

**THE GOVERNMENT OF THE REPUBLIC OF THE UNION OF MYANMAR
MINISTRY OF MINES**

AGREEMENT

for

EXPLORATION AND FEASIBILITY STUDY OF *AND ASSOCIATED
MINERALS**

AT * AREA,**

***** TOWNSHIP, ** REGION, STATE**

between

**THE DEPARTMENT OF GEOLOGICAL SURVEY AND MINERAL
EXPLORATION**

and

Company (A)

(DRAFT)

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MINERAL EXPLORATION AND FEASIBILITY STUDY AGREEMENT

THIS AGREEMENT is made in Nay Pyi Taw, the Republic of the Union of Myanmar on the -----day of -----

BETWEEN

THE DEPARTMENT OF GEOLOGICAL SURVEY AND MINERAL EXPLORATION, a department under the jurisdiction of the Ministry of Mines wholly owned by the State and constituted under the laws of the Union of Myanmar, (hereinafter referred to as **DGSE** which expression shall, unless repugnant to the context or the meaning thereof, includes its successors and permitted assigns), whose legal address is at Myanmar Gems Museum, Yaza Thingaha Road, Thapyaygone, Ministry of Mines, Nay Pyi Taw, Union of Myanmar represented for the purpose of this Agreement by its Director General, Dr. Ye Myint Swe, on the ONE PART

AND

COMPANY (A), a company incorporated under the laws of *****, having its principal office *****, (hereinafter referred to as **COMPANY (A)** which expression shall, unless repugnant to the context or the meaning thereof, includes its legal representatives, successors, and permitted assigns), represented for the purpose of this Agreement by its Director, Mr. *****, on the OTHER PART.

RECITALS

WHEREAS

- (A) The Ministry of Mines develop of the mineral sector of the Republic of the Union of Myanmar, and has authority over projects involving this Agreement.
- (B) The Ministry of Mines has the right under the laws of the Republic of the Union of Myanmar to grant to COMPANY (A) the exclusive rights to conduct, mineral exploration and feasibility study in the Agreement Area located in Chipwe Township, Kachin State, Republic of the Union of Myanmar.
- (C) The Ministry of Mines has granted to DGSE the authority to enter into this Agreement on its behalf and to grant to COMPANY (A) all of the rights and interests hereunder.
- (D) COMPANY (A) has substantial experience in mineral exploration, feasibility study and has access to the information, knowledge, experience and proven technical and financial capability and other resources to undertake a programme for mineral exploration in the Agreement Area.
- (E) COMPANY (A) wishes to undertake **** and associated minerals exploration and feasibility study efforts in the Agreement Area on the terms and conditions set out in this Agreement.

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, DGSE and COMPANY (A) hereby enter into this Agreement for the purposes heretofore and hereinafter mentioned:

ARTICLE I DEFINITIONS

The following definitions shall apply unless the context requires otherwise.

- 1.1 *Accounting Procedure*** means the procedures set out by the Auditor General's Office.
- 1.2 *Agreement Area*** is that land area shown and described on the map attached to this Agreement in Annexure I and shall, where the Agreement Area has been reduced in accordance with Article 3.2, mean the Agreement Area so reduced.
- 1.3 *Associated Minerals*** means all minerals which geologically occur together with and must necessarily be mined and processed with **** and associated minerals ores, including those discovered in the Agreement Area.
- 1.4 *Auditor General's Office*** means the office of Auditor General of the Union.
- 1.5 *Budget*** means a detailed estimate of all costs to be incurred by COMPANY (A) for the purposes contemplated in Article 5.4.
- 1.6 *Deposit*** means one or more bodies of **** mineralization which may exist or be discovered in the Agreement Area.
- 1.7 *Effective Date*** means the date upon which this Agreement has been signed by both Parties.
- 1.8 *Environment*** means physical factors of the surroundings of human beings, including land, water, atmosphere, climate, sound, odours, tastes and biological factors of animals and plants and the social factors of aesthetics.
- 1.9 *Euro*** means lawful currency of the European Union.
- 1.10 *Feasibility Study*** means work performed to evaluate and develop the deposit discovered in the Agreement Area, prepared by or on behalf of COMPANY (A) that meets international industry standards for an independent feasibility report. Such report shall include the following:
 - (a) alternative of mining, processing and beneficiation of *** and associated mineral:
 - (b) analysis of estimated recoverable proven and probable reserve in terms of technical and economic constraints including the effect grade, losses and imputities:

