

THE GOVERNMENT OF THE REPUBLIC OF THE UNION OF MYANMAR

Ministry of Natural Resources and Environmental Conservation

Myanmar Pearl Enterprise

And

-----**Co., Ltd.**

For

ARTIFICIAL BREEDING OF OYSTER

AND

CULTURING OF PEARLS

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PRODUCTION SHARING CONTRACT

PREAMBLE

This **CONTRACT** is made in NAYPYITAW on the day of
of

BETWEEN

The **MYANMAR PEARL ENTERPRISE** an economic enterprise under the Ministry of Natural Resources and Environmental Conservation wholly owned by the state and constituted under the laws of the Republic of the Union of Myanmar and whose legal address is at Myanma Gems Museum, NAYPYITAW, the Republic of the Union of Myanmar and represented by its Managing Director (hereinafter referred to as the “**MPE**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the one part

AND

----- **Ltd.** a company incorporated under the laws of Singapore and having its registered office at ----- and represented for the purpose of this Contract by its Chairman (hereinafter referred to as the “-----” which expression shall, unless repugnant to the context or the meaning thereof, include its legal representatives, successors and permitted assigns) of the other part.

RECITALS

WHEREAS

1. The Republic of the Union of Myanmar is the sole owner of all the resources within her territory and offshore Areas and has the right to conduct Oysters fishing and collecting, artificial breeding of Oysters, rearing of Oysters and culturing of Pearls.
2. The Ministry of Natural Resources and Environmental Conservation of the Republic of the Union of Myanmar is interested in increasing the production of Pearl and export earning of the Republic of the Union of Myanmar and has authority over projects involving Oyster fishing and collecting, artificial breeding of Oysters, rearing of Oysters and culturing of Pearls in the Republic of the Union of Myanmar.

3. The Ministry of Natural Resources and Environmental Conservation has the right under the laws of the Republic of the Union of Myanmar to grant to “-----” and “MPE” the exclusive right to conduct Oyster fishing and collecting, artificial breeding of Oysters, rearing of Oysters and culturing of Pearls in the Contract Areas located in Areas A (----Island) within (----) sq. kilometre including (----) sq. kilometre of land Areas for Pearl farm and Areas B (----- Island) within (-----)sq. kilometer in the ---- -- Township of the Tanintharyi Region more particularly shown in **Appendix 1** (hereinafter referred to as the “**Contract Areas**”).

4. “MPE” is the state owned economic enterprise under the Ministry of Natural Resources and Environmental Conservation formed by the Union Government of the Republic of the Union of Myanmar and responsible for Oysters fishing and collecting, artificial breeding of Oysters, rearing of Oysters and culturing of Pearls in Myanmar and is interested in acquiring technology on artificial breeding of Oysters.

5. “MPE” has the exclusive right to carry out the cooperation with foreign entities of the operation in the Contract Areas described in the map attached to this Contract in Appendix 1.

6. “-----” has substantial experience and expertise, information, knowledge and proven technical and financial capability and other resources necessary to undertake a program of establishing artificial breeding facilities to rear artificially bred mother Oysters, and also culturing of Pearl from both natural bred and artificially bred mother Oysters.

7. “MPE” and “-----” mutually desire to enter into this contract.

8. “MPE” and “-----” are willing to cooperate in artificial breeding of Oysters, rearing of Oysters and culturing of Pearls in the Contract Areas on the basis of the terms and conditions set forth in the Contract.

NOW THEREFORE in consideration of the covenants and agreements contained herein “MPE” and “-----” hereby agree as follows:

SECTION I DEFINITIONS

- 1.1 “**Artificial Breeding of Oyster**” means the fertilization of male and female seeds of Oysters in laboratory and rearing the spats for nucleus insertion,
- 1.2 “**Commencement of Production**” means the date on which harvesting of Pearl from the first insertion of artificially bred Oysters by regular operation, that is the first commercial scale harvesting of Pearl, commences,
- 1.3 “**Contract Areas**” mean the Areas shown and described on the map attached to this Contract as **Appendix 1**.

- 1.4 **“Dollars” or “U.S Dollars”** means the legal currency of the United States of America,
- 1.5 **“Effective Date”** means the date of signing of the Contract,
- 1.6 **“Environment”** means the physical factors of the surrounding of human beings including land, water, atmosphere, climate, sound, odors, tastes, and biological factors of animals and plants and social factors of aesthetics,
- 1.7 **“Expatriate”** means an individual who is a non-Myanmar national and who is an employee or independent Contractor of “-----”,
- 1.8 **“Experimental Operation”** means work performed to evaluate the viability of Artificial Breeding of Oysters and Culturing of Pearls in the Contract Areas,
- 1.9 **“Financial Year”** means a period of twelve months commencing with April 1st and ending on the following March 31st according to the Gregorian Calendar,
- 1.10 **“Government”** means the government of the Republic of the Union of Myanmar, including its various governmental entities,
- 1.11 **“Joint Management Committee” or “JMC”** means the Joint Management Committee established pursuant to **Section XI** of this Contract,
- 1.12 **“Kyats”** means the legal currency of the Republic of the Union of Myanmar,
- 1.13 **“Momme”** means unit of measurement of weight of Pearls and is equivalent to 18.75 Carats or 3.75 Grams,
- 1.14 **“Oyster”** means Pearl bearing sea water shellfish having two labial palpi in its body and having lustrous smooth inner surface and also includes artificially bred Oysters,
- 1.15 **“Parties”** means the Parties to this Contract and their respective legal representatives successors and permitted assigns and **“Party”** shall mean any one of them,
- 1.16 **“Pearl”** means naturally formed Pearl or cultured Pearl obtained from various Oysters and also includes blister Pearl and half Pearl derived from culturing,
- 1.17 **“Pearl Farm”** means all instruments, equipment, machinery, vessels, rafts and anything that is required for Artificial Breeding of Oysters and Culturing of Pearls including ancillary equipment, machinery, vessels and related on-shore facilities at the contract Areas,
- 1.18 **“Pearl Culturing”** means underwater rearing of Oysters which have been operated on and inserted with nuclei,
- 1.19 **“Pearl Harvesting”** means extraction of Pearl from inserted Oysters in accordance with Pearl harvesting techniques,

- 1.20 **“Shell”** means hard outer case enclosing an Oyster obtained from operated and killed Oyster or from underwater dead Oyster,
- 1.21 **“Work Program”** means a description in reasonable detail of operations to be conducted for a one year period and shall include a budget of estimated cost for the proposed works.

