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1.0 Definitions

- 1.1 Contractor means Vinci Energies UK plc or any Subsidiary Company, hereafter called the Company.
- 1.2 Sub-contractor means the company or individual employed to carry out the works hereafter called the sub-contractor.
- 1.3 Order means the document accompanying these Conditions of Sub-contract
- 1.4 Main Contract means the agreement which binds the Contractor to any other party
- 1.5 Sub-contract Works (or the Works) means the works to be carried out by the Sub-contractor and includes materials, goods or plant delivered to, placed on or adjacent to where the works are to be executed
- 1.6 Sub-contract Sum means the amount stated in the Order and any adjustment thereto which is accepted by the Contractor as being the value of the Sub-contract Works
- 1.7 Construction programme means a document which states or indicates dates for the commencement and completion for one or more individual activities or operations, or states or indicates a sequence by which one or more individual activities or operations are to be carried out.

2.0 The Sub-contract

- 2.1 The Sub-contractor shall have full knowledge of the Contractor’s obligations both express and implied under and pursuant to the Main Contract and the Sub-contractor shall except as provided for in these Conditions of Sub-contract, assume and perform the same insofar as they relate to the Sub-contract Works as though they were expressly set out herein and as if the word “Contractor” is substituted in the Main Contract for any expression therein descriptive of the Employer, Architect, Engineer, Superintending Officer, Supervising Offices, Contract Administrator and other like expression and the word “Sub-contractor” is likewise substituted for the expression Contractor.
- 2.2 In the case of any conflict between these Conditions of Sub-contract and any conditions in the Main Contract, these Conditions of Sub-contract shall prevail unless otherwise agreed in writing by the Contractor.
- 2.3 Any terms and conditions contained in any document provided or submitted by the Sub-contractor shall not apply unless specifically agreed in writing by the Contractor and included in the Order.

3.0 Intentions of the parties

- 3.1 The Sub-contractor shall carry out and complete the Sub-contract Works as defined in the Order using materials and workmanship of the qualities and standards specified therein, or if none are specified then to the current British Standards and Codes of Practice, or if none exist then to the manufacturer’s written recommendations, and in conformity with all reasonable directions and requirements of the Contractor.
- 3.2 Unless otherwise agreed if and when the Sub-contract Works includes any element of design, the Sub-contractor shall Warrant that it has used all reasonable skill and care in the carrying out of the design and shall indemnify the Contractor against all expense liability loss claim or proceedings whatsoever arising as a result of any deficiency in the design.

4.0 Carrying out the Works

- 4.1 The Sub-contractor shall not assign, transfer or sub-let the Works or any part thereof without the written consent of the Contractor.
- 4.2 The Sub-contractor shall at all times keep on site a suitably qualified and experienced supervisor who shall accept and comply with all requests, instructions, orders and any other thing as may be issued from time to time by the Contractor. The supervisor shall attend all meetings as instructed by the Contractor and will not be replaced without the prior approval of the Contractor.
- 4.3 The Sub-contractor as part of his own management of the Works, shall be responsible for the proper and effective co-ordination of the Sub-contract Works with all the other sub-contractors either already working or about to commence work on the site and shall allow for working with and around other sub-contractors as instructed by the Contractor.
- 4.4 The Sub-contractor shall have made any necessary allowance for the shared access to and from the site. The Sub-contractor also shall have allowed for the required number of visits to site to properly complete the Sub-contract Works in accordance with the construction programme including any amendments thereto. If the Sub-contractor considers it necessary to leave site at any time and make additional visits to complete the Sub-contract Works, then it is his responsibility to ensure that any such arrangements are confirmed in writing to the Contractor before withdrawing operatives and/or leaving site.



