



SAMPLE

CONSULTANCY AGREEMENT

This Agreement is made between **Energy Coast West Cumbria Limited** (trading as 'Britain's Energy Coast') of Ingwell Hall, Westlakes Science & Technology Park, Moor Row, Cumbria, CA24 3JZ ("**the Company**") and *[insert name]* of *[insert address]* ("**the Consultant**").

The Consultant has agreed to perform consultancy services for the Company as specified.

The Agreement is subject to the following terms and conditions.

This Agreement shall be referenced as: _____ on all correspondence and documentation between all relevant parties to the Agreement.

Section 1

INTERPRETATION IN THIS Agreement

1.1 the following definitions apply:

- a. "Agreement" means this document and all schedules to it;
- b. "Authorised Officer" means the person specified in Schedule 2 or any other person substituted by the Company by notice to the Consultant;
- c. "commencement date" means the day that the legally binding agreement commences;
- d. "consultancy services" means the services described in Schedule 1;
- e. "contract material" means:
 - any material forming part of or constituting a deliverable that is created, written or otherwise brought into existence by or on behalf of the Consultant in the course of performing the consultancy services of this Agreement (called "new contract material");
 - any material that exists at the commencement date and is incorporated into a deliverable (called "existing contract material");
- f. "deliverable" means any document, piece of equipment, data listing or other creation required to be delivered to the Company in order to complete the performance of the consultancy services;
- g. "force majeure" means any event beyond the reasonable control of the party affected and includes an event due to natural causes that happens independently of human intervention;
- h. "foreign computer" means a hard disk or other data storage device affixed to a computer or "foreign network" to which other organisations or third parties would have access including to the Company's confidential information being held by the Consultant;
- i. "intellectual property rights" or IPR means all copyright, patents and all rights in relation to inventions, trade marks and designs;
- j. "key personnel" means the representatives of the Consultant shown in Schedule 2;
- k. "Purchase Order" means a duly authorised Company Purchase Order or similar formally issued and authorised order document, which details the instructions to the Consultant and to which the terms and conditions of this Agreement shall apply;
- l. "records" means all material including but not limited to books, documents, information, computer software, equipment, and data stored by any means disclosed, or made available, by the Company to the Consultant in connection with the performance of this Agreement or otherwise generated by the Consultant in connection with the performance of this Agreement;

- m. "the Company" means Energy Coast West Cumbria Limited;
- n. "Company's consent" means prior written consent (which will not be unreasonably withheld) of the Company which may be given subject to such terms and conditions as the Company may see fit to impose.

- 1.2 clause headings in any part of this Agreement shall not affect the interpretation thereof;
- 1.3 words in the singular include the plural and words in the plural include the singular according to the requirements of the context;
- 1.4 the agreement, for the purposes of ease of use and understanding only, refers to, when appropriate to do so, the singular personal pronoun acknowledgement 'he';
- 1.5 a reference to a clause or a schedule is a reference to a clause or a schedule of this Agreement;
- 1.6 any reference to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

Section 2

TERM

- 2.1 This Agreement will start on the commencement date and unless earlier terminated in accordance with its terms, or as specified in Schedule 1, shall continue until the consultancy services have been performed and met in accordance with this Agreement.
- 2.2 Either party may terminate this Agreement at any time by giving *[insert relevant agreed notice period]* to the other party. Both parties will remain bound by the Agreement until all work-in-progress consultancy services from outstanding Purchase Orders are completed, unless agreed otherwise or if the termination was the result of a material breach by either party.
- 2.3 In the event of termination, the Company will only be liable to pay to the Consultant such outstanding sums as may be due for services provided against valid Purchase Orders.

Section 3

CONSULTANCY SERVICES

- 3.1 The Consultant will provide and complete the consultancy services through its key personnel, to the standards and in the manner, frequency, quantity and times as specified in Schedule 1 and/or any Purchase Orders accepted by the Consultant.
- 3.2 The Consultant will:
 - a. inform itself of the Company's stated requirements in respect of the consultancy services;
 - b. use the Company's systems, electronic and otherwise, as reasonably directed by the Authorised Officer of the Company;
 - c. consult regularly with the Company throughout the performance of the consulting services;

d. act professionally at all times and exercise skill, care and diligence in performing the consultancy services.