SECTION II

REPRESENTATION AND WARRANTY

- 2.1 Each Party represents and warrants to the other that it is a legal person duly authorised under the relevant laws and has the right, power, sound financial standing and authority to enter into this Contract.

SECTION III

GRANT OF ACCESS TO THE CONTRACT AREAS

- 3.1 “-----” shall have the sole and exclusive right to conduct Oyster fishing and collecting, artificial breeding of Oysters, rearing of Oysters and culturing of Pearls in consideration of the provisions of the Contract and approval granted by The Ministry of Natural Resources and Environmental Conservation but subject to the provisions herein for the term of the Contract in the Contract Areas.
- 3.2 “-----” shall have all rights including without limitation to use occupy the surface of lands, and the water and under water Areas in the Contract Areas for the purpose specified in Section 3.1.
- 3.3 “-----” shall have the rights to enter with necessary vessels, machinery , plant, equipment and apparatus to the Contract Areas for the purpose specified in Section 3.1.
- 3.4 “-----” shall have the rights to construct all facilities and infrastructure and all support facilities required for the purpose specified in Section 3.1 in the Contract Areas.
- 3.5 “-----” shall have the right to enter the Contract Areas and all other lands or sea necessary to reach the Contract Areas with or without vessels and with any necessary approval of the authorities concerned in the Republic of the Union of Myanmar.
- 3.6 “-----” shall have the right to construct and use jetties, helipads and other transportation facilities, telephone, satellite telephone, facsimile, wireless and other communication facilities, as shall be required by “-----” for the purpose specified in Section 3.1.

- 3.7 “MPE” shall assist “-----” to gain access to the Contract Areas in accordance with the terms of the Contract by obtaining all necessary approval required and by obtaining all consent and approval of all affected individuals and organization with any right of possession, right of succession or transfer in the Contract Areas for acquiring such rights. “-----” shall pay reasonable compensation for such rights.
- 3.8 There shall be no relinquishment of the Contract Areas throughout the term of the Contract, except as provided under Section 7.1.4 and 7.1.5 “-----” shall, however release land and offshore sea Areas that are not required for the Pearl Culturing to “MPE”.
- 3.9 If any operational properties and/or structures, buildings in pearl farm belong to “MPE” which are required to hire temporarily (for a period) by “-----” for the purpose to perform under section V & VI shall be assessed to evaluate the condition and value by conducting a joint survey (or) physical study carried out by “-----” prior to sign the contractual agreement. “-----” has the right to repair, recondition the said operational properties, structures and buildings as required necessary and shall be surrendered to “MPE” upon expiry of the contract. The condition and values of all the properties returned to “MPE” at the time of off hire shall be with the same condition and values (or) with no less value than the value when taken over from “MPE” (or) with the value mutually agreed by both parties.

SECTION IV WORK PROGRAM

- 4.1 “-----” shall draw up a Work Program for its operations in two stages:-
- (a) Experimental Operation Stage,
 - (b) Pearl Culturing Stage.
- 4.2 The Work Program for Experimental Operation Stage shall be delivered to “MPE” within thirty days from the “Effective Date” of the Contract.
- 4.3 Each Stage of Work Program shall be implemented in accordance with advanced professional know-how and high technology of “-----” taking into consideration the sea and weather conditions and marine life conditions in Myanmar.
- 4.4 Each Work Program shall include a budget of estimated costs for the proposed works as well as the work program which “-----” proposes to carry out during the ensuing Financial Year.
- 4.5 The Work Program shall be revised and approved by the JMC. It is recognized by the Parties that the details of a Work Program may require changes in the light of prevailing circumstances and nothing herein contained shall limit

the right of “——” to make such changes. **PROVIDED** that “-----” does not change the general objective of the Work Program.

- 4.6 “MPE” agrees that the approval for any work program shall not be unreasonably withheld.

SECTION V

EXPERIMENTAL OPERATION STAGE

- 5.1 “-----” shall establish a company in Myanmar to carry out the Experimental Operation Stage.
- 5.2 The Experimental Operation Stage shall entail preparatory work such as importation and/or local procurement of machinery, equipment and materials required for experimental culturing of Pearl from natural bred Oysters, land clearance, construction, procurement of Oysters, rafting arrangement, marine observation arrangement and experimental Pearl Culturing.
- 5.3 Experimental Operation Stage shall end twelve months from the commencement of the experimental artificial breeding on the intended scale. Artificial breeding shall commence in the most suitable time of the breeding season in Myanmar. The aim of this Experimental Operation Stage shall be to confirm that full scale operation and Artificial Breeding of Oysters are viable.
- 5.4 “-----” shall expend a sum of not less than US\$ 300,000 (US Dollars Three hundred thousand Only) during the Experimental Operation Stage in kind and/or in cash.
- 5.5 Based on the experimental culturing results and other related data “-----” shall compile an Experimental Operation Report to determine the viability of Artificial Breeding of Oysters in Myanmar.
- 5.6 At the end of the Experimental Operation Stage “-----” may, at its absolute discretion, by notice in writing to “MPE”, elect either to terminate this Contract, whereupon the Parties shall be released and discharged from all further obligations, liabilities and Performance under the contract except for any antecedent breach of either party, or proceed to Pearl Culturing Stage in which event “-----” shall, as soon as practicable but not later than (2) months after such election, submit a Work Program to implement the Pearl Culturing Stage.
- 5.7 If “-----” should elect to terminate the Contract:-
- (a) All vessels, plant machinery and equipment brought into Myanmar by “-----” and the rights granted by “MPE” under Section III shall be terminated and
 - (b) The Experimental Operation Report shall be delivered free charges to

“MPE” before the termination of contract and the report shall become the property of “MPE” without any responsibility therefor on the part of “-----”.