- (c) analyses of the environmental impact of the project and the cost of the environmental compliance;
 - (d) analysis of metallurgical tests to determine the efficiency of alternative extraction, recovery and processing techniques;
 - (e) reasonable estimates of capital costs of various alternatives, including estimates of capitalized pre-stripping expenditures, equipment expenditures, reasonable estimates of working capital requirements, and estimates of all other direct and indirect costs including general and administrative costs.
- 1.11 *Feasibility Study Operations*** mean all activities carried out by COMPANY (A) during the Feasibility Study period.
- 1.12 *Financial Year*** means a period of 12 (twelve) months commencing 1st April and ending on the following 31st March according to the Gregorian calendar.
- 1.13 *Government*** means the Government of the Republic of the Union of Myanmar, including its various governmental entities.
- 1.14 *Joint Coordination Committee*** means the committee established in accordance with Article XV.
- 1.15 *Local Authorities*** means authorities of any state, division, district, township, development committee or other local authority that have administrative authority to assert jurisdiction over the Agreement Area or COMPANY (A) (or any of its Affiliates).
- 1.16 *Local Currency*** means any lawful currency now existing or adopted by the Union of Myanmar after the Effective Date, including Kyat and Foreign Exchange Certificates.
- 1.17 *MIC Permit*** means the permit issued by the Myanmar Investment Commission under Section 10 of the Union of Myanmar Foreign Investment Law, 1988, issued and delivered to COMPANY (A) and DGSE simultaneously on the Effective Date.
- 1.18 *Minerals*** mean ***** and Associated Minerals, whether fully or partially refined or processed or in its natural unprocessed state, as the context requires. A deposit shall be considered ***** regardless of the comparative quantities of ***** and Associated Minerals that would be produced in mining such a Deposit.
- 1.19 *Mineral Exploration*** means defining and gaining knowledge of size, shape, location, quality and quantity of a Deposit, referred to the Probable Ore Reserve (P-2) classification under DGSE.
- 1.20 *Mineral Exploration Operations*** means all activities carried out by COMPANY (A) during the Mineral Exploration Period.
- 1.21 *Mineral Exploration Period*** means the period of 1 (one) year under Article 6.1(b).

- 1.22 *Minimum Expenditure Requirements*** means the minimum amount of Project Expenditure to be spent by COMPANY (A) during the Mineral Exploration Period as set out in Article 6.2 and Feasibility Study Period as set out in Article 7.3.
- 1.23 *Mining Law*** means the Myanmar Mines Law (The State Law and Order Restoration Council Law No. 8/94) enacted on 6th September 1994.
- 1.24 *Mining Rules*** means the Myanmar Mines Rules (Notification No. 125/96 dated 30th December 1996) issued by the Ministry of Mines.
- 1.25 *Minister*** means the Union Minister for the Ministry of Mines of the Republic of the Union of Myanmar.
- 1.26 *Ministry*** means the Ministry of Mines the Republic of the Union of Myanmar.
- 1.27 *Operations*** means the Exploration and Feasibility Study activities carried out under the Agreement.
- 1.28 *Probable Ore Reserve (P-2)*** means Ore deposit is measured in 3 dimensions and sampling. Tonnage and grade computed from specific measurements and samples with closely spaced interval has been supplemented by some geological deduction (see Annexure V)
- 1.29 *Respective Ministry*** means the any Ministry under the Government which is to be referred to in connection with the operation.
- 1.30 *Security Deposit*** means the irrevocable bank guarantee to be provided by COMPANY (A) under Article X.
- 1.31 *Term*** means the period of this Agreement commencing on the Effective Date and ending on the date determined in accordance with Article XVIII.
- 1.32 *U.S. Dollars or US\$*** means the lawful currency of the United States of America.
- 1.33 *Work Programme*** means the work programme to be drawn up by COMPANY (A) for the Operations under Article V.
- 1.34 *A person*** includes a body corporate, an unincorporated body or other entity and conversely.
- 1.35 *An Article*** means an article of this Agreement.

ARTICLE II REPRESENTATIONS AND WARRANTIES

2.1 Representations and warranties by both Parties

Each Party represents and warrants to the other that:

- (a) it is a legal person duly authorised under the relevant laws;
- (b) it has the right, power, and authority to enter into this Agreement; and
- (c) this Agreement is valid and binding.

2.2 Representations and Warranties by DGSE

DGSE represents and warrants to COMPANY (A) that:

- (a) it has the exclusive rights under the laws of the Republic of the Union of Myanmar to conduct the Operations within the Agreement Area in accordance with the Myanmar Mines Law.
- (b) no lease, license or permit, including any permit relating to Mineral Exploration and Feasibility Study in all or any part of Agreement Area has been granted to any third party.

ARTICLE III AGREEMENT AREA

3.1 Agreement Area

- (a) The Agreement Area means that area as defined in Annexure I attached to this Agreement the original Agreement Area shall be deemed to contain *** square kilometres, excluding existing mining areas permitted by relevant Mining Enterprises under the Ministry, prior to the Effective Date.
- (b) COMPANY (A) shall not be permitted to execute exploration and feasibility study activities according to this Agreement in the area of archaeological heritage, village, tract, road, cultivated areas, industrial complex, religious compounds and all other areas restricted by relevant Ministries under the Government of the Republic of the Union of Myanmar.

