a pilot on two farms to construct new housing units. CU visited one of these farms and verified that housing was under construction. The planned buildings were communal housing, with one unit consisting of clusters of three rooms measuring three by three meters each. The building plans show that each room will have a door and glass window and electricity. In addition, ULSA had prepared a contract for workers to sign in order to formalize the housing agreement between farmers and workers. This contract referred to the law in general, but did not explicitly set out the legal limits on housing deductions (see Appendix IV).

ULSA provided the two farmers participating in this project with a loan to construct the new housing units. ULSA calculated the period for repayment by the farmers based on the legally allowed deduction from workers' salaries for communal housing. As presented to the farmers, ULSA found that the best option (in terms of the highest legally allowed deduction) was to register the housing in units of three, and calculate the deduction for each unit as being 25% of a worker's salary, divided over the three workers hiring the accommodation. Based on this ULSA had chosen to build communal housing consisting of clusters of three rooms, each measuring three by three meters.

Depending on the outcome of the pilots, ULSA plans to allow other farmers to participate in the initiative. The wider project is planned to be completed by December 2019.

- **First-aid training from Emcare (Limpopo) and Klein Karoo Event Medics (West Cape):** ULSA engaged Emcare and Klein Karoo Event Medics to provide farmers with the opportunity to train

their workers in first aid to improve general safety on the farms. This initiative was run in 2016 and 16 Limpopo farms (89%) and seven West Cape farms (58%) participated in first aid training provided by Emcare (Limpopo) or by Klein Karoo Event Medics (West Cape). For East Cape farmers ULSA had not identified the first-aid training needs, as these farmers were GlobalGAP certified. Farmers who participated in this initiative declared that they found the training useful, mentioning that workers were now able to help each other in case of injury and that it had created general awareness on the importance of first aid on their farms. However, some farmers also mentioned the problem that this knowledge had been lost when several trained workers left their farms. Some Cape farmers reported that they had not been able to send their workers to the training sessions as these were organized during the working season, when the workers were needed at the farm.

ULSA response:

*"...the remainder of the farms were trained in January of 2017. Refresher trainings will be conducted every second year henceforth."*

- **Safety training from Skills for Africa:** Fourteen Limpopo farmers (70%) had participated in safety training sessions provided by Skills for Africa in 2016. These farmers stated that the training initiative was useful and they saw the benefit of training workers on safety issues. Training was provided on the following topics: safe CPA usage, tractor safety, and farm safety.

ULSA response:

*"ULSA will continue on the same initiative on an annual basis to improve on this aspect."*

- **Water purification systems:** This initiative ran during the 2015 crop season. Based on water quality tests on the farms, ULSA provided water purification systems as needed to its farmers. Of the ten farms where CU checked this initiative, eight had been provided with a water purification system. One of the two farmers who had not received a system was not contracted by ULSA at the time of this initiative.

At the farms where purification systems had been installed, farmers and workers confirmed that they were very satisfied with the clean water. The cost for installing these systems were covered by PMI for 53% and by ULSA for 29%; the farmers had to contribute the balance of 18%..

- **Corporate permits:** To provide farmers with support on how to apply for a corporate permit, ULSA engaged a labor lawyer and labor consultant. Both attended a study group meeting in the Limpopo area in August 2015 to explain the application process to the farmers present. This initiative focused on Limpopo as foreign labor was most common in this region.

Of the Limpopo farms, three farmers had a corporate permit (16%) and five (26%) reported that they were in the process of obtaining one. Farmers reported that the costs of obtaining a corporate permit were very high and that it took a long time to obtain the permit; they also stated that the government was slow and not willing to cooperate on this matter. Two farmers who were still waiting for their permit had started the application process more than a year before.

The above mentioned initiatives were implemented by ULSA to address several farm-level and systemic and/or widespread issues. However, no concrete actions had been taken (yet) to address the following issues:

- Payments below the legal minimum wage and illegal deductions from workers' salaries
- Inadequate provision of legal benefits to workers
- Inadequate provision of sanitary facilities, drinking water and washing water near the work place.
- Pregnant women working with CPA for topping.

ULSA response:

*"ULSA will review on a regular basis all the STP initiatives conducted and determine needs for outstanding farms where necessary on an annual basis."*

## Chapter 2

# FARM-LEVEL ASSESSMENT OF WORKING CONDITIONS REGARDING THE ALP CODE STANDARDS



**EXTERNAL ASSESSMENT**  
Universal Leaf South Africa

This chapter describes CU’s assessment of the working conditions on ULSA contracted farms with regard to the ALP Code Principles and Measurable Standards. ALP Code Principles are short statements designed to guide farmers on specific practices, resulting in safe and fair working conditions. A Measurable Standard defines a good practice and over time can be objectively monitored to determine whether, and to what extent, the labor conditions and practices on a tobacco farm are in line with each ALP Code Principle.

CU identified two farm practices that affected multiple ALP Code Principles.

First, it was found that 11 Limpopo farms (55%) and two Cape farms (11%) (foreign) migrant workers did not have a valid work permit for South Africa, resulting in two standards not being met. The undocumented status of these workers meant that farmers could not provide these workers with legal employment contracts and thus their employment could not be formalized as required by law. In addition, these undocumented workers could not be registered for the UIF (Unemployment Insurance Fund) or COIDA (Compensation for Occupational Injuries and Diseases Act), and thereby were not provided with all legal benefits.

Second, the large number of workers on farms resulted in several standards not being met. Farmers took disciplinary actions, such as some illegally deducting fines from the salaries of workers who did not behave properly (see 2.1.6); several cases of verbal harassment were identified (see 2.3.1); and on two farms, workers were reported fighting amongst each other (see 2.3.2). Farmers also had challenges with the reliability of their workforce, as, for example, workers sometimes showed up drunk after the weekend. Several farmers also reported that workers did not show up for work after receiving payment of benefits from the government.

## 2.1. ALP Code Principle 1: Child labor

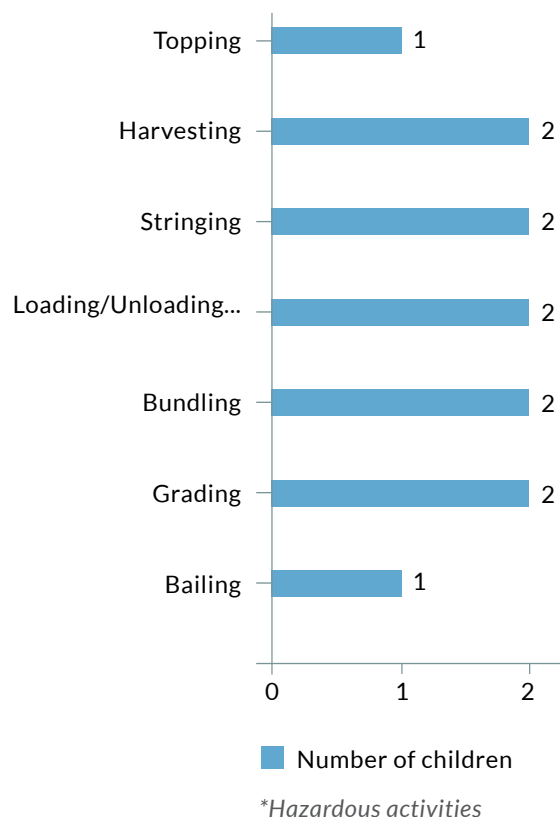
*There shall be no child labor.*

### Main findings and challenges

#### 2.1.1. Children working and activities performed

For the farms visited no evidence was found of children below 15 years being employed<sup>21</sup> nor of child family members below 13 helping with tobacco. However, CU did find one Cape farm (5%) employing two 17 years old children who were involved in hazardous activities (see graph below) and who each worked full shifts several days a week.

**Tobacco-related activities children were involved with**



21. The legal minimum age for working or helping with tobacco is 15 (see Appendix III for more detailed legal information).



## Underlying factors that increase risk

CU identified several underlying factors that increased the risk of child labor:

1. Farmers did not always check the identity documents of their workers. This was the case for the Cape farmer who employed two 17 year old children thinking that they were older.
2. Awareness of the legal minimum working age was low, among farmers and workers. Of all farmers visited, 29 (74%) were unaware of the legal minimum working age. While most thought it was 18, it is important that farmers distinguish that for non-hazardous work, the minimum working age is 15. On 36 farms (92%), workers were unaware of the legal minimum working age.
3. Awareness of hazardous work was low among workers: on 30 farms (77%), workers were unable to define what constitutes hazardous work. Farmer awareness was higher, with only 10 (26%) unaware of the definition of hazardous work. Working with chemicals was generally seen as hazardous, but harvesting and stringing activities were not always considered as such.
4. Workers did not always have valid identity documents, which made it difficult for farmers to ensure that they were above the legal working age.

## Analysis and priorities

Although the number of children found working on ULSA farms was limited, and no evidence was found of children below 13 involved in tobacco-related activities, there was a risk of child labor. As workers often did not have valid identity documents, farmers were unable to validate that they were above the legal minimum working age. Awareness among farmers and workers regarding the legal minimum

working age and definition of hazardous work was low. Although ULSA distributed posters on GTS (see 1.4.1 and Appendix V), awareness levels on this topic were also poor, indicating that communication efforts have not had the desired effect.

### ULSA response:

*“ULSA is committed to its policy of working to eliminate child labour in the tobacco leaf supply chain, and this includes the protection of children’s rights on farms supplying tobacco to ULSA. ULSA will therefore ensure that all farmers and farm workers are fully aware of the legal minimum working age training on the principle of child labour and the type of work suitable for under 18 years old, focusing mainly on hazardous tasks. In increasing awareness on hazardous tasks, ULSA will also be distributing the list of hazardous tasks to all their farmers.”*

## 2.2. ALP Code Principle 2: Income and work hours

*Income earned during a pay period or growing season shall always be enough to meet workers’ basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.*

### Main findings and challenges

#### 2.2.1. Payment of workers

Nine Limpopo farmers (45%) and seven Cape farmers (37%) paid their workers below the legal minimum wage.<sup>22</sup> Salaries were either calculated hourly, daily, weekly or on a piece rate. Piece rate payments were

22. At the time of the assessment, the legal minimum wage for South Africa was ZAR 14.25 per hour (or ZAR 2,779 a month). This was in the process of being increased to ZAR 15.39 an hour. The next planned rise in salary for tobacco workers is planned for 2018, which will increase the minimum wage to more than ZAR 20 an hour. (see Appendix III for more detailed legal information)

calculated based on kilos of tobacco harvested or the weight of nails<sup>23</sup> collected when destalking tobacco leaves. The breakdown of the salaries is shown in the tables below.

Type of wages	Breakdown of calculated salaries Limpopo (T=40)				Salary range		
	Salaries 0-10 (ZAR/hour)	Salaries 10<12 (ZAR/hour)	Salaries 12<14.25 (ZAR/hour)	Salaries ≥14.25 (ZAR/hour)	Lowest salary (ZAR)	Highest salary (ZAR)	External workers (T=142)
Hourly wages	-	-	2 (13%)	13 (86%)	13.30	14.25	13 (9%)
Daily wages	-	3 (75%)	1 (25%)	-	10.29	12.56	19 (13%)
Piece rate	1 (33%)	2 (67%)	-	-	8.5	11.00	

Type of wages	Breakdown of calculated salaries Cape (T=39)				Salary range		
	Salaries 0-10 (ZAR/hour)	Salaries 10<12 (ZAR/hour)	Salaries 12<14.25 (ZAR/hour)	Salaries ≥14.25 (ZAR/hour)	Lowest salary (ZAR)	Highest salary (ZAR)	External workers (T=142)
Hourly wages	-	1 (8%)		11 (92%)	11.42	15.39	13 (9%)
Daily wages	-		5 (83%)	1 (17%)	12.50	14.76	19 (13%)
Weekly wages	-	1 (100%)		-	NA	10.59	

Worker awareness of the legal minimum wage was low; at 15 Limpopo farms (75%) and 14 Cape farms (74%) workers were unaware. Although farmer awareness was higher, with 13 in Limpopo (65%) and 16 in the Cape (84%) knowing the legal requirements, several still underpaid their workers.

### 2.2.2. Payment schedule

All Limpopo farmers and 18 Cape farmers (95%) paid their workers regularly in accordance with the law.<sup>24</sup> At one Cape farm, workers received part of their salary at the end of the season, contrary to the

law. However, these workers were relatives (nieces, nephews) of the farmer.

### 2.2.3. Work hours

No evidence was found of workers working more than the maximum legal hours<sup>25</sup> or workers not receiving at least one day of rest per week. Work was between eight and nine hours per day on most farms. In several cases workers worked ten hours a day, which is legally allowed as long as these hours are compensated over a four-month period<sup>26</sup>; however, no evidence was found in the farmers'

23. The weight of nails in this case was a measure for the amount of delevated stalks as each stalk contained one nail.

24. Payments must be made at least once a month (see Appendix III for more detailed legal information).

25. Maximum legal work hours were 45 regular hours per week and nine regular hours per day, with a maximum of 5 hours of overtime per day (see Appendix III for more detailed legal information).

26. The extension of 5 extra hours a week is only allowed for a maximum period of 4 months in any continuous period of 12 months and these hours should be reduced by the same number of hours during a period of the same duration in the same twelve months (see Appendix III for more detailed legal information).

administrative records that this compensation had been paid. The longest period of work identified during the visits was 51 hours in a five-day working week.

All farmers in the Cape region paid overtime hours, however, on seven Limpopo farms (39%) workers did not receive the legal overtime rate.<sup>27</sup> On those farms, workers received either a fixed daily wage, independent of the hours worked, or piece rate payments.

### 2.2.4. Legal benefits

Fifteen Limpopo farmers (75%) and eight Cape farmers (44%) did not provide their workers with the legal benefits to which they were entitled by law, such as leave and sick leave.

In addition, 12 of these farmers did not pay the Unemployment Insurance Fund (UIF)<sup>28</sup> for all their workers, affecting their right to claim compensation in case they became unemployed. Furthermore, on two farms where accidents had happened, workers were not compensated for lost workdays via COIDA.<sup>29</sup> In both these cases, workers had been injured by a tractor, and did not receive any compensation while they were unable to work for several months.

The main reason for the lack of legal benefits was that many workers had not formalized their employment and so were not registered with the required government institutions. It was also difficult for farmers to obtain a corporate permit<sup>30</sup>, which they needed to facilitate working permits for their foreign laborers (see 1.6). Finally, farmers declared that workers who were employed for only short periods would not benefit from UIF anyway, as the amount they could claim would be very little.

### 2.2.5. Illegal deductions

Five Limpopo farmers (25%) and eight Cape farmers (26%) made deductions from their workers' salaries that did not comply with the law. In these cases, farmers deducted amounts that were too high for accommodation, for UIF<sup>31</sup> (2-10%, instead of 1%) and/or for loans (maximum allowed: 10%). In addition, four farmers deducted fines (ZAR 5-500) from workers' salaries for misbehavior or being late for work. In one case, a farmer deducted half a day's salary from all workers' salaries when something was stolen on the farm. Farmers reported that workforce reliability was a challenge, as explained in the introduction to this chapter, however, several did apply appropriate ways to discipline their workers and kept records of the disciplinary warnings issued to workers.

### Analysis and priorities

ULSA provided legal information regarding income and work hours to farmers via email and had an initiative to encourage farmers to apply for a corporate permit. However, no further efforts were made to improve the range of issues identified for this ALP Code Principle. While some of the issues identified by CU were also included in ULSA's risk assessment, ULSA had not identified the inadequate provision of benefits or illegal salary deductions as widespread issues.

Employment of undocumented workers poses a risk, because these workers were not covered for legal benefits. The registration for COIDA and UIF is important to ensure that workers are compensated when needed.

27. Farmers should pay 1.5 times the agreed wage for overtime hours (see Appendix III for more detailed legal information).

28. Each worker who works for more than 24 hours per month is required to contribute to the UIF. (see Appendix III for more detailed legal information).

29. Compensation for Occupational Injuries and Diseases Act. (see Appendix III for more detailed legal information).

30. Corporate permits can be utilized to provide foreign labor with valid working permits. (see Appendix III for more detailed legal information)

31. The UIF deduction should be 1% of the worker's salary. The farmer has to make a matching contribution of 1%. (see Appendix III for more detailed legal information)

In combination with the findings on Fair treatment (see 2.3), it can be concluded that farmers face challenges to manage the large number of workers living on their premises. Farmers adopt their own disciplinary methods, such as deducting fines from workers' salaries, to ensure that workers met their expectations and instructions. It is important for ULSA to investigate the root causes and work on solutions that are in line with the law and the ALP Code.

**ULSA response:**

*"...ULSA will ensure that at all its contracted farmers, all workers, including foreign workers, are trained on the ALP code of income & work hours, increase visibility and promote the use of the support mechanism, and in partnership with the DoL, train them on the BCEA between July 2017 & June 2018. During the training period, ULSA will also ensure that the summary of the BCEA summary and details of the support mechanism are displayed at all farms that tobacco is sourced and will distribute copies at farms that don't have the summary.*

*To administer compliance, the field staff will monitor and validate availability of contracts, wages, payment schedule, deductions and provision of legal benefits as part of the standard monitoring process through Mobileaf. The system will prompt the validation at every visit that is conducted at a farm. Over and above the monitoring, privately discuss with the workers, especially the vulnerable groups like the migrant workers to validate if they are receiving all the legal requirements. As part of the categorization process, farmers that are not adhering to the requirements and not showing improvements are unlikely to be contracted with ULSA going forward. This message gets reiterated during the quarterly meetings (study groups) that ULSA has with the farmers."*

## 2.3. ALP Code Principle 3: Fair treatment

*Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other forms of abuse.*

### Main findings and challenges

#### 2.3.1. Treatment of workers

No evidence was found of physical or sexual abuse on any of the farms visited.<sup>32</sup> However, at three Limpopo farms (15%) and two Cape farms (11%) workers reported that they had been verbally harassed by the farmer by being shouted at and called names. At one farm several black workers reported that the white farmer swore at them and called them baboons, which is a form of discrimination.

#### 2.3.2. Workers fighting amongst each other on the farms

One Limpopo farmer (5%) and one Cape farmer (5%) reported that their workers sometimes fought with each other. These fights happened outside work time but on the farm premises as the workers lived there. The cause of these fights was reported to be excessive alcohol consumption. On one farm the farmer's wife explained that the situation had improved after alcohol was banned from their farm. However, on the other farm the farmer mentioned that he did not want to get too involved in the personal life of his workers and therefore did not take any preventive measures. Although the farmers themselves were not involved in the fights, the fact that they took place on their premises means they are responsible.

32. By law employees must not be subjected to verbal and/or psychological abuse, sexual harassment or physical abuse. Furthermore, the constitution prohibits discrimination and everyone has the right to human dignity respected and protected (see Appendix III for more detailed legal information).

### 2.3.3. Support mechanism

Support mechanisms facilitate workers' access to information and can remedy, assist workers in difficult situations, and mediate disputes between farmers and workers. Leaf tobacco suppliers to PMI are expected to ensure that farmers and workers have access to such a mechanism.

Several weeks before CU's assessment, ULSA had started communicating the support mechanism telephone number of Limpopo's local Department of Labor (Lephalale) to farmers and workers in that region (see Appendix V). During the farm visits, 18 Limpopo farmers (90%) were aware of this support mechanism, and on eight Limpopo farms (40%) workers were also aware. None of the farmers or workers reported that they had used the line in the short time it had been operational.

ULSA's standard operation procedure for the support mechanism required a monthly report from the Department of Labor on the grievance issues reported<sup>33</sup>. However, at the time of the assessment no reports were available for review, as the service had only started operating some weeks earlier.

When evaluating the support mechanism, CU found that the Department of Labor had no separate procedure for the support mechanism and provided its regular services to the caller. If someone contacted the line with a potential issue, the Department of Labor would send an inspector to the farm in question to investigate. The checklist used by the Department of Labor to verify farms mainly consisted of topics related to income and work hours<sup>34</sup>. The following topics mentioned in ULSA's support mechanism poster and business card were not covered by the Department of Labor's service: Forced labor, unfair treatment, sexual harassment and abuse (Appendix V) while they were not covered. None of the staff at the Department of Labor had received training on ALP as the general perception was that all topics were already covered by their own internal operational and training systems.

In the current setup the Department of Labor plays a central role in the support mechanism. However, undocumented foreign laborers are unlikely to use this service as they run the risk of being identified and sent back to their home country if they contact a government institution. Indeed, the Department of Labor confirmed that they would have to inform the Department of Home Affairs if they came across illegal workers (or illegal residents), which would send them back to their home country if they were illegal workers.

Another requirement for an adequate support mechanism is that the service should ensure anonymity to provide a secure environment for workers and farmers to discuss their grievance issues. However, during a check call by CU, the operator first asked for the name and location of the caller. When the caller explicitly requested to remain anonymous, this was accepted by the operator. However, this incident indicates that callers of the support mechanism may be asked for personal data, which could scare them off.

With regard to ULSA's communication on the support mechanism, there was no indication to farmers or workers as to what to expect after reporting an issue, for example that an inspector would be sent to the farm to investigate the reported issue. Two farmers outside the pilot area were included in the communication and they reported that the telephone number listed on the communication materials was not applicable in their region.

In addition to external/formal support mechanisms, farmers should make themselves available to their workers to discuss potential grievances before they escalate. However, on one farm in Limpopo (6%) workers reported that they could not discuss issues with the farmer or the foreman (who was too close to the farmer, according to the workers). On two Cape farms (11%) workers reported that they would not discuss potential issues with the farmer as they were afraid to do so.

33. The standard operation procedure for the support mechanism was not formally signed by the Department of Labor at the time of the assessment.

34. The inspections of the Department of Labor mainly focused on topics related to income and Work Hours, such as payments, provision of benefits, pay slips, COIDA and UIF.