3.3 The Consultant warrants that it has the qualifications, admissions and memberships specified in Schedule 2 and/or any subsequent Purchase Orders accepted by the Consultant.

3.4 The Consultant will ensure that the deliverable(s) specified in Schedule 1 and/or in related Purchase Orders complies with the standards and specifications set out in Schedule 1, or where specified by the Authorised Officer for individual projects under this Agreement.

3.5 Any advice, opinion, statement of expectation, forecast or recommendation supplied by the Consultant as part of the consultancy services shall not amount to any form of guarantee that the Consultant has determined or predicted future events or circumstances, but such advice, opinion, statement of expectation, forecast or recommendation made by the Consultant shall be based upon a professional assessment of, as far as reasonably possible, all the facts, issues and trends pertaining to the subject matter at that point in time.

3.6 The Consultant shall not be under any obligation to update any advice, report or any product of the consultancy services, oral or written, for events occurring after the advice, report or product concerned has been issued in its final form, except where there is specific agreement to do so for specified advice, reports or products.

3.7 The Consultant may supply written advice or confirm oral advice in writing or deliver a final written report or make an oral presentation on completion of the consultancy services. Prior to completion of the consultancy services, the Consultant may supply oral, draft or interim advice or reports or presentations, but in such circumstances any written advice or final written report shall take precedence. No reliance shall be placed by the Company on any draft or interim advice or report or any draft or interim presentation unless specifically stated by the Consultant in writing otherwise.

Where the Company wishes to rely on oral advice or on an oral presentation made on completion of the consultancy services, the Company shall inform the Consultant and the Consultant shall supply documentary confirmation of the advice concerned.

3.8 Where specified in Schedule 2, the Company will provide the specified assistance or access for particular facilities to the Consultant.

3.9 Both parties to this Consultancy Agreement agree that it is done so on the explicit mutual understanding and acknowledgement that the agreement represents a contract for services performed by the Consultant, and does not whatsoever represent any form of engagement that might be construed as an employment contract.

3.9.1 The Consultant warrants that he is responsible for all statutory tax and other deductions on income earned under this Agreement, and will comply with all reasonable requests by the Company to provide evidence of any relevant formal statutory registration with HMRC or any other body to confirm this status.

Section 4

PERSONNEL

4.1 The consultancy services will be performed by the key personnel identified in Schedule 2, or other suitable persons with the Company's prior written consent.

The Consultant will ensure that all personnel are competent and have the necessary skills to perform the consultancy services on which they will be engaged.

4.2 The Consultant will not, without the Company's consent:

- a. allow key personnel to delegate any part of the consultancy services;
- b. allocate tasks not connected with the consultancy services to any of the key personnel engaged on the consultancy services on a full-time basis until completion of the consultancy services allocated to that person.

4.3 If any of the key personnel are not available to perform any of the consultancy services allocated to them, the Consultant will immediately:

- a. give notice to the Company of the circumstances; and
- b. if so requested by the Company, arrange for a replacement of that person with a person satisfactory to the Company.

4.4 The Company may, on reasonable grounds associated with the Company's stipulated requirements give notice requiring the Consultant to remove key personnel from working on the consultancy services. Upon receipt of a notice pursuant to this clause 4, the Consultant will, at no cost to the Company, promptly remove and replace the key personnel referred to in the notice with a person satisfactory to the Company.

Section 5

FEES AND REIMBURSABLE EXPENSES

5.1 The Consultant will provide the type of consultancy services as listed in Schedule 1 for the fees specified in Schedule 2.

5.2 The Consultant will not be entitled to be paid for any part of the consultancy services which the Authorised Officer has certified as not having been performed in accordance with this Agreement.

5.3 The Consultant will promptly perform or perform again any part of the consultancy services certified as not being performed in accordance with this Agreement and the Company may, without limiting any other right it may have, defer payment for that part of the consultancy services until the Authorised Officer has certified that the services have been performed or performed again in accordance with this Agreement.