3.2 Relinquishment generally

- (a) COMPANY (A) may by written notice to the DGSE relinquish all or any part of the Agreement Area at any time and from time to time during the Term.
- (b) any such notice shall be submitted with a relinquishment report stating all technical and geological findings of the relinquished areas and the reasons for the relinquishment supported by field data of activities undertaken in those areas.
- (c) all basic data (basic geological exploration, and other related data) of the relinquished areas shall be submitted to DGSE and shall become the property of DGSE.
- (d) the remaining area, after relinquishment shall be contiguous.

ARTICLE IV

GRANT OF PERMITS

4.1 COMPANY (A) establishment in Myanmar

COMPANY (A) shall register in the Republic of the Union of Myanmar and form a company which must be incorporated in Myanmar under the Myanmar Companies Act after the permission of Myanmar Investment Commission.

4.2 Grant of Permit

The Ministry shall on the Effective Date issue COMPANY (A) the Exploration and Feasibility Study Permit. The permit shall be valid for the period as prescribed in Article 6.1 (b).

ARTICLE V

WORK PROGRAMMES

5.1 Preparation of Work Programme

COMPANY (A) shall draw up a Work Programme for the Exploration and Feasibility Study Operations.

5.2 Presentation to Joint Co-ordination Committee

- (a) the Work Programme shall be presented to the Joint Co-ordination Committee at least 30 (thirty) days prior to the commencement of the work contemplated in the Programme.
- (b) DGSE may give its comments regarding the Work Programme. COMPANY (A) shall revise the work programme so as to comply with the comments of DGSE.

5.3 Standard of Care for Operations

COMPANY (A) shall conduct all Operations in accordance with internationally acceptable mining industry standards and practices, and in accordance with the terms and provisions of the Agreement, the MIC Permit, and Governmental Approvals pertaining to the Operations.

5.4 Budgets

The Work Programme shall include a Budget for the expenditure contemplated for the Operations in the Agreement Area which COMPANY (A) proposes to carry out during the Term of the Agreement.

ARTICLE VI

MINERAL EXPLORATION

6.1 Commencement and term

- (a) COMPANY (A) shall prepare and submit to the DGSE a Work Programme for its proposed Mineral Exploration Operations within 1 (one) month from the effective date and shall commence the Mineral Exploration Operations in accordance with the Work Programme as soon as possible within the most promising parts of the Agreement Area. The programme of Mineral Exploration Operations shall as appropriate include detailed geological, geophysical and geochemical survey, and drilling.
- (b) the Mineral Exploration Period shall be for a period of 1 (one) year. no later than 3 (three) months prior to expiry of the initial period of 1 (one) year, an application for the extension of the tenure of a mineral exploration may normally be made on two occasion only.
- (c) the Ministry may approve the extension of exploration period, if in the Ministry's opinion the exploration works undertaken by COMPANY (A) during the permitted one year period is satisfactory.

6.2 Minimum Expenditure Requirement for Mineral Exploration Period

- (a) COMPANY (A) shall spend not less than the amount per square kilometre set out in Annexure IV on Project Expenditure in the Agreement Area during the Mineral Exploration Period.
- (b) notwithstanding anything contained herein this agreement, the expenditure to be incurred in the Republic of Union of Myanmar in respect of Exploration Operations shall not be less than 30 % (thirty percent) of the total Minimum Expenditure Requirement.
- (c) the Minimum Expenditure Requirement for the Exploration Period shall be determined by reference to the size of the Agreement Area (in each case, as reduced by any relinquishment made in accordance with Articles 3.2).
- (d) all expenditure incurred in accordance with the Accounting Procedure and all Dead Rent paid during the relevant period in accordance with Article XIV shall be included in determining whether COMPANY (A) has met the Minimum Expenditure Requirement for the Mineral Exploration Period.

6.3 Overhead Charges

COMPANY (A) shall be entitled to include as part of Project Expenditure for the purpose determining whether it has satisfied its Minimum Expenditure Requirement under Article 6.2 and Annexure IV an amount equal to 15% (Fifteen Percent) of all

Operating Costs incurred by COMPANY (A) during the Exploration Period as an allowance for COMPANY (A)'s home office, overhead and administrative costs in connection with the Project.

6.4 Submission of report

After the completion of Exploration period, COMPANY (A) shall submit an Exploration report to DGSE which shall contain calculation and reasons, both technical and economic, supported by data, drawings, maps and relevant information upon which the decision whether or not to proceed with the Feasibility Study is based. The Exploration report shall also contain all information as herein above mentioned in the definition for Exploration and information concerning other matters which, in the opinion of COMPANY (A), may be of interest to the Government.