**ULSA response:**

- *“ULSA has developed a working relationship with the Department of Labour (DoL), who conducts routine unannounced compliance visits to all the farms, including ULSA contracted farms. ULSA will maintain regular contact with the DoL to ensure that all ALP issues what may occur on the contracted farms and picked up by the DoL are reported to ULSA and resolved in good time.”*
- *“The Department of Labour...also visit farms unannounced on a regular basis as the custodians of the BCEA. As part of the monthly feedback on the support mechanism, ULSA will obtain feedback from the DoL where they have identified any violations from their farms.”*
- *“During the CU assessment, shortcomings on the communication of the support mechanism were identified, as it does not elaborate on the process following any report made under the mechanism. This is particularly relevant for migrant workers who may be concerned about their legal status if they use the support mechanism. To address this issues ULSA has reviewed the procedure of the support mechanism and updated the training and communication materials.”*
- *“As part of maximizing the effectiveness of the SM during the pilot phase, ULSA will be focusing on the following areas in the 2017/18 crop season.*
  - Together with DoL re-training farmers and farm workers on the functionality of the SM and increase awareness through pamphlets and business cards.
  - Ensure that both parties understand fully the benefits of using the system where necessary and what to expect after reporting a grievance.
  - Include in the training of the Fair Treatment principle the ALP code topics that are not covered by the SM and give the workers guidance in the other options available.

- Have at least a monthly meeting with DoL personnel to review the cases that have been reported and discuss improvements of the SM system.
- Get monthly feedback on grievance reports in writing from the DoL.
- ULSA to lead the way to assist in the building of a trust relationship between the DoL and contracted farmers.
- ULSA will as part of the due diligence process, conduct test calls to the SM every 6 months and review the follow up process during the monthly feedback sessions.”

### Analysis and priorities

ULSA started promoting a support mechanism in early 2017 and although operational for several weeks, farmers and workers had not yet made use of the service. Communication materials on the mechanism had been distributed among farms, but lacked an explanation of how the mechanism worked and what to expect after reporting a grievance (for example, that an inspector of the local Department of Labor would be sent to the farm). This should be addressed. In addition, it is important that the service is available to all workers at the farm, which was not the case as undocumented foreign workers would be unlikely to contact a government institution.

The findings presented in this chapter (verbal harassment, discrimination, workers fighting each other) demonstrate that a support mechanism is needed for this market. Additionally, further root cause analysis is required to better understand the dynamics at the farms and identify effective solutions.

## 2.4. ALP Code Principle 4: Forced labor

*All farm labor must be voluntary. There shall be no forced labor.*

### Main findings and challenges

#### 2.4.1. No evidence of involuntary labor

No evidence was found of workers unable to leave their employment, employed against their will, or of contracted prison labor. Also no evidence was found of workers being obliged to pay a financial deposit.<sup>35</sup>

#### 2.4.2. Fences

At one Limpopo farm (5%) workers who wanted to leave the farm premises at night had to climb over an electric fence because they did not have the key to operate the gate. Although the gate was often open during daytime, it was closed at night for security reasons.

##### ULSA response:

*"Security is a high risk in most areas of South Africa and more especially in the farming community, which are in the remote and isolated areas and often without adequate infrastructure. The practice of having enclosed premises, therefore becomes practical and necessary in this instances. ULSA recognizes the importance of achieving an appropriate balance so as avoid the unintentional potential of restricting the free movement of workers."*

#### 2.4.3. Identity documents kept

At one Limpopo farm (5%) workers handed in their identity documents to the farmer. Workers declared that they had requested the farmer to keep their documents for safekeeping so they would not lose them. However, this posed a risk of forced labor, as workers did not have access to the stored identity documents and were dependent on the farmer to get their documents back.

#### 2.4.4. Delayed payments

At three Limpopo farms (16%) and one Cape farm (5%) wage payments had been delayed one or more times. In one of these cases the farmer reported that he sometimes delayed payments until after the weekend so workers would return to finish the work.

##### ULSA response:

*"As part of the continuous annual training on ALP program and specifically the forced labour principle to the farmers and farm workers, there will be increased awareness of the situation that might constitute forced labour. This will include the retention of copies of form of identification, instead of the keeping the original documents, the use of labour brokers (with the help of DoL) and payments (as discussed under I&WH principle)."*

### Analysis and priorities

CU did not find evidence for widespread issues regarding the ALP Code Principle on forced labor. Nevertheless, it should be understood by farmers and workers that workers should always have access to their identity documents, and that payments should be made on time, without delay. Also, workers should always be able to leave the farm premises if they want to do so.

35. According to the law, an employer has a general duty of care to provide and maintain a working environment that is safe and without risk to an employee's health. This includes: eliminating or mitigating hazards or potential hazards to employees' health and safety; taking measures to ensure that everyone in the workplace complies with the OHS's requirements; ensuring that work is performed under the supervision of an individual trained in safety issues and able to take precautionary measures (see Appendix III for more detailed legal information).

## 2.5. ALP Code Principle 5: Safe work environment

*Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.*

### Main findings and challenges

#### 2.5.1. Training and awareness of GTS

At 17 Limpopo farms (85%) and 17 Cape farms (89%) workers responsible for handling green tobacco were not trained on the avoidance of Green Tobacco Sickness (GTS), referred to as Green Tobacco Condition (GTC) by Universal worldwide. In fact, 11 of the Limpopo farmers (55%) and nine Cape farmers (47%) were unaware of the existence of GTS and/or how to avoid it. Some farmers even thought it was some kind of cancer caused by the tobacco plant. As a result, these farmers either did not think it was necessary to train their workers, or were unable to train them. Consequently, the number of farms using protective clothing was limited, as shown in the following table:

Type of protective clothing used	Number of Limpopo farms (T=40)	Number of Cape farms (T=39)
	Salaries 0-10 (ZAR/hour)	Salaries 10<12 (ZAR/hour)
Long-sleeves	8	4
Gloves	6	7
Long pants	8	3
Shoes/boots	8	3
Rain gear	3	5

In addition to the limited awareness of the existence and avoidance of GTS, another reason why safety clothes were not used was that they were considered uncomfortable to wear in high temperatures. On farms where protective clothing was available, in many cases the supply was insufficient to provide all workers that worked with green tobacco with the necessary protection.

#### ULSA response:

*"...ULSA will improve the farmer and farm worker knowledge on the avoidance and prevention of GTS through training programs per farm, and using training materials available from other ULT*

*operations in the region. The training on GTS and its prevention must be aligned with the crop calendar to begin prior to topping, harvesting and curing. Continuous monitoring and refresher training where necessary must take place during each farm visit.*

*ULSA registered the use of PPE as a non-funded STP and recently, following the sourcing of suitable GTS PPE, issued farmers with the appropriate PPE where no PPE was available. The training sessions will include the demonstration of the PPE to enable workers to understand the use of it. Farmers to be encouraged to take a leading role in ensuring that necessary precautions against GTS are taken on their farms."*



## 2.5.2. Training and handling of CPA

Handling CPAs proved to be a challenge, in particular for Limpopo farmers.<sup>36</sup> On 15 Limpopo farms (79%) and three Cape farms (16%) CPAs were not stored safely (see following table). In addition, on 12 Limpopo farms (67%) and 17 Cape farms (89%) people handling CPAs were not properly trained. However, on all farms visited the equipment for CPA application was found to be in good condition.

Inappropriate CPA storage	Number of Limpopo farms (T=40)	Number of Cape farms (T=39)
CPA storage not locked	6	2
CPA containers lying around at the farm	4	-
Chemicals spilled on the floor of the storage and not cleaned up	1	1
No ventilation in storage	3	-
Red label chemicals not stored separately	4	2
CPA stored in a fridge that could not be locked	1	-

At 13 Limpopo farms (68%) and ten Cape farms (53%), those responsible for applying CPAs did not use the complete set of Personal Protective Equipment (PPE). The main reason was that they were unaware of the necessity to wear (the complete set of) PPE. Others cited the discomfort of wearing PPE in high temperatures, and farmers not providing PPE because they did not think it was necessary. Workers did not use PPE during the application of suckercide for topping, on any of the farms visited, as this chemical was wrongly considered to be non-hazardous.

Type of PPE for CPA application	Number of Limpopo farms (T=40)	Number of Cape farms (T=39)
Overall/Apron	2	7
Mask	5	7
Boots	5	6
Gloves	6	7
Goggles	3	2
CPA stored in a fridge that could not be locked	1	-

36. According to the law, an employer has a general duty of care to provide and maintain a working environment that is safe and without risk to an employee's health. This includes: eliminating or mitigating hazards or potential hazards to employees' health and safety; taking measures to ensure that everyone in the workplace complies with the OHSA's requirements; ensuring that work is performed under the supervision of an individual trained in safety issues and able to take precautionary measures (see Appendix III for more detailed legal information).

**ULSA response:**

- *“Farmer and farm worker knowledge on the avoidance and prevention of CPA contamination needs to improve through appropriate training programs. Continuous monitoring and refresher training where necessary must take place during each farm visit.*

*ULSA registered the use of PPE as a non-funded STP to ensure commitment towards addressing the issue. Recently, following the sourcing of suitable CPA PPE, farmers were issued with appropriate PPE where no PPE was available on farms.”*

- *“...training session, in local languages, was completed on 15 August 2017 when a certified supplier completed a CPA handling training course which included more than 75% of the farms in Limpopo. All workers that attended the training will be issued with certificates. The training sessions included the demonstration of the PPE to enable workers to understand their application. Farmers are encouraged to take a leading role in ensuring the necessary precautions exist for CPA application on their farms. The same training will follow in the Cape growing areas and the target is to cover 100% of farms by September 2018.”*

At 13 Limpopo farms (68%) and ten Cape farms (53%), those responsible for applying CPAs did not use the complete set of Personal Protective Equipment (PPE). The main reason was that they were unaware of the necessity to wear (the complete set of) PPE. Others cited the discomfort of wearing PPE in high temperatures, and farmers not providing PPE because they did not think it was necessary. Workers did not use PPE during the application of suckercide for topping, on any of the farms visited, as this chemical was wrongly considered to be non-hazardous.

**ULSA response:**

*“ULSA training and training materials to be provided to improve the knowledge of farmers and farm workers about the dangers of re-entering CPA treated fields. Farmers to understand the risks of and to prohibit workers from entering a recently treated field. All treated fields must be clearly marked with appropriate signage which includes the use of a red flag or specific warning signs. Farm specific signs must be known to all workers on the farm to enable them to identify the recently treated fields. Farmers are encouraged to take a leading role in ensuring that necessary precautions against treated fields are adhered to. Farmers and farm managers must take responsibility and implement a warning system by October 2017.”*

Fourteen Limpopo farmers (82%) and eight Cape farmers (53%) did not adequately dispose of empty CPA containers, as shown by the table below.

Disposal of empty CPA containers	Number of Limpopo farms (T=40)	Number of Cape farms (T=39)
Empty containers lying around at the farm	4	5
Containers being burned	-	1
Containers used for applying fertilizer	-	1
Containers not being pierced	4	1
Containers used for drinking water	6	-

**ULSA response:**

*“ULSA will train the farmers to rinse empty CPA containers three times in succession with one quarter of the container volume clean water (this is triple rinsing) and rinse water must be decanted into the spray bowser. Triple rinsed empty containers may not be stored for longer than three months at any given site unless that site is registered as a waste collection and storage site. It is therefore imperative that farmers dispose of their empty triple rinsed containers at least once every three months. ULSA provides a disposal site at the buying station in Limpopo and farmers from time to time dump empty containers at the site which is recorded per farmer. ULSA has also initiated a process by which a registered recycling service provider collects empty CPA containers and other plastic and hazardous materials directly from farms. This process has commenced from August 2017 and farmers are issued with recycling certificates by the service provider. A similar system will be adopted in the Western Cape growing area by the end of 2018. In the Eastern Cape, CPA vendors collect empty containers as part of the farmer GlobalGAP certification process.”*

On three Limpopo farms (15%) and four Cape farms (21%) pregnant and/or nursing women were found to be involved in topping tobacco plants (a total of three women in Limpopo and five in the Cape). Moreover, the women in question were not wearing the required PPE. Pregnant women are considered a vulnerable group and should not be involved in any activities involving chemical application (regardless of wearing PPE).

**ULSA response:**

*“ULSA understands that pregnant women may often not disclose their pregnancy status due to cultural beliefs or try to hide it in fear of losing their employment as a result of their condition. Farmers will be trained to provide training to their workers and create awareness of the risks for pregnant women and nursing mothers of carrying out hazardous tasks such as topping tobacco or dealing with CPAs, and of opportunities for light work instead, without fear of discrimination. Farmers will also be encouraged to explain alternative placing methods that will be used in the event that an employee will fall pregnant and need to be employed in non-hazardous conditions.”*

### 2.5.3. Clean drinking and washing water

At ten Limpopo farms (53%) and two Cape farms (11%) workers were not provided with clean drinking water near the work place. In these cases, workers had to bring their own water, but this was not enough for the whole day. At two farms in Limpopo, workers reported they drank from the river because the water supply at the farm was insufficient. Furthermore, washing water and soap was not available near the work place at 17 Limpopo farms (94%) and 15 Cape farms (79%).

ULSA response:

*“ULSA reiterated to the farmers of their obligation to supply workers with clean drinking water at the workplace. Availability of toilets and sanitary facilities to workers at the workplace is a legal requirement. If water points are not available near the work area, water should be made available in clean containers which can be transported to the workplace. Sanitary facilities must be within walking distance from the workplace. At a farm group meeting in Limpopo during June 2017, farmers were shown*

*a mobile option which includes a toilet, washing area and reservoir with clean water, all fitted on a trailer that can be moved around with the labor. All contracted farms have been mandated to supply the necessary facilities to workers with effect from the commencement of the 2018 crop season in August 2017. This will be monitored by the field team during the regular farm visits and captured in the Mobileleaf system.”*

### 2.5.4. Accommodation

At 16 Limpopo farms (89%) and 11 Cape farms (65%) workers’ accommodation was found to be inadequate, as shown in the table below. In general, these farms were large commercial farms, with many workers living on the farm. The quality of the housing varied between farms and also within a farm, with some workers having better housing than others. In general, worker accommodation in the Cape was in a better state than in Limpopo. Unsafe conditions in the table below includes housing with cracks with collapse risk and unsafe electric wiring inside the house.

	Number of Limpopo farms (T=40)	Number of Cape farms (T=39)
Lack of toilets	14	4
No ventilation	8	-
Lack of space	5	-
Broken windows or no windows	12	3
Holes in the roof/leaking roofs	8	4
Makeshift housing	4	1
Unsafe conditions	8	1

**ULSA response:**

- *“To improve on farmworkers accommodation, ULSA conducted a pilot project between Jan – May 2017, which was a success (details will be discussed under the SWE action plans). The learning from this pilot will be used to define an action plan to have all farm worker accommodation meeting the minimum standards on all ULSA contracted farms.”*
- *“An individual farm accommodation assessment was completed during May to August 2017 to establish the full requirement for new houses, houses to be renovated and sanitary services to be improved. ULSA will compile a project plan and calculate the feasibility of pre-financing farmers to improve worker living standards. The project is planned to run over 3 years and action and development plans will be drafted for each farm with specific goals set. This will also ease the monitoring and validation. Farms with serious noncompliance will be first with the completion date set for the end of 2019.”*

However, at two Limpopo farms (10%) and three Cape farms (16%) workers were working at height without safety harnesses to protect them from falling. On these farms the workers had to climb curing barns up to three levels high to hang the tobacco.

**ULSA response:**

*“ULSA will also issue all the farms with suitable and enough harnesses for workers who hang tobacco at height in curing barns by Nov 2017 and offer them training on the safe use of harnesses.”*

Also, at 12 Limpopo farms (67%) and 13 Cape farms (72%), workers were not provided with sanitary facilities close to where they worked. In these cases, workers had to go home or use the bushes, even though this was often forbidden by the farmer. On one farm records were kept of workers’ toilet time, and on another farm workers were only allowed to go to the toilet during breaks.

### Underlying factors that increase risk

Farmers reported that it was challenging for them to keep their workforce trained on safety issues, when trained workers left the farm and new workers not yet being trained. Furthermore, most farms were large and had a lot of machinery around. During the assessment two accidents with tractors were identified, in which two workers were injured to the extent that they could not work for several months. The workers had hitched a lift on the tractor with several others to transport themselves around the farm.

Nevertheless, most farmers had resources available on the farm to act in case of emergency and had taken basic safety measures, including: having transport available to go to hospital (39 farmers; 100%); keeping a first-aid kit on the farm (22; 56%); ensuring safe storage of equipment and tools (35; 92%); and providing first aid training to workers (21; 54%).

### Analysis and priorities

CU found many situations not meeting the standard with regard to this ALP Code Principle. ULSA has addressed some issues with initiatives, providing water purification systems, training on first aid and safety, and support with building new worker accommodations. However, there are many remaining issues for improvement including the low awareness of the risks related to tobacco farming (such as GTS and working with CPAs), the low rates of PPE usage, and living conditions not meeting the minimum legal requirements. In summary, although the efforts taken by ULSA should be acknowledged, these efforts have not yet been sufficient to fully address all the issues identified.

## 2.6. ALP Code Principle 6: Freedom of Association

*Farmers shall recognize and respect workers' rights to freedom of association bargain collectively.*

### Main findings and challenges

#### 2.6.1. Workers' right to freedom of association

No evidence was found of farmers disrespecting the workers' right to freedom of association.<sup>37</sup> Although there were some worker unions active in the regions, most of the workers were not associated with these. Only at one farm did workers mention being members of a union, however, they reported that they were not satisfied with the union's activities and did not see any positive effects from their membership.

### Analysis and priorities

This ALP Code Principle was not a focus area for ULSA which is understandable as there seemed to be no risk of violation of the workers' right to freedom of association, and workers could join one of the labor unions in the region if they wanted to. Furthermore, the field team had adequate knowledge of this topic.

## 2.7. ALP Code Principle 7: Compliance with the law

*Farmers shall comply with all laws of their country relating to employment.*

### Main findings and challenges

#### 2.7.1. Information on legal rights

Typically, workers were only informed about the basic employment conditions at the farm where they were hired, such as the wage they would receive, the hours they needed to work, their tasks, and payment conditions. At 13 Limpopo farms (72%) and six Cape farms (32%), workers were not fully informed about their legal rights regarding, for example, the legal minimum wage, employment formalization, and the legal minimum rate for overtime hours. At three of the farms, workers had already been working for several weeks but still did not know what their wage would be.

Farmers in general were aware of the legal rights of workers but did not inform their workers about these rights. Some farmers were not aware of their responsibility to give this information, while others reported that they did not inform workers who would be staying for only a short period.

#### ULSA response:

- *"All contracted growers must inform and explain to all workers, including foreign workers, their legal rights and include their terms and conditions of employment in a formalized document. All farms must display an official poster informing labor of their legal rights."*
- *"Increase farmer awareness on their obligation to inform all employed workers, including foreign labor, about their legal rights. ULSA to supply*

37. The constitution states that everyone has the right to form and join a trade union and that no employee may be disadvantaged or discriminated against for exercising their right to join a trade union (see Appendix III for more detailed legal information).

*farmers with an official document of terms and conditions indicating employee legal rights. Farmers must ensure that these documents are clearly displayed within the work areas. The workers legal rights must be included in a formal agreement between the employer and employee. ULSA will address this issue at farm level by the end of September 2017."*

ULSA response:

*"ULSA to increase the farmer and farm worker, including foreign labor, knowledge on employment conditions and more specifically ALP Code to formalize employment. Validate worker contracts and inclusion of all benefits. During August 2017 ULSA supplied all farmers with a legal template document as a basis for formalizing employment contracts with local or foreign worker categories. These documents have been compiled according to legislative requirements. ULSA will endeavor to have all employment formalized on all the contracted farms by March 31st 2018."*

## 2.7.2. Formalization of employment

According to South African law, all workers should receive written particulars of employment.<sup>38</sup> At 14 Limpopo farms (70%) and 11 Cape farms (65%) the farmers had not entered into a written employment contract with all their workers. At these farms the workers also did not receive written particulars of employment. At one farm in Limpopo and five farms in the Cape, some of the workers confirmed that they had received an employment contract. At 13 Limpopo farms and six Cape farms none of the workers said they had received an employment contract.

CU identified several reasons why these workers had not received formal employment agreements. First, in the case of 11 Limpopo farmers (55%) and two Cape farmers (11%), contracts had not been prepared for undocumented foreign workers who had no valid working permit. Second, most farmers did not have a corporate permit to facilitate the process for foreign workers to obtain a working permit due to the bureaucracy involved (see 1.6). Third, Limpopo is close to the border with Botswana, Zimbabwe and Mozambique, and many migrant workers cross over to South Africa in search of jobs. These workers often have no identity documents or working permit.

### Analysis and priorities

In their risk assessment, ULSA acknowledged the risks of workers not being informed about their legal rights and not having employment contracts. CU confirmed that farmers generally did not inform their workers about their legal rights, and so awareness of legal rights was limited among workers. In particular, foreign workers often did not have written contracts and so ULSA had started an initiative to promote the use of corporate permits among farmers by engaging a labor lawyer and labor consultant. However, many farmers indicated that the bureaucracy made it difficult to obtain these permits and so they lacked the means to contract foreign workers in a legal manner. Employment of undocumented foreign workers has an effect on several ALP Code Principles as mentioned in the introduction of this chapter.

The knowledge of the field team on this ALP Code Principle needs to be improved. In particular, more attention should be given to the farmer's obligation to inform workers of their legal rights and employment conditions. The support mechanism could play a major role in providing workers with information on legal rights.

38. Written particulars of employment must be provided when employment commences. Written employment contracts are not compulsory though and there is therefore no statutory deadline for the concluding of a written contract (see Appendix III for more detailed legal information).

## Chapter 3

# ALP PROGRAM: FEEDBACK FROM FARMERS, WORKERS, AND OTHER STAKEHOLDERS



**EXTERNAL ASSESSMENT**  
Universal Leaf South Africa



CU asked farmers, family members, and external workers what had changed on their farms since the start of the ALP Program. As most farmers, family members and workers were not familiar with the term ALP, this question focused on the effect of ULSA services in relation to the working environment on the farm. Eleven farmers (28%) reported that they were better informed about national legislation and how to apply the regulations to their farms. In addition, 11 farmers (28%) reported that the situation at their farm had improved (two mentioned workers were now wearing PPE, two mentioned work hours were recorded more accurately, two mentioned workers now had employment contracts, one mentioned accommodation was upgraded, four mentioned the standards in general on the farm had been raised). Nine farmers (23%) reported that nothing had changed on their farms. One farmer reported that workers left after having received training.

