15. Force Majeure

15.1 Neither the COMPANY nor the CONTRACTOR shall be responsible for any failure to fulfil any term or condition of the CONTRACT if and to the extent that fulfilment has been delayed or temporarily prevented by a force majeure occurrence, as hereunder defined, which has been notified in accordance with this Clause 15 and which is beyond the control and without the fault or negligence of the party affected and which, by the exercise of reasonable diligence, the said party is unable to provide against.

15.2 For the purposes of this CONTRACT only the following occurrences shall be force majeure.

(a) Riot, war, invasion, act of foreign enemies, hostilities (whether war lie declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;

(b) Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radio-active, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

(c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;

(d) Earthquake, food, fire, explosion and/or other natural physical disaster, but excluding weather conditions as such, regardless of severity;

(e) Strikes at a national or regional level or industrial disputes at a national or regional level, or strikes or industrial disputes by labour not employed by the affected party its subcontractors or its suppliers and which affect a substantial or essential portion of the WORK;
(f) Maritime or aviation disasters;

(g) Changes to any general or local Statute, Ordinance, Decree, or other Law, or any regulation or bye-law of any local or other duly constituted authority or the introduction of any such Statute, Ordinance, Decree, Law, regulation or bye-law.

15.3 In the event of a force majeure occurrence, the party that is or may be delayed in performing the CONTRACT shall notify the other party without delay giving the full particulars thereof and shall use all reasonable endeavours to remedy the situation without delay.

15.4 If either party is delayed in performing the CONTRACT by a force majeure occurrence, the SCHEDULE OF KEY DATES but not the CONTRACT PRICE, except as otherwise expressly provided in the CONTRACT, shall be adjusted in accordance with Clause 14 and Clause 15.6.

15.5 Following notification of a force majeure occurrence in accordance with Clause 15.3, the COMPANY and the CONTRACTOR shall meet without delay with a view to agreeing a mutually acceptable course of action to minimise any effects of such occurrence.

Subject to the provisions of this Clause, the COMPANY may instruct the CONTRACTOR to remain on stand-by at the WORKSITE in which event the CONTRACTOR shall be entitled to payment at the relevant stand-by rates set out in Appendix 1 to Section I - Form of Agreement. In the event that the COMPANY does not elect to retain the CONTRACTOR on stand-by at the WORKSITE or, having elected to retain the CONTRACTOR, the delay due to force majeure exceeds the time period specified in Appendix 1 to Section I - Form of Agreement, then subject to Clause 15.6, the CONTRACTOR may leave the WORKSITE in order to fulfil any obligations it may have under other contracts.

15.6 Upon cessation of any force majeure occurrence the CONTRACTOR shall prepare a revised PROGRAMME to include for rescheduling of the WORK so as to minimise the effects of the delay. Providing however that if, in accordance with Clause 15.5, the CONTRACTOR has left the WORKSITE as a result of such occurrence, the CONTRACTOR may allow in such revised PROGRAMME any necessary time for completion of any operations on which it is engaged at the date of cessation of the force majeure occurrence.

Having made due allowance for any instruction to accelerate the WORK given in accordance with Clause 14, the COMPANY shall authorise a VARIATION to adjust the SCHEDULE OF KEY DATES in order to take into account any remaining effects of such delay.

33. Business Ethics

33.3 Both the CONTRACTOR and the COMPANY agree that they will not, directly or indirectly, receive from, or give or offer to give to any member of the COMPANY GROUP or CONTRACTOR GROUP, or to other contractors or suppliers, or to government officials or any other persons anything of material value which would be regarded as an improper inducement to any party. Any breach of this obligation shall constitute a material breach of the CONTRACT.

34.9 Mitigation of Loss

Both the COMPANY and the CONTRACTOR shall take all reasonable steps to mitigate any losses resulting from any breach of CONTRACT by the other party.
35. Liquidated Damages

35.1 If the CONTRACTOR fails to complete any of the items listed in Appendix 1 to Section I - Form of Agreement in accordance with the relevant date included in the SCHEDULE OF KEY DATES and/or fails to achieve the requirements of the CONTRACT in respect of any other items listed under the heading Clause 35.1 - Liquidated Damages in the said Appendix 1, the CONTRACTOR shall be liable to the COMPANY for Liquidated Damages. The amounts of such Liquidated Damages shall be as specified in the said Appendix 1.

35.2 All amounts of such Liquidated Damages for which the CONTRACTOR may become liable are agreed as a genuine pre-estimate of the losses which may be sustained by the COMPANY in the event that the CONTRACTOR fails in its respective obligations under the CONTRACT and not a penalty. Such Liquidated Damages shall be the sole and exclusive financial remedy of the COMPANY in respect of such failure.

35.3 If the CONTRACTOR can show that it has suffered delay as a direct result of the number of “waiting on weather days” exceeding the number of such days specified in Appendix 1 to Section I - Form of Agreement, then, subject to Clause 14, the COMPANY shall issue a VARIATION to adjust the SCHEDULE OF KEY DATES to take into account any such delay. Except as otherwise provided in the CONTRACT, no adjustments to the CONTRACT PRICE shall be made in respect of any such delay.

[...]

Referring Principles:

- I.1.1 - Good faith and fair dealing in international trade
- VI.3 - Force majeure
- VII.1 - Damages in case of non-performance
- VII.4 - Duty to mitigate