ARTICLE VII FEASIBILITY STUDY

7.1 Approval

The Feasibility Study period for any part of the Agreement Area shall commence on the date COMPANY (A) submits a written notice to the DGSE in relation to its decision to proceed with the evaluation.

7.2 Commencement

- (a) COMPANY (A) shall prepare and submit to the DGSE a Work Programme for its proposed Feasibility Study Operations within 1 (one) month from the effective date and shall commence the Feasibility Study Operations in accordance with the Work Programme as soon as possible. The programme of Feasibility Study Operations shall as appropriate include detail geological, geophysical, geochemical survey, drilling, the metallurgical test and sampling.
- (b) the Feasibility Study period shall be 1 (one) year.

7.3 Minimum Expenditure Requirement for Feasibility Study period

- (a) COMPANY (A) shall spend not less than the amount per square kilometer set out in Annexure IV on Project Expenditure in the Agreement Area during the Feasibility Study period.
- (b) notwithstanding anything contained herein this Agreement, the expenditure to be incurred in the Republic of the Union of Myanmar in respect of Feasibility Study Operations shall not be less than 30% (thirty percent) of the total Minimum Expenditure Requirement in Myanmar.

- (c) the Minimum Expenditure for the Feasibility Study period shall be determined by reference to the size of the Agreement Area.
- (d) all expenditure incurred in accordance with the Accounting Procedure and all Dead Rent paid during the relevant period in accordance with Article XIV shall be included in determining whether COMPANY (A) has met the Minimum Expenditure Requirement for the Feasibility Study period.

7.4 Overhead Charges

COMPANY (A) shall be entitled to include as part of Project Expenditure for the purpose determining whether it has satisfied its Minimum Expenditure Requirement under Article 7.3 and Annexure IV an amount equal to 15% (Fifteen Percent) of all Operating Costs incurred by COMPANY (A) during the Feasibility Study period as an allowance for COMPANY (A)'s home office, overhead and administrative costs in connection with the Project.

7.5 Standard of care

COMPANY (A) shall pursue the completion of the Feasibility Study with reasonable diligence and the Feasibility Study shall be conducted in accordance with methods and standards generally accepted in the mining industry for that type of study and shall be in a form and level of detail generally acceptable to international financing organizations.

7.6 Submission of report

- (a) after the completion of any Feasibility Study, COMPANY (A) shall submit a Feasibility Study report to the DGSE which shall contain calculations and reasons, both technical and economic, supported by data, drawings, maps and relevant information upon which the decision whether or not to proceed with the development of Deposits is based. The Feasibility Study report shall also contain all information as herein above mentioned in the definition for Feasibility Study and information concerning other matters which, in the opinion of COMPANY (A), may be of interest to the Government.
- (b) COMPANY (A) shall be entitled to retain copies of all materials submitted to DGSE under Article 7.6(a), and may continue to use the information for the benefit of any lands remaining in the Agreement Area during the Term.

ARTICLE VIII

GENERAL RIGHTS AND OBLIGATIONS

8.1 COMPANY (A)'s obligations

COMPANY (A) shall:

- (a) carry out exploration and feasibility study activities at its own cost and expense.
- (b) be responsible for all activities necessary for Exploration and Feasibility Study.
- (c) appoint an auditor with a Certified Public Accountant issued by the Office of Auditor General of the Union and the audited expenditure relating to Feasibility Study activities be approved by the Office of Auditor General of the Union.
- (d) ensure that COMPANY (A)'s personnel and their families shall respect and abide by the laws of the Republic of the Union of Myanmar and they shall not interfere with the political and religious affairs of the Republic of Union of Myanmar during their stay in Myanmar.
- (e) abide the terms and conditions prescribed under the Myanmar Mines Law and Myanmar Mines Rules.
- (f) abide by the terms and conditions by the Ministry of the Environmental Conservation and Forestry during the Exploration and Feasibility Study period.
- (g) be responsible for the Preservation of the Environment at and around the Agreement Area.
- (h) conduct all operations in accordance with standard exploration techniques approved by the Joint Coordination Committee.
- (i) COMPANY (A) may employ or engage any number of Myanmar personnel for the purposes of the Operations, provided that at all times during the feasibility Study period, no less than 25% (twenty five percent) of the total number of those employed by COMPANY (A) are Myanmar personnel.
- (j) employ Myanmar personnel so that not less than 25% (twenty five percent) of the total number of expert be nominated by DGSE.
- (k) employ Myanmar personnel in accordance with Labour Law, Rules of the Republic of the Union of Myanmar.
- (l) submit a complete comprehensive Exploration report and Feasibility Study report to the DGSE in time.
- (m) shall hand over back to the DGSE MIC permit and Ministry of Mines permit without hesitation after expiry or termination of the Agreement. If COMPANY (A) fails to comply with this Article 7.1 (m), it shall be conducted in accordance with the provision of Chapter IX section 28 of the Myanmar Mines Law.
- (n) terminate either on the date of expiry of the period or end of Feasibility Study, COMPANY (A) shall re-export all the drawback items within 6 months; if not re-

exported by COMPANY (A), shall become the properties of DGSE without any compensation.