Nine family members (33%) reported that the support of ULSA had helped with compliance to the regulations of the law. One (4%) mentioned it had improved safety awareness and one (4%) commented that ULSA's support had only helped

to improve the situation of the workers and not of the farmers. Seven family members (26%) reported nothing had improved.

Only 27 workers (20%) provided feedback to CU. Fifteen mentioned that their knowledge on their legal rights had improved and four mentioned that they now knew why they should wear PPE. However, nine workers reported that nothing had improved.

The Agronomy Managers mainly focused on communication with the farmers, while the ALP Coordinator focused on training of workers in Limpopo region. However, ULSA had no structured process to channel feedback from farmers or workers to the ALP team.

Twenty-seven farmers (68%) declared that they had provided informal feedback to ULSA. Of this group, the majority (15 farmers) declared that this feedback concerned technical topics on tobacco production. Eight said they had provided feedback on ALP-related topics, for example, that they were not happy with CU's unannounced visits or that their workers did not want to wear PPE, or the state of their worker accommodation.

# APPENDICES



EXTERNAL ASSESSMENT  
Universal Leaf South Africa




**Universal**

**UNIVERSAL LEAF SOUTH AFRICA (PROPRIETARY) LIMITED**

**UNIVERSAL LEAF SOUTH AFRICA (PTY) Ltd**

Agricultural Labor Practices Action Plan

2017

ULSA CU ACTION PLAN	 <b>Universal</b> <small>UNIVERSAL LEAF SOUTH AFRICA (PROPRIETARY) LIMITED</small>	
Project: ALP Action plans 2017 / 18	Date: 31/07/2017	Version: 1
	Reference: J Malan	Page: 22 of 24

## 1. BACKGROUND AND INTRODUCTION

Universal Leaf South Africa Pty Limited (ULSA) contracts with Dark Air Cured Tobacco farmers in South Africa, producing in three provinces: Limpopo in the north, and the East and Western Cape in the south. In general, tobacco farms in South Africa are large-scale commercial operations with many workers living on the farms. Although there are approximately 190 tobacco farmers in South Africa, employing a total of 8,000 - 10,000 workers, ULSA focuses on sourcing Dark Air Cured (DAC) tobacco only.

For the 2016/2017 season, ULSA directly contracted 85 farms comprising 42 in Limpopo and 43 in the Cape areas. These contracts are shared amongst 75 farmers with some of them owning more than one contracted farm and therefore having more than one contract.

The total DAC crop in South Africa is small at no more than 3,500 Tons. A significant volume of the DAC production procured by ULSA is sold to PMI's domestic tobacco product manufacturing operation.

During the Control Union assessment a great number of positive areas were identified wherein

No evidence was found at any of the farms of:


- Forced labor;
- Farmers disrespecting the right to freedom of association;
- Chemical Protection equipment being in a bad condition;
- Physical abuse of labor;
- Unlawful employment of children;
- Workers working longer than the legal daily limits;
- Involuntary overtime;
- Workers not being paid regularly.

On most farms:

- Working equipment was stored securely and safely;
- Resources were in place in case of emergency;
- Farmers were available to discuss potential problems with workers.

However Control Union has identified labor practice risks and problem areas on ULSA contracted farms, some of which had been noted by ULSA as areas for improvement prior to the assessment. The main areas requiring focus and improvement include:

- Income and work hours with illegal deductions and payments below minimum wage on some farms;
- Not all farm workers' accommodation meeting minimum standards;

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- Awareness on safe use of Crop Protection agents (CPA s) and insufficient availability and use of Personal Protection Equipment (PPEs);
- Awareness on avoiding Green Tobacco Sickness (GTS) and use of PPE's;
- Availability of sanitary facilities and drinking water near the workplace;
- Absence of written contracts for labor on some farms;
- Non documented foreign workers on some farms;
- Gaps in the general understanding of the ALP program amongst ULSA representatives, farmers and workers.

ULSA has developed a set of initiatives aimed at addressing the issues identified for improvement in the Control Union assessment and at demonstrating and confirming its commitment to implementation of the ALP program.

## 2. IMPLEMENTATION OF THE ALP PROGRAM

### 2.1 COMMITMENT TO THE ALP PROGRAM


#### Findings

CU found that although ULSA had a clearly defined ALP policy, the staff mainly referred to the ALP Code requirements in terms of the importance of meeting customer demands for continuity of the tobacco business. The ALP Program was primarily perceived as a compliance program.

#### Action plan

Going forward, ULSA will focus its ALP program on inculcating behavioral change at farm level and ensure that the ALP policies reflect such. The program aims at ensuring that the farmers understand their role and take ownership to implement ALP at their farms. To achieve this, ULSA through the human resources department and management, will review the key performance indicators and job description of the agronomy operations implementation team to clearly define the ALP performance goals. This is expected to be completed by October 2017.

ULSA will continue to categorize all contracted growers according to individual production yield and quality, as well as including key ALP related issues into the process. All contracted farmers will receive an ALP rating on formalized employment agreement that comply with all applicable laws and ALP principles (including corporate permits), recycling of CPA containers, compliant worker accommodation, first aid trained employees and PPE availability and use. Farmer categories will be linked to benefits such as crop advances and premium prices for tobacco purchases. Category A to C farmers will receive a pre-sale advance on their estimated crop size while Category D farmers will not qualify for this benefit. The purpose of the program is to motivate farmers rather than penalizing them, encouraging them to achieve the intended behavioral changes at farm

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level. Farmers with recurring noncompliance and failure to take corrective actions are more likely not to be contracted the next season. ULSA started implementing this aspect of the action plan in June 2017 and the target is to complete the implementation to 100% of all the contracted farms for the 2017/2018 season.

**Expected outcomes**

- a. *This will result in deeper farmer understanding and ownership of the program on their farms and promoting behavioral change and improved practice in the targeted areas at farm level consistent with ALP principles.*

**2.2 STRATEGY AND OBJECTIVES**

**Findings**

Although, at the time of the assessment, ULSA focused on a number of ALP related topics, ULSA had no formal process in place for setting the strategy and objectives for ALP implementation. A basic risk assessment of the issues identified had been conducted and several initiatives were being implemented. The risk assessment was based solely on the experience of the ULSA management in the tobacco industry, but not on information collected systematically from the farms.

**Action plan**

ULSA is in the process of reviewing the ALP strategy, to have the program aligned with the organizational objectives. This is expected to be completed by the end of October 2017. During the time of the assessment, farm profile data were collected using paper and some were from the trialed electronic data collection system (MobiLeaf). Going forward, all farm profiles data will be collected using Mobileaf. With the improved internal focus on ALP and the farmers understanding of the ALP program, future risk assessments will be based on data gathered from farm monitoring and other surveys. The risk assessment will be conducted annually henceforth in the month of September.

This will allow the organization to have a risk assessment that is based on the identified issues and support the action plans to focus on the actual root causes.


**Expected outcomes**

- a. *A clearer strategy for the ALP Program at ULSA based on the understanding of the ALP principles and on the individual farm risk assessment, with a well-developed action plan to promote and monitor improvement.*

**2.3 INTERNAL CAPACITY**

**Findings**

During the CU assessment, it was identified that the ALP responsibilities are not included in the job descriptions of the field team and that the element used by ULSA to evaluate individual performance of the

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management team were not linked to the targets mentioned in the job descriptions. It was also reported that the ULSA field staff were not well versed on the description of hazardous tasks, CPA re-entry periods and the requirements for provision of clean drinking and washing water.

Furthermore, the application of suckercide for topping was not considered hazardous. CU also found the internal communication process, with regards to the ALP program to be mainly informal using email or phone. Also, that weekly conference calls and quarterly meeting were held, but meeting minutes were not recorded for this meetings.

### Action plan


ULSA takes this findings from CU as an opportunity to reflect on the current status quo and a way of bettering the ways of working with the limited staff capacity. With the support of the HR Department, the job descriptions of all the ALP Implementation Committee will be aligned to include the relevant ALP responsibilities and ensure that individual performance monitoring is aligned with their responsibilities. On the training and knowledge of the ALP, ULSA will implement intervention plans in the 2017/18 crop year that will focus on improving the knowledge of the country team through:

- ALP coordinator will attend the ULT Regional ALP Training Programs and participate in the regional ULT STP committee.
- ALP coordinator to liaise with other ULT ALP coordinators in the region to leverage on their experience and benefit from cross market visits.
- ALP coordinator to use the gained knowledge to formalize training for the ULSA ALP team to improve their overall knowledge on the ALP program.
- Align the ALP training material to coincide with the crop calendar to ensure that training is focused on issues that are more prevalent during that period.

To improve on internal communication and ensure that there's traceability of all the ALP discussions and other STP topics, ULSA will develop a formal meetings guideline for all the STP meetings by Oct of 2017. Furthermore, a STP meeting will be formalized to occur on a monthly basis, at which the ALP program will also be discussed.

### Expected outcomes

- a. ALP responsibility performance of the ALP team will be measurable.
- b. ULSA ALP team will have full understanding of the full ALP program and will be in a confident position to implement the ALP program with the farmers.
- c. A formalized and structured meetings process that will allow for in time reporting and addressing of ALP issues and an improved record keeping system.

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## 2.4 COMMUNICATION OF THE ALP CODE REQUIREMENTS TO FARMERS

### Findings

CU acknowledged that ULSA informed farmers on ALP topics mainly during regular farm visits, as well as by email, phone or organized group meetings and that the field team paid regular visits to the farms, of which each farmer reported being visited at least on a monthly basis. These visits focused mainly on agronomy-related topics to ensure a good tobacco crop. Moreover, ULSA provided its farmers with information and documents via email, including information regarding the ALP Program and ALP Principles. However, many farmers mentioned that they had not read the materials. ULSA produced communication materials regarding Green Tobacco Sickness (GTS) and the support mechanism, and distributed these among their farmer base. Most farmers, when asked about specific ALP topics, had a limited awareness. Farmers mentioned being informed about ALP-related topics in group meetings, and several referred to the ULSA emails and regular visits by the ULSA field team. Both knowledge transfer between the farmers and workers on ALP and the impact of worker trainings by the ALP Coordinator seem to have been limited, even though several workers reported they had been trained by the ALP Coordinator.

### Action Plan


ULSA will review and update its ALP training materials before the end of December 2017. Prevalent ALP topics and updates will be discussed during all ULSA and farmer meetings, including detailed discussion on the contents of the ALP documents with each farmer before handing it to them to sign. The MobiLeaf electronic data collection tool will be used as validation to confirm document handouts. The frequency of training of farm workers on ALP topics will be increased, monitored and documented on MobiLeaf on a monthly basis. The training and communication will be aligned to farmer categorization, assessing performance against benchmarks and the associated benefits. ALP training material will be aligned to coincide with the crop calendar to ensure that training is focused on issues that are more prevalent during that period. Best practices from other ULT markets in the region will be evaluated continuously to establish their application on ULSA farms.

ULSA has developed a working relationship with the Department of Labour (DoL), who conducts routine unannounced compliance visits to all the farms, including ULSA contracted farms. ULSA will maintain regular contact with the DoL to ensure that all ALP issues what may occur on the contracted farms and picked up by the DoL are reported to ULSA and resolved in good time.

### Expected outcomes

- a. *Improved farmers and farmworkers knowledge and understanding of the ALP program.*
- b. *Farmers will understand that they need to take ownership and lead the implementation of the ALP program and manage it at farm level.*
- c. *ULSA advising and supporting the implementation of ALP at farm level.*



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## 2.5 INTERNAL MONITORING: DATA COLLECTION AND ACCURACY

### Findings:

At the time of the CU assessment, ULSA had just started recording farmers' performance on several agronomy topics and seven ALP topics to assess whether farmers were meeting the requirements in relation to ULSA's farm categorization. No additional qualitative information was added. For all farms the categorization data was available, however, the categorization records did not fully match with the situation on these farms. ULSA stated to CU that the plan is to integrate data collection for farm categorization into Mobileaf as an additional survey. Limited actual analysis was done to investigate the root causes of identified situations not meeting the standard. Several items were missing, incomplete and/or inaccurate. MobiLeaf was not accessible due to problems with the data warehouse. These challenges resulted in ULSA not having a reliable data source with which to fully understand all risks and issues and to implement effective initiatives to address them. ULSA stored farm data either in Excel or MobiLeaf.

### Action Plan


ULSA is in the process of improving the systematic farm monitoring process, with specific focus on improving the accuracy of data that is being collected to ensure 100% of farm profile data accuracy. ULSA will also be addressing the current challenges that are being experienced with Mobileaf and is working on having it fully operational and adopted to the commercial farms setup by end of Aug 2017. To achieve this ULSA will:

- Assign the task of fine-tuning the Mobileaf system to one of the agronomy managers who has a background of information management systems and who will henceforth be the MBL coordinator for the organisation.
- Implement a process to monitor MobiLeaf user's operational efficiency individually.
- Implement a periodic process to validate data accuracy using the droidSurvey data application<sup>39</sup> at the farms.
- Use the data captured in the central database to conduct regular analysis that will identify and address blind spots.
- Identify ALP code standards not meeting targets and have them discussed during STP ALP committee meetings.
- All farms to receive a minimum of 5 visits during a crop year as part of monitoring.

### Expected outcomes

- a. To have all farm profile data accurate by end August 2017.
- b. Seasonal updates completed by end of January every year.

39. droidSURVEY is a business application compatible with Android devices to assist with the collection of field online/offline data and its synchronisation with an internal database

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## 2.6 PROMPT ACTIONS

### Findings:

At the time of the assessment, ULSA was not yet using MobiLeaf for recording Prompt Actions, and hence provided Prompt Actions (PA) in an Excel format. Prompt Actions were not discussed or communicated with the farmers. Furthermore there was no list provided with recommended actions in case other types of Prompt Actions were identified. Compared to the range of situations not meeting the standard as identified during the CU farm visits, the number of reported Prompt Actions by ULSA was low. No clear escalation process was described regarding the reporting of Prompt Actions, although the field team did mention that they directly informed their superior (the Managing Director) in case they identified a Prompt Action. Furthermore, no clear overview was available of the follow-up actions required in case of a reported Prompt Action.


### Action Plan:

ULSA acknowledges the finding of CU on the collection of prompt action data and realizes that it is an area of improvement that requires a systematic change to the process and an investment in the knowledge of the field team. To do that, ULSA will be focusing on the following:

- Working with the regional ULT team to have a standardized Prompt action guideline that will be addressing the process for opening and closing PA's, follow up, escalation and repeated offenders which is expected to be completed by end of Sep 2017.
- Ensure that all the field team members are trained on the PA guideline by the ALP coordinator by the end of Oct 2017.
- Ensure that prompt actions are discussed with farmers and action plans are agreed on.
- All prompt actions will be pre-loaded and collected through the MobiLeaf system from end of Jun 2017.
- Prompt actions will be reviewed periodically for realignment of priorities during the season. 100% of Prompt Actions to receive a follow up visit and to check for re-occurrence.

### Expected outcomes

- a. Improved knowledge of PA's by the agronomy field team as a result of training and a clearly defined process.
- b. A reduction in the PA's raised due to actions plans being implemented at farm level to address the root cause.

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## 2.7 IMPROVEMENT PLANS FOR INDIVIDUAL FARMS

### Findings:

CU observed that ULSA did not agree with farmers on improvement plans for their farms. Although ULSA had drafted STP improvement plans, including ALP topics, for the previous crop season (2016), these had not been updated; there had been no tracking of the progress, nor had there been any follow-up to these plans.

### Action Plan:

ULSA had previously conducted a risk assessment for its farms and from which the pertinent issues were identified and initiatives were developed. The identified areas of improvement were Income and Work Hours (I&WH) and the Safe Work Environment (SWE). ULSA field staff conducted a farm by farm ALP review during April 2017 to review current ALP conditions per individual farm. ULSA will draft individual farm improvement action plans by the end of October 2017. To improve on farmworkers accommodation, ULSA conducted a pilot project between Jan – May 2017, which was a success (details will be discussed under the SWE action plans). The learning from this pilot will be used to define an action plan to have all farm worker accommodation meeting the minimum standards on all ULSA contracted farms. ULSA will review on a regular basis all the STP initiatives conducted and determine needs for outstanding farms where necessary on an annual basis. Important aspects of compliance with the ALP Program are linked to the farmer categorization. ULSA will use MobiLeaf as an efficient data capturing and reporting tool and to update and synchronise with data warehouse daily.

### Expected outcomes

- a. *By drafting individual farm action plans, the implementation of the total ULSA action plan will be more efficient and accurate to reduce risks and improve ALP conditions on all farms.*

## 3. ADDRESSING SYSTEMIC AND/OR WIDESPREAD ISSUES


### 3.1 ALP CODE PRINCIPLE 1: Child Labor

#### Findings

For the farms visited no evidence was found of children below 15 years being employed. However, CU did find one Cape farm employing two 17 year old children who were involved in hazardous activities and who also worked full shifts several days a week.

#### Action Plan

In terms of section 43 of the Basic Conditions of Employment Act (BCEA) Act 75, the minimum working age is 15 years old. It is also required that the child must be above the minimum school leaving age in terms of

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any law, if it is 15 years or older. South African law sets the minimum school leaving age at 15. The BCEA position is re-stated in section 25 of Farm Workers Sectoral Determination 13 which establishes conditions of employment for employees in the farm worker sector. It further states that no person may employ a child (being persons 18 or younger) in employment that is “inappropriate for a person of that age, or that places at risk the child’s wellbeing, education, physical or mental health, or spiritual, moral or social development”.

ULSA is committed to its policy of working to eliminate child labour in the tobacco leaf supply chain, and this includes the protection of children’s rights on farms supplying tobacco to ULSA. ULSA will therefore ensure that all farmers and farm workers are fully aware of the legal minimum working age training on the principle of child labour and the type of work suitable for under 18 years old, focusing mainly on hazardous tasks. In increasing awareness on hazardous tasks, ULSA will also be distributing the list of hazardous tasks to all their farmers. The farmers’ contracts will be amended to include the clause that the employer will not hire any labour without verifying the ID, passport, birth certificate and/or asylum documents to validate age by June of 2018. This will be monitored by field staff during their routine visits and unannounced visits henceforth. The Department of Labour, whom ULSA is working closely with on the support mechanism, also visit farms unannounced on a regular basis as the custodians of the BCEA. As part of the monthly feedback on the support mechanism, ULSA will obtain feedback from the DoL where they have identified any violations from their farms.


**Expected outcomes**

- a. *Adherence to the ALP program and the country law with regards to the employment of children in all the farms that ULSA is sourcing tobacco from.*
- b. *At farms where children below the ages of 18 years are employed, they are not involved in any hazardous activities.*

**3.2 ALP CODE PRINCIPLE 2: INCOME AND WORK HOURS**

**Findings**

- a. At over 40% of the farms, workers were paid below the legal minimum wage. Salaries were either calculated hourly, daily, weekly or on a piece rate.
- b. At all farms workers were paid regularly in accordance with the law, except for one farm, where workers received part of their salary at the end of the season, contrary to the law.
- c. At most farms workers were not provided with all the legal benefits to which they were entitled by law, such as leave and sick leave. The main reason for the lack of legal benefits was that many workers had not formalized their employment status and so were not registered with the required government institutions.
- d. Some farmers were making deductions from their workers’ salaries that did not comply with the law.

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## Action Plan

ULSA takes this findings very seriously. The BCEA states that all employers must display a copy of the summary of the Act in the workplace. In addressing the issues identified by CU during the assessment, ULSA will ensure that at all its contracted farmers, all workers, including foreign workers, are trained on the ALP code of income & work hours, increase visibility and promote the use of the support mechanism, and in partnership with the DoL, train them on the BCEA between July 2017 & June 2018. During the training period, ULSA will also ensure that the summary of the BCEA summary and details of the support mechanism are displayed at all farms that tobacco is sourced and will distribute copies at farms that don't have the summary.

To administer compliance, the field staff will monitor and validate availability of contracts, wages, payment schedule, deductions and provision of legal benefits as part of the standard monitoring process through Mobileleaf. The system will prompt the validation at every visit that is conducted at a farm. Over and above the monitoring, privately discuss with the workers, especially the vulnerable groups like the migrant workers to validate if they are receiving all the legal requirements. As part of the categorization process, farmers that are not adhering to the requirements and not showing improvements are unlikely to be contracted with ULSA going forward. This message gets reiterated during the quarterly meetings (study groups) that ULSA has with the farmers.


### Expected outcomes

- a. **All farmers and farm workers are aware of and are being paid at least the minimum wage by the end of 2017.**
- b. **By having the appropriate farmer contracts and paying their workers regularly, all farmers will be adhering to legislation and compliant with the ULSA ALP plan.**
- c. **All farmers provide their workers with the necessary legal benefits and workers are fully informed about their rights.**
- d. **There are no farmers who make any illegal deductions from workers.**

## 3.3 ALP CODE PRINCIPLE 3: FAIR TREATMENT

### Findings:

- a. Certain workers reported that they had been verbally harassed by the farmer by being shouted at.
- b. Communication on the support mechanism did not indicate to farmers or workers as to what to expect after reporting an issue.
- c. On some farms workers sometimes fought with each other. Although these fights happened outside work time they did occur on the farm premises as the workers lived there.

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### Action plan:


Although the findings of the CU assessment highlight sporadic cases where workers have been treated unfairly, ULSA takes this very seriously. Prior to the CU assessment, ULSA had partnered with the DoL in creating a support mechanism in the Lephalale area of Limpopo. This was meant to embed and take advantage of the system already put in place by the government and align it with the ALP program requirements.

During the CU assessment, shortcomings on the communication of the support mechanism were identified, as it does not elaborate on the process following any report made under the mechanism. This is particularly relevant for migrant workers who may be concerned about their legal status if they use the support mechanism. To address this issues ULSA has reviewed the procedure of the support mechanism and updated the training and communication materials. The issue of formalising the employment of foreign workers is explained in detail under the section on compliance with the law, which will in turn address the use of the support mechanism by the migrant workers. As part of maximizing the effectiveness of the SM during the pilot phase, ULSA will be focusing on the following areas in the 2017/18 crop season.