SECTION VI

PEARL CULTURING STAGE

- 6.1 If the Experimental Operation Report sets forth a positive recommendation for full scale Artificial Breeding and Pearl Culturing and in the event “-----” elect to proceed to the Pearl Culturing Stage “-----” shall:-
- (a) formulate and submit to the “JMC” for its review a Work Program for the Pearl Culturing within the period as stipulated in Section 5.6.
 - (b) in order to carry out the works contemplated in the Pearl Culturing Stage, incorporate a subsidiary in the Republic of the Union of Myanmar in the name of “----- Co., Ltd” under the Myanmar Companies Act and shall then assign all of its rights and obligations under this Contract to the said subsidiary company and “MPE” shall endorse its approval of the assignment of such rights to the Myanmar Investment Commission (MIC). After the approval of the MIC the said subsidiary company shall replace “-----” as a Party to this Contract as if it were an original Party thereto and shall ratify all acts carried out by “-----” prior to the formation of the said subsidiary.
- 6.2 “-----” shall proceed to the Pearl Culturing Stage conforming to “-----” advance professional known-how and high technology to avoid waste or loss of marine resources and also in an environmentally responsible manner acceptable to the Government of the Republic of the Union of Myanmar.
- 6.3 Duration of the Pearl Culturing Stage shall unless mutually extended pursuant to Section 20.1 by the Parties be (15)years commencing from the date of election by “-----” to proceed from the Experimental Operation Stage to the Pearl Culturing Stage.

SECTION VII

GENERAL OBLIGATIONS

7.1 “MPE's” Obligations

“MPE” shall :

- 7.1.1 grant to “-----” access to the Contract Areas pursuant to Section III to carry out and complete all works contemplated for the Experimental Operation Stage and the Pearl Culturing Stage.
- 7.1.2 obtain for and on behalf of “-----” all necessary permits under the Myanmar Pearl Law, approvals, consents and licenses for the importation by “-----” through the any convenient ports in Myanmar and/or through the Border Trade Stations without custom duties and all other relevant internal taxes and duties as permitted by the MIC of all vessels, equipment, machinery, materials and apparatus deemed necessary by “-----” for its activities under the Contract in the Contract Areas within stipulated time frame as set out in the Work Program.
- 7.1.3 grant to “-----” to buy spat collectors from any company which produces spat collectors;
- 7.1.4 permit “-----” to apply to the Myanmar Investment Commission through the Ministry of Natural Resources and Environmental Conservation to move to another suitable island and sea water for Pearl farming in the event if any failure (or) delay affected by Force Majeure as per section XIX / (19.2) throughout the term of the Contract.
- 7.1.5 permit “-----” to utilize further suitable island(s) and sea water mutually agreed between the Parties for Pearl farming in the event of insufficiency in space in the Contract Areas for the intended operation scale for breeding and nurturing as proposed during the term of the Contract.
- 7.1.6 obtain all necessary permits, licenses, consents, and /or approvals from the authorities concerned for the exportation by “-----” of all vessels, equipment, machinery and apparatus used for the Experimental Operation Stage if “-----” shall have elected not to proceed to the Pearl Culturing Stage.
- 7.1.7 obtain all necessary permits, licenses , consents and /or approvals from the authorities concerned for and on behalf “-----” for the purchase and/or importation and for use by “-----” nucleus for Pearl Culturing , chemicals, diving equipment , vessels and all other machinery, equipment and materials deemed necessary by “-----” as permitted by MIC to carry out its activities pursuant to the Contract and assist to obtain promptly the port and customs clearance thereof within stipulated time frame as set out in the Work Program.
- 7.1.8 obtain all necessary visas and work permits for Expatriate personnel and their dependants deemed necessary by “-----”.

- 7.1.9 assist and expedite the execution of the Work Programs by providing necessary suitably qualified Myanmar personnel who are acceptable to “-----” on competitive remuneration and other terms and conditions.
- 7.1.10 assist “-----” in procuring or giving preference to the use of such goods and services of most competitive and comparable condition which are available in the Republic of the Union of Myanmar or rendered by Myanmar nationals.
- 7.1.11 arrange suitable security of the Contract Areas and also for security of “-----” expatriate personnel and property at the Pearl Farms.
- 7.2 “-----” Obligations
“-----” shall :-
- 7.2.1 be responsible for the works in the Experimental Operation Stage and the Pearl Culturing Stage at its own cost and expense according to the Work Programs. “-----” shall submit monthly reports to “MPE” and quarterly reports to the Joint Management Committee (the “JMC”) together with relevant data and reports.
- 7.2.2 be responsible for technical knowhow and expertise to fulfill the objectives of the Contract.
- 7.2.3 be responsible for financially sound and cost effective operation of the Project.
- 7.2.4 import vessels, machinery equipment, materials and apparatus which shall be suitable and appropriate for the operation under the Contract.
- 7.2.5 carry out operations in the Contract Areas in accordance with the approved Work Programs. “-----” shall have no right to export any Oyster of the Contract Areas.
- 7.2.6 not carry out operations outside the boundary or marking specified in the Contract Areas except when permitted in writing by “MPE”.
- 7.2.7 provide “MPE” with a list of imported material when require to be brought in for use for the purpose of the Contract.
- 7.2.8 Ensure with the assistance and advice of “-----” that the Work Program shall not be in conflict with the laws of the Republic of the Union of Myanmar.
- 7.2.9 submit to the “JMC” an annual audited accounting report and accounts of the branch office's or the subsidiary company's operations in Myanmar prepared in accordance with generally accepted accounting practice.