8.2 Assistance of DGSE

DGSE may:

- (a) assist according to specific rules and regulations to obtain the permit for importation of the equipment and machineries which are to be used for exploration operation, when submitted by COMPANY (A) for such importation.
- (b) assist for the access of COMPANY (A)'s staff and experts into the Agreement Area as contemplated in Article III and domestic travel in accordance with prevailing laws, rules and procedures.
- (c) assist COMPANY (A) to obtain the existing geological, geophysical, topographical and scientific samples, data and information with respect to agreement area in DGSE's possession except those data restricted by the Government of the Union of Myanmar and the Ministry.
- (d) assist to obtain the necessary permits and licenses from the Ministry of Post and Telecommunication so that COMPANY (A) be able to utilize the necessary telecommunication equipments for the purpose of implementing the Work Programme in accordance with the Laws of the Republic of the Union of Myanmar.
- (e) assist COMPANY (A) necessary matters with respect to the terms and conditions of the contract in accordance with relevant Laws, Rules and Principles.

ARTICLE IX BANKING AND CURRENCY RIGHTS

- 9.1** COMPANY (A) shall be solely responsible to supply all funds necessary for the Operations in Myanmar. The funds shall be remitted in the currency acceptable to the Myanmar Foreign Trade Bank.
- 9.2** COMPANY (A) shall have full foreign currency and local currency use and retention rights, for all purposes to comply under the Laws, Rules, Regulations, Orders and Directives of the Ministry of Finance and Revenue.

ARTICLE X SECURITY DEPOSIT

10. Terms and conditions

COMPANY (A) shall within 30 (thirty) days after the Effective Date provide the Security Deposit to DGSE.

- (a) the Security Deposit shall be placed at Myanmar Foreign Trade Bank (MFTB). The form of Security Deposit shall be in a form approved by MFTB.
- (b) the Security Deposit shall be in the foreign currency which is acceptable to MFTB, being equivalent to the amount of US\$ *****(United States Dollars **** thousands Only).
- (c) the Security Deposit shall be valid for the Term.
- (d) if COMPANY (A) fails to meet its Minimum Expenditure Requirement under Article 6.2, Article 7.3 and Annexure IV and such failure is on-going at the end of the year of the Mineral Exploration Period DGSE may call upon MFTB to make payment under the Security Deposit of the amount for which COMPANY (A) is in default.
- (e) if COMPANY (A) is in breach of the terms and conditions of this Agreement, DGSE may call upon MFTB to make payment.

ARTICLE XI BONUS

- 11. COMPANY (A) shall pay to DGSE a sum equivalent to **USD ******* (United States Dollars ***** thousands Only) in a currency acceptable to MFTB as a Signature Bonus within 30 (thirty) days from the Effective Date. The Agreement shall terminate if COMPANY (A) fails to pay Signature Bonus within 30 (thirty) days after DGSE shall have three times written warnings.

ARTICLE XII INSURANCE

- 12. COMPANY (A) shall affect insurance as required by the Foreign Investment Law of the Union of Myanmar and the Myanmar Insurance Law.

ARTICLE XIII TAXES AND DUTIES

13. Payment of Myanmar tax

COMPANY (A) shall subject to this Article XIII, pay taxes and duties which are payable in Myanmar in accordance with the laws, rules and regulations of the Ministry of Finance and Revenue.

ARTICLE XIV FEES AND DEAD RENT

14.1 Fees and Charges

COMPANY (A) shall pay administrative charges, licence fees, other applicable rent, fees and dead rent in respect of the Agreement Area.

14.2 Dead Rent

COMPANY (A) shall pay Dead Rent at the rates set out in Annexure IV.

14.3 Manner of payment

COMPANY (A) shall pay prevailing administrative fees and charges for facilities or services rendered and pay Dead Rent to the Department of Mines in currency permitted by Myanmar Foreign Trade Bank during the Term in two equal installments each payable within 30 (thirty) days in advance for each installment.

ARTICLE XV JOINT CO-ORDINATION COMMITTEE

15.1 Establishment

DGSE and COMPANY (A) shall establish a Joint Co-ordination Committee, at which the Parties will discuss, amongst other things, the Work Programme, finance, administration and the reports of Mineral Exploration, and provide an effective liaison between DGSE and COMPANY (A).

15.2 Composition

- (a) The Committee shall consist of 5 (five) members, 3 (three) to be appointed by the DGSE and 2 (two) to be appointed by COMPANY (A).
- (b) The Director General of DGSE shall act as the chairman of the Joint Co-ordination Committee, until the end of the Term.