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- 4.5 The Sub-contractor shall have allowed for any necessary phased deliveries, plant and equipment to suit the storage areas available on site. Unless agreed otherwise, the Sub-contractor shall give one week's notice to the Contractor of all deliveries of materials, plant and equipment. The Sub-contractor shall make all provisions for the transporting, unloading and storing of his materials and subsequent handling on site and shall supply all labour tools and plant necessary for the proper execution of the Sub-contract Works. By prior agreement, the Sub-contractor may use the Contractor's standing scaffolding and ladders when available on site, but shall make good any damage caused thereto by his works, servants agents or independent contractors and shall indemnify the Contractor against all liability, loss, claims or proceedings arising out of or in the course of such use.
- 4.6 The Sub-contractor shall ensure that the existing surfaces are true and even and within the specified and/or approved tolerances before the Sub-contract Works are commenced. If the Sub-contractor proceeds with the Sub-contract Works and it is later found that the existing surfaces do not comply with the specified and/or approved tolerances, then the Sub-contractor shall be liable for all the costs of any additional, replacement or remedial work necessary in the Sub-contract Works by the failure of the Sub-contractor to inform the Contractor in writing of any defect in the existing surfaces.
- 4.7 All details, drawings, schedules, instructions and the like which the Sub-contractor may require to enable him to proceed with the preparation of the design, fabrication or working drawings, ordering materials, manufacture, assembly, the execution of the works or anything whatsoever in connection therewith, shall be requested from the Contractor by the Sub-contractor specifically in writing in sufficient time to enable him to honour his obligations under the Sub-contract and with due allowance of a reasonable period of time for the approval of the design, fabrication or working drawings as appropriate, agreement of builder's work details, etc., where and when relevant.
- 4.8 If the Sub-contractor shall find any discrepancy in or divergence between any detail, drawing, specification, document, instruction or data whatsoever, he shall forthwith give to the Contractor a written notice specifying the discrepancy or divergence to enable the Contractor to give or obtain and give, any appropriate instructions in regard thereto.
- 4.9 The Sub-contractor is responsible for taking all necessary measures to prevent the prevailing weather conditions affecting the regular progress of the Sub-contract Works, including but not limited to the allowance of additional operatives to make up for lost time, the temporary protection to allow work to continue, the building in of any float time to the agreed programme, and any other measure that will enable the Works to continue as originally agreed.
- 4.10 Variations, additions or omissions shall not vitiate this Sub-contract but shall not be made unless ordered in writing by the Contractor. The expression "variation" shall have the same meaning assigned to it as provided in the Main Contract and the valuation of all variations instructed to the Sub-contractor shall be made in accordance with the rules for valuing variations contained in the Main Contract provided that the Sub-contractor shall only be entitled to payment at the Daywork rates contained in the Appendix hereto or as otherwise stated if, prior to the commencement of that work the Contractor shall have issued express written instructions that the work shall be valued upon a daywork basis accordingly, and subject always to provision by the Sub-contractor of detailed particulars in accordance with the Conditions of the Main Contract.
- 4.11 The Sub-contractor shall provide the Contractor with a Labour on Site Return on a daily or weekly basis as agreed duly signed by the sub-contractor.
- 4.12 The Sub-contractor shall on a daily basis, clear from the area of the works all rubbish, waste and any other debris resulting from his works, and deposit at an agreed collection point or place in the skips provided, all to the satisfaction of the Contractor. If the failure to do this results in the Contractor incurring charges, then all such charges will be deducted from sums owing to the Sub-contractor.

5.0 Progress and Completion

- 5.1 On the date or dates for commencement stated in the Appendix hereto the Sub-contractor shall commence the Sub-contract Works on site and thereafter proceed with and complete the Works within the period or periods stated in the Appendix hereto, in such a way as to not impede or delay the progress and/or completion of any other works being carried out on the site at any time. The Contractor may issue from time to time directions to amend the phasing, sequencing or co-ordination of the Sub-contract Works to facilitate the overall progress of the Main Contract Works. It is the responsibility of the Sub-contractor to ensure that at all times he is aware of the requirements of any construction programme being relied upon. If and when it becomes apparent that the commencement, progress or completion of the Works or any part thereof is being or is likely to be delayed then upon receipt of a written notice from the Sub-contractor to that effect then the Contractor may in writing grant an extension of time to the Sub-contractor as is reasonable in all the circumstances for the completion of the Works. Upon the date of practical completion of the Works the Contractor shall issue a certificate to that effect.
- 5.2 If it becomes reasonably apparent that the Sub-contractor is failing to maintain progress in accordance with the requirements of the construction programme, the Contractor may employ other persons to carry out that part of the Sub-contract Works so affected without being in breach of the Sub-contract. The costs of labour, plant and materials incurred by the Contractor including a reasonable allowance for overheads and profit in carrying out that part of the Sub-contract Works shall be deducted from any monies due to the Sub-contractor.

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5.3 If the Sub-contractor fails to complete the Works or any section thereof within the period or periods specified in the Appendix or any extended period or periods which may be granted by the Contractor, the Sub-contractor shall pay or allow to the Contractor Liquidated Damages at the rate stated in the Appendix caused by the failure of the Sub-contractor as aforesaid. Any other loss, damage or expense so incurred by the Contractor due to the Sub-contractor's default, act or omission, shall be recoverable by the Contractor from the Sub-contractor by way of deduction from any monies due to the Sub-contractor under this Sub-contract or any other contract between the Contractor and the Sub-contractor.

6.0 Payment

6.1 The Sub-contractor is entitled to submit interim applications for payment at monthly intervals commencing one month after the Sub-contractor commences work on site. Payment shall become due (the due date) no later than 30 days after the end of the calendar month during which the Contractor receives the Sub-contractor's payment application. Payment shall be made to the Sub-contractor within 15 days of the due date (the final date for payment). Not later than 5 days before the final date for payment the Contractor shall notify the Sub-contractor of the amount if any, to be withheld by the Contractor and the ground for such withholding.