- 7.2.10 give reference to such goods and services which are available in Myanmar provided always that such goods and services are offered at locally comparable and competitive condition with regard to quality, price, availability at the time and in the quantities required. Such payments shall be made in U.S Dollar or local currency as appropriate in accordance with the prevailing regulations.
- 7.2.11 carry out plans and programs for the training and education of Myanmar nationals nominated by “MPE” from its staff and selected by the “JMC” and also other Myanmar employees of “-----” selected by the “JMC” with respect to operation contemplated hereunder. The maximum number of trainees to be trained abroad shall be four for each year and the total number shall not exceed sixteen person throughout the term of the Contract. “-----” shall also provide for technical know-how transfer of artificial breeding and rearing of Oyster to Myanmar personnel.
- 7.2.12 not fell trees on the islands within the Contract Areas except when permitted in writing by the Forest Department . If necessary “MPE” shall assist in obtaining permission from the Forest Department.
- 7.2.13 employ proper skilled workers in numbers sufficient to cope with the work load and endeavour to achieve utmost productivity.
- 7.2.14 be responsible for preservation of the environment at and around the Areas of the Project.
- 7.2.15 conduct its operations in such a manner as to prevent pollution using international standards or where prevention is not reasonably practicable, to mitigate and wherever reasonably possible remedy consequences adverse to the environment and the marine life and/or to the health of the people affected by such operation. And
- 7.2.16 ensure that Expatriate personnel employed by “-----” and their families shall respect and abide by the laws of the Republic of the Union of Myanmar and they do not interfere with the internal affairs of the Republic of the Union of Myanmar.
- 7.2.17 be responsible to abide by all laws and regulations of Myanmar and shall not interfere in the internal affairs of the Republic of the Union of Myanmar. If any of the “-----” and its personnel interferes in the political affairs of the Republic of the Union of Myanmar which is not acceptable to the Government, they shall be dealt according to the laws of the Republic of the Union of Myanmar.

SECTION VIII

PRODUCTION SHARING

- 8.1 The Pearls and the Shells produced hereunder shall be shared in kind by the Parties as follows: -

Production Sharing	MPE	-----
A. Pearl	25%	75%
B. Shell of dead and killed Oysters	100%	0%

The Parties hereby agree that the above production sharing ratio for pearls is based on production of Pearl from nuclei insertion of a maximum number of 150,000(One Hundred Fifty Thousand Only) of selected Oysters. Once "-----" decides to exceed the total nuclei insertion beyond the 150,000(One Hundred Fifty Thousand Only) number of Oysters, "-----" agree to revise the sharing ratio for the Pearls produced from the excess quantity of insertion or enter into a new contract with revised production sharing ratio for the Pearls produced from the excess quantity of insertion.

"-----" shall hand over the Shell of dead and killed Oysters to "MPE" without any consideration during the term of Contract.

- 8.2 Pearls produced shall be classified and grouped by "-----" experts taking into consideration size, colour, shape, lustre and valuation in the presence of "MPE" experts and shall be shared in accordance with the above sharing ratio in an equitable manner.
- 8.3 For the purpose of declaration of value for export, the value of Pearls produced shall be calculated based on prevailing international price at the time of Pearl Harvesting.
- 8.4 "-----" shall be entitled to freely take, receive, lift, dispose of, export and carry away its share of Pearls. "-----" shall deliver "MPE's" share of Pearl in Naypyitaw and deliver entire Shells of dead and killed Oysters at the Pearl Farm in the Contract Areas as and when available.

SECTION IX

STORAGE OF PEARLS

- 9.1 "-----" shall store the Pearls extracted after each harvesting at the Pearl Farm in a common storage place which shall be double locked and the keys shall be held by each Party. Operating of the storage place shall be done in the presence of both Parties.

- 9.2 Within (7) days after the Pearl Harvesting Pearls stored at the Pearl Farm shall be immediately shipped to Naypyitaw under armed guards, with representatives from both Parties.
- 9.3 Upon arrival in Naypyitaw the Pearls before sharing shall be stored at MPE's strong room or at a mutually agreed safekeeping / storage place. The storage place shall be double locked and the keys shall be held by each party and the operating of the storage place shall be done in the presence of both Parties.
- 9.4 The risk of loss or damage during the storage shall be borne by the Parties in accordance with the sharing ratio.

SECTION X MARKETING

- 10.1 "-----" shall have the right to freely sell, use or dispose of its share of Pearls in any manner in the international market.
- 10.2 "-----" may also sell its share of Pearls within Myanmar.
- 10.3 "MPE" shall have the right to sell its share of Pearls as it chooses

SECTION XI MANAGEMENT

JOINT MANAGEMENT COMMITTEE

- 11.1 "MPE" and "-----" shall establish a Joint Management Committee (JMC) which shall discuss Work Programs, Finance, Administration, Operations, Classification and Valuation of Pearls and Local Sale of Pearls (if any) and provide an effective liaison between "MPE" and "-----". The "JMC" shall consist of six (6) members, three (3) to be appointed by "MPE" and three (3) to be appointed by "-----" one of the member so appointed by "MPE" shall act as the first Chairman of the "JMC". Upon "-----" election to proceed to the Pearl Culturing Stage the first Chairman shall retire as Chairman and the second Chairman shall be one of the member of the Committee so appointed by "-----" and the term of the second Chairman shall be equal to that of the first Chairman. Thereafter the appointment of Chairman shall be made by "MPE" and "-----" alternatively once every two years.
- 11.2 The "JMC" shall conduct itself in accordance with the provisions as laid down in Appendix II.

- 11.3 The Committee member fees or any other remuneration for the committee members of the “JMC” appointed by “MPE” shall be proposed by the “JMC” and approved by the Parties and shall be paid by “-----”
- 11.4 The “JMC” shall meet quarterly and such meeting shall be held in Naypyitaw or such other place as may be agreed upon provided that the Chairman shall have the right to call the meeting at any time he deems necessary.
- 11.5 “MPE” and “-----” shall review terms set forth herein after every three years of performance.