15.3 Procedures

The procedure of Joint Co-ordination Committee shall be followed in accordance with Annexure II.

15.4 Expatriates

- (a) COMPANY (A) shall be entitled to bring into the Union of Myanmar such non-Myanmar Expatriate personnel as COMPANY (A) deems necessary to assist and carry out the Operations efficiently.
- (b) Salaries of the Expatriate employees of COMPANY (A) shall be determined solely by COMPANY (A) and shall be paid in US Dollars.

15.5 DGSE site representatives

- (a) Subject to prior notice to COMPANY (A), DGSE may station 2 (two) representatives in the Agreement Area during the Term.
- (b) The representatives shall be provided with reasonable transport facilities for the purposes of their duties and accommodation. COMPANY (A) shall pay the monthly allowance in US Dollars for the representatives through the MFTB.
- (c) DGSE's representatives may observe, but not participate in, Operations within the Agreement Area, and shall act as liaison between COMPANY (A) and DGSE and, where expressly requested by COMPANY (A) (but not otherwise) between Governmental entities and COMPANY (A).

ARTICLE XVI RECORDS, ACCOUNTS AND AUDIT

- 16.1** COMPANY (A) shall be responsible for keeping complete records and accounts, showing a true and fair view of all of its Operations under this Agreement in accordance with the International Accounting Standard. The accounts and other records shall be maintained in English and all financial records shall be recorded in Kyats and in United States Dollars. A copy of such records and accounts shall be kept in the Republic of Union of Myanmar.
- 16.2** COMPANY (A) shall submit a budget for operation during the Term to DGSE within 1 (one) month after the Effective date. COMPANY (A) shall also submit to DGSE the audited statement of accounts together with a review of Operations within 3 (three) months after the expiry of the Term.
- 16.3** The statement of accounts of COMPANY (A)'s Operations under this Agreement shall be prepared quarterly and all accounts shall be subject to yearly audit and shall have obtained the approval of the office of the Auditor General. In preparing statements of accounts, Kyat expenditures shall be converted to US Dollars and the currency exchange rate shall be the official US Dollar to Kyat exchange rate issued by the Myanmar Foreign Trade Bank on the date of transaction.
- 16.4** The account and records of the operations of COMPANY (A) shall be subjected to be audited by the Auditor General's Office and COMPANY (A) shall submit annual account and auditor's report to DGSE within 3 months after the end of reporting period.

ARTICLE XVII

CONFIDENTIALITY

17. It is agreed that all information pertaining to the Operations under this Agreement shall be confidential and shall not be released to any third party except as to that information which is required by law to be disclosed to financial institutions for the purpose of funding Operations or as may be required by any applicable regulatory authority or laws and regulations.

ARTICLE XVIII

DURATION AND TERMINATION

18.1 Duration

Unless sooner terminated as herein provided in Article 18.2 (b) and (c) subject to Article VI and Article VII , the duration of this Agreement shall be 2 (two) years. Duration will be effected from effective date. In any case the duration of this agreement shall not be more than 4 (four) years.

18.2 Termination

- (a) This Agreement shall be deemed expired on the date of expiry of MIC Permit, in which case the Agreement shall become null and void.
- (b) Either Party may by notice in writing terminate this Agreement if:
 - (i) the other party shall have committed a material breach of any of the conditions thereof and the breach shall remain unremedied for 90 (ninety) days after written notice shall have given by the first Party specifying the details of the breach;
 - (ii) in the opinion of DGSE, works undertaken by COMPANY (A) is not satisfactory and do not comply to standards of care as contemplated in Article 5.3.
- (c) COMPANY (A) may terminate this Agreement by notice in writing to DGSE if during the Mineral Exploration period COMPANY (A) does not think the Exploration Operations are worthy of Feasibility Study.
- (d) COMPANY (A) shall terminate this Agreement if COMPANY (A) fails to comply Myanmar Mines Law and Myanmar Mines Rules.
- (e) if COMPANY (A) not performed according to the work programme approved by Joint Co-ordination Committee, the Agreement may be terminated.
- (f) Notwithstanding anything contained herein, this Agreement may be terminated by mutual consent of the Parties.

- (g) Upon termination of this Agreement the Parties hereto shall be deemed to be released and discharged from all further rights, obligations and liabilities under this Agreement save and except in respect of any obligations or liabilities which accrued prior to the date of termination.

