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Obligations of a Contractor under the Exploration Contract

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Signature of a Exploration Contract

- After a plan of work for exploration has been approved by the Council, it should be prepared in the form of a contract between the Authority and the applicant (Contractor).
- The contract shall be signed by the Secretary-General on behalf of the Authority and by the applicant (Contractor).
- Schedule 1 (Coordinates and illustrative chart of the exploration area)
- Schedule 2 (Current 5-year programme of activities as revised from time to time)
- Schedule 3 (Training Programme)
- Standard Clauses for Exploration Contract
- Contingency Plan to respond effectively to incidents





Contract Term

- Contract enters into force on signature by both parties, and shall remain in force for 15 years thereafter, unless:
 - a) The Contractor obtains a contract for exploitation in the exploration area which enters into force before the expiration of such period of 15 years;
 - b) The contract is sooner terminated, provided that the term of the contract may be extended.





Undertakings

- Carry out exploration in accordance with the terms and conditions of the exploration contract, the Exploration Regulations, Part XI of the Convention, 1994 Agreement, and other rules of international law not incompatible with the Convention.
- The Contractor Undertakes:
 - a) To accept as enforceable and comply with the terms of this contract;
 - b) To comply with the applicable obligations created by the provisions of the Convention, the rules, regulations and procedures of the Authority and the decisions of the relevant organs of the Authority;
 - c) To accept control by the Authority of activities in the Area as authorized by the Convention;
 - d) To fulfil its obligations under the contract in good faith; and
 - e) To observe, as far as reasonably practicable, any recommendations which may issued from time to time by the Legal and Technical Commission.





Undertakings (Cont'd)

- The Contractor shall actively carry out the programme of activities:
 - a) With due diligence, efficiency and economy;
 - b) With due regard to the impact of its activities on the marine environment; and
 - c) With reasonable regard for other activities in the marine environment.





Exploration

- Commence exploration in accordance with the time schedule in schedule 2
- Carry out the programme of activities set out in schedule 2
- Spend in each contract year not less than the amount specified in such programme, or any agreed review thereof, in actual and direct exploration expenditures
- Make such changes in the programme of activities and expenditures specified therein as may be necessary and prudent in accordance with good mining industry practice, and taking into account the market conditions for the metals contained in polymetallic nodules and other relevant global economic conditions.





Environmental Monitoring

- Take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible applying a precautionary approach and best environmental practice.
- Gather environmental baseline data as exploration activities progress and develop
- Establish environmental baseline against which to assess the likely effects of the Contractor's activities on the marine environment.
- Establish and carry out a programme to monitor and report on such effects on marine environment.
- Cooperate with ISA in the implementation of the monitoring programme.





Assessment of Possible Environmental Impacts

- Recommendations for the guidance of contractors for the assessment of the possible environmental impacts arising from exploration for marine minerals in the Area (ISBA/19/LTC/8, revised as in ISBA/25/LTC/6)
 - a) Environmental baselines studies (baselines data requirements)
 - b) Environmental Impact Assessment
 - Activities not requiring EIA
 - Activities requiring EIA
 - c) Monitoring (observations and measurements to be made during and after performing a specific activity)





Training Programme

- Each contract shall include as schedule 3 a practical programme for the training of personnel of the Authority and developing States.
- Drawn up by the contractor in cooperation with the Authority and the Sponsoring State.
- Focus on training in the conduct of exploration.
- Provide for full participation by such personnel in all activities covered by the contract.
- May be revised and developed from time to time as necessary by mutual agreement.





Training Programme (Cont'd)

- Recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work of exploration (ISBA/19/LTC/14)
- Consider the training and capacity building needs of developing countries and the secretariat (Enterprise) when developing training programmes, so as to ensure as wide a range of skill development as possible;
- As a minimum, provide for the training equivalent of at least 10 trainees during each five-year period of the contract;
- Make an ex gratia contributions to the Authority specifically earmarked for training purposes when the training programmes cannot be implemented.





Annual Report

- Within 90 days of the end of each calendar year
- In such format as may be recommended by the LTC from time to time
- A statement of actual and direct exploration expenditures during the contractor's accounting year
- Pay annual overhead charge at US\$60,000 (increased from 47,000 starting from 2019)
- Recommendations for the guidance of contractors on the content, format and structure of annual reports (ISBA/21/LTC/15)
- Recommendations for the guidance of contractors for the reporting of actual and direct exploration expenditures (ISBA/21/LTC/11)





Content, Format and Structure of Annual Report

- I. Executive summary
- II. General (adjustments made to the programme of activities; response to LTC comments)
- III. Result of exploration Work
- IV. Environmental Studies (monitoring and assessment)
- V. Mining test and proposed mining technologies (including processing technologies)
- VI. Training programme
- VII. International cooperation
- VIII. Certified financial statement of actual and direct exploration expenditures
- IX. Programme of activities for the following year
- X. Additional information provided by the contractors
 - Annex IV list of templates for reporting tabulated geological and environmental data





Reporting of Actual and Direct Exploration Expenditures

- Annual report shall contain, among others, a statement, in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants, or, where the Contractor is a State or a State enterprise, by the sponsoring State, of the actual and direct exploration expenditures of the Contractor in carrying out the programme of activities during the Contractor's accounting year. Such expenditures may be claimed by the contractor as part of the contractor's development costs incurred prior to the commencement of commercial production.
- Headings:
 - Exploration work
 - Environmental studies
 - Mining technology development
 - Metallurgical process development
 - Training
 - Other activities





Periodic Review

- The Contractor and the Secretary-General shall jointly undertake a periodic review of the implementation of the plan of work for exploration at intervals of five years.
- Not later than 90 days prior to the expiration of each five-year period from the date on which the contract enters into force.
- In the light of the review, the Contractor shall indicate its programme of work for the following five-year period, including a revised schedule of anticipated yearly expenditures.
- Make such adjustments to its previous programme of work as are necessary.
- The Secretary-General shall report on the review to the Commission and to the Council.





Books and Records

- Keep a complete and proper set of books, accounts, and financial records, consistent with internationally accepted accounting principles.
- Include information which will fully disclose the actual and direct expenditures for exploration and such other information as will facilitate an effective audit of such expenditures.





Safety, Labour and Health Standards

- Comply with the generally accepted international rules and standard concerning the safety of life at sea, and the prevention of collisions.
- Each vessel used for carrying out activities in the Area shall possess current valid certificates required by and issued pursuant to such international rules and standards.
- Rules, regulations and procedures as may be adopted by the Authority relating to protection against discrimination in employment, occupational safety and health, labour relations, social security, employment security and living conditions at the work site.





Inspections

- Permit the Authority to send its inspectors on board vessels and installations used by the Contractor to carry out activities in the exploration area to
 - a) Monitor the Contractor's compliance; and
 - b) Monitor the effects of activities on the marine environment.
- Assist the inspectors in the performance of their duties.





Thank You!

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