RECOMMENDED TECHNICAL REVISIONS TO
ISBA/A/C/4/Rev.1 OF 29 APRIL 1998

Proposed by the Secretariat

Page 19, Regulation 22
Delete. *This provision is already included in Annex 4 and does not need to be repeated.*

Page 20, Regulation 25, paragraph 5
*For the termination read a termination.*

Page 20, Regulation 27, paragraphs 3, 4 and 5
*For the existing text substitute:

3. The responsibility of States and international organizations to ensure that activities in the Area shall be carried out in conformity with the Convention shall be governed by article 139 of the Convention.

4. Liability of States and international organizations for failure to carry out their responsibilities or for damage arising out of wrongful acts or omissions shall be governed by article 139 and annex III, articles 4 and 22, of the Convention.

5. States and international organizations that undertake activities in the Area shall provide a written undertaking to waive immunity in cases of liability arising pursuant to paragraph 4.

Note: The provision is revised to make it consistent with Article 139 and Annex III, articles 4 and 22. These deal with liability and responsibility of States and international organizations. Liability and responsibility of state enterprises, entities and contractors would be dealt with in accordance with the terms of the contract.

Page 22, Regulation 30, paragraph 3
*For existing text substitute:

3. The Commission shall meet as soon as possible after having received the Secretary-General’s report and shall recommend to the Council, taking into account the
measures already taken by the contractor, such measures as may be necessary to respond effectively to the incident or activity and to prevent, contain, minimize and repair serious harm to the marine environment.

Page 23. Regulation 3.1

Paragraph 2(b): For or inventory system read and inventory system.

Paragraph 3: For with the legitimate read with legitimate.

Page 25. Annex 1, items 2 and 10

For existing text substitute

2. Street address:

10. Street address:

Page 27. Annex 2, items 2 and 10

For existing text substitute

2. Street address:

10. Street address:

Page 29. Annex 2, paragraphs 21, 22 and 23

For existing text substitute

21. Attach sufficient information to enable the Council to determine whether the applicant is financially capable of carrying out the proposed plan of work for exploration and of fulfilling its financial obligations to the Authority.

(a) If the application is made by the Enterprise, attach certification by its competent authority that the Enterprise has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

(b) If the application is made by a State or state enterprise, attach a statement by the State or the sponsoring State certifying that the applicant has the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration.

(c) If the application is made by an entity, attach copies of the applicant’s financial statements, including balance sheets and profit-and-loss statements, for the most recent three years in conformity with internationally accepted accounting principles and certified by a duly qualified firm of public accountants; and

(i) If the applicant is a newly organized entity and a certified balance sheet is not available, a pro forma balance sheet certified by an appropriate official of the applicant.
(ii) if the applicant is a subsidiary of another entity, copies of such financial statements of that entity and a statement from that entity in conformity with internationally accepted accounting practices and certified by a duly qualified firm of public accountants that the applicant will have the financial resources to carry out the plan of work for exploration;

(iii) if the applicant is controlled by a State or a state enterprise, a statement from the State or state enterprise certifying that the applicant will have the financial resources to carry out the plan of work for exploration;

Note: As presently drafted, this provision is not consistent with regulation 10, paragraphs 3 and 4.

Page 30, Annex 2, Section III, paragraph 25

In subparagraph 25(a): After skills, insert technical qualifications

After plan of work insert for exploration

Add a new subparagraph (c)

(c) a general description of the applicant’s financial and technical capability to respond to any incident or activity which causes serious harm to the marine environment.

Note: Changes introduced for consistency with regulation 10, paragraph 7 as contained in ISBA/4/C/CRP.1

Page 34, Annex 4, Section I, paragraph 1

Insert new paragraph 1.1 bis

1.1 bis Terms and phrases defined in the Regulations shall have the same meaning in these standard clauses.

Page 36, Annex 4, Section 4, paragraph 4

In paragraph 4.1: For existing text substitute

4.1 The Contractor shall commence exploration in accordance with the time periods stipulated in Schedule 2 hereof and adhere to such time periods or any modification thereto as provided for by this contract.

In paragraph 4.2: After programme of work insert set out in Schedule 2 hereof.
Section 6 bis

Objects of an archaeological or historical nature

The contractor shall immediately notify the Secretary-General in writing of any finding in the exploration area of an object of an archaeological or historical nature and its location. The Secretary-General shall transmit such information to the Director-General of the United Nations Educational, Scientific and Cultural Organization. Following the finding of any such object of an archaeological or historical nature in the exploration area, the contractor shall take all reasonable measures to preserve such object.

Note: This provision is suggested in the light of the provisions of the draft UNESCO Convention on the protection of the underwater cultural heritage, developed by a meeting of intergovernmental experts held in Paris from 19 to 24 April 1999. The general principle of the proposed draft Convention is to preserve underwater cultural heritage for the benefit of mankind. Article 14 of the draft Convention requires States Parties to that Convention to notify the Director-General of UNESCO of the finding in the Area of any object of an archaeological or historical nature. The Director-General of UNESCO will in turn notify the Secretary-General of the Authority. Thus, to be consistent with the objective of the draft Convention, it is suggested that a contractor, having found an object of an archaeological or historical nature in the exploration area, should be under an obligation to report the finding of the object to the Authority and to take reasonable measures to preserve such object. While the obligation to notify the Secretary-General of the finding of an object of an archaeological or historical nature applies to prospectors (see regulation 5 quater of ISBA/4/C/CRP. 1), there is at present no similar obligation on contractors.