SECRETARY

- 11.6 A Secretary shall be appointed by the “JMC” for such term at such remuneration and upon such conditions as it may think fit and any secretary so appointed may be removed and replaced by the “JMC” but without prejudice to any claim he may have for damages for breach of service between him and the “JMC”. The remuneration of the Secretary shall be paid by “-----”.

GENERAL MANAGER

- 11.7 “-----” shall appoint a General Manager who shall take overall charge of the operations pursuant to the Contract. The General Manager shall conduct all operations in good workmanlike and efficient manner and in accordance with the terms and conditions of any permits, licenses, contracts or other agreements pertaining to operation under the Contract.
- 11.8 The General Manager shall have the following duties and responsibilities.
- (a) full authority to conduct the day -to-day management of the operations.
 - (b) be fully responsible and authorised to engage and terminate the employment of local labourers at the Pearl Farm.

APPOINTMENT OF STAFF AND NON- STAFF

- 11.9 “-----” shall be entitled to bring into the Republic of the Union of Myanmar such non-Myanmar Expatriate personnel to assist and carry out the Work Programs efficiently.

- 11.10 Appointment of Myanmar personnel for the Pearl Farm other than labourers shall be nominated by “MPE” and approved by “JMC” and there shall not be less than 25% during the Experimental Operation Stage and shall not be less than 75% of the total work force during the Pearl Culturing Stage.
- 11.11 “-----” shall have the right to dismiss or terminate the employment of any Myanmar employee if they are found not suitable. When executing such rights “-----” shall inform “MPE” in advance.
- 11.12 Salaries of the Expatriate employees of “-----” shall be determined solely by “-----” and shall be paid in U.S Dollars or Kyats. Salaries of Myanmar employees shall be as fixed by the “JMC” and paid in U.S Dollars or Kyats or both.
- 11.13 Employment of Myanmar employees shall be in accordance with the provision of the prevailing labour laws and regulations of the Republic of the Union of Myanmar.
- 11.14 Medical expenses incurred for “-----” employees shall be paid by “-----”.

REPRESENTATIVE

- 11.15 Subject to prior written notification given to “-----” or the “-----” representative in Yangon, “MPE” shall be entitled to station (1) representative at the Pearl Farm during the term of the Contract. The representative shall be provided with reasonable transport facilities and accommodation and monthly allowances in U.S Dollars and / or local currency as approved by the “JMC” for the purpose of his duties.
- 11.16 MPE’s representative stationed at the Pearl Farm shall observe “-----” operations and record the production of Pearl at the time of Pearl Harvesting.
- 11.17 Authority representative from the headquarters of “MPE” may from time to time enter upon the Contract Areas for the purpose of inspecting the operations provided prior notice in writing to the General Manager of the “-----” representative in Yangon.
- 11.18 “-----” shall render necessary assistance to enable the said representative to inspect the technical and production records relating to “-----” operations during normal office hours and shall give such information as the said representative may reasonably request. The representative shall not at any time interfere with the normal and efficient operations of “-----”.

SECTION XII

PERFORMANCE BANK GUARANTEE

- 12.1 "-----" shall provide an irrevocable Performance Bank Guarantee (**PBG**) in favour of "**MPE**" in the form acceptable by "the Myanma Foreign Trade Bank" issued by a major bank in Singapore and advised through "the Myanma Foreign Trade Bank" within(30) days from the "**Effective Date**" for the due performance of this Contract. The "**PBG**" shall be for US \$ 100,000 (U.S Dollars One Hundred Thousand Only). The provision of "**PBG**" by "-----" shall inform to "**MPE**".
- 12.2 The "**PBG**" shall be valid for a period of 12 months or until "-----" has invested more than US \$ 300,000(U.S Dollars Three Hundred Thousand Only) whereupon the "**PBG**" shall be released by "**MPE**" provided "-----" has not committed any breach of the Contract. In the event U.S \$300,000(U.S Dollar Three Hundred Thousand Only) has not been invested within the period of one year "**PBG**" shall be renewed automatically fifteen days before the date of expiry for a further period of one year. Any failure to renew the "**PBG**" shall constitute as breach of condition of this Contract.
- 12.3 If "-----" commits any breach of this Contract during the aforesaid period of "**PBG**" and fails to take necessary steps to remedy such breach within (60) days after receipt of written notice thereof from "**MPE**", "**MPE**" may without prejudice to its right to terminate this Contract under **Section XX** call upon "-----" to make payment pursuant to the "**PBG**" of the amount for which "-----" is liable.
- 12.4 The "-----" shall be released and discharged from the "**PBG**" provided any claim has been made by "**MPE**" thereunder for any breach of the Contract on the part of "-----".

SECTION XIII

APPLICATION FEE

- 13.1 In consideration of "**MPE**" granting "-----" the exclusive right to carry out the works contemplated in the Contract Areas, "-----" hereby agrees to pay "**MPE**" as application fee US\$ 100,000(U.S Dollars One Hundred Thousand Only)within thirty days from the Effective Date of this contract.

SECTION XIV

BANKING

- 14.1 “-----” shall be solely responsible to supply all funds necessary for its operations in Myanmar and conversion of the funds shall be transacted according to the financial laws, rules and regulations for the time being in force in connection with the performance of its operations.
- 14.2 “-----” shall have the right to open and maintain foreign bank accounts without restriction and to freely receive abroad, remit abroad, retain abroad and use without restriction the entirety of the foreign exchange proceeds which are received from export and local sales (if any) of its share of Pearls from the Pearl Farm or which are in anyway generated in connection with the performance of its operations in accordance with the existing laws, rules and regulations, of the Republic of the Union of Myanmar.
- 14.3 “-----” shall be entitled to purchase Myanmar currency at authorized banks and licensed exchange centers, whenever required for its operations. Any excess Myanmar currency so converted may be reconverted into freely convertible foreign currency in accordance with the existing laws, rules and regulations, of the Republic of the Union of Myanmar.
- 14.4 The rate of exchange for transactions referred to in Section 14.3 shall be the effective rate applicable for similar transactions undertaken by any private or state enterprise on the date the transaction is initiated. Normal bank commissions and cost of transfers relating to currency conversions or remittances shall borne by “-----”.
- 14.5 “-----” shall be entitled to pay its foreign-controlled contractors and sub-contractors and their Expatriate employees in foreign currency abroad and such contractors, sub-contractors and Expatriate employees shall be entitled to receive and retain such foreign currency abroad.
- 14.6 The provision of Section 14.2, 14.3, 14.4 and 14.5 shall also apply to “-----” Expatriate employees and “-----” foreign-controlled contractors, sub-contractors and their Expatriate employees.
- 14.7 Unless otherwise expressly agreed all payments by “-----” to “MPE” hereunder and all payments by “MPE” to “-----” hereunder shall be made in U.S Dollars at a bank in Myanmar or abroad as specified by the recipient and within thirty days the amount are due.