6.2 Unless agreed otherwise the Sub-contractor shall within three months of the date of practical completion of the Works submit a final account to the Contractor including copies of all measurements, time sheets and invoices, and any other substantiation as may be reasonably required by the Contractor for the computation of the final account. The final payment shall be made within 30 days after the issue of the Final Certificate under the Main Contract.

6.3 If after notifying the Sub-contractor under Clause 6.1 of the amount to be paid the Contractor fails to make payment by the date for payment and such failure shall continue for 14 days after the Sub-contractor has given to the Contractor written notice of his intention to suspend the performance of the Works, then the Sub-contractor may suspend such performance of the Works until the payment is made in full by the Contractor.

6.4 Any payment made shall not exceed the total value of the Sub-contract work properly executed and any amount which may properly be due to the Sub-contractor in accordance with the terms and conditions of this Sub-contract less any instalments previously paid, less retention monies at the rate for retention given in the Appendix hereto, less any discount to which the Contractor is entitled and less any other sums which the Contractor is entitled. Retention monies shall be withheld and released at the times and in the manner prescribed in the Main Contract and stated in the Appendix hereto unless agreed otherwise.

6.5 Unfixed materials and goods delivered to, placed on or adjacent to the Works by the Sub-contractor, his servants, agents, suppliers or independent contractors shall not be removed except for use in the Works unless the Contractor has given his prior written consent. Where under Clause 6.1 the value of any such materials and goods shall have been included in any payment made by the Contractor to the Sub-contractor or any other person, then such materials or goods shall become the property of the Contractor as from the date of the payment so made.

6.6 Notwithstanding anything to the contrary elsewhere in this Sub-contract, if the Employer under the Main Contract is insolvent as defined in Clause 6.7, the Contractor shall not be obliged to make any further payment to the Sub-contractor of any amount which is due or may become due to the Sub-contractor unless the Contractor has received payment in respect thereof from the Employer under the Main Contract and then only to the extent of such receipt.

6.7 Insolvency shall mean (a) in respect of a company - the making of an administration order against the company, the appointment of an administrative receiver or a receiver or manager of the company's property, the passing of a resolution for voluntary winding up without a declaration of solvency, the making up of a winding up order, (b) in respect of a partnership - the making of a winding up order against the partnership, the sequestration of any of the partnership's property, the making of any trust deed in favour of any of the partnership's creditors, (c) in respect of an individual - the making of any bankruptcy order against the person, the sequestration of any of the individual's property, the making of any trust deed in favour of any of the person's creditors.

7.0 Injury, damage and insurance

7.1 The Sub-contractor shall indemnify and save harmless the Contractor against and from any breach, non-observance or non-performance by the Sub-contractor, his servants or independent contractors of any of the provisions of the Main Contract, and any act, omission or default of the Sub-contractor, his servants, agents or independent contractors which involves the Contractor in any liability whatsoever, and against any claim, damage, loss or expense due to or resulting from any negligence or breach of duty of the Sub-contractor, his servants, agents or independent contractors. The minimum amount of such indemnity shall be stated in the Appendix hereto.

7.2 The Sub-contractor shall without prejudice to his liability to indemnify the Contractor as aforesaid, adequately insure against any expense, liability, loss, claim or proceedings whatsoever arising under any statute in force or at common law in respect of personal injury to or death of, any person whomsoever and arising out of, or in the course of, or caused by or in connection with the carrying out of the Sub-contract Works and against any expense, liability, loss, claim or proceedings in respect of any injury, loss or damage whatsoever to any property real or personal (including the Sub-contract Works) in so far as such injury or damage arises out of, or in the course of, or is caused by, or by reason of or in connection with the carrying out of the Sub-contract Works and provided that the same is due to any act, omission or default of the Sub-3 contractor or anyone for whom the Sub-contractor is responsible.

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The minimum amount of such insurance shall be stated in the Appendix hereto.

- 7.3 The Sub-contractor shall make good at his own expense any loss, damage or consequential damage, whether accidental or otherwise, caused to or by his Works, his servants, agents, or independent contractors and shall indemnify the Contractor against all liability, loss, claims or proceedings arising out of or in the course of executing the Works.
- 7.4 The Sub-contractor shall produce such evidence as the Contractor may reasonably require that the insurances referred to in Clause 7.2 have been taken out and are in force at all material times.