5.4 The Consultant may include in an invoice under Clause 6 a claim, and be paid, for expenses

described in Schedule 2 after those expenses have been incurred by the Consultant. The Company will only reimburse the Consultant for other expenses that have been incurred by the Consultant with the Company's prior consent.

- 5.5 The fees, as stated in Schedule 2, are for the agreed and satisfactory performance of this Agreement alone. The Consultant reserves the right to vary the fees and the definition of reimbursable expenses for any future Agreement between both parties.

Section 6

PAYMENT

- 6.1 The Company will not have any obligation to pay the Consultant for any part of the consultancy services until the Company has been given a correctly rendered invoice.
- 6.2 The Consultant will be paid in accordance with Schedule 2. Invoices must be in sufficient detail to allow the Company to assess progress against targets. For work carried out on a time basis, invoices must be supported by records of times spent by individuals on the consultancy services, certified by the Consultant and the Authorised Officer.
- 6.3 Upon receipt of an invoice, the Company may require the Consultant to provide additional information (i.e. receipts for expenses incurred) to assist the Company in determining whether or not an amount is payable.
- 6.4 The Company will make payment of a correctly rendered invoice on the next timetabled supplier payment run, subject to the legitimate request for any additional supporting information. Should additional information to substantiate the claim be required, pursuant to clause 6.3, the invoice shall be processed within the stated deadlines as published from time to time by the Company's Finance Department and payment made according to the payment cycle. The Company warrants to take all reasonable steps to validate and authorise for payment at the earliest opportunity and within the limitations of the Company systems, procedures and working practices.
- 6.5 For the purposes of this clause 6, a correctly rendered invoice is an invoice that has been submitted to the Company in accordance with clause 6.2 and:
- a. the amount claimed in the invoice is due for payment pursuant to this Agreement;
 - b. the amount claimed in the invoice is correctly calculated in accordance with this Agreement;
 - c. the invoice correctly identifies the consultancy services performed;
 - d. the invoice bears a valid official Company Purchase Order or other agreed "official reference" as issued by the Company.
- 6.6 The invoice must be addressed to 'The Finance Department, Energy Coast West Cumbria Limited, Ingwell Hall, Westlakes Science & Technology Park, Moor Row, Cumbria, CA24 3JZ', unless otherwise stated in Schedule 2.

- 6.7 If an invoice is found, after the Company has paid the invoiced amount to the Consultant, not to have been correctly a rendered invoice, the Company will:
- a. pay an amount owed to the Consultant within 30 (thirty) days of the receipt of a correctly rendered invoice or, if additional information is required by the Company pursuant to clause 6.3, 30 (thirty) days after receipt of the additional information;
 - b. deduct any amount owed to the Company from the next invoiced payment or, if no other payment is due to the Consultant pursuant to this Agreement, recover the amount from the Consultant as a debt due to the Company.
- 6.8 Unless otherwise agreed between both parties, the Consultant will have the right to charge interest, at a rate of 2.5% above the official Base Lending Rate, as published in the 'Financial Times', on any balances between the Company and the Consultant that remain outstanding after 30 (thirty) days following the invoice due date.
- Any interest charges shall be calculated on a daily basis and separately invoiced to the Company. These rendered invoices shall be deemed to be payable immediately upon receipt.
- 6.9 VAT, where applicable, shall be shown separately as a net extra charge.
- 6.10 Payment of money to the Consultant will not constitute an admission by the Company that any of the consultancy services have been performed in accordance with this Agreement.
- 6.11 Whenever under this Agreement any sum of money shall be recoverable from or payable by the Consultant to the Company, the same may be deducted from any sum then due or which at any time thereafter may become due to the Consultant under this or any other agreement with the Company.
- 6.12 The Consultant is solely responsible for the payment of the social security and tax obligations, including Value Added Tax, with respect to the fees paid under the terms of this Agreement.