SECTION XV

INSURANCE

- 15.1 “-----” shall effect such insurance as required by the Foreign Investment Law of the Republic of the Union of Myanmar and Myanmar Insurance Law covering at a minimum Machinery Insurance, fire Insurance and Personal Accident Insurance. All other types of insurance shall be at the sole discretion of “-----”

SECTION XVI

TAXES AND DUTIES

- 16.1 “-----” shall subject to Section 16.3 pay taxes and duties in accordance with the laws, rules and regulations of the Republic of the Union of Myanmar.
- 16.2 All taxes and duties payable by “-----” outside of the Republic of the Union of Myanmar shall be borne by “-----”.
- 16.3 “MPE” shall for and on behalf of “-----” apply for and obtain exemption and/ or reliefs from applicable taxes and reliefs under the Foreign Investment Law of the Republic of the Union of Myanmar. “MPE” shall use its best endeavours to apply for and obtain exemptions and/or reliefs from commercial taxes on export of pearls permissible and/or import of all items as mentioned under section VII, at Paragraph (7.1.2) under the new Myanmar Commercial Tax Law 2012 and taxes and duties payables under all other relevant laws, rules and regulations applicable to the activities undertaken by “-----”

SECTION XVII

RECORDS, ACCOUNTS AND AUDITS

- 17.1 “-----” shall establish Kyat and Dollar Accounts with Myanmar Investment and Commercial Bank or any authorised banks in Myanmar permitted to deal in foreign currencies.
- 17.2 Financial and other records shall be maintained by “-----” in English and shall be kept in accordance with generally accepted accounting standards. The books shall be kept in U.S. Dollars.
- 17.3 “-----” shall submit a budget for any Financial year to the “JMC” one month before the commencement of that Financial year. “-----” shall also submit to the “JMC” the audited profit and loss statement and the balance sheet of “-----” operation relating to the Contract for any Financial year.

- 17.4 The statement of accounts of "-----" operations under this Contract, shall be prepared quarterly and all accounts shall be subject to a yearly audit. In preparing statement of accounts, the Kyat receipts and expenditures shall be converted to U.S Dollars and the currency exchange rate shall be the official prevailing U.S Dollars to Kyat exchange rate at the time of transaction as provided under **Section 14.4.**
- 17.5 The auditors of "-----" operations under this Contract shall be a qualified public accountant duly licensed to practice in the Republic of the Union of Myanmar and shall be appointed by "-----"
- 17.6 "MPE" shall have the right upon reasonable notice to "-----" to inspect the books and accounts maintained by "-----" under this Contract.
- 17.7 "MPE" shall at its own cost and expense have the right to have the books and accounts maintained by "-----" audited by an independent auditors.

SECTION XVIII

CONFIDENTIALITY

- 18.1 It is agreed that all information pertaining to the operation under this Contract shall be confidential and shall not be released to any third party except as to such information which is public knowledge and such information required to be disclosed to the financial institutions.

SECTION XIX

FORCE MAJEURE

- 19.1 If either Party is temporarily prevented from performing any of its obligations under this Contract as a result of Force Majeure as hereinafter described, it shall within (14) days of having knowledge of the act ,event or cause constituting Force Majeure notify the other Party of the nature of the Force Majeure and the likely duration of the disability resulting therefrom . The duties of that Party which have been affected by such Force Majeure shall upon approval of the other Party , which approval shall not be unreasonably withheld, be suspended during the continuance of such Force Majeure but for no longer period. Any Party notifying the other of a Force Majeure event shall use its best endeavour to overcome or minimize the effects of such Force Majeure or to remedy the disability resulting therefrom as promptly as possible.
- 19.2 Neither Party shall be responsible for any failure or delay caused by Force Majeure if due notice is given as per Seaction19.1 above and agreed upon by the

other Party. The term Force Majeure as used herein shall mean Act of God, perils of navigation, strikes, lockout or other labour disturbances, act of the public enemy, wars, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions and any other similar events beyond the control or without the fault of either Party and which by the exercise of due diligence that Party is unable to overcome.

- 19.3 The validity of this Contract shall be extended by the period or periods of delay caused by the events of Force Majeure accordingly.

SECTION XX

DURATION, TERMINATION AND RELINQUISHMENT

DURATION

- 20.1 Unless sooner terminated as hereinafter provided in Section 20.2, 20.3 and 20.4 and subject to Section XIX, the duration of this Contract shall commence on the date of execution of the Contract and, excluding the Experimental Operation Stage, be in forth for fifteen (15) years and any extended period required to complete the harvesting of already inserted Oysters. "-----" shall have the right to extend the Contract for a further period of five (5) years. By mutual agreement of the Parties, this Contract may be extended with revised production sharing ratio (or) same ratio for a further period of five (5) years and any extended period required to complete the harvesting of already inserted Oysters upon its expiry. Any application for extension of the term of the Contract shall be agreed to three (3) years prior to such extension.

TERMINATION

- 20.2 Either Party may by notice in writing terminate this Contract if:-
- (a) the other Party shall have committed a breach of any condition of the Contract and the breach, if remediable, remains unremedied for ninety (90) days after written notice of such breach has been given by the first Party specifying the details of the breach; or
 - (b) an event of Force Majeure shall occur and shall persist for a continuous period of one (1) year.