18.3 Rights and obligations on termination

If this Agreement is terminated under Article 18.2,

- (a) Unless otherwise agreed by DGSE COMPANY (A) shall have the right to re-export all property owned by them within the Union of Myanmar, for the full period and under the terms provided in the MIC Permit and shall have the full benefit of all other provision in the MIC Permit for the full period necessary to wind up the Operations.
- (b) Within the same period, COMPANY (A) shall remove all camps, temporary buildings or machinery erected or installed by COMPANY (A) in the Agreement area, and repairs or otherwise make good any damage to the surface of the ground occasioned by such removal to the reasonable satisfaction of DGSE.
- (c) Any property not re-exported by COMPANY (A) in accordance with this Article 17.3 shall become the property of DGSE without any compensation to COMPANY (A), and COMPANY (A) shall relinquish all such property.

ARTICLE XIX MISCELLANEOUS PROVISIONS

19.1 Annexure

This Agreement consists of 5 (five) Annexure. All the Annexure attached hereto shall form an integral part of this Agreement.

19.2 Notices and Communications

Notices and other communications shall be given in writing in the English language pursuant to the provisions of this Agreement and unless otherwise specifically provided be given by fax followed by registered airmail or message with postage or transmission charges fully prepaid and addressed to:

- (a) If to DGSE:
Myanma Gems Museum, Yaza Thingaha Road, Thapyaygone,
Ministry of Mines,
Nay Pyi Taw
Union of Myanmar

Attention: Director General

Telephone No. 95-067-414019 Fax No. 95-067-414043

(b) If to COMPANY (A):

Attention: Director

Tel. No. *****

Fax No. *****

Email: *****

(c) Notices given by telex shall be deemed to be given or made on the next business day following electronic confirmation of receipt of the telecopy. The address or telex or fax number of a Party may be changed by giving notice in writing to the other Party.

19.3 Assignment

No assignment by either Party shall be permitted during the term of this Agreement..

ARTICLE XX GOVERNING LAW

- 20.1** This Agreement in all respects shall be interpreted and governed in accordance with the laws, rules, regulations and directives of the Union of Myanmar.
- 20.2** Both Parties hereby agree that all obligations, Operations and performance of this Agreement shall be carried out in accordance with existing laws of the Union of Myanmar.
- 20.3** No term or terms or no provision or provisions of this Agreement including the Agreement of the Parties to submit to arbitration hereunder shall prevent or limit the Government of the Union of Myanmar from exercising its inalienable rights.
- 20.4** Both parties hereby agree to comply the directives and instructions issued at any time and from time to time during the Term by the respective Government departments.

ARTICLE XXI FORCE MAJEURE

- 21.1** The term "Force Majeure" as employed herein shall mean act of God, Restraint of a Government including but not limited to complying the decision of Government of the Republic of the Union of Myanmar, higher authorities and Ministry of Mines, Strikes, Lockouts, Industrial Disturbances, Explosions, Fires, Floods, Earthquakes, Storms, Lightnings and every any other causes similar to the kind herein enumerated

which are beyond the control of either party and which by exercise of due care and diligence either party is unable to overcome.

- 21.2** If either party is temporarily rendered unable, wholly or in part, by Force Majeure to perform its duties or accept performance by the other party under this Agreement, it is agreed that the effected party gives notice to the other party within 14 (fourteen) days after the occurrence of the cause relied upon giving full particulars in writing of such Force Majeure. The duties of such party as are effected by such Force Majeure shall with the approval of the other party, be suspended during the continuance of the inability so caused, but for no longer period, and such cause shall as far as possible be removed with all reasonable despatch. Neither party shall be responsible for delay, damage or loss caused by Force Majeure.

ARTICLE XXII ARBITRATION

- 22.1** If any dispute arises out of this Agreement or any other agreement or document executed in connection with this Agreement, the Parties here to shall consult with each other in good faith in order to settle such dispute amicably.
- 22.2** In the event that such dispute can not be settled amicably, it shall be settled in the Union of Myanmar by Arbitration, through two arbitrators, each one of whom shall be appointed by each party. Should the Arbitrators fail to reach an agreement, then such dispute shall refer to an Umpire nominated by those arbitrators. The decision of the arbitrators or the Umpire shall be final and binding upon both parties.
- 22.3** The Arbitration proceedings shall in all respects conform to the Myanmar Arbitration Act, 1944 (Myanmar Act IV, 1944) or any subsisting statutory modification thereof. The venue of Arbitration shall be in Nay Pyi Taw, The Republic of the Union of Myanmar. The Arbitration fees shall be borne by the losing Party. In the event that all or certain amount of Arbitration fees is attributable to DGSE, the said amount shall be borne by DGSE in Local Currency as approved by the Ministry of Mines. If the Arbitration fees shall be borne by COMPANY (A), the amount shall be in the Foreign Currency which is acceptable to MFTB.