Section 7

AGENCY & STATUS

- 7.1 The Consultant will not:
- a. represent themselves or allow themselves to be represented as an employee or direct agent of the Company; or
 - b. by virtue of this Agreement be or become an employee or direct agent of the Company.
- 7.2 The Consultant is not an employee of the Company, but an Independent Contractor. The termination or expiry of this agreement will not constitute unfair dismissal, nor will the Consultant be entitled to any redundancy or similar payments in connection with the termination of this Agreement.

Section 8

CONFLICT OF INTEREST

- 8.1 The Consultant warrants that, to the best of its knowledge, it does not, and is not likely to have any conflict of interest in the performance of this Agreement. If a conflict or risk of conflict of interest arises (without limitation), due to work undertaken for any person other than the Company, the Consultant will immediately give notice of the conflict of interest, or the risk of it, to the Company and demonstrate measures to ensure the situation is managed to avoid any adverse effect. The Company would not wish to preclude the Consultant from conducting similar work with other organisations.
- 8.2 The Consultant will take all reasonable measures to ensure that its employees, agents and subcontractors do not engage in any activity or obtain an interest which is in conflict with providing the consultancy services to the Company fairly and independently. The Consultant will immediately give notice of any conflict of interest relating to the activities or interests of any of its employees, agents or subcontractors to the Company.
- 8.3 If the Company is given notice of a conflict of interest pursuant to clause 8.1 or 8.2, and the conflict of interest is not effectively communicated to the Company, or cannot be managed, or was not managed resulting in adverse consequences to the Company, the Company may proceed in accordance with clause 16 to terminate this Agreement (notwithstanding any other remedy it may have under these terms and conditions or in law).

Section 9

CONTRACT MATERIAL AND INTELLECTUAL PROPERTY RIGHTS (IPR)

- 9.1 Unless otherwise specified in the Schedule 2, title to and intellectual rights in all new contract material will vest in the Company in accordance with clauses 9.2 and 9.3.
- 9.2 Title to any new intellectual property, as arising under and as a product of this Agreement, excluding any pre-existing intellectual property of the Consultant or any third party, will upon its creation be transferred to the Company with need for further assurance.
- 9.3 This Agreement does not affect or transfer rights over the pre-existing intellectual property of the Consultant or third parties but the Consultant grants, and will ensure that relevant third parties grant to the Company, a paid up non-exclusive, non-transferable licence (where such is incorporated into the contract material);
- a. to use, reproduce and adapt for its own use; and
 - b. to perform any other act with respect to copyright; and
 - c. to manufacture, sell, hire or otherwise exploit a product or process or to provide a service or to licence a third party to do any of those things in respect of, the existing contract material but only as part of the contract material (and any further development of that material).

- 9.4 The Company warrants to formally acknowledge the work and contribution of the Consultant, in wording to be agreed in writing between both parties at the time, in the production of any relevant material, based upon the deliverables under this Agreement, subsequently published in any form whatsoever. This clause is time bound for a period of 12 months from the certified completion date of the project.
- 9.5 Upon the expiration or earlier termination of this Agreement, the Consultant will deliver to the Company all records, contract material and all copies of it (other than to the extent that the Consultant reasonably requires to retain sufficient documentation to support any advice, report, or opinion the Consultant may provide to the Company, and if necessary, transfer or have transferred any intellectual property rights (IPR) to the Company.
- 9.6 The Consultant will ensure that contract material and records are used, copied, supplied or reproduced only for the purposes of this Agreement.
- 9.7 Prior to commencing work in relation to the contract material, the Consultant will obtain from every person who may create IPR in the course of this Agreement (whether an employee or otherwise), and provide to the Company, a written assignment from that person to the Company of any intellectual property rights which they generate pursuant to this Agreement will vest in and be owned by the Company.
- 9.8 If any contract material is produced or reproduced in an electronic format, the Consultant must deliver it to the Company in a format approved in writing by the Company.
- 9.9 If any contract material is produced or reproduced in an electronic format or stored electronically, the Consultant must not store it on a foreign computer without keeping the current version of the contract material on a separate media as may be specified as may be specified and delivering it to the Company at the intervals specified in the Schedule 2 and/or relevant Purchase Order(s). All such stored electronic material must be treated as confidential under the terms of the Agreement.
- 9.10 The Consultant must not produce, reproduce or store contract material in such a way that it is mixed with, or attached to or indistinguishable from, material that is not the subject of this Agreement.
- 9.11 Intellectual property rights in records supplied to the Consultant by the Company for reproduction or guidance remains vested in the Company.