20.3 “-----” may terminate this Contract by notice in writing to “MPE” with immediate effect if:-

- (a) the Experimental Operation does not set forth a positive recommendation for proceeding to the Pearl Culturing Stage;
- (b) “-----” shall have sustained any substantial loss in connection with the operations contemplated by this Contract; and
- (c) “-----” shall have sustained losses for any two (2) consecutive Financial Years in connection with such operations after the Commencement of Production.

20.4 Notwithstanding anything contained herein, this contract may be terminated by mutual consent of the Parties.

20.5 Upon termination of this Contract, the Parties hereto shall be deemed to be released and discharged from all further rights, obligations and liabilities under this Contract **SAVE AND EXCEPT** in respect of any obligation or liabilities which accrued prior to the date of such termination. Also any inserted Oysters remaining at the Pearl Farm shall be cared for by “-----” until Harvesting, and Harvested Pearls shall be shared in the manner provided in the Contract.

RELINQUISHMENT OF OWNERSHIP

20.6 The ownership of all plant, machinery, equipment and material brought into Myanmar by “-----” for the entire operation contemplated herein shall vest and remain vested in “-----” throughout the term of this Contract including any extension thereof. Upon the expiry of this Contract, “-----” shall relinquish ownership of all remaining plant, machinery, equipment and material and shall hand over their title to “MPE” without any consideration.

20.7 Section 20.6 shall not in any event apply to any pre-mature or earlier termination of this Contract pursuant to Section 5.6.

SECTION XXI

CONSULTATION AND ARBITRATION

21.1 A dispute shall be deemed to have arisen between the Parties if any deadlock shall occur at a meeting or when a unanimous vote is not achieved for any decision or resolution of “JMC”.

- 21.2 Any dispute arising out of this Contract shall be settled amicably by negotiation and discussion between the Parties.
- 21.3 Any dispute, controversy or claim arising out of or relating to this contract , or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the **UNCITRAL** Arbitration Rules as at present in force.
- 21.4 Pending settlement of any disputes and without prejudice to the respective rights and remedies available to the Parties under this Contract, the Parties shall continue to perform their respective obligations and duties under this Contract notwithstanding that such dispute has not been resolved.

SECTION XXII

MISCELLANEOUS PROVISIONS

APPENDICES

- 22.1 All the Appendices attached hereto shall form an integral part of this Contract.

NOTICES AND COMMUNICATIONS

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

- (a) If to **“MPE”**

Managing Director

Myanmar Pearl Enterprise

The Ministry of Natural Resources and Environmental Conservation

Myanma Gems Museum, Naypyitaw

Myanmar

Telephone No. 95 67 414087

Facsimile No. 95 67 414219

- (b) If to **“-----”**

Chairman

Telephone No.

Email Address.

Any notice under this Contract shall be deemed to have been received:-

- (a) in the case of registered post, five (5) days after the date of posting; and
- (b) in the case of telex or facsimile transmission , three (3) days after the date of posting of the copy or, if the confirmation copy is delivered by

hand, on the day of dispatch. Change of address or telex or facsimile number of a Party shall be intimated by giving notice in writing to the other Party.

ASSIGNMENT

22.3 Subject to the provisions of Section 6.1 (b) above , no assignment by either Party shall be permitted unless the other's prior consent in writing shall have been obtained (not to be refused in the case of any assignment by way of security without creating thereby any obligations on the other Party). However, this Contract shall be binding upon and inure to the benefit of the respective successors and permitted assignees of the Parties.

WAIVER

22.4 The failure of either Party to insist on strict performance of any provisions of this Contract or to exercise any right, power or remedy upon a breach hereof shall not constitute a waiver of any provision of this Contract or limit the right of that Party thereafter to enforce any provision or exercise any right, power or remedy.

MODIFICATION

22.5 No modification of this Contract shall be valid unless the same is done in writing and duly executed by the Parties.

RE-NEGOTIATION

22.6 In the event that any situation or condition arises due to circumstances not envisaged in this Contract and warrants amendments to the Contract, the Parties shall negotiate and make the necessary amendments, subject to the approval of the Myanmar Investment Commission but shall not alter the original purpose of the Contract.

LANGUAGE OF TEXT

22.7 The official text of this Contract shall be in the English Language.

ENTIRE CONTRACT

22.8 This Contract constitutes the entire understanding of the Parties and supersedes any prior expressions of intent, agreement or understandings between the Parties relating to the Appendices hereto, the provisions of this Contract shall prevail.

INCONSISTENCY OF PROVISIONS

22.9 In the event of any inconsistency between the text of the Articles of this Contract and the Appendices hereto, the Articles of this Contract prevail.

SUSPENSION OF OPERATIONS

- 22.10 At any time during the term of this Contract, "-----" may notify "MPE" that in "-----" opinion it is necessary to suspend in whole or in part all or any part of the operations because in "-----" judgement, economic or other conditions make it desirable to do so. Such notice shall state the reason, the proposed time and other possible implications of such suspension. If "-----" suspends the whole or a substantive portion of its operation, prior written consent of "MPE" shall be obtained. Such consent shall not be unreasonably withheld and shall not be withheld if the period of suspension proposed is not more than {three (3) months}. "-----" shall consult with "MPE" and keep it fully informed regarding any suspension of operations under the Contract.
- 22.11 Any such suspension of operation shall not effect the mutual agreement, rights and obligations of the Parties hereto provided that the term of this Contract shall be extended for a period equal to the period of such suspension.

SECTION XXIII GOVERNING LAW, JURISDICTION AND LAW OF PREFORMANCE

- 23.1 This Contract in all respects shall be read, construed and interpreted in accordance with the Laws of the Republic of the Union of Myanmar and the Parties hereby expressly submit to the jurisdiction of the relevant Courts of Myanmar and all courts competent to hear appeals therefrom.
- 23.2 Both Parties shall carry out their obligations arising out of this Contract in accordance with the laws, rules, regulations, procedures and directives of the Republic of the Union of Myanmar.
- 23.3 No terms or provisions of this Content including the agreement of the Parties to submit to arbitration hereunder shall prevent or limit the Government of the Republic of the Union of Myanmar from exercising its inalienable rights.