8.0 Statutory and other obligations

- 8.1 The Sub-contractor shall comply with and give all notices required by any Act of Parliament any Instrument, rule or order made under any Act of Parliament or any regulation or bye-law of any Local Authority or of any Statutory Undertaker or Public Utility which has any jurisdiction with regard to the Sub-contract Works or with whose systems the same are or will be incorporated. The Sub-contractor shall fully acquaint himself of all restrictions, local conditions, requirements and the like which will affect the execution of the Sub-contract Works. No claim will be allowed due to a lack of knowledge of any such matter.
- 8.2 The Sub-contractor shall make itself fully familiar and comply with the requirements of the health and safety and quality control under the Main Contract and shall fully comply with the Contractor's current Health and Safety requirements.
- 8.3 The Sub-contractor where required to do so, shall fully comply with the CDM Regulations and provide such information as may be required for it comply with such Regulations including everything necessary in the preparation and completion of the Health and Safety Plan and Health and Safety File, as directed by the Contractor.
- 8.4 The Sub-contractor shall fully comply with its Industry's Working Rule Agreement current in force and shall supply such evidence in verification of his compliance as may reasonably be required by the Contractor from time to time upon request.
- 8.5 Under Clause 5 of these Conditions practical completion of the Works shall not have been achieved until the Sub-contractor has provided all working instructions, operating manuals, system procedures or any other like thing as is commonly provided or required, in accordance with the Contractor's requirements.

9.0 Defects

- 9.1 The Sub-contractor shall be liable to make good at his own cost and in accordance with any direction of the Contractor all defects, shrinkages and other defects in the Sub-contract Works or any part thereof due to materials or workmanship not in accordance with the Sub-contract or due to frost occurring before the date of the practical completion of the Sub-contract Works, until the end of the Defects Liability Period stated in the Appendix hereto.

10.0 Determination

- 10.1 Without prejudice to any other rights and remedies which the Contractor may possess, if the Sub-contractor shall fail to commence the Works on the date or dates set for commencement, or suspends the carrying out of the Sub-contract Works - save as provided for in Clause 6.3, or fails to proceed with the Sub-contract Works, or any part thereof and impedes or delays the progress of any other works being carried on the site at any time, or persistently neglects after notice in writing from the Contractor to remove defective work, or refuses or persistently neglects after notice in writing from the Contractor to comply with any of his obligations under this Sub-Contract, then if such cause shall continue for three days following a notice by registered post or recorded delivery specifying the cause has been given to him by the Contractor, the Contractor may thereupon by notice or registered post or recorded delivery determine the employment of the Sub-contractor under this Sub-contract.
- 10.2 If the Sub-contractor commits an act of bankruptcy or makes or enters into any deed of arrangement or composition with his creditors or being a Company suffers liquidation whether compulsory or voluntary or suffers the appointment of a provisional liquidator or receiver or suffers or allows any execution whether legal or equitable to be levied on his property or obtained against him then the Contractor may without prejudice to any other rights or remedies by written notice forthwith determine the employment of the Sub-contractor under this Sub-contract.
- 10.3 In the event of the determination of the Sub-contractor's employment under Clause 10.1 the Contractor may either complete the Works himself or employ others in place of or in addition to the Sub-contractor and in any event retain monies which may be due to the Sub-contractor and apply the same towards the amount of the damage suffered and/or loss and expense incurred by reason of the determination of the employment of the Sub-contractor under this Sub-contract, the balance of any such damage, loss and expense being a debt recoverable by the Contractor from the Sub-contractor.

11.0 VAT & Income Tax

- 11.1 The Sub-contract Sum unless specifically stated to the contrary shall be exclusive of VAT and recovery by the Sub-contractor from the Contractor of Tax properly chargeable on the Sub-contractor⁴ under or by virtue of the Finance Act 1972 and any amendment thereof, or the supply of goods and services under this Sub- contract shall be made in addition thereto.



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11.2 Income tax shall be deducted from any payment due under this Sub-contract upon the failure of the Sub-contractor to provide to the Contractor from time to time with satisfactory evidence of his exemption from statutory deductions in accordance with the Finance (No2) Act 1975 and any statutory orders made there under or any amendments or re-enactments thereto.

12.0 Third Party Rights

12.1 Nothing in these Conditions of Sub-contract shall confer or purport to confer on any third party any benefit or gain, or the right to enforce any condition, term or remedy of any description, or any other thing as may be contained in the Conditions of Sub-contract.

13.0 Adjudication

13.1 In the event of any dispute or difference between the Contractor and the Sub-contractor in regard to any matter or thing of whatsoever nature arising out of this Sub-contract or in relation to the Works, then such dispute or difference shall be referred to an Adjudicator named by the IEE. The appointment of the Adjudicator, the powers of the Adjudicator shall be in accordance with the Group Adjudication Rules.

14.0 Jurisdiction

14.1 The proper law of this Sub-contract Agreement shall be English Law.