- Together with DoL re-training farmers and farm workers on the functionality of the SM and increase awareness through pamphlets and business cards.
- Ensure that both parties understand fully the benefits of using the system where necessary and what to expect after reporting a grievance.
- Include in the training of the Fair Treatment principle the ALP code topics that are not covered by the SM and give the workers guidance in the other options available.
- Have at least a monthly meeting with DoL personnel to review the cases that have been reported and discuss improvements of the SM system.
- Get monthly feedback on grievance reports in writing from the DoL.
- ULSA to lead the way to assist in the building of a trust relationship between the DoL and contracted farmers.
- ULSA will as part of the due diligence process, conduct test calls to the SM every 6 months and review the follow up process during the monthly feedback sessions.

### Expected outcomes

- a. *An efficient SM that covers all the farmers and farm workers on ULSA contracted farms.*
- b. *All farmers and farm workers are well trained and feel comfortable using the SM.*
- c. *Cases of unfair treatment being raised through the support mechanism.*

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### 3.4 ALP CODE PRINCIPLE 4: FORCED LABOR

#### Findings

No evidence was found of workers unable to leave their employment, employed against their will, of contracted prison labor or of any obligation to pay a financial deposit. On one farm, for security reasons workers lived inside a fenced compound that was locked at night. Although the gate was open during the day the workers were unable to leave the farm premises through the gate at night because they did not have the key. At another farm, workers declared that they had requested the farmer to hold their documents for safekeeping so they would not lose them. This was seen as a risk as the workers depended on the farmer to get their ID's back.

#### Action Plan

Security is a high risk in most areas of South Africa and more especially in the farming community, which are in the remote and isolated areas and often without adequate infrastructure. The practice of having enclosed premises, therefore becomes practical and necessary in this instances. ULSA recognizes the importance of achieving an appropriate balance so as avoid the unintentional potential of restricting the free movement of workers. As part of the continuous annual training on ALP program and specifically the forced labour principle to the farmers and farm workers, there will be increased awareness of the situation that might constitute forced labour. This will include the retention of copies of form of identification, instead of the keeping the original documents, the use of labour brokers (with the help of DoL) and payments (as discussed under I&WH principle).


#### Expected outcomes

- a. *Farmers aware and able to apply their mind on situation that might constitute to FL.*
- b. *Workers aware of their rights and protected from victimization through FL.*

### 3.5 ALP CODE PRINCIPLE 5: SAFE WORK ENVIRONMENT

#### Findings:

- a. On most farms workers responsible for handling green tobacco were not trained on the avoidance of Green Tobacco Sickness (GTS). Consequently, the number of farms using protective clothing (PPE) was limited.
- b. On some farms pregnant women handling CPA and without appropriate PPE
- c. CPA applicators were not properly trained on the safe use and handling of CPA and were not using full set of PPE when doing so.
- d. Re-entry periods were not respected after the application of CPA

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- e. CPAs were not stored properly and in some cases empty CPA containers were not disposed of properly.
- f. Workers' accommodation was found to be inadequate
- g. Workers were not always provided with clean drinking water near the work place. Furthermore, washing water and soap was not available near the work place and workers were not provided with sanitary facilities close to where they worked.
- h. Working at heights without proper protective equipment.

**Action Plan:**

On prevention and avoidance of GTS

Working with green tobacco is a hazardous task which may result in GTS, and therefore requires the use of personal protective equipment (PPE). To prevent GTS workers need to follow best practice avoiding the handling of green leaf tobacco in the field when it is wet and protecting themselves with the correct clothing when handling tobacco in the field which includes long sleeve overalls and protective gloves covering all body parts below the neck. To address the findings of CU on GTS, ULSA will improve the farmer and farm worker knowledge on the avoidance and prevention of GTS through training programs per farm, and using training materials available from other ULT operations in the region. The training on GTS and its prevention must be aligned with the crop calendar to begin prior to topping, harvesting and curing. Continuous monitoring and refresher training where necessary must take place during each farm visit.


ULSA registered the use of PPE as a non-funded STP and recently, following the sourcing of suitable GTS PPE, issued farmers with the appropriate PPE where no PPE was available. The training sessions will include the demonstration of the PPE to enable workers to understand the use of it. Farmers to be encouraged to take a leading role in ensuring that necessary precautions against GTS are taken on their farms

ULSA understands that pregnant women may often not disclose their pregnancy status due to cultural beliefs or try to hide it in fear of losing their employment as a result of their condition. Farmers will be trained to provide training to their workers and create awareness of the risks for pregnant women and nursing mothers of carrying out hazardous tasks such as topping tobacco or dealing with CPAs, and of opportunities for light work instead, without fear of discrimination. Farmers will also be encouraged to explain alternative placing methods that will be used in the event that an employee will fall pregnant and need to be employed in non-hazardous conditions.

On safe use and handling of CPA, re-entry periods and storage of CPA

Working with CPA is seen as a hazardous work, and therefore requires appropriate training on best practices and the use of personal protective equipment (PPE). Workers working with CPA need to be protected by the correct clothing which includes a chemical resistant overall, protective gloves, eye protection and a mask. Farmer and farm worker knowledge on the avoidance and prevention of CPA contamination needs to improve through appropriate training programs. Continuous monitoring and refresher training where necessary must take place during each farm visit.



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ULSA registered the use of PPE as a non-funded STP to ensure commitment towards addressing the issue. Recently, following the sourcing of suitable CPA PPE, farmers were issued with appropriate PPE where no PPE was available on farms. **Refer to Addendum 1.**


39% of the farmers in Limpopo sent workers to a CPA training session during 2016. Another training session, in local languages, was completed on 15 August 2017 when a certified supplier completed a CPA handling training course which included more than 75% of the farms in Limpopo. All workers that attended the training will be issued with certificates. The training sessions included the demonstration of the PPE to enable workers to understand their application. Farmers are encouraged to take a leading role in ensuring the necessary precautions exist for CPA application on their farms. The same training will follow in the Cape growing areas and the target is to cover 100% of farms by September 2018.

ULSA training and training materials to be provided to improve the knowledge of farmers and farm workers about the dangers of re-entering CPA treated fields. Farmers to understand the risks of and to prohibit workers from entering a recently treated field. All treated fields must be clearly marked with appropriate signage which includes the use of a red flag or specific warning signs. Farm specific signs must be known to all workers on the farm to enable them to identify the recently treated fields. Farmers are encouraged to take a leading role in ensuring that necessary precautions against treated fields are adhered to. Farmers and farm managers must take responsibility and implement a warning system by October 2017.

ULSA will train the farmers to rinse empty CPA containers three times in succession with one quarter of the container volume clean water (this is triple rinsing) and rinse water must be decanted into the spray bowser. Triple rinsed empty containers may not be stored for longer than three months at any given site unless that site is registered as a waste collection and storage site. It is therefore imperative that farmers dispose of their empty triple rinsed containers at least once every three months. ULSA provides a disposal site at the buying station in Limpopo and farmers from time to time dump empty containers at the site which is recorded per farmer. ULSA has also initiated a process by which a registered recycling service provider collects empty CPA containers and other plastic and hazardous materials directly from farms. This process has commenced from August 2017 and farmers are issued with recycling certificates by the service provider. A similar system will be adopted in the Western Cape growing area by the end of 2018. In the Eastern Cape, CPA vendors collect empty containers as part of the farmer GlobalGAP certification process. The process of recycling has been added to the farmer categorization where they will lose points if they are not recycling.

On farmworkers' accommodation

The South African legislation prescribes minimum farm worker accommodation standards where accommodation is being charged, however the law is silent on cases where accommodation is offered without charges. In the absence of a local guide, ULSA will follow the ALP program which states that accommodation, where provided, shall be clean, safe and meet the basic needs of the workers and conforms to the country's laws, where applicable. ULSA has embarked on an initiative to improve the farm workers living standards starting with a pilot project conducted on two farms in Limpopo between Jan - May 2017. The objective of the pilot was to determine a cost effective farm worker accommodation that meets the minimum standards and is affordable for the farmer. The learning from the pilot will be used to assist with the determination of the feasibility of such a project for the entire farmer base.

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An individual farm accommodation assessment was completed during May to August 2017 to establish the full requirement for new houses, houses to be renovated and sanitary services to be improved. ULSA will compile a project plan and calculate the feasibility of pre-financing farmers to improve worker living standards. The project is planned to run over 3 years and action and development plans will be drafted for each farm with specific goals set. This will also ease the monitoring and validation. Farms with serious noncompliance will be first with the completion date set for the end of 2019. Compliant farm worker accommodation is included in the farmer categorization program. **Refer to Addendum 2.**

#### On clean drinking, washing water and sanitary facilities

Clean drinking and washing water and sanitary services should always be available near the place of work and in accommodation on all ULSA contracted farms as guided by legislation and promoted by the ALP program.


ULSA reiterated to the farmers of their obligation to supply workers with clean drinking water at the workplace. Availability of toilets and sanitary facilities to workers at the workplace is a legal requirement. If water points are not available near the work area, water should be made available in clean containers which can be transported to the workplace. Sanitary facilities must be within walking distance from the workplace. At a farm group meeting in Limpopo during June 2017, farmers were shown a mobile option which includes a toilet, washing area and reservoir with clean water, all fitted on a trailer that can be moved around with the labor. All contracted farms have been mandated to supply the necessary facilities to workers with effect from the commencement of the 2018 crop season in August 2017. This will be monitored by the field team during the regular farm visits and captured in the Mobileleaf system.

#### On general safety measures

In 2016 ULSA through a service provider Emcare Emergency Care Specialist, trained one first aid representative for every 25 workers per farm on 77% of the contracted farms and the remainder of the farms were trained in January of 2017. Refresher trainings will be conducted every second year henceforth. Furthermore, ULSA took advantage of the funding provided through the AgriSeta to train farm worker specialists on Safe use of CPA, Pest control, Tractor safety and general farm safety through a service provider called Skills for Africa. Although attendance was disappointing from the contracted farms at 47%, ULSA will continue on the same initiative on an annual basis to improve on this aspect. ULSA will also issue all the farms with suitable and enough harnesses for workers who hang tobacco at height in curing barns by Nov 2017 and offer them training on the safe use of harnesses.

#### **Expected outcomes**

- a. *On all farms, farm workers working with fresh tobacco will be aware of the dangers of GTS and will as a matter of routine take the precautions to avoid it by the end of 2017. Farmers will take a leading role to ensure the use of PPE on their farms and appropriate leaf handling best practice.*
- b. *Farmers will take a leading role to ensure the safe use of CPA and wearing of PPE on their farms, with farmers and labour aware of the dangers of CPA contamination.*
- c. *Farmers will warn workers against recent CPA usage on fields by displaying warning signs which are well known to workers.*

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- d. All farmers appropriately dispose of their empty CPA containers and other hazardous materials.
- e. All farmer will supply their workers with safe accommodation at a minimum standard required by the ULSA ALP program.
- f. Workers will have access to safe drinking water and sanitary facilities at the workplace and close to their accommodation on all farms. Washing water will be available at all times.
- g. Pregnant women feel comfortable to declare their status. No pregnant or breastfeeding women are involved in any hazardous work and are transferred to safer working environments.
- h. Farmers understand and acknowledge the importance of having a safe working environment on the farm. All contracted farms have personnel trained in workplace safety which benefits all workers by ensuring a safe work area.

### 3.6 ALP CODE PRINCIPLE 7: COMPLIANCE WITH THE LAW

#### **Findings:**

- a. Workers were generally aware of the basic conditions of employment but not fully informed about their legal rights, even though farmers were generally aware of the legal rights of workers.
- b. Farmers didn't always have written contracts with their workers as required by law.
- c. Foreign workers working at some of the farms without proper documentation


#### **Action Plan:**

All contracted growers must inform and explain to all workers, including foreign workers, their legal rights and include their terms and conditions of employment in a formalized document. All farms must display an official poster informing labor of their legal rights.

Increase farmer awareness on their obligation to inform all employed workers, including foreign labor, about their legal rights. ULSA to supply farmers with an official document of terms and conditions indicating employee legal rights. Farmers must ensure that these documents are clearly displayed within the work areas. The workers legal rights must be included in a formal agreement between the employer and employee. ULSA will address this issue at farm level by the end of September 2017.

All farm workers, including foreign workers, working on ULSA contracted farms must have written agreements with their employers, clearly indicating all working conditions and benefits. Workers must receive copies of the signed document. ULSA farmers employ approx. 2882 workers who can be classified as follow:

- Local fulltime permanently employed – 52% of the total workforce.
- Local Seasonal temporary employed – 15% of the total workforce. If employed longer than 3 months, employment becomes permanent.
- Foreign Full time employed – 21% of the total workforce. Must be employed on the basis of an asylum document or corporate visa. Where a corporate visa is used, the farmer must be in possession of a corporate permit.

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- Foreign seasonal temporary employed – 12% of the total workforce. If employed longer than 3 months, employment becomes permanent on a work visa basis.
- Unspecified duration (Piece job) – normally employed on a day to day basis to complete a specific piece of work, and paid on an hourly basis. Productivity encouraged by paying on achievement within a period of time, with the lowest achiever paid minimum wage. Increased achievement results in a higher wage. No contract required but farmers are encouraged to sign a document mitigating their on farm risks while these workers are present.

All the above categories must at least be paid at minimum wage. All employees employed for longer than 3 months qualify for all benefits.


ULSA to increase the farmer and farm worker, including foreign labor, knowledge on employment conditions and more specifically ALP Code to formalize employment. Validate worker contracts and inclusion of all benefits. During August 2017 ULSA supplied all farmers with a legal template document as a basis for formalizing employment contracts with local or foreign worker categories. These documents have been compiled according to legislative requirements. ULSA will endeavor to have all employment formalized on all the contracted farms by March 31st 2018.

Foreign workers seeking employment in South Africa need to be in possession of legal documents that would allow them to work. There are 2 basic options that enable farmers to employ foreign workers:

- **Asylum status** – foreigners can apply for asylum on an individual basis as refugees when already within South Africa after which they can obtain a section 22 asylum document that will allow them to work locally. When they are allowed asylum, a section 24 document will allow them to work in South Africa for 2 years, with the option to renew.
- **Corporate work visas** - are issued to foreigners where it has been proven beyond reasonable doubt that South African citizens and permanent residents with the relevant qualifications or skills and experience are not available for appointment. A farmer must go through an application process as the employer and provide proof why the foreign workers are needed. On completion of the process, the farmer will be issued a corporate permit which will allow him/her to issue corporate work visas to a specific number of foreign workers as a group. CP's are the best option because of the group application and allow workers to work legally for 3 years, after which re-application needs to go through the whole process again. Farmers employing foreign workers without the necessary permit, are seen as illegal employers and subject to heavy financial penalties. Workers working on farms with illegal documentation, are deported to their countries of origin.

The application process for corporate permits is lengthy because of inefficiencies in the system. Although the Department of Labor, with which ULSA has built a good relationship recently, is part of the application process, most of the application procedures follow a very complicated system through a visa application center.

There is an indication from the SA government that a renewed work permit system might apply for Zimbabwean workers in SA from 2018 but nothing confirmed yet.

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**Expected outcomes**

- 100% of farm workers are informed of their legal rights and understand their terms and conditions of employment.
- All farmers provide their workers with the necessary employment contracts to formalize employment. That will ensure that the farmer and worker are contractually in an agreement which clearly stipulates responsibilities and benefits.
- Where all labour are legally employed, farmers will be compliant with and better placed to effectively achieve ALP implementation according to legislation.

**4 CONCLUDING REMARKS**

ULSA management and employees are fully committed to the design and implementation of the ALP Action plan described here. The objective is to embed and maintain ALP as part of the business culture and as normal behavior. The very good level of communication with the ULSA contracted farmers will ease implementation.

ULSA strives to maintain good relations with its contracted farmers and expects a positive response from farmers on being fully ALP compliant. Contracted farmers understand that they need to lead the implementation on their farms as normal behavior.

ULSA and its farmer’s ALP objectives are to protect all farm workers on these contracted farms against discrimination, abuse, unfair and unsafe working conditions, and to ensure that they are well trained to complete their work productively in accordance with ALP principles.



## ADDENDUM 1

### Example PPE





## ADDENDUM 2

### Pilot worker accommodation



## Appendix II – Scope and methodology

### Assessment team

The team responsible for conducting this assessment consisted of two local South African auditors, one coordinator from Argentina and one coordinator from the Netherlands. The auditors conducted farm assessments and interviewed the field team. The two coordinators interviewed ULSA management. The local auditors were trained by Verité and CU at the end of 2016.<sup>40</sup> This qualification process consisted of the following stages:

- Selection of candidates by CU;
- Webinars organized by CU to verify suitability of candidates;
- Completion of online training provided by Verité;
- Full week classroom training conducted by Verité with CU; and
- Shadowing during farm visits by the coordinator.

### Desk review

Prior to this assessment, ULSA was requested to send documentation to the CU team to give them a better idea about the market characteristics and the management systems. ULSA provided the legal information that was relevant to the ALP Code (see Appendix III for more detailed legal information). This was important to ensure a thorough preparation for the assessment.

### Opening meeting

On February 6, 2017, CU started the assessment with a meeting at the ULSA head office in Johannesburg attended by ULSA's management (Managing Director, ALP Coordinator, Financial Manager, Operations Manager, Agronomy Manager Limpopo, Agronomy Manager Cape), and representatives from Universal Region and PMI Region. CU presented the objectives and approach of the assessment, while ULSA provided a brief overview of the market and company background.

### Methodology for ALP implementation system review

The methodology used for the evaluation of ULSA's implementation of the ALP Program is based on the widely used PDCA<sup>41</sup> cycle. This cycle is a management method for the continuous improvement of processes and products. CU spent two days (February 6 and 7, 2017) at ULSA's head office to interview management staff, analyze documentation, and evaluate their systems to better understand how the implementation of the ALP Program was organized. In total, CU interviewed eight management personnel (including the field personnel, and one representative of PMI Region). Additionally, CU interviewed three stakeholders: the Department of Labor of Lephalale, Skills for Africa and Emcare. All interviews were conducted individually, so that interviewees felt comfortable and able to speak freely and raise any issues.

40. Of the two coordinators: one had been trained in 2013 and the other in 2014.

41. Plan, Do, Check, Act



Scope and farm sampling

DAC tobacco production in South Africa is concentrated in three regions: Limpopo, East Cape and West Cape (see map below).



Tobacco production in South Africa

At the time of the assessment, ULSA sourced tobacco from all three regions. For the purpose of this assessment, and based on the characteristics of the areas, CU divided the DAC tobacco growing regions into two homogenous groups: Limpopo and the Cape (East and West Cape combined).

In Limpopo the 70% of farmers grew 10-50 hectares of tobacco contracted by ULSA, 18% grew less than 10 hectare, 9% grew 50-100 hectares, and 3% grew more than 100 hectares. In the Cape 93% of the farmers grew less than 10 hectares of tobacco contracted by ULSA, and 7% grew 10-25 hectares.

In both regions, many farmers had additional land to grow other crops and/or raise livestock. Limpopo farmers often had hunting lodges and large areas of land to keep game. In East Cape citrus was the main crop, and in West Cape many farmers also raised ostriches.

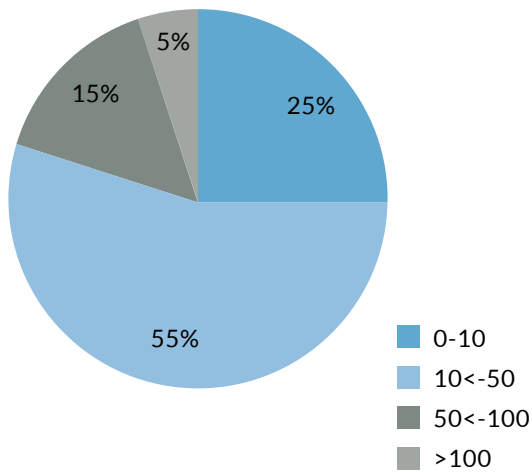
ULSA contracted a total of 34 DAC farmers in Limpopo and 43 DAC farmers in the Cape. To constitute a meaningful sample, CU needed to visit at least 20 farms in Limpopo and 20 in the Cape (East and West), which was calculated by the square root of the total number of farms per homogenous

region with a minimum sample of 20. In total, CU visited 20 farms in Limpopo and 19 farms in the Cape , which were either sampled randomly or based on the following criteria:

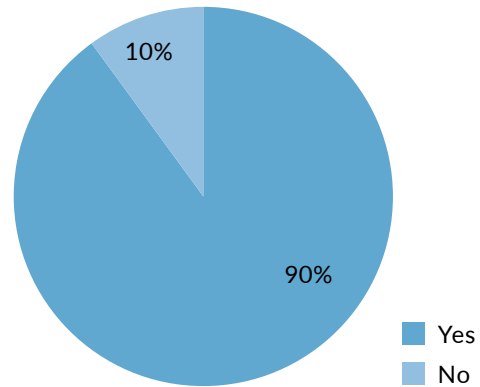
- Geographic spread;
- One farm visit was targeted to verify the accommodation initiative (see 1.6).

Over a period of three weeks, CU visited 4-6 farms a day, with a reporting day after each field day. The graphs below provide demographic information about the farm selection.