Section 10

CONTRACT MANAGEMENT

- 10.1 The Company will appoint the Authorised Officer(s) as its representative for the purposes of this Agreement.
- 10.2 For each project of work (as applicable), the Company reserves the right to request a Service

Level Agreement from the Consultant for agreement by the Authorised Officer(s). The Service Level Agreement will set the performance standards and service delivery outputs to be achieved by the Consultant.

- 10.3 The Consultant will:
- a. liaise with and report to the Authorised Officer(s); and
 - b. attend meetings and briefings with the staff of the Company as reasonably required by the Authorised Officer(s).
- 10.4 Reports by the Consultant to the Authorised Officer(s) must be in writing, unless otherwise permitted by the Authorised Officer(s).
- 10.5 Excluding where an instruction is given by any Company representative on safety or emergency issues, any instruction given to the Consultant that might incur increases in the Company's financial commitment to the Consultant must come from or be confirmed by one of the nominated Authorised Officers.
- 10.6 The Consultant may communicate with the Company by electronic mail where an Authorised Officer wishes it to do so, on the basis that in consenting to this method of communication both parties accept the inherent risks (including the security risks of interception of or unauthorised access to such communications, the risk of corruption of such communications and the risks of viruses or other harmful devices) and that both parties shall perform appropriate virus checks using reputable proprietary software.

Section 11

DISCLOSURE OF INFORMATION AND CONFIDENTIALITY

- 11.1 The Consultant will:
- a. keep all records and other information in a secure location so that no unauthorised person is able to gain access to them; and
 - b. ensure that records are kept confidential and are not disclosed to any person other than the Company and the Authorised Officer except where require by law or with the Company's consent.
- 11.2 The Consultant shall not disclose to any third party any information gained with regards to the ongoing business of the Company, of whatever nature and howsoever obtained, without the prior, and explicit, written consent of a Director of the Company and in direct support of the services commissioned by this agreement.
- 11.3 The Consultant must not use any information, of whatever nature, obtained by virtue of this agreement, to further the business or other interests of the Consultant.
- 11.4 The Consultant shall, at all times, ensure compliance with Data Protection and Information Commissioner guidelines and legislation as appropriate to their engagement with the Company, and as advised by the Data Controller.

Section 12

SECURITY AND ACCESS

- 12.1 The Consultant will, when using the Company's premises and facilities, comply with all rules, directions and procedures including those relating to security and to workplace health and safety in effect at the Company's premises in question.
- 12.2 The Consultant will give the Authorised Officer, and any other persons authorised in writing by the Company, reasonable access to premises occupied by the Consultant where the consultancy services are being undertaken and will permit them to inspect any contract material or other material related to the consultancy services.
- 12.3 The Authorised Officer and any other person authorised by the Company, when at the Consultant's premises will comply with all rules. Directions and procedures including those relating to security and to workplace health and safety in effect at the premises or in regard to the facilities as notified by the Consultant to the Company.

Section 13

SUSPENSION OF SERVICES

- 13.1 The Company may by notice require the Consultant to suspend the progress of the whole or any part of the consultancy services for a specified period within a reasonable time after receipt of the notice. This may be required by the Company because of any change in the nature, scope or timing of the consultancy services to be provided.
- 13.2 The Company may by notice require the Consultant to recommence work on all or any part of the suspended consultancy services.
- 13.3 Where the Consultant is required to suspend consultancy services pursuant to clause 13.1, any previously agreed completion dates for the consultancy services will be postponed by a period equivalent to the duration of the suspension.
- 13.4 The Company will reimburse the Consultant for any work already completed and additional costs reasonably and properly incurred by the Consultant as a result of the suspension services pursuant to clause 13.1. If the Consultant and the Company do not agree on the amount of reasonable compensation within 30 (thirty) days of the request for compensation by the Consultant, the amount will be determined pursuant to clause 25.