SECTION XXIV CONDITIONS PRECEDENT

- 24.1 This Contract shall become effective and the Parties shall be bound by their obligations hereunder from the Effective Date provided that:-
- (a) this Contract shall have been signed by the Parties: and
 - (b) this Contract shall have been approved by all relevant authorities of the Republic of the Union of Myanmar and the exemptions, reliefs and benefits under Article 27 of the Foreign Investments Law of the Republic of the Union of Myanmar shall have been obtained for "-----" by "MPE".

SECTION XXV
AUTHENTICITY

25.1 This Contract is made out in four original copies in English both of which shall be treated as equally authentic. Two copy each shall be held by each Party. In witness whereof the Parties hereto have caused the Contract to be executed in accordance with the terms set forth herein on the date first above written, signed, sealed and delivered by:-

For and on behalf of
Myanma Pearl Enterprise

For and on behalf of
----- Ltd.

(-----)
Managing Director
Myanmar Pearl Enterprise

(-----)
Chairman
----- Ltd.

In the presence of

In the presence of

Witness

Witness

Witness

Witness

APPENDIX I

LOCATION OF THE CONTRACT AREAS

The Contract Areas are specified in the attached map and fall within Russell Island Areas and Zar Det Nge Island Areas delineated by the following longitudes and latitudes.

Russell Island Areas (A) - (-----) Square Kilometer

“-----” with the prior approval of “MPE” may construct and install facilities for the Pearl Farm at any land Areas within the Contract Areas.

APPENDIX II

PROCEDURE OF MEETING OF THE JMC

A Joint Management Committee shall be established by the Parties within one(1) month from the Effective Date and the Management Procedure hereinafter set out is an integral part of the Contract.

Management Procedure

1. “MPE” recognizes that “-----” has responsibility and authority of the execution of the Work Programs. To obtain the benefits of mutual cooperation and to coordinate their efforts under the Contract, “MPE” and “-----” shall, establish a “**JOINT MANAGEMENT COMMITTEE**”. (hereinafter called the “**JMC**”)
2. The initial appointment of committee members to the “**JMC**” shall be made both by “MPE” and “-----” by written notice given to the other within [thirty (30)] days after the Effective Date of the Contract, advising the names of their respective representatives as committee members and such appointments may be changed thereafter at any time from time to time by either Party, giving similar notice.
3. All important decisions required to be made by the “**JMC**” shall be made by the unanimous vote of the committee members present at the meeting whether in person or by proxy it being understood that no such decisions shall be valid unless at least one(1) committee member being a representative of “MPE” and one(1) committee member being a representative of “-----” are present at the meeting. In the event that only one(1) or two (2) committee members are able to attend the meeting, his/their vote(s) shall be also represent the vote(s) of the absent committee member(s). Decisions made by the “**JMC**” shall be recorded in minutes of meeting signed on behalf of both “MPE” and “-----” and shall be binding on the Parties. A document purporting to be a copy of a resolution or decision of the “**JMC**” or an extract from the minutes of a meeting of the “**JMC**” which is certified true as such by any committee member or the Secretary shall be conclusive

evidence that such extract is a true and accurate record of a duly constituted meeting of the “JMC”.

4. The “JMC” shall meet quarterly and such meeting shall be held in Naypyitaw or such other place as may be mutually agreed upon by the Parties subject to at least twenty one(21)days prior notice in writing being given to its members specifying the place and the day and hour of the meeting and the agenda for the meeting. The chairman shall have the right to call the meeting at any time he deems necessary subject to reasonable prior written notice being given to all the committee members.

5. The “JMC” shall have the following functions and responsibilities under this Contract:-

- (a) to provide the opportunity for and to encourage the exchange of information, views, ideas and suggestions regarding plans, performances and results obtained under Contract;
- (b) to review and approve Work Programs proposed by “-----” taking into consideration any suggestions thereto proposed by “MPE” and further revision by both Parties;
- (c) to review and approve policies proposed by “-----” in relation to all technical financial , administrative, personnel and operational aspects of this Contract;
- (d) to review, approve and coordinate the appointment and training of Myanmar personnel employed pursuant to this Contract;
- (e) to consider and act upon recommendations made to the “JMC” by authorized representatives of “MPE” and “-----” for Work supervision;
- (f) to review General Manager’s report on operational matters; and
- (g) to cooperate toward implementation of the Contract in accordance with its terms.

6. Each Party shall ensure that committee members appointed by that Party shall in the exercise of their voting powers for decisions or resolutions of the “JMC” act reasonably and in the interest of the operation contemplated hereunder.

Appendix III Performance Bank Guarantee

To

Managing Director
Myanmar Pearl Enterprise
Ministry of Mines
Naypyitaw, Myanmar

Subject: “-----” Corporate Performance Bank Guarantee

The Corporate Performance Bank Guarantee shall constitute an irrevocable guarantee for the performance by “-----” of its obligations under the Contract for the Experimental Operation and Pearl Culturing and all related activities stipulated under the Contract date (-----)(the “ contract”) executed between the Myanmar Pearl Enterprise Naypyitaw (hereinafter referred to as “MPE”) and -----Co., Ltd. (hereinafter referred to “-----”).

-----Co., Ltd. hereby guarantee to pay “MPE” without delay on MPE’s first written demand of all or any portion of such amount, which “-----” fails to undertake or refuse to perform as required under the Contract. Such Guarantee shall be limited to a maximum of US\$ 100,000.

This Guarantee shall remain valid until successful completion of contract as defined in article (XII) of the contract.

Upon expiry this letter of Guarantee shall be returned to us for cancellation.

(-----)
Chairman
-----Co., Ltd.