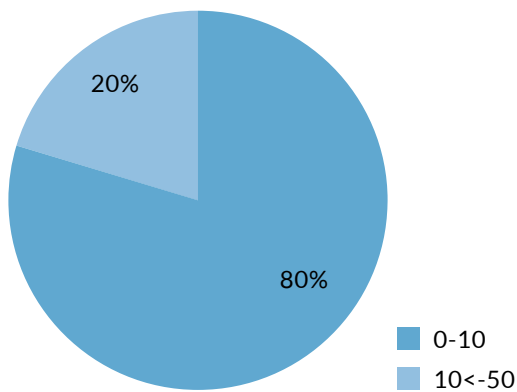
**Farm size Limpopo (T=20)  
(ha contracted by ULSA)**



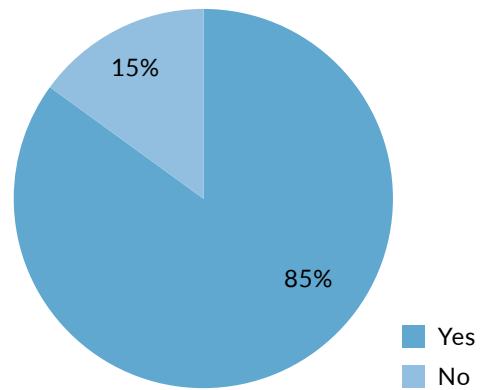
**Farmers previously contracted  
by ULSA, Limpopo (T=20)**



**Farm size Cape (T=20)  
(ha contracted by ULSA)**

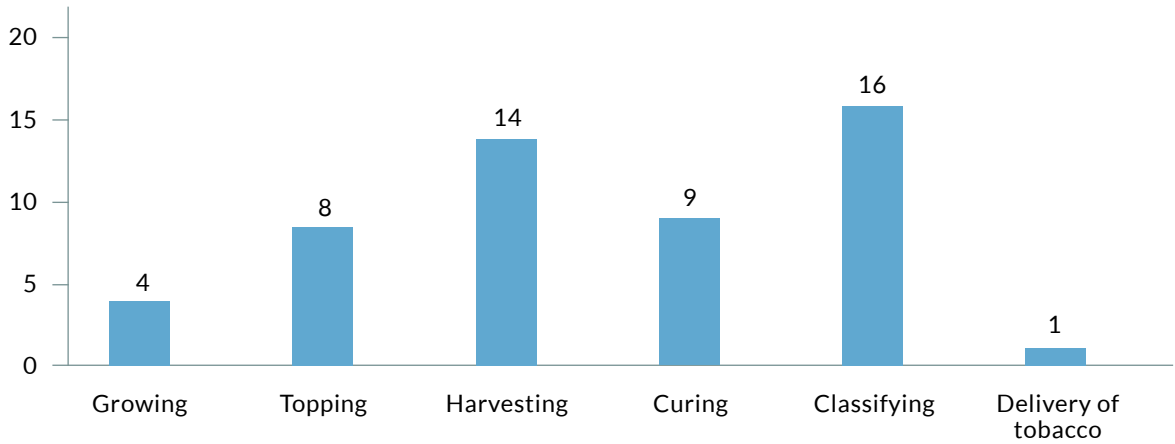


**Farmers previously contracted  
by ULSA, Cape (T=20)**

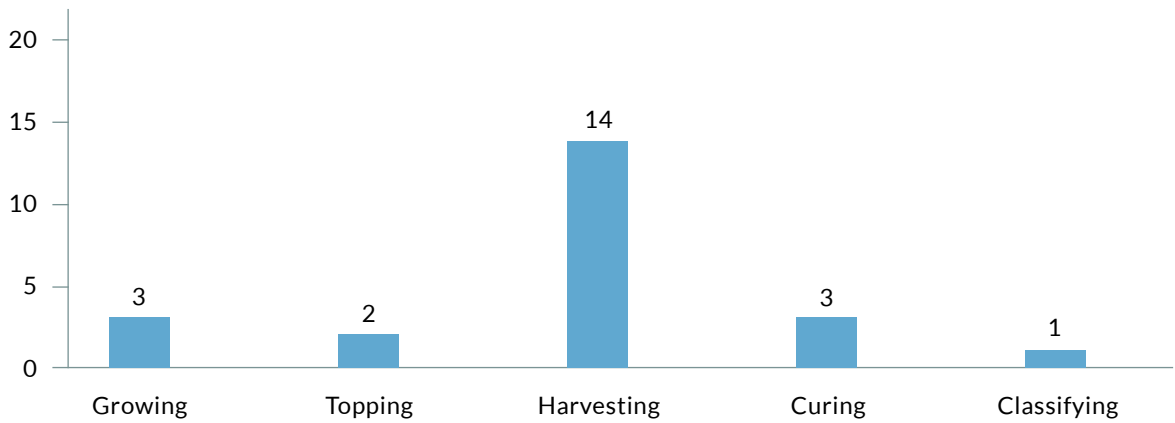


42. Note that one farm in the Cape had two contracts with ULSA, hence T=20.

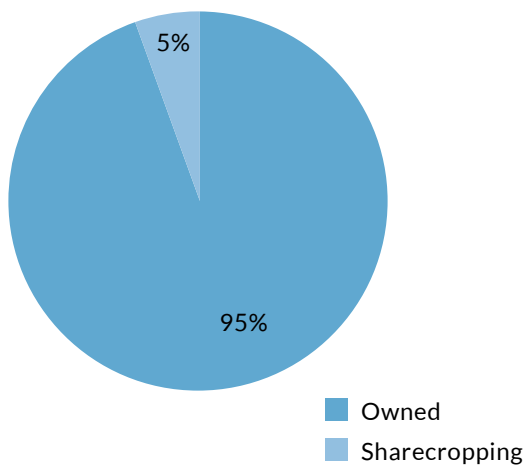
**Stage of tobacco production Limpopo (T=20)**



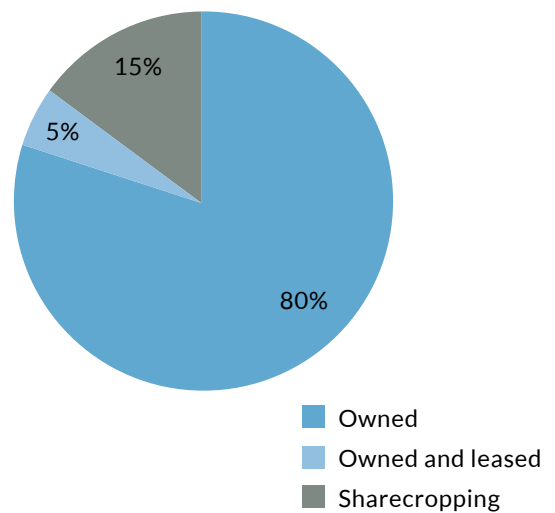
**Stage of tobacco production Cape (T=20)**



**Land ownership Limpopo (T=20)**

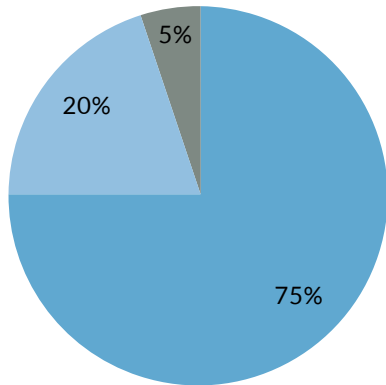


**Land ownership Cape (T=20)**



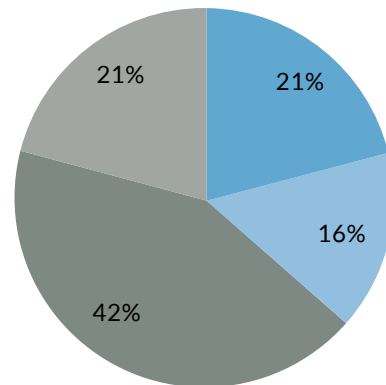
Most farmers owned the land used for tobacco farming. On one Limpopo farm (5%) and three Cape farms (15%) there was a sharecropping agreement in place. For the Limpopo farm this was a 50/50 agreement between two brothers. On one Cape farm it was an 80/20 agreement between the landowner and farmer, with the landowner having the contract with ULSA and receiving 80% of the profit. Two Cape farms also had 50/50 agreements between the landowner and farmer.

**Type of farm Limpopo (T=20)**



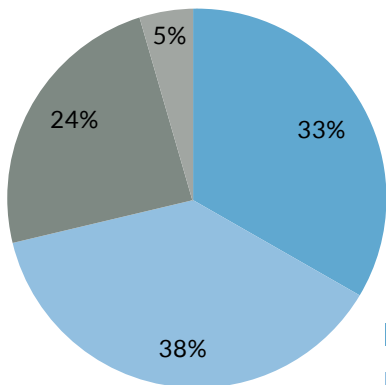
- Farm with family members and local and migrant workers
- Farm with local and migrant workers (no family members)
- Farm with only local workers (no family members)

**Type of farm Cape (T=19)**



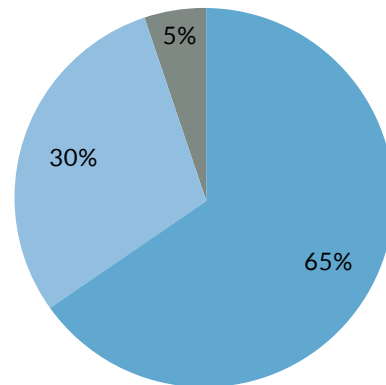
- Farm with family members and local and migrant workers
- Farm with local and migrant workers (no family members)
- Farm with only local workers (no family members)
- Farm with family members and local workers

**Number of workers on Limpopo farms (T=20)\***



- 0-25
- 25-50
- 50-100
- >100

**Number of workers on Cape farm (T=19)\***



- 0-25
- 25-50
- 50-100

\*Based on ULSA farm data

Thanks to the openness and collaboration of ULSA, CU managed to conduct all visits unannounced. This meant that the farmers had not been informed about the visit and its objectives prior to CU’s arrival. ULSA did inform farmers at the start of the assessment period that a visit could take place within a certain period but said nothing in the days prior to the visits. CU informed ULSA about the names of the selected farmers only on the day of the visit. The reason for this was that CU wanted to obtain a realistic picture of the farm practices, which was most likely to be seen when arriving unannounced. At 11 of the selected farms, the farmers were not present when the CU assessment team arrived; these farms were replaced by other farms.

**Methodology for ALP farm practices review**

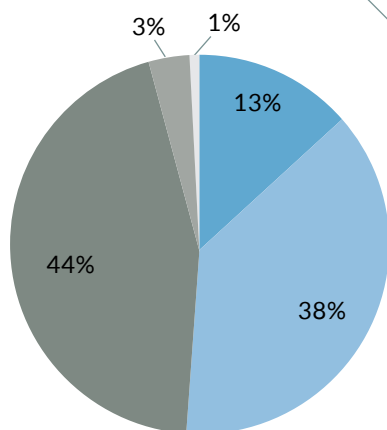
The methodology used during the farm visits was based on triangulation of information. Auditors were instructed to seek at least two, preferably three, sources of information. They used their findings to draw conclusions about whether farm practices were meeting the standard of the ALP Code. These sources could be interviews with

farmers, family members and workers. Sources could also include documentation and visual observation of the farm area, field, storage facility, and curing barns. This methodology was also used to investigate the underlying factors that increase the risk of not meeting the standard. In addition to information triangulation CU also used the “Five Whys” methodology, a commonly used technique to obtain an understanding of problems, to investigate the reasons behind certain issues. Before every interview CU explained the objective of the assessment and assured interviewees that all information would be kept completely anonymous. Next to assessing labor practices, CU also verified the impact of ULSA’s management systems on the farms, to assess how these were perceived by the field team, farmers, family members, and workers.

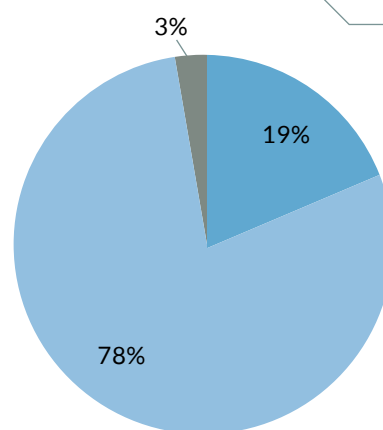
**People interviewed**

Where possible, interviews were conducted individually and without the farmer, to avoid undue bias. For the same reason, all interviews with farmers were conducted without the field team. In addition to 40 farmers, 169 people were interviewed by CU.

**Limpopo (T=90)**



**Cape (T=79)**

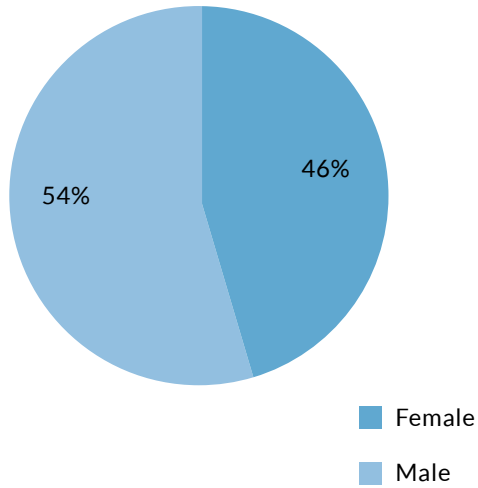


- Family members
- External workers (South Africa)
- External workers (Zimbabwe)
- External workers (Mozambique)
- External workers (Botswana)

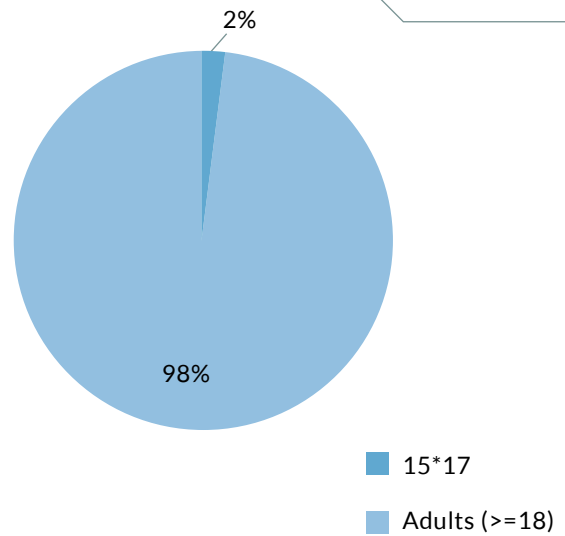
- Family members
- External workers (South Africa)
- External workers (Zimbabwe)

Demographic information on the 169 family members and external workers:

**Gender interviewees (T=169)**

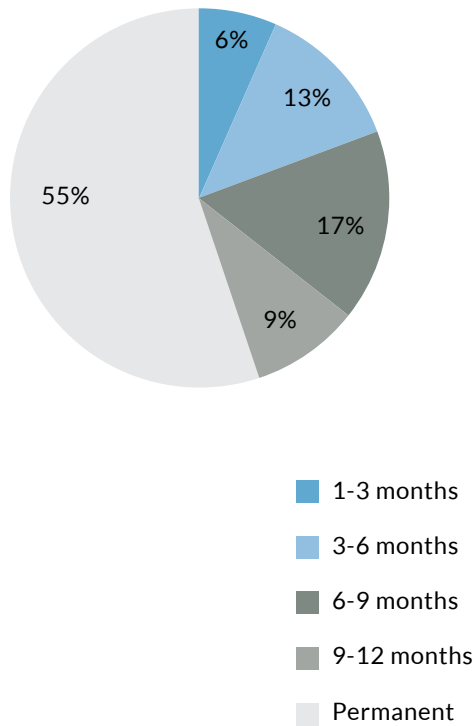


**Age of interviewees (T=169)**

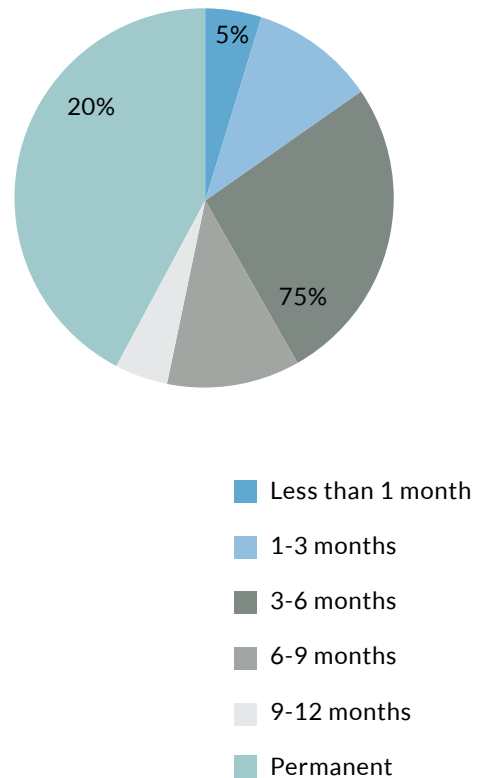


Duration of employment of external workers interviewed (137 people in total).

**Duration of employment Limpopo (External workers only: T=73)**



**Duration of employment Cape (External workers only: T= 64)**



### Closing meeting

On March 22, 2017, a closing meeting took place at ULSA's head office in Johannesburg with ULSA's management (ALP Coordinator, Financial Manager, Operations Manager, Agronomy Manager Limpopo, Agronomy Manager Cape), one representative of Universal Region and one of PMI Region, and the Verité consultant for Africa. ULSA's Managing Director and additional representatives from PMI Region Leaf and PMI OC participated in the closing meeting by video conference. CU presented the initial findings and ULSA requested clarification of certain items. A constructive discussion took place on several topics. Overall, CU's findings were considered a useful base for taking action to improve the implementation of the ALP Program.

### Reporting procedure

During the assessment, auditors reported after each field day to the coordinator. This person monitored the auditors' findings, and provided feedback whenever necessary. The coordinator compiled all findings and combined these with the findings from the management assessment. Public release of CU's assessment report demonstrates PMI's commitment to transparency, which is an important component of the ALP Program. CU authored the final report, which was evaluated by Verité. PMI reviewed the report to ensure consistency of the presentation of CU's findings worldwide. Finally, ULSA reviewed the report to verify that all the information was correct, and to finalize their action plan that was based on this report.

## Appendix III – Legal information

Universal Leaf South Africa provided the information below to CU so it could be reviewed to ensure it was clear and complete before the assessment.

### PRINCIPLE 1 – CHILD LABOR

#### Minimum age for employment (in tobacco)

- 1.1 In terms of section 43 of the BCEA the minimum working age is 15 to be employed. It also requires that the child must be above the minimum school leaving age in terms of any law, if it is 15 or older. South African law sets the minimum school leaving age at 15 and is discussed in more detail in a separate answer. The BCEA position is re-stated in section 25 of Sectoral Determination 13 which establishes conditions of employment for employees in the farm worker sector.
- 1.2 One exception with regard to employing children under the age of 15 is their employment in advertising, artistic and cultural activities. In order to employ children in such roles, a permit is required from the Minister of Labour as well as the consent from the parents or guardian of such children.

#### Requirements applying to farmers' own children or other family members such as nieces and nephews helping on the farm

- 1.3 There are no specific references to this in any legislation. However should the child be earning any remuneration or be under supervision of another employee, owner or employer, the child will be regarded as a child worker with all the rights and responsibilities as any other child worker / employee, as the regulations defines a "child worker" as any child who (i) is employed by or works for an employer and who receives or is entitled to receive any remuneration; or (ii) who works under the direction or supervision of an employer or any other person.

#### Age (or ages) limit for compulsory schooling

- 1.4 Section 3 (1) of the South African Schools Act, 1996, requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 or the ninth grade, whichever is the first.

#### Hazardous work (and laws on hazardous work related restrictions specific to children)

- 1.5 Hazardous work is defined by local statute. The relevant statute in this regard is the OHS Act. The preamble to the OHS Act is worded as follows;

"To provide for the health and safety of persons at work and for the health and safety of persons in connection with the use of plant and machinery; the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work..."

- 1.6 In section 1, dealing with definitions, 'hazard' and "safe" are defined as follows:

1.6.1 "safe" means free from any hazard;

1.6.2 "hazard" means a source of or exposure to danger.

- 1.7 The Oxford English Dictionary Volume 1, Fifth Edition, at page 599, gives the word "danger" the following definition:

"danger means liability or exposure to harm or injury; risk, peril."

- 1.8 The term "hazardous activity/work" is therefore broadly defined under the OHS Act as any work or workplace activity that compromises the safety of employees by exposing such employees to danger in the form of harm or injury or a threat of such harm or injury.



- 1.9 All agricultural activities that compromise the safety of employees by exposing such employees to danger in the form of harm or injury, or the risk or threat of such harm or injury will be considered hazardous work for the purposes of the OHSA.
- 1.10 In terms of section 43 of the Basic Conditions of Employment Act 75 no person may employ a child (being persons 18 or younger) in employment that is “inappropriate for a person of that age, or that places at risk the child’s wellbeing, education, physical or mental health, or spiritual, moral or social development”.
- 1.11 Any person who employs a child, must in respect of such work undertake a risk assessment process, which must include at least the identification and analyzing of the risks and hazards to which a child may be exposed and preparing and implementing both a documented plan of safe work procedures to remove, mitigate, reduce or control the risks and hazards that have been identified and a monitoring plan.
- 1.12 No employer may require a child worker to undertake work in respect of which a person would be required to wear respiratory equipment, or to work in an elevated position of more than 2 meters above the ground (unless the work is performed under supervision of a competent adult employee/ employer and fall protection measures are provided). A child worker may not work at a height of more than 5m above the floor or ground.
- 1.13 An employer may not make any deduction for accommodation in respect of a farm worker who is under 18 years of age.
- 1.14 In addition, there are restrictions on children working in cold environments, hot environments, noisy environments, lifting certain weights and operating power tools.
- 1.15 Local law prohibits children from being required or permitted to perform work that is remunerated based on the quantity of work done (“piece work) or the completion of set tasks (“task work”). However, such workers can receive a commission on completion of a task if they are paid a minimum wage.
- 1.16 A child cannot work in any work in the manufacture or packaging of tobacco products or any other work in which there is exposure to tobacco dust. The prohibition against working in the manufacture or packing of tobacco products would not include general tobacco leaf growing farming activities. For such activities, however, one would need to ensure that the child is not exposed to tobacco dust. The child will be able to perform farming activities where there is no risk of exposure to tobacco dust.
- 1.17 Children may not operate tractors, winches, forklift vehicles, front-end loaders, earth moving equipment or similar heavy equipment.
- Tasks that workers children under 18 are specifically prohibited from participating in by law**
- 1.18 Section 10 of Schedule 2 of the Regulations on hazardous work by children in South Africa provides that an employer may not require or permit a child to work in any of the following:
- 1.18.1 The manufacture or packing of tobacco products or any other work in which there is exposure to tobacco dust;
- 1.18.2 Work involving an exposure, or potential exposure, to blood-borne or air-borne pathogens; and
- 1.18.3 Work involving exposure to a hazardous substance, to lead, asbestos, silica, coal or other hazardous dusts or to pressurised gases.