Section 14

VARIATION

- 14.1 The Company may by notice in writing require the Consultant to vary the consultancy services in purpose, scope or timing.

- 14.2 Without limiting the generality of clause 14.1, the Company may direct the Consultant to:
- a. increase, decrease or omit any part of the consultancy services;
 - b. change the character or content of any part of the consultancy services;
 - c. change the direction or dimensions of any part of the consultancy services;
 - d. perform additional work.
- 14.3 Variations under this clause 14 are subject to agreement by both parties, but the Consultant will not unreasonably withhold agreement. The Consultant must inform the Company if such a variation cannot be carried out if for technical, legal, logistical or ethical reasons as soon as this is known. If such a situation occurs both parties will attempt to find a workable solution.
- 14.4 Where the Company requires a variation to the consultancy services, the parties will negotiate in good faith a variation of the fees and the time for completion. If there is a failure to reach agreement, the fees and time for completion will be determined pursuant to clause 25. The Consultant will not commence work on the variation to the consultancy services without the Company's consent and the written agreement of both parties to the varied fees and time for completion.

Section 15

PAYMENT FOR REDUCED CONSULTANCY SERVICES

- 15.1 In the event of a reduction in the consultancy services, the Company will pay the Consultant, fees determined in accordance with Clause 14.3.
- 15.2 Where the fee for the consultancy services is a lump sum, the Company will not be liable to pay any amounts to the Consultant pursuant to Clause 15.1 where it would result in amounts greater than the fees and expenses specified in Schedule 2 being paid to the Consultant, or agreed sums for individual projects therein.
- 15.3 The Consultant will not be entitled to compensation for loss of prospective profits.

Section 16

DEFAULT OF THE PARTIES AND TERMINATION

- 16.1 If the Consultant:
- a. fails to comply in a material respect with any of the terms and conditions of this Agreement;
 - b. fails to comply with a reasonable direction of the Authorised Officer in accordance with this Agreement;
 - c. fails to perform in accordance with the Schedules 1, 2 and/or any related Service Level Agreement; or
 - d. enters into any arrangement or proceedings for the purpose of insolvency administration or is placed under official management or receivership,

the Company may suspend payments under this Agreement and require the Consultant to

show cause why the Agreement should not be terminated.

- 16.2 If the Company suspends payments pursuant to clause 16.1, the Company must:
- a. give the Consultant notice of the suspension, specifying the reason; and
 - b. require the Consultant to show cause within 14 (fourteen) days of the notice why the Agreement should not be terminated.
- 16.3 If the Consultant fails to show the justification within the period specified in the notice to the satisfaction of the Company, the Company may terminate the Agreement by notice to the Consultant as of the date specified in the notice.
- 16.4 If the Consultant:
- a. abandons or refuses to proceed with the consultancy services;
 - b. fails to comply with clause 8 (Conflict of Interest);
 - c. fails to comply with clause 11 (Disclosure of Information and Confidentiality);
 - d. fails to comply with clause 17 (Compliance with Laws);
 - e. fails to comply with clause 19 (Insurance); or
 - f. repeatedly or significantly fails to required contract standards,

the Company may terminate this Agreement by notice to the Consultant as of the date specified in the notice.

- 16.5 Upon termination of this Agreement pursuant to clause 16.3 or clause 16.4, all money which has been paid and all money to be paid for work done to the date of termination will be in full and final satisfaction of all outstanding sums, conversely any pre-payment to the Consultant will be re-paid.