ARTICLE XXIII
CONDITIONS PRECEDENT

- 23.** This Agreement shall become effective and the Parties shall be bound by their obligations hereunder on the date when the conditions set out below have been fully satisfied:
- (a) the approval of this Agreement by all relevant Government authorities;
 - (b) the issue of the MIC Permit on terms and conditions consistent with this Agreement;

ARTICLE XXIV
AUTHENTICITY

- 24.** This Agreement is made out in two original copies in English both of which shall be treated as equally authentic. One original copy each shall be held by each Party.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed in accordance with the terms set forth herein on the date first above written

Signed, sealed and delivered by:

Signed, sealed and delivered by:

For and on behalf of

For and on behalf of

**Department of Geological Survey
and Mineral Exploration**

In the presence of

In the presence of

ANNEXURE I

Location Map of Agreement Area

ANNEXURE II

JOINT CO-ORDINATION COMMITTEE PROCEDURE

This Joint Co-ordination Committee procedure is as follows:

- 1** To obtain the benefits of mutual co-operation and to coordinate their efforts under the Agreement DGSE and COMPANY (A) shall establish a “JOINT CO-ORDINATION COMMITTEE” (herein called the *Committee*) composed of 3 (three) representatives appointed by DGSE and 2 (two) representatives appointed by COMPANY (A). The Director General of DGSE shall act as the chairman of the Committee and Committee shall appoint a suitable person nominated by the chairman to act as Secretary of the Committee.
- 2** The initial appointment of representatives to the Committee shall be made by DGSE and by COMPANY (A), by notice given to the other within 30 (thirty) days after the Effective Date of the Agreement, advising the names of their respective representatives and such appointments may be changed thereafter from time to time by either Party, giving similar notice.
- 3** All decisions required to be made by the Committee concerning the DGSE and Myanmar personnel shall be made by the unanimous vote of the representatives present at the meeting, it being understood that no such decisions shall be valid unless at least one representative of DGSE and one representative of COMPANY (A) is present at the meeting. Decisions made by the Committee shall be recorded in minutes of meeting signed on behalf of both DGSE and COMPANY (A) and shall be binding on the Parties hereto.
- 4** The Committee shall meet quarterly and such meeting shall be held in Nay Pyi Taw or suitable place. The Chairman shall have the right to call the meeting before every 3 months of period.
- 5** The Committee shall have the following functions and responsibilities under this Agreement:

 - (a) to provide the opportunity for and to encourage the exchange of information, views, ideas comments and suggestions regarding plans, performances and results obtained under the Agreement;
 - (b) to review and discuss Work Programmes proposed by COMPANY (A);
 - (c) to coordinate on all technical, financial, administrative, appointment and training of Myanmar personnel and policy matter of interest to both Parties;

ANNEXURE III

PLANT, MACHINERY, EQUIPMENT AND SPARES TO BE IMPORTED BY COMPANY (A)

- all terrain vehicles, laboratory equipment, advance chemical equipments and support accessories.
- field equipment, including global positioning systems, compasses, hammer, hand lenses.
- camping equipment, geophysical equipment.
- office equipment, computers, drafting materials, geological software, plotters.
- drill rigs, including materials to support a drilling operation.
-

Remarks:

- (1) Details will be provided at a later date.
- (2) All items are drawback.
- (3) Materials to be re-exported not to be sold or transferred to other companies.

ANNEXURE IV
DEAD RENT AND MINIMUM EXPENDITURE

PERIOD	YEAR	DEAD RENT	MINIMUM EXPENDITURE
		Rate (US\$ per sq km)	Rate (US\$ per sq km)
Exploration	1	***	***
Exploration (if extended)	1	***	***
Feasibility Study	1	***	****

ANNEXURE V

DGSE NORMS AND PRACTICE OF ORE RESERVE CATEGORIES

Depending on the amount of Exploration Works completed and degree of accuracy in ore reserve estimation, the ore reserve could be classified as Probable Ore Reserve (P-2) as the following norms:-

Probable Ore Reserve (P-2)

1. Determination of mode of mineralization inferred by application of all possible exploration methods.
2. Determination of length, width and depth of deposit corresponding to mode of mineralization and relevant cut-off grade.
3. Ore reserve calculation of the ore body which length, width and depth must be systematically measured and all the representative samples should be taken within fairly close interval, so that reserve and grade will be more reasonable and reliable to the required accuracy of the following different type deposits.

(a) For Primary Deposit of Metal

The spacing of drill holes, test pits and trenches should be not more than 50 meter interval in grid pattern depending on the type of mineralization such as veins, patches, disseminated.

(b) For Raw Materials such as Coal, Limestone, Gypsum and others

The spacing of drill holes, test pits and trenches should be not more than 100 meter interval in grid pattern depending on the size and shape of the deposit.

(c) For Alluvial and Secondary Deposits of Gold, Platinum and Tin-Tungsten

The spacing of drill holes, bore holes, test pits and trenches should be not more than 50 meter for Gold and Platinum and 100 meter interval for Tin-Tungsten in grid pattern and together with some required amount of bulk sampling results.