- 1.19 Furthermore section 11 of the Regulations on hazardous work by children in South Africa categorises the following as the Worst forms of child labour, and accordingly the following types of work are prohibited (listing what types of work possibly applicable to the tobacco or agriculture sector):
- 1.19.1 work in which there is a reasonably foreseeable risk of exposure to blood-borne and airborne pathogens;
  - 1.19.2 any work in an environment in which the actual dry-bulb temperature is below minus 18°C; and
  - 1.19.3 hard manual labour for a period of longer than 15 minutes in any hour in an environment in which the time-weighted average WBGT index, (as defined in the Environmental Regulations for Workplaces, made in terms of the Occupational Health and Safety Act, 1993) determined over a period of one hour, is greater than 36.
- Other restrictions or requirements on the employment of workers under 18 years (e.g. limit on work hours, work permits, etc.)**
- 1.20 An employer must maintain for three years, a record of the name, date of birth and address of every farm worker under the age of 18 years employed by them.
  - 1.21 An employer may not require or permit a child farm worker who is 15 years of age or older, but younger than 18, to:
    - 1.21.1 work after 18h00 and before 06h00 the following day;
    - 1.21.2 work more than 35 hours in any week; and
    - 1.21.3 to work with agro-chemicals.
  - 1.22 The minimum wage for farm workers under the age of 18 but older than 15 and who work for 35 hours per week or less is calculated as follows:

1 March 2016 to 28 February 2017		1 March 2017 to 28 February 2018		1 March 2018 to 28 February 2019	
Hourly Rate (ZAR)	14. 25	Hourly Rate (ZAR)	Previous years minimum wage + CPI* + 1%	Hourly Rate (ZAR)	Previous years minimum wage + CPI* + 1%
Daily Rate (ZAR)	128. 26 (For an employee who works 9 hours per day)	Daily Rate (ZAR)	Previous years minimum wage + CPI* + 1%	Daily Rate (ZAR)	Previous years minimum wage + CPI* + 1%
Weekly Rate (ZAR)	641. 32	Weekly Rate (ZAR)	Previous years minimum wage + CPI* + 1%	Weekly Rate (ZAR)	Previous years minimum wage + CPI* + 1%
Monthly Rate (ZAR)	2778. 83	Monthly Rate (ZAR)	Previous years minimum wage + CPI* + 1%	Monthly Rate (ZAR)	Previous years minimum wage + CPI* + 1%

\*The CPI to be used is the available CPI excluding owners' equivalent rent as released by Statistics South Africa six weeks prior to the increment date.

## PRINCIPLE 2 – INCOME AND WORK HOURS

Laws on regular and overtime hours (e.g. maximum work hours)

### Ordinary Hours

1.23 An employer may not require or permit a farm worker to work more than 45 hours in any week and nine hours in any day if the farm worker works for five days or fewer in a week, or eight hours in any day if the farm worker works on more than five days in a week.

### Extension of Ordinary Hours

1.24 An employer may enter into a written agreement in terms of which the farm worker's ordinary hours of work are extended by not more than five hours a week for a period of not more than four months in any continuous period of twelve months and are reduced by the same number of hours during a period of the same duration in the same twelve month period. Such an agreement may not extend the farm worker's ordinary hours of work to more than ten hours on any day.

1.25 During any period of extended or reduced ordinary hours of work as above, the employer must pay the farm worker the wage the farm worker would have received for the farm worker's normal ordinary hours of work.

1.26 During any period of extended or reduced ordinary hours of work, as above, the employer must pay the farm worker the wage the farm worker would have received for the farm worker's normal ordinary hours of work.

1.27 If a farm worker's employment terminates for any reason at time when the farm worker has worked a great number of extended ordinary hours than reduced ordinary hours, the employer must pay the worker for the extended ordinary hours worked at a specified overtime rate.

### Overtime

1.28 An employer may not permit a farm worker to work more than 15 hours of overtime a week and 12 hours (including overtime) on any day.

### Compressed Working Week

1.29 An agreement in writing may require or permit a farm worker to work up to twelve hours in a day (including meal intervals) without receiving overtime pay, provided that such agreement may not require or permit a farm worker to work more than 45 ordinary hours of work in any week, more than ten hours of overtime in any week or on more than five days in any week.

### Night Work

1.30 "Night work" refers to work performed after 20h00 and before 04h00 the next day. An employer may only require or permit a farm worker to perform night work if so agreed and if (i) the employer pays the farm worker an allowance of at least 10% of the farm worker's ordinary daily wage; and (ii) transportation is available between the farm worker's place of residence and the workplace at the commencement and conclusion of the farm worker's shift.

### Requirements that employers must meet to request overtime from workers

1.31 The employer and the workers are required to enter into a written agreement in respect of overtime.

Laws on regular and overtime wages (e.g. minimum wages, minimum wages agreed with unions) -

### Minimum wages

1.32 According to the Sectoral Determination 13: Farm Workers Sector, the minimum wage for farm workers with effect from 1 March 2016 is as follows:

1.32.1 Hourly: ZAR 14.25

1.32.2 Daily: ZAR 128.26 (For an employee who works 9 hours per day)

1.32.3 Weekly: ZAR 641.32

1.32.4 Monthly: ZAR 2778.83

1.33 Subsequent to 28 February 2017, the minimum wage calculation as set out in the table under question 1 applies.

1.34 An agreement entered into with unions may only increase the wages of farm workers and accordingly, may not decrease the above minimum wage established for farm workers.

### Overtime wages

1.35 Yes, an employer must pay a farm worker at least one and a half times the farm worker's wage for overtime worked.

1.36 Despite the above, however, an agreement may provide for an employer to pay a farm worker not less than the farm worker's ordinary wage for overtime worked and grant the farm worker at least 30 minutes' time off on full pay for every hour of overtime worked, or grant a farm worker at least 90 minutes' paid time off for each hour of overtime worked.

1.37 Any work done on Sunday's is considered to be overtime, payment for which must be calculated as follows:

Time worked on a Sunday	Payment
One hour or less	<b>Double the wage for one hour</b>
More than one hour but not more than two hours	Double the ordinary wage for the time worked
More than two hours but not more than five hours	The ordinary daily wage
More than five hours	The greater of double the wage payable in respect of time worked (excluding overtime) or double the ordinary daily wage.

1.38 For work done on public holidays, an employer must pay:

1.38.1 where the public holiday falls on a day which a farm worker would ordinarily work:

1.38.2 at least double the daily wage; or

1.38.3 if it is greater, at least the wage which the farm worker would ordinarily have received for work on that day plus the amount earned by the employee for the time worked on that day;

1.38.4 where the public holiday is on a day which the farm worker would not ordinarily work:

1.38.5 the farm worker's daily wage; plus

1.38.6 the farm worker's hourly wage for each hour worked on the public holiday.

Laws on basic entitlements to be paid to workers (e.g. social security, health care, holidays, other leave entitlements etc.) -

#### Unemployment Insurance Fund (UIF)

1.39 Each worker who works for more than 24 hours per month is required to contribute to the UIF. However, it is the responsibility of the employer to register the business and make the necessary deductions from the remuneration of the workers to the UIF.

#### Rest Period

1.40 An employer must grant a farm worker a daily rest period of at least twelve consecutive hours between ending work and starting work the next day and a weekly rest period of at least thirty-six consecutive hours which, unless otherwise agreed, must include a Sunday. An agreement in writing may however provide for a rest period of at least sixty consecutive hours every second week.

1.41 The daily rest period may be reduced to 10 hours for a farm worker by written agreement where the farm worker lives where the workplace is situated and whose meal interval lasts for at least three hours.

#### Leave

##### Annual Leave

1.42 A farm worker is entitled to (i) three weeks leave on full pay in respect of each twelve months of employment ("annual leave cycle"); or (ii) by agreement, at least one day of annual leave on full pay for every 17 days on which the farm worker worked or was entitled to be paid; or (iii) by agreement, one hour of annual

leave on full pay for every 17 hours on which the farm worker worked or was entitled to be paid.

##### Sick Leave

1.43 A "sick leave cycle" is a period of 36 months of employment with the same employer. A farm worker is entitled to paid sick leave equal to the number of days the farm worker would normally work during a period of six weeks in a sick leave cycle.

1.44 Despite the above, during the first six months of work, the farm worker is entitled to one day's sick leave for every 26 days worked. The number of days of paid sick leave granted in a sick leave cycle may be reduced by the number of days paid sick leave which the farm worker took in the first six months.

##### Family Responsibility Leave

1.45 Family responsibility leave applies only to a farm worker who has been employed by an employer for longer than four months and who works on at least four days a week for that employer. Such a farm worker is entitled to 3 days paid family responsibility leave during each 12 months of employment.

##### Maternity Leave

1.46 A farm worker is entitled to at least four consecutive month's (unpaid) maternity leave.

##### Night Work

1.47 In the event of night work, the employer must enable a farm worker to undergo a medical examination at the request of the farm worker, for the account of the employer concerning the hazards of night work before or within a reasonable period that the farm worker starts and at appropriate intervals while the farm worker continues to perform such work.

### Wage and hours law specific to piece rate workers, seasonal workers, and migrant workers

1.48 The BCEA and Sectoral determination 13 does not specifically regulate piece rate work for the farming sector. Nevertheless, the BCEA applies to all employees and Sectoral determination 13 applies to the employment of farm workers in all farming activities in the Republic of South Africa. Therefore the position set out above in respect of hours is the same for piece rate workers, seasonal workers, and migrant workers.

1.49 In addition to the above position, section 2 of Sectoral Determination 13 provides that an employee who works less than 45 ordinary hours of work per week must be paid at least the hourly rate as set out in the Table at question 1. Therefore regardless of the type of employee it is, even in respect of piece rate workers, farm workers remuneration may not be less than the minimum wage.

### Laws on payment of wages relevant to the frequency of payment in agriculture, for example, laws on whether end-of-season one-time payments are permissible

1.50 Wages may be paid daily, weekly, fortnightly or monthly. Local laws do not permit payment of wages at the end of a season.

### Laws on in-kind payment

1.51 Local laws do not permit payment in kind. It is a requirement that an employer pay a farm worker in South African currency.

### Legal requirements for migrant workers to ensure they are legally permitted to work

1.52 Certain provisions of the Employment Services Act 4 of 2014 may be applicable to a migrant worker who is a foreign national, defined as an individual who is not a South African citizen or does not have a permanent residence permit issued in terms of the Immigration Act. Please note that these are

general requirements and not specific to farm workers.

1.53 An employer may not employ a foreign national within the territory of the Republic of South Africa prior to such foreign national producing an applicable and valid work permit, issued in terms section 38 of the Immigration Act.

1.54 Any employer who contravenes this prohibition shall be guilty of an offence and liable on conviction to a fine or imprisonment as contemplated in section 49(3) of the Immigration Act.

1.55 An employer may not require or permit a foreign national:

1.55.1 to perform any work which such foreign national is not authorised to perform in terms of his or her work permit; or

1.55.2 to engage in work contrary to the terms of their work permit.

1.56 Any employer who contravenes this prohibition shall be guilty of an offence and liable on conviction to a fine or imprisonment as contemplated in section 49(6) of the Immigration Act.

### Other specific rules applicable to migrant workers

1.57 An employee who is employed without a valid work permit is entitled to enforce any claim that the employee may have in terms of any statute or employment relationship against his or her employer or any person who is liable in terms of the law.

1.58 The options for work permit/visa are as follows: intra-company transfer visas; critical skills work visas (highly skilled migrant visas); general work visas; corporate visas; and business visas. In applying for most visas/permits, the following may be problematic for an employer wants to bring in a foreigner

that does not have a valid permit yet: In terms of the Immigration Act, a local sponsor (as prospective employer) for a work visa/permit is required to show that no local person is capable of filling the applicant's position and the prohibition on the employment of foreign nationals where their employment would compromise a South African citizen's opportunities for employment, employment conditions, economic development or social sustainability. It has become quite difficult in recent times for foreigners to obtain a work permit/visa.

## PRINCIPLE 3 – FAIR TREATMENT

### 2. Applicable laws:

- 2.1 The Employment Equity Act 55 of 1998 ("the EE Act");
- 2.2 Constitution of the Republic of South Africa, 1996 ("the Constitution");
- 2.3 Code of Good Practice on the Handling of Sexual Harassment ("the Code"); and
- 2.4 The Occupational Health and Safety Act 85 of 1993.

### 3. Your answer:

- 3.1 Four questions have been posed under Principle 3 – Fair Treatment. There is some overlap between the first three questions. We address those three questions in a slightly different order, namely – Firstly, we address the laws defining and prohibiting discrimination and in doing so we give an overview of an employee's right to protection from discrimination. Thereafter we address the employer's obligations in respect of discrimination. Then we address the laws defining and prohibiting verbal, psychological, physical punishment, and sexual harassment and abuse - verbal and psychological abuse is grouped together, whereas physical

punishment and sexual harassment are addressed separately (due to the nature of the laws that regulate them). Lastly, we address the fourth question (i.e. the laws on resources for victimized workers).

### Laws defining and prohibiting discrimination

- 3.2 The Constitution prohibits discrimination and provides that no person (including the State) may unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- 3.3 The EE Act provides a similar prohibition against unfair discrimination in an employment context by prohibiting unfair discrimination in any employment policy or practice for the reasons stated above. The EE Act also adds HIV as a listed ground. These grounds are not a closed list, and unfair discrimination can also take place on an unlisted ground. For an unlisted ground to amount to unfair discrimination it must have the capacity to impair the human dignity of the victim.
- 3.4 Furthermore section 6(4) of the EE Act provides that a difference in terms and conditions of employment between employees performing the same or substantially the same work or work of equal value that is indirectly or directly based on any or more of the grounds above is unfair discrimination.

### Employers' obligations in respect of discrimination

- 3.5 Section 5 of the EE Act requires that an employer take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.

3.6 Furthermore in terms of section 60 of the EE Act, should an employee contravene a provision of the EE Act, an employer must take all necessary steps to eliminate the contravention. A failure to do so may result in liability on the part of the employer as if that specific employer contravened the EE Act itself. If an employer can prove that it did all that was reasonably practicable to ensure the employee would not act in contravention of the EE Act, the employer will not be held liable for the employee's contravention of the EE Act. This is relevant in the context of sexual harassment for example.

#### Laws defining and prohibiting verbal, psychological, physical punishment, and sexual harassment and abuse

3.7 As stated above, we will firstly address verbal and psychological harassment/discrimination and then move onto physical punishment, sexual harassment and physical abuse respectively.

#### Verbal and / or psychological harassment / discrimination

3.8 Under South African labour law, the concepts of prohibited harassment and discrimination are interwoven with each other, as section 6(3) of the EE Act provides that harassment is a form of unfair discrimination and is prohibited.

3.9 Harassment is not defined in the EE Act but is defined in the Promotion of Equality and Prevention of Unfair Discrimination Act as –

“unwanted conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences and which is related to –

- sex, gender or sexual orientation; or

- a persons' membership or presumed membership of a group identified by one or more of the prohibited grounds or a characteristic associated with such group;

3.10 An employee may not be subjected to verbal and / or psychological abuse by an employer. Such abuse may render continued employment intolerable and an employee may in such circumstances assert a constructive dismissal claim against the employer if that employee has resigned to verbal and / or physical abuse by the employer. Verbal and / or psychological harassment / abuse have not been statutorily defined.

3.11 In terms of the Constitution, every person has the right to human dignity and to have their dignity respected and protected. These rights are very broad, and provide a prohibition against verbal and / or psychological abuse.

#### Sexual harassment

3.12 Sexual harassment is defined in section 3 of the Code as “unwanted conduct of a sexual nature”. The unwanted nature of sexual harassment distinguishes it from behaviour that is welcome and mutual. Sexual attention becomes sexual harassment if:

3.12.1 the behaviour is persisted in, although a single incident of harassment can constitute sexual harassment; and / or

3.12.2 the recipient has made it clear that the behaviour is considered offensive; and / or

3.12.3 the perpetrator should have known that the behaviour is regarded as unacceptable.

3.13 Section 4 of the Code materially broadens the possible forms sexual harassment can take and includes - touching, verbal forms such as whistling or comments, non-verbal forms such as gestures, sexual favoritism as well



as the favoring of an employee who accepts sexual advances above an employee who does not. There is no closed list of forms of sexual harassment but the common factor is that it is unwelcome conduct of a sexual nature.

- 3.14 The employer must create and maintain a working environment in which the dignity of employees is respected and grievances are adequately dealt with. An employer may not ignore a sexual harassment complaint or handle the complaint in an insulting or degrading manner. An employer must have sexual harassment policy statements, adequate sexual harassment policies, adequate grievance procedures, confidentiality measures and sick leave measures to effectively deal with sexual harassment in the workplace.

#### Physical abuse

- 3.15 Physical abuse is prohibited. In terms of the Constitution, every person has the right to freedom and security of the person, which includes the right to be free from all forms of violence from either public or private sources.
- 3.16 Protection against physical punishment (or threat) and verbal abuse, is also provided through the criminal and common laws applicable in South Africa.

#### Laws on resource for victimized workers, if applicable

- 3.17 In terms of the OHSA, victimization is forbidden. In particular, in terms of section 26:

##### **26. Victimization forbidden -**

“ (1) No employer shall dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment to terms or conditions less favourable to him, or alter his position relative to other employees employed by that employer to his disadvantage, by reason of the fact, or because he suspects or believes, whether

or not the suspicion or belief is justified or correct, that that employee has given information to the Minister or to any other person charged with the administration of a provision of this Act which in terms of this Act he is required to give or which relates to the terms, conditions or circumstances of his employment or to those of any other employee of his employer, or has complied with a lawful prohibition, requirement, request or direction of an inspector, or has given evidence before a court of law or the industrial court, or has done anything which he may or is required to do in terms of this Act or has refused to do anything which he is prohibited from doing in terms of this Act.

(2) No employer shall unfairly dismiss an employee, or reduce the rate of his remuneration, or alter the terms or conditions of his employment to terms or conditions less favourable to him, or alter his position relative to other employees employed by that employer to his disadvantage, by reason of the information that the employer has obtained regarding the results contemplated in section 12 (2) or by reason of a report made to the employer in terms of section 25.”

- 3.18 Similar rights are granted to employees in terms of the BCEA.

## PRINCIPLE 4 – FORCED LABOR

### 4. Applicable laws:

- 4.1 The Children’s Act 38 of 2005
- 4.2 Constitution of the Republic of South Africa, 1996
- 4.3 The Basic Conditions of Employment Act 75 of 1997
- 4.4 The Labour Relations Act 66 of 1995 (“the LRA”)
- 4.5 The Employment Services Act 4 of 2014

## 5. Your answer

### Legislation on forced labor

- 5.1 In terms of the Constitution, no one may be subjected to slavery, servitude or forced labour.
- 5.2 This right is further entrenched in section 48 of the BCEA laws which state that no person may for his or her own benefit or for the benefit of someone else, cause, demand or impose forced labour. A person who contravenes this prohibition commits an offence in terms of the BCEA
- 5.3 Section 141 of The Children's Act 38 of 2005 states that no person may "use, procure or offer a child for slavery or practices similar to slavery, including but not limited to debt bondage, servitude and serfdom, or forced or compulsory labour or provision of services".

### Laws on prison labor

- 5.4 There are no laws that regulate the use of prison labour. The prison labour system in South Africa was discontinued in the late 1980s.

### Legislation regulating the operation of labour brokers and other third party recruiters (\* Note – this is does not apply to employees earning in excess of the threshold prescribed by the Minister of Labour in terms of the Basic Conditions of Employment Act, which is currently R205 433.33.)

- 5.5 Section 198A regulates the operation of labour brokers and other third party service providers [i.e. temporary employment services - 'a TES']. It makes a distinction between what can be regarded as the "acceptable" use of a TES's services and the "unacceptable" use of its services. Acceptable use is described as the provision of a "temporary service" and is defined as the following, namely if:

- 5.5.1 a TES employee is assigned to a client for a period of less than three months;

- 5.5.2 a TES employee is assigned to a client as a substitute for an employee who is temporarily absent from work;
- 5.5.3 a TES employee is assigned to a client to perform a category of work which is determined to be a temporary service by a collective agreement concluded in a bargaining council, a sectoral determination or a notice published in the Government Gazette by the Minister of Labour.
- 5.6 This provision is clearly aimed at discouraging the use of the employees of a TES on a long-term basis to avoid the costs of the employment of permanent employees. The sanction it imposes if a client makes use of a TES in circumstances that fall outside the definition of a temporary service is an interesting one and consists of two parts:
- 5.6.1 The first is that the employee assigned to the client is "deemed" to be the employee of the client, for the purposes of the LRA and is employed on an indefinite basis by the client.
- 5.6.2 The second is that the client must treat the deemed employee "on the whole not less favourably" than an ordinary employee who performs the same or similar work, unless there is a justifiable reason for not doing so.
- 5.7 The deemed employment provisions only apply if the employee earns less than the threshold prescribed by the Minister in terms of section 6(3) of the Basic Conditions of Employment Act, 75 of 1997. At present, this is ZAR 205 433.30 per annum.
- 5.8 There has been much debate whether the operation of the deemed employment provision results in the client being regarded as the sole employer or whether the TES also remains the employer. If the latter scenario applies, the employee assigned to the client will, in effect, have two employers, at least for the purposes of the LRA.