- 16.6 If the Company:
- a. fails to comply in any material respect with any of the terms and conditions of this Agreement;
 - b. in the reasonable assessment of the Consultant, fails in its obligation to make all reasonable efforts to adequately support the Consultant in the delivery of the objectives of this Agreement, or to provide a reasonable working environment;
 - c. makes unreasonable demands as to the delivery of the consultancy services as outlined in Schedule 1;
 - d. continually fails to comply with reasonable requests for payment of fees outstanding under Schedule 2; or
 - e. enters into any arrangement or proceedings for the purpose of insolvency administration or is placed under official management or receivership,

the Consultant may suspend all work for the Company as specified under this Agreement and require the Company to show good cause why the Agreement should not be terminated.

- 16.7 If the Consultant suspends all work pursuant to clause 16.6, the Consultant must:
- a. give the Company notice of the suspension, specifying the reason; and

b. require the Company to show cause within 14 (fourteen) days of the notice why the Agreement should not be terminated.

16.8 If the Company fails to show the justification within the period specified in the notice to the satisfaction of the Consultant, the Consultant may terminate the Agreement by notice to the Company as of the date specified in the notice.

16.9 Upon termination of this Agreement pursuant to clauses 16.6, 16.7 or 16.8, all work-in-progress as at the date of termination of this Agreement shall be invoiced to the Company on a pro-rata'd basis and the amounts outstanding shall be deemed to be immediately payable to the Consultant.

16.10 The Consultant reserves the right to seek appropriate and reasonable compensation from the Company through due legal process for breach of this Agreement should action be taken under clauses 16.6, 16.7 or 16.8.

Section 17

RETURN OF PROPERTY

17.1 Upon expiry or termination of this Agreement, the Consultant will return to the Company all property, documentation of whatever nature, records, or confidential information which is the property of the Company at an agreed date with the Authorised Officer. The clause covers information stored within all digital and electronic media, and is not limited to that owned and issued by the Company.

17.2 The Company reserves the right to seek access to electronic or digital storage media used and/owned by the Consultant in a private capacity to ensure that all information has been surrendered or suitably deleted.

Section 18

COMPLIANCE WITH LAWS

The Consultant must comply with all relevant laws and the requirements of any statutory provisions arising in the performance of the consultancy services.

Section 19

INDEMNITIES

19.1 The Consultant will be liable for loss or damage (including personal injury whether or not resulting in death) suffered by the Company, its officers, servants or agents, arising from the unlawful or negligent acts or omissions of the Consultant in the course of the performance (or attempted or purported performance) of the consultancy services.

- 19.2 The Consultant will be liable for all actions, proceedings, claims and demands which may be brought or made against the Company and all its officers, servants and agents from and against all actions, proceedings, claims and demands which may be brought or made against any of them by any person, including the Consultant, arising from:
- a. any willful or negligent act or omission of the Consultant;
 - b. any unlawful or negligent act or omission of the visitors, invitees or licensees of the Consultant;
 - c. death, injury, loss or damage suffered by the Consultant or any of its visitors, invitees or licensees except where death, injury, loss or damage is caused by the wrongful act or omission of the Company.
- 19.3 In the particular circumstances of the consultancy services, the Consultant's liability to the Company in contract or tort or under statute or otherwise for any loss or damage suffered by the Company arising from or in connection with the consultancy services, however the loss or damage is caused, including the Consultant's negligence but not their fraud or other deliberate breach of duty, shall be limited to *[insert value]* and *[insert value]* for damage to physical property.

Section 20

INSURANCE

- 20.1 The Consultant, if by mutual agreement between both parties, must effect in connection with the provision of the consultancy services for the duration of this Agreement:
- a. public liability insurance;
 - b. professional indemnity insurance.
- 20.2 The insurances must be effected with an insurer, include terms and conditions that will cover the Consultant's potential liability to the Company under this Agreement and be maintained for the duration of this Agreement.
- 20.3 The Consultant will:
- a. before performing any of the consultancy services; and
 - b. upon request in writing at any time by the Company, produce evidence to the Company that the insurances required by this Clause 20 have been effected and maintained.

Section 21

UNAVOIDABLE DELAY

A party will not be entitled to exercise its rights and remedies upon default of the other party (whether at common law or pursuant to this Agreement) if that default;

- a. is caused by force majeure; or
- b. continues for less than