- 5.9 The CCMA and bargaining councils have been called upon to consider this issue in at least two arbitration proceedings. In both awards, the client was regarded as the sole employer. In *Assign Services (Pty) Ltd v CCMA & others* (Unreported JR 1230/15 8 September 2015) the Labour Court was required to consider an application to review and set aside an award where it was held that the client became the sole employer for the purposes of the LRA. The Court found that the commissioner had erred and came to the conclusion that the employment relationship between the TES and the assigned employee continued to exist for the purposes of the LRA. It did so in the following terms: “[12] So (and once again I repeat) the only issue, on the stated case at any rate, is whether the TES continues to be an employer of the worker and, by reason of this fact, is concurrently vested with the statutory rights/obligations and powers/duties that the Act generates. I see no reason why this should not be so. There seems no reason, in principle or practice, why the TES should be relieved of its statutory rights and obligations towards the worker because the client has acquired a parallel set of such rights and obligations. The worker, in contracting with the TES, became entitled to the statutory protections that automatically resulted from his or her engagement and there seem to be no public policy considerations, such as pertain under the LRA’s transfer of business provisions (s 197), why he or she should be expected to sacrifice them on the fact that the TES has found a placement with a client, especially when (as is normally so) the designation of the client is within the sole discretion of the TES.”
- 5.10 The practical effect of the judgment is therefore that both the TES/labour broker and the client have the statutory rights and obligations vis-à-vis the TES/labour broker employees that are created by the LRA. Both the client and the TES/labour broker must accordingly comply with the LRA’s fair dismissal obligations insofar as these employees are concerned. From the perspective of a TES/labour broker, the decision does seem to be of importance. It appears that at least some TES’s want to be seen as remaining the employer of the assigned employee. As the Court pointed out – “[6] ... By these means it envisages that it can continue to provide a justification for the service that it offers the client and so warrant the charge it levies in the conduct of its labour broking business.” These TES’s will therefore be happy with the outcome. From the client’s perspective, it may well be asked whether the decision has any meaningful consequences in practice. In most cases, it is likely that an employee will seek to exercise his or her LRA rights against the client rather than a TES, irrespective of whether there is one or there are two employers.
- [Laws relating to limits or prohibitions on recruitment fees and deposits workers may be required to pay](#)
- 5.11 In terms of section 15 of the Employment Services Act no person may be charged a recruiting fee unless it is permitted by the Minister of Labour for specified categories of employees.
- 5.12 The Minister has to date not given any permission for the charging of a recruitment fee in respect of farm workers.
- 5.13 Furthermore, in terms of section 16 of the Employment Services Act, a private employment agency must keep an electronic or manual register reflecting - the work seekers registered with them; work seekers that have been placed in employment; and particulars of the employer where the work seeker was placed for a minimum period of three years.

## PRINCIPLE 5 – SAFE WORK ENVIRONMENT

### 6. Applicable laws:

- 6.1 The Occupational Health and Safety Act (“the OHSA”);
- 6.2 General Safety Regulations in terms of OHSA;
- 6.3 Sectoral Determination 13;
- 6.4 Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947; and
- 6.5 The South African National Standard for The handling, storage and disposal of pesticides.

### 7. Your answer:

Requirements for provision of medical protection, such as availability of first aid kit, health & safety training, etc.

- 7.1 In terms of the General Safety Regulations in terms of the OHSA, employers must ensure that prompt first aid treatment is available. Where there are less than 5 employees, a first aid box must be provided and be available and accessible at or near the workplace. If there are 10 to 50 employees at least one person must be available to administer treatment with a valid certificate. For every group of 50 to 100 employees at least one first person with a valid certificate of competency in first aid must be available. The employer must have a prominent notice indicating where the first aid box is.
- 7.2 In terms of section 4 of the OHSA, a valid certificate of competency in first aid can be issued by the SA Red Cross Society, the St John’s Ambulance, the SA First Aid League or a person or organization approved by the chief inspector for this purpose.
- 7.3 A first aid box must contain the items as per the table below:

Item 1	Wound cleaner / antiseptic (100ml)
Item 2	Swabs for cleaning wounds
Item 3	Cotton wool for padding (100g)
Item 4	Sterile gauze (minimum quantity 10)
Item 5	1 pair of forceps (for splinters)
Item 6	1 pair of scissors (minimum size 100mm)
Item 7	1 set of safety pins
Item 8	4 triangular bandages
Item 9	4 roller bandages (75mm x 5m)
Item 10	4 roller bandages (100mm x 5m)
Item 11	1 roll of elastic adhesive (25mm x 3m)
Item 12	1 Non-allergenic adhesive strip (25mm x 3m)
Item 13	1 Packet of adhesive dressing strips (minimum quantity 10 assorted sizes)
Item 14	4 First aid dressing (75mm x 100mm)
Item 15	4 First aid dressings (150mm x 200mm)
Item 16	2 Straight splints
Item 17	2 Pairs large and 2 pairs medium disposable latex gloves
Item 18	2 CPR mouth pieces or similar devices

### Requirements to report accidents and injuries

- 7.4 In terms of section 24 of the OHS Act the following incidents must be reported and investigated - When a person dies; when a person becomes unconscious; when a person suffers the loss of a limb or part of a limb; when a person is injured or becomes ill, or is likely to die or suffer permanent physical defect; when a person unable to work for 14 days or longer because of a work related incident; and when a “major incident” occurs.
- 7.5 Furthermore the following occurrences must also be reported to the Provincial Director if the health and safety of persons were endangered by - dangerous spilled substances; or uncontrolled release of a substance under pressure; flying, falling, uncontrolled moving object; and machinery that ran out of control.

### Requirements for personal protective equipment needed for using, handling, storing, or disposing of crop protection agents (CPA). This might vary depending on the CPA in question

- 7.6 ‘Crop protection agents’ include ‘pesticides’, which is the name that South African legislation, rules and regulations refer to it as.
- 7.7 Section 7 of The South African National Standard - The handling, storage and disposal of pesticides provides the following in respect of personal protective clothing and equipment:

#### “General

**CAUTION:** All protective garments shall be thoroughly washed with soap or detergent and water at the end of each operation.

7.1.2 When a pesticide is being handled, the instructions on the MSDS or the label (as applicable) shall be followed, taking cognizance of all special precautions concerning protective clothing and

equipment, irrespective of occasional handling or intensive handling, and irrespective of the quantity of pesticide used.

7.1.3 All operators shall clearly understand that, even though protective clothing and equipment are used, great care shall still be taken.

7.1.4 All protective clothing and equipment shall be collected at the end of each day or at the end of each operation, as applicable. No used protective clothing or equipment shall be worn unless it has been thoroughly washed or decontaminated.

7.1.5 An employer shall ensure that no worker removes dirty or contaminated clothing or equipment from the premises. Dirty or contaminated clothing or equipment to be disposed of, or washed, or decontaminated outside the premises, shall be treated as hazardous chemical goods in accordance with the relevant national regulations and statutory provisions, and any provincial or local regulatory requirements (see annex A).

7.1.6 Two lockers, one marked “Protective clothing” and the other one marked “Personal clothing”, shall be available to ensure that clothing is kept separate.

7.1.7 Separate “clean” and “dirty” change rooms shall be available if pesticides are used to such an extent that they could endanger the health of persons outside the workplace.

## 7.2 Overalls

### 7.2.1 General

7.2.1.1 An overall provides good body protection for an operator working with pesticides. A loose-fitting two-

piece garment (separate top and trousers) provides flexibility in that the top and trousers can be worn separately or together over normal work clothes.

7.2.1.2 Cotton is one of the most effective, durable and comfortable materials for an overall. A cotton overall shall be made of 100 % cotton with a mass per area of 110 g/m<sup>2</sup> and should preferably have elasticized cuffs and no pockets. Alternatively, an overall can be made of lightweight synthetic material specifically developed for the protection of operators working with pesticides.

7.2.1.3 An overall shall

- a. be impervious to pesticide formulations,
- b. be durable,
- c. give splash and droplet protection,
- d. be comfortable,
- e. be light in weight, and
- f. be light in colour so as to permit visual identification of contamination.

7.2.2 Overalls for crop-spraying operations

7.2.2.1 An overall for crop-spraying operations can be a two-piece garment consisting of a jacket with a hood and trousers, or a one-piece garment with a hood so designed that

- a. the hood closes round the gas mask,
- b. the sleeves close at the wrists with elasticized cuffs,
- c. the trousers have elasticized closures round the ankles and the waist, and

d. the jacket hem of a two-piece garment seals on the hips.

7.2.2.2 An overall for crop-spraying operations shall

- a. be impervious to pesticide formulations,
- b. be durable,
- c. give splash and droplet protection,
- d. be comfortable and light in weight, and
- e. be affordable.

NOTE Lightweight synthetic materials have been developed specifically for the protection of operators during crop-spraying operations.

### 7.3 Ponchos

7.3.1 A poncho is a one-piece garment with a hood made of impervious nonwoven material. A poncho can be worn when pesticide containers are being filled or when pesticides are being decanted and during the spraying of pesticides classified as danger groups II, III and IV (colour code yellow, colour code blue and colour code green respectively) in terms of SANS 10304-1. A poncho is open at the sides to allow movement of air. This type of garment has the specific benefit of providing additional protection against leaking knapsack sprayers and can be worn over work clothes or the two-piece cotton overalls.

7.3.2 A poncho shall

- a. be impervious to pesticides,
- b. be durable,
- c. allow movement of air,
- d. be comfortable, and
- e. be light in weight.

#### 7.4 Protective aprons

7.4.1 A protective apron gives additional protection against spills and splashes during the mixing and loading of pesticides. A protective apron shall be made of impervious nonwoven material. It shall cover the front of the body from the top of the chest to below the knees and shall also wrap round the sides of the body and legs. A light colour, which allows for visual identification of contamination, is preferable. Disposable aprons can be used as an alternative.

7.4.2 An apron shall be

- a. impervious to pesticides,
- b. durable,
- c. comfortable, and
- d. affordable.

#### 7.5 Eye and face protection

7.5.1 **WARNING: A FACE SHIELD SHALL NOT BE WORN DURING THE APPLICATION OF PESTICIDES THAT EMIT TOXIC VAPOURS (e.g. organophosphates) OR LOW BOILING-POINT ORGANIC SOLUTIONS (e.g. methyl bromide)**

7.5.2 A face shield made of clear transparent material is a comfortable form of eye and face protection. A face shield offers protection against splashes and is less likely to mist over than goggles. If eye protection is needed, and a face shield is not available, a pair of safety goggles is an acceptable alternative. The material of the shield shall be impervious to a wide range of pesticide formulations.

7.5.3 The head band of the face shield shall be made of solvent-resistant foam plastic. The foam plastic shall not absorb spray droplets and shall be non-irritant to the skin.

7.5.4 The face shield shall be of height approximately 150 mm and of width approximately 300 mm in order to give full face protection. The top of the face shield shall be curved or shall be flexible to fit the face and shall be of sufficient width to keep the shield clear of the face. The shield shall be held against the head by an adjustable strap.

7.5.5 A face shield shall be

- a. transparent,
- b. impervious to solvent and pesticide vapours,
- c. non-misting,
- d. durable,
- e. light in weight, and
- f. non-reflective.

#### 7.6 Gloves

7.6.1 **CAUTION: Immediately after use and before being removed from the hands, the gloves shall be washed with soap and water. Contaminated gloves shall not be touched with bare hands when being removed. The gloves shall be turned inside out and shall be washed again, and rinsed and allowed to dry completely before being put away.**

7.6.2 Protective gloves are available in a variety of materials and designs. Gloves shall fit the hands comfortably and shall be flexible enough to grip a pesticide container and other equipment firmly. Gloves shall be long enough to cover a minimum of 90 mm above the wrist. Gloves made of nitrile rubber offer good protection against a wide range of pesticides and shall be of light colour so as to permit visual identification of contamination. PVC, neoprene and butyl rubber are suitable

*alternative materials. Lined gloves are not recommended, since pesticide contamination can accumulate in the lining material.*

7.6.3 *Disposable polyethylene gloves or plastics bags may be used as temporary hand protection, but shall be used for one operation only, and shall then be discarded.*

7.6.4 *Gloves shall be*

- a. *durable,*
- b. *comfortable,*
- c. *flexible,*
- d. *non-slippery, and*
- e. *light in colour so as to permit visual identification of contamination.*

## **7.7 Boots**

7.7.1 *CAUTION: Boots shall be washed inside as well as outside at the end of each day's work and shall then be allowed to dry before being put away.*

7.7.2 *Rubber boots give protection against the widest range of pesticides, whereas leather footwear is unsuitable because it absorbs some pesticides and leather cannot be decontaminated.*

7.7.3 *The rubber boots shall be at least calf-high and shall be unlined. Trousers shall be worn outside the boots to prevent any spills or splashes from entering the boots. To prevent injury when large steel drums are being handled, boots with steel toecaps shall be worn.*

## **7.8 Head coverings**

7.8.1 *A lightweight cotton hat with a brim shall be worn for field work in hot climates and as protection against spray drift. During overhead spraying, a waterproof hat and cape shall be worn."*

7.8 All agricultural activities that compromise the safety of employees by exposing such employees to danger in the form of harm or injury, or the risk or threat of such harm or injury will be considered hazardous work for the purposes of the OHSA.

7.9 An employer has a general duty to provide and maintain a working environment that is safe and without risk to an employee's health. This includes – providing and maintaining plant and machinery that is safe (as far as is reasonably practicable); eliminating or mitigating hazards or potential hazards to employees' health and safety; taking measures to ensure that everyone in the workplace complies with the OHSA's requirements; ensuring that work is performed under the supervision of an individual trained in safety issues and able to take precautionary measures; and enforcing such measures as may be necessary in the interests of health and safety.

7.10 The employer bears a general duty with regard to the safety of its employees. Therefore the general duty of safety is on the employer. However an employee also has a general duty to take reasonable care in respect of him or herself as well as his or her colleagues.

[Restrictions on CPA use, handling, storing, or disposing. Most countries will have restrictions on vulnerable populations interacting with CPA \(or prohibit this outright\), such as persons under 18, pregnant women, nursing mothers, etc.](#)

### [Handling and use restrictions](#)

7.11 In terms of section 3 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act an employer must register CPAs.

7.12 Section 7 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act sets out when CPAs may be sold. It provides that an employer may not sell any



CPA unless it - has been registered under the name it is being sold; packed in such manner and mass or volume as may be prescribed; the container in which it is sold, complies with the prescribed requirements and is sealed and labelled or marked in such manner as may be prescribed or, if it is not sold in a container, it is accompanied by an invoice in terms of the Act; and it is of the composition and efficacy specified in the application for registration thereof, possesses all chemical, physical and other properties so specified, and complies with the prescribed requirements.

7.13 With regards to the handling of CPAs section 7(2) of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act provides “no person shall for reward or in the course of any industry, trade or business that use any agricultural remedy unless he is a pest control operator registered in terms of this Act or otherwise than in the presence and under the supervision of a pest control operator so registered.” Thus employers should ensure that a worker who handles any CPA is registered as a pest control operator as set out in section 3 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act.

7.14 Clause 10.6 of The South African National Standard - The handling, storage and disposal of pesticides provides that manually or mechanically operated equipment shall be used to apply a pesticide in accordance with the instructions on the label. Drift of pesticide spray or dust (or both) onto people, animals, adjacent land, public roads, footpaths, water supplies and crops shall be avoided, particularly when harvesting is taking place. If containers with concentrated formulation are transported to filling points further away from the agrochemical store, these containers must be locked into a secure metal or galvanized mesh trunk, which can be securely chained to the tractor and to the filling point during spray operations.

## Storing

7.15 Regarding the storing of pesticides and other agrochemicals clause 10 of The South African National Standard - The handling, storage and disposal of pesticides further requires that the chemical store must be situated above the 50 year flood line, but preferably above the 100 year flood line. It must be situated away from rivers, dams, boreholes and areas likely to be flooded. The store must not be in a location where it would be exposed to rock falls, falling trees and veld fires. The store should preferably be housed in a separate building, at least 5 m away from any other building. It must also be more than 10 m away from any house or livestock buildings, or buildings that contain feed, fodder or flammable material. Vegetation within 5 m of building should be cleared, as it could pose a fire hazard. If the store is part of a larger complex, it must be totally sealed off so that there is no free movement of air between the chemical store and the rest of the building. The store should also be separated from the rest of the complex by an approved firewall if flammable products are kept in the chemical store. The chemical store must be in a secure location where it can be supervised. It should be easily accessible for delivery, dispatch and more importantly, in the case of fire.

## Disposal

7.16 Clause 10.7 of The South African National Standard - The handling, storage and disposal of pesticides also provides for the disposal of CPAs and requires that leftover agrochemical formulations must not end up in rivers, streams, ditches, storage dams, etc. and cannot be emptied out on the ground. Empty pesticide containers must not be re-used and must be disposed of in a manner that avoids exposure to humans and contamination of the environment. Relevant guidelines appearing on the label(s) should be followed. Empty containers may not be burned / incinerated on the farm. This practice is illegal in South

Africa. Empty containers must be rinsed with integrated pressure rinsing devices on the sprayer, or triple-rinsed (rinsed at least three times) with water, and the rinsate returned to the spray tank, where after it must be sprayed onto the vineyard or kept secure until disposal is possible. The latter can be done in the mesh-covered evaporation pit at the filling area.

#### Restrictions on farm equipment (such as maintenance and licensing for operators)

- 7.17 Generally the OHS Act places a duty upon employers to provide and maintain plant and machinery that is safe (as far as is reasonably practicable). Therefore an employer must always ensure that all equipment is maintained regularly and licensed accordingly.
- 7.18 More specific to the agriculture industry is the Compulsory Specification for Agricultural Tractors which contains detailed requirements on agricultural tractors in respect of parts such as proper lights, mirrors, windows, windscreens, braking etc. It is a detailed document that is specific to agricultural tractors.

Other legislation related to CPAs, such as how and where they may be stored or transported; more explicit restrictions for specific CPAs; weather conditions under which CPAs may or may not be applied; and any other restrictions limiting contact or exposure with CPAs

#### More explicit restrictions

- 7.19 Clause 10.6 of The South African National Standard - The handling, storage and disposal of pesticides provides that If herbicides are applied, the drift of herbicide spray or dust (or both) onto susceptible crops shall be avoided. Spraying or dusting operations (or both) shall be suspended under adverse weather conditions to prevent the danger of contamination. The instructions on the label concerning wind speed shall be followed. Harvesting or grazing immediately

after application of a pesticide shall not be permitted. The withholding period (before the resumption of harvesting or grazing) stipulated on the label shall be strictly adhered to, and harmful pesticide residues shall be present on crops when harvesting or grazing is resumed.

Other legislation (requirements for handling, use, storage and disposal of CPAs in South Africa have already been addressed herein)

- 7.20 The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticide in International Trade.
- 7.21 The Montreal Protocol on Substances that Deplete the Ozone Layer.
- 7.22 The Stockholm Convention on Persistent Organic Pollutants.

Requirements related to providing drinking water and safe housing for workers

- 7.23 Employers are required to provide safe drinking water at the workplace in terms of the OHS Act.
- 7.24 In respect of water at accommodation, the only specific regulations are that a deduction for accommodation may only be made if safe water is provided within 100 meters of the accommodation. There is no specific requirement to provide water if there is none at a current dwelling, however, where water is provided it must meet the minimum required standards for drinking water.
- 7.25 Currently the Wine and Agricultural Ethical Trade Association (WIETA) guidelines suggest that the employer should ensure that an adequate and convenient supply of free potable water is always available to worker at their living facilities (SA guidelines is 25 litres per person per day). They further suggest where housing and services are free, and potable water is not reticulated within

the house, the employer must ensure that water provision is provided at no more than a distance of 100m from the premises.

7.26 There is no specific duty on safe housing to be provided, however, current WIETA guidelines suggest that national building regulations must be incorporated into accommodation arrangements. The national building regulations require that the owner must ensure that the housing premises is structurally sound, in a safe condition, in good repair, and maintained in a waterproof, windproof and weatherproof condition. Further it requires that the housing premises must be structurally sound and maintained to that standard, that there is no visible evidence of cracked walls, broken roofs or where there are ceilings, installations that pose a risk to the inhabitants and that the doors and windows open and shut properly and are not broken. The house / facility must be weatherproof and there should be no visible leaks in the roof, windows or doors, and that the floor is damp proofed with no visible holes or cracks. Lastly those building materials that have been damaged or show evidence of rot or other deterioration shall be repaired or replaced.

#### Specific requirements if worker accommodation is provided

7.27 As discussed above, when worker accommodation is provided, there are no specific requirements for employers.

7.28 The law states that an employer may only make a deduction from a farm worker's wages in respect of accommodation provided to the farm worker in the event that the accommodation meets the following requirements:

7.28.1 the house has a roof that is durable and waterproof;

7.28.2 the house has glass windows that can be opened;

7.28.3 electricity is available inside the house if the infrastructure exists on the farm;

7.28.4 safe water is available inside the house or in close proximity, which is not more than 100m, to the house; and

7.28.5 the house is not less than 30m<sup>2</sup> in size (there is no restriction on the size of the bedroom).

## PRINCIPLE 6 – FREEDOM OF ASSOCIATION

### 8. Applicable laws:

8.1 The Labour Relations Act 66 of 1995; and

8.2 Constitution of the Republic of South Africa, 1996.

### 9. Your answer:

#### Laws on organizing unions and their operation (workers' rights and employers' obligations)

9.1 Freedom of association is a right which is entrenched in the Constitution. The Constitution states that everyone has the right to form and join a trade union.

9.2 An employee's right to freedom of association is further expanded upon in the LRA, which states that every employee has the right to participate in forming a trade union or federation of trade unions and to join a trade union, subject to its constitution. Similarly, an employer may join or form an employer's organisation.

9.3 No employee may be disadvantaged or discriminated against for exercising their right to join a trade union.

9.4 The LRA grants trade unions a list of basic organisational rights, including - access to an employer's premises; to stop-order facilities; and to relevant information needed to permit its representatives to perform their

functions effectively and to allow the union to engage effectively in collective bargaining. Accordingly an employer has a corresponding duty to respect these rights, if and when they are obtained by the union.

#### Requirements for collective bargaining

- 9.5 In order for collective bargaining to commence, an employer must first recognize a trade union as the bargaining agent for its employees in a particular bargaining unit. This recognition is then formalized in a written agreement known as the recognition agreement.
- 9.6 There is no duty to bargain or to recognize a trade union. A trade union may use methods such as a strike to force pressure for recognition. The recognition agreement will regulate the bargaining process and specifications.

#### Prohibitions on union discrimination and employer interference in their operations

- 9.7 Section 4 of the LRA provides employees with the right to freedom of association, which includes the right to join a trade union. This right is further expanded to include the freedom to participate in the trade union's lawful activities, participate in voting for officials, office bearers and / or trade union representatives.
- 9.8 An employer is expressly prohibited from interfering with these rights by section 5 of the LRA. Section 5 also prohibits an employer from discriminating against an employee for exercising any of these rights.

#### Requirements that worker representatives be in place

- 9.9 The number of representatives a trade union has influences the rights a trade will obtain. A trade union that has sufficient representation may enter the employer's premises for various reasons such as recruiting members or holding elections for trade union officials.

Sufficiently representative unions also gain rights to stop-orders for union dues / fees and leave for union officials. The number of members which a trade union has in a workplace influences whether the employer recognizes that trade union as a collective bargaining agent or not.

- 9.10 Only a trade union that has a majority of employees in a workplace as its members has the right to compel an employer to disclose relevant information needed to permit its representatives to perform their functions effectively and to allow the union to engage effectively in collective bargaining.

## PRINCIPLE 7 – COMPLIANCE WITH THE LAW

### 10. Applicable laws:

- 10.1 The Labour Relations Act 66 of 1995;
- 10.2 The Basic Conditions of Employment Act 75 of 1997;
- 10.3 Sectoral Determination 13;
- 10.4 The Code of Code Practice: Dismissal Code; and
- 10.5 The Employment Equity Act 55 of 1998.

### 11. Your answer

#### Legal requirements to constitute a labor relation (i.e. an employment relationship)

- 11.1 According to section 213 of the LRA an employee is:
- “(a) any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and
- (b) any other person who in any manner assists in carrying out or conducting the business of an employer and employee and employment have meanings corresponding to that of employee.”

- 11.2 Furthermore to prevent employers from labelling workers as contractors in order to avoid employment rights and benefits, the law sets out factors to determine whether a person is actually an 'employee'. In this regard, our courts seek to discover the true relationship between the parties, notwithstanding the wording of any employment contract concluded between them. The contract concluded between the parties is only one of the factors which a court will consider when determining whether or not an employment relationship exists between the parties. South African law favours a 'substance over form' approach.
- 11.3 Over the years employers have shaped employment relations to informalise working arrangements and thus deprive employees of their basic statutory rights. It was partly in response to these developments that the rebuttable presumption of employment was included in the LRA and BCEA, but this presumption only applies to persons earning below the prescribed threshold amount (R205 433.33 per annum). The presumption operates as follows - in any proceedings in terms of the LRA and the BCEA in which any person alleges that they are an employee, that person is presumed to be an employee if they render services to another person and any one of the following factors, as listed in Section 200A of the LRA is present in the relationship. The factors that trigger the presumption are - the manner in which the person works is subject to the control or direction of another person; the person's hours of work are subject to the control or direction of another person; in the case of a person who works for an organisation, the person forms part of that organisation; the person has worked for that other person for an average of at least 40 hours per month over the last three months; the person is economically dependent on the other person for whom he or she works or renders services; the person is provided with tools of trade or work equipment by the other person; or the person only works for or renders services to one person. The presumption does not alter the statutory definition of 'employee'. In other words, the fact that a person satisfies one or more of the seven factors listed in the presumption does not mean that the person is in fact an employee. Normally, a person claiming to be an employee bears the onus of proving that he or she is an employee. The presumption is merely an 'evidentiary device calculated to switch the onus of proof of employment' in circumstances in which any one of the indicators is established. If the party alleged to be an employer is unable to discharge the negative onus and convince the decision - maker that the applicant is not an employee, the decision - maker is bound to find that the applicant is an employee as defined.
- 11.4 Furthermore in terms of section 9 the EE Act, an applicant for employment is also considered to be an employee for the purposes of:
- 11.4.1 the prohibition against unfair discrimination etc.;
  - 11.4.2 the prohibition on medical testing of such applicant (unless legislation requires or justifies the testing, for example section 5.2.4 of The South African National Standard - The handling, storage and disposal of pesticides which requires that an initial health evaluation must be carried out by an occupational medical practitioner immediately before employment, or within 14 days of commencement of employment); and
  - 11.4.3 the prohibition on psychological testing.

Laws and regulations on employment contracts (incl. necessity for written employment contracts, and if it is not, what are the grounds to consider for the existence of a verbal employment agreement) / Required content for written employment contracts (\*Note – questions 1.2 and 1.3 above addressed together below)

11.5 The BCEA provides minimum rights and entitlements to employees. These minimum standards are further expanded upon in Sectoral Determination 13. Parties may not contract for less favourable terms than provided in the relevant laws (such as minimum wage provisions as already discussed).

11.6 A written employment contract is required to the extent that an employer must supply an employee, when the employee commences employment, with the following particulars in writing:

11.6.1 the full name and address of the employer;

11.6.2 the name and occupation of the farm worker, or a brief description of the work for which the farm worker is employed;

11.6.3 the place of work, and, where the farm worker is required or permitted to work at various places, an indication of this;

11.6.4 the date on which the employment began;

11.6.5 the farm worker's ordinary hours of work and days of work;

11.6.6 the farm worker's wage or the rate and method of calculating wages;

11.6.7 the rate of pay for overtime work;

11.6.8 any other cash payments that the farm worker is entitled to;

11.6.9 any food or accommodation payment that the farm worker is entitled to and the value of the food or accommodation;

11.6.10 any other payment in kind received by the farm worker;

11.6.11 how frequently remuneration will be paid;

11.6.12 any deductions to be made from the farm worker's remuneration;

11.6.13 the leave to which the farm worker is entitled;

11.6.14 the period of notice required to terminate employment, or if employment is for a specified period, the date when employment is to terminate;

11.6.15 a description of any council or sectoral determination which covers the employer's business;

11.6.16 any period of employment with a previous employer that counts towards the farm worker's period of employment; and

11.6.17 a list of any other documents that form part of the contract of employment, indicating a place that is reasonably accessible to the farm worker where a copy of each may be obtained.

**Deadline for conclusion of the contract (e.g. on the date of hire or within 30 days of hire)**

11.7 Written particulars of employment are to be provided when employment commences. Written employment contracts are not compulsory though and there is therefore no statutory deadline for the concluding of a written contract.

## Requirements for various types of contracts (indefinite term, definite term, temporary workers, probationary workers)

**11.8 Indefinite term contracts** - A contract of employment for an indefinite term does not have any special requirements to form except that its duration must be for an indefinite period.

**11.9 Definite term and temporary workers** - Definite term contracts and temporary worker contracts are regulated in the same manner as both will be used in respect of employees / workers who will be engaged for a certain duration or in respect of a specific project. Regarding contracts for a definite term (i.e. fixed term contracts) it is important to note that in the event of an agreement lasting longer than three months, there are three requirements that have to be met, in the absence of which the worker may be deemed to be a permanent employee. Firstly, the nature of the work must be for a limited duration or there must be some other justifiable reason for fixing the term of the contract. Secondly, the fixed term agreement must be in writing. Thirdly, the contract must specify the 'justifiable reason' for concluding the agreement. The LRA provides a non-exhaustive list of justifiable reasons, which are as follows - replacing another employee who is temporarily absent from work; a temporary increase in work volume which is not expected to endure beyond 12 months; a student or recent graduate who is employed to undergo training or gain work experience; exclusive work on a specific project that has a limited or defined duration; a non-citizen who has been granted a temporary work permit; and seasonal work; an official public works scheme or similar public job creation scheme; the position is funded by an external source for a limited period; and the employment of a person beyond the normal or agreed retirement age. If an

employer concludes a definite term contract in contravention of these requirements, the employee may be deemed to be employed indefinitely. Furthermore fixed term employees who are employed for longer than three months may not be less favourably treated than employees employed on an indefinite basis for performing the same or similar work. Fixed term employees that have worked for a period of 24 months or more are, upon the expiry of the contract, entitled to one week's remuneration for each completed year of service, unless the employer procures similar employment conditions with a different employer for the employee.

**11.10 Probationary contracts / workers** - An employer is entitled to require an employee to serve a period of probation before the employee's appointment is confirmed. Item 8(b) of the Code of Good Practice: Dismissal (the Code) provides that the purpose of probation is to "give the employer an opportunity to evaluate the employee's performance before confirming the appointment". Probation should not be used for other purposes, such as to deprive the employee of the status of permanent employment. For example, a practice of dismissing employees who complete their probation periods and replacing them with newly-hired probationary employees is not consistent with the purpose of probation. Being on probation does not mean that the employee's employment is "at will" and therefore that the employee's employment can be terminated on notice during the probation period if the employee fails to perform satisfactorily. In terminating an employee's employment during or upon the conclusion of the probation period, the employer is therefore still required to act procedurally fairly. The only benefit to a probation period is that the reasons

upon which an employer may rely may be less compelling than if the employee was not on probation. The period of probation should be reasonable and not unjustifiably long. The nature of the job, the employee's level of skill and the time it will take for the employee to perform the requisite tasks are some of the factors that should be taken into account when deciding on the duration of the probation period.

Requirements for termination of employment (termination with or without cause, wrongful dismissal, notice periods required to end employment)

11.11 Statutorily, the relevant termination / notice periods are as follows:

11.11.1 one week, if the farm worker has been employed for six months or less;

11.11.2 two weeks, if the farm worker has been employed for between six months and one year; or

11.11.3 four weeks, if the farm worker has been employed for more than one year.

11.12 An employer is not entitled to terminate an employment contract without cause. Valid causes for termination include misconduct, incapacity due to ill-health or poor performance, for operational requirements, and incompatibility. Where there is a valid reason in law for the dismissal, such dismissal must still be an appropriate sanction (i.e. not too harsh). Any dismissal must also be procedurally fair. If this is not adhered to an employer may face an unfair discrimination claim.

Options for farmers to obtain legal assistance about their obligations (e.g. government department, local labor office, farmers association etc.)

11.13 Farmers can obtain legal assistance about their obligations as employers from the local offices of the Department of Labour.

Specific requirements for leaf growing contracts (government imposed templates, government approval of contract, freedom to choose the terms of the contract)

11.14 There is none.



## Appendix IV – Agreement for Accommodation

Below is the ULSA template for farmers to formalize the agreement on housing with their workers.

### *New Housing*

*I \_\_\_\_\_ herewith acknowledge that I have discussed the new housing with the labour.*

*The discussions with each individual employee was done and the process that they will be paying for the accommodation according to the minimum standards and the deductions that will be made.*

*The employee understands the situation and agrees with the deductions made every month for the upgraded housing to the minimum standards according to the law.*

*I \_\_\_\_\_ as the Employer understand the minimum standards of on farm accommodation and agrees with the needs to the employee according to the law. The deductions will be made accordingly.*

*I \_\_\_\_\_ (Employee) acknowledges that I understand and agrees with the deductions that will be made for the accommodation.*

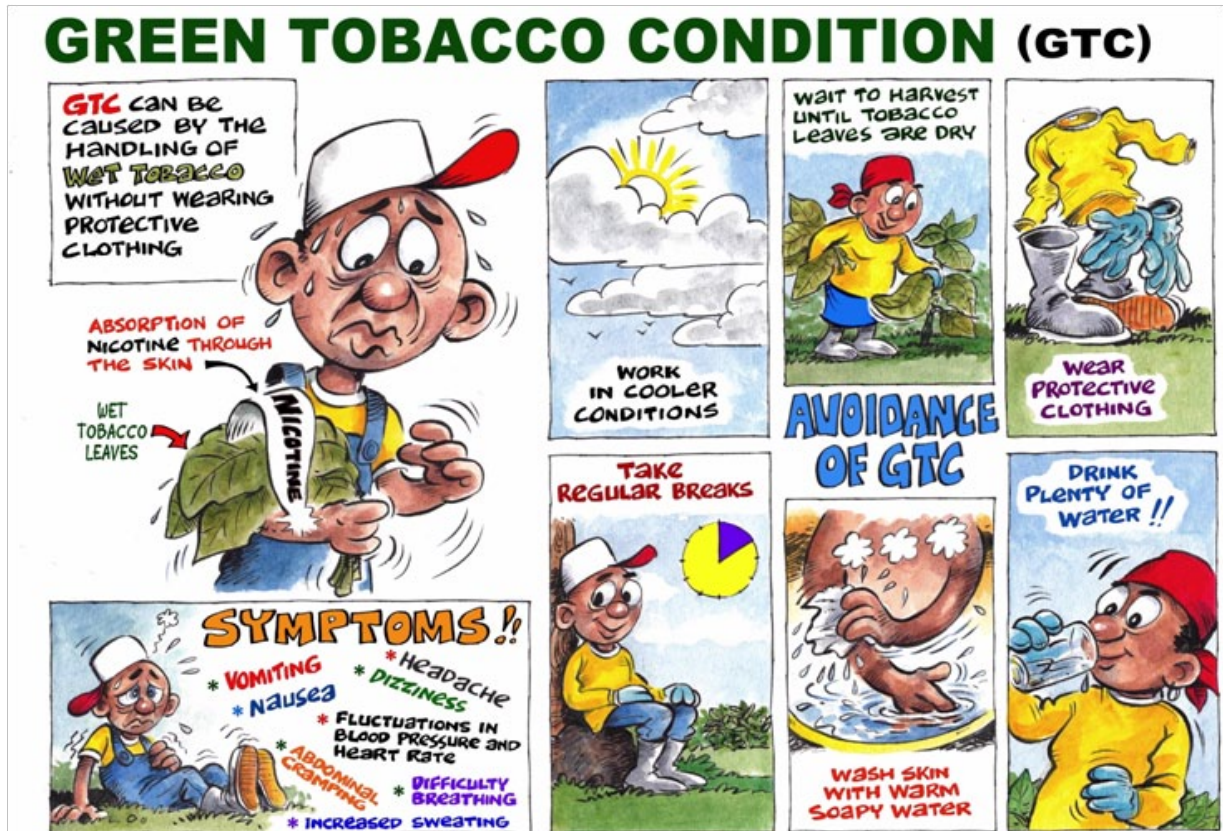
\_\_\_\_\_

Employer

\_\_\_\_\_

Employer

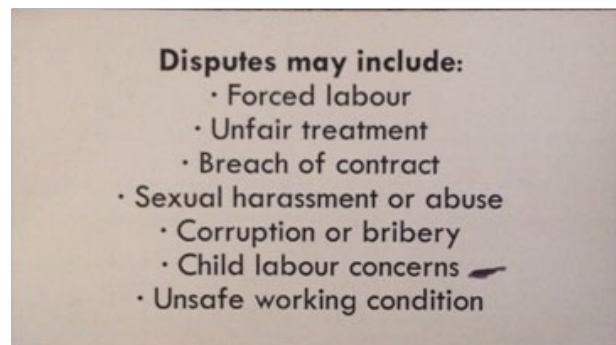
Appendix V – Communication materials



GTC poster



(front)



(back)

Support mechanism business card.

# GRIEVANCE SUPPORT MECHANISM



This is a mechanism which helps farmers and workers to settle their disputes.

**Local and Migrant labour**

DOL is the organization authorized to receive, follow up, and settle disputes between farmers and workers.

**All calls are confidential.**

GE GONALE BOTHATA MAGARENG  
GA MOLEMI LE BABEREKI O KA  
LELE TSA MOGALA GO HUMANA THUSO

IN CASE OF ANY GRIEVANCE BETWEEN  
FARMERS AND WORKERS  
PLEASE CALL FOR ASSISTANCE  
FULLY CONFIDENTIAL

**071 647 8467**  
**014 763 2163/2**

**Disputes may include**

- Forced labour
- Unfair treatment
- Breach of contract
- Sexual harassment or abuse
- Corruption or bribery
- Child labour concerns
- Unsafe working condition

Support mechanism poster

## Appendix VI – Analysis of farm data

From the Farm Profiles, only data regarding (1) other crops, (2) family members on the farm (except for spouse information), (3) ALP Communciation to farmer and (4) living conditions were made available to CU as there were problems with the data warehouse at the time of the assessment, resulting in the information not being available to the assessment team.

### Socio-economic information for Farm Profiles:

- For 18 Farm Profiles (45%) information was missing
  - 9 Farm Profiles missed information on hectares
  - 12 Farm Profiles missed information on contracts/payment methods for one or more groups of workers (permanent/temporary/migrant)
- For 11 Farm Profiles (28%) part of the information was not corresponding with the situation at the farm
  - For 1 Farm Profile the information on hectares was not matching with the information on the farm
  - For 10 Farm Profiles this considered information regarding contract/payment methods for one or more groups of workers (permanent/temporary/migrant)

### Categorization data for seven ALP related topics:

- For 3 Limpopo farms (16%) the categorization records did not fully match with the situation at the farm
  - For 1 farm the column 'GTC PPE' was marked 'yes' while PPE was not available at the farm
  - For 1 farm the column 'legal accommodation' was marked 'yes' while accommodation was not meeting the standard.

- For 1 farm the column 'first-aid training' was marked yes, while no workers at the farm had received first aid training.
- For 7 Cape farms (39%) the categorization records did not fully match with the situation at the farm
  - For 5 farms the column 'CPA PPE' was marked 'yes' while PPE was not available at the farm
  - For 2 farms the column 'legal accommodation' was marked 'yes' while accommodation was not meeting the standard.
  - For 1 farm the column 'first-aid training' was marked yes, while no workers at the farm had received first-aid training.
  - For 1 farm the column 'hand in CPA Container' was marked yes, while CPA Containers were not disposed correctly.

Appendix VII – ULSA Producer ALP declaration

**ULSA PRODUCER ALP DECLARATION**

I, [REDACTED] from the farm \_\_\_\_\_ declare hereby that I adhere to the required Agricultural Labour Practices expected from me as follow:

1. I do not appoint workers younger than 18 years of age and check ID documents prior to appointment.
2. Pay the minimum wage for all workers (including temporary, piece-rate, seasonal, and migrant workers) that meets, as a minimum, the requirements of the country's laws.
3. Payment happens on a regular basis as per agreement with labour within the country laws.
4. Working hours comply with the country's laws. Excluding overtime, work hours do not exceed on a regular basis 48 hours per week.  
Overtime work hours are voluntary and payment for overtime wages is at a premium, as required by the country's laws or by any applicable collective agreement.
5. Provide all workers with the benefits, holidays and leave to which they are entitled by the country's laws.
6. I do not allow:
  - physical abuse, threat of physical abuse or physical contact with the intent to injure or intimidate.
  - sexual abuse or harassment.
  - verbal abuse or harassment.
7. I do not allow discrimination on the basis of race, colour, caste, gender, religion, political affiliation, union membership, status as a worker representative, ethnicity, pregnancy, social origin, disability, sexual orientation, citizenship, or nationality.
8. Workers do not work under bond, debt or threat and receive wages directly from me.  
Workers are free to leave employment at any time with reasonable notice.  
I do not allow worker to make financial deposits with me.  
I do not withhold any worker Payments  
I do not retain the original identity documents of any worker.  
I do not employ prison or compulsory labour.
9. I provide a safe and sanitary working environment, and take all reasonable measures to prevent accidents, injury and exposure to health risks.
10. I have communicated Green Tobacco Sickness (GTS) to my workers and do not allow them to work with green tobacco without protective clothing.
11. No worker is permitted to use, handle, or apply crop protection agents (CPA) or other hazardous substances such as fertilisers, without having first received adequate training and without using the required personal protection equipment. Persons under the age of 18, pregnant women, and nursing mothers are not allowed to handle or apply CPA.  
Workers are not allowed to enter a field where CPAs have been applied unless and until it is safe to do so.
12. All workers have access to clean drinking and washing water close to where they work and live.
13. To the best of my ability, I provide clean and safe accommodation, that meets the basic needs of workers and conform to the country's laws.
14. I do not interfere with workers' right to freedom of association.  
Workers are free to join or form organisations and unions of their own choosing and to bargain collectively.  
Worker representatives will not be discriminated against and have access to carry out their representative functions in the workplace.
15. I have informed all workers of their legal rights and the conditions of their employment when they start work.
16. I have written employment contracts with all workers as required by the laws and workers receive a copy of the contract.  
The terms and conditions of employment contracts do not contravene the country's laws.
17. All my workers have access to a fair grievance mechanism on my farm.

Producer Signature: [REDACTED]

Date: 5/10/14

## Appendix VIII – Glossary

ALP	Agricultural Labor Practices
ALP Code	PMI’s Agricultural Labor Practices Code
ALP Code Principle	Short statements that set expectations of how the farmer should manage labor on his/her farm in seven focus areas
ALP Program	Agricultural Labor Practices Program
COIDA	Compensation for Occupational Injuries and Diseases Act, To provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases; and to provide for matters connected therewith
Correction	Any action that is taken to eliminate a situation not meeting the standard
Corrective action	Steps taken to remove the causes of a situation not meeting the standard
CPA	Crop Protection Agents
Crew leader	Person responsible for managing a group of workers
CU	Control Union
Family farm	Farm that depends mainly on family members for the production of tobacco
Farm Profiles	A data collecting tool developed by PMI with Verité to track the socio-economic profile of the farms
GAP	Good Agricultural Practices
GTC	Green Tobacco Condition, the local term used for Green Tobacco Sickness.
GTS	Green Tobacco Sickness
Leaf tobacco supplier	Company that has a contract with PMI to supply tobacco but is not a farmer
Measurable Standard	A Measurable Standard defines a good labor practice on a tobacco farm and helps determining to what extent the labor conditions and practices on a tobacco farm are in line with the ALP Code Principles
Migrant labor	Labor coming from outside the farm’s immediate geographic area
MobiLeaf	Electronic data collection system.
NGO	Non-Governmental Organization
NTRM	Non-Tobacco-Related-Materials
Piece work	Payment at a fixed rate per unit of production/work
PMI	Philip Morris International, Inc. or any of its direct or indirect subsidiaries
PPE	Personal Protection Equipment
Preventive action	Steps taken to remove the causes of potential situations not meeting the standard
Prompt Action	A situation in which workers’ physical or mental well-being might be at risk, children or a vulnerable group – pregnant women, the elderly - are in danger, or workers might not be free to leave their job
Root cause	The underlying reason that caused a situation not meeting the standard

Root cause analysis	A set of analyzing and problem solving techniques targeted at identifying the underlying reason that caused a situation not meeting the standard
Sharecropping	A system of agriculture in which the farmer has a partner (“socio”) who either works together with the farmer or manages a plot of land. Costs of inputs and/or revenue are shared.
STP	Sustainable Tobacco Production
UIF	Unemployment Insurance Fund, which provides compensation to insured workers that became unemployed.
ULT	Universal Leaf Tobacco
ULSA	Universal Leaf South Africa, a local subsidiary of Universal
Support mechanism	A way for workers to access information and get support in difficult situations and for workers and farmers to get support in mediating disputes. Farmers have access to additional services to improve labor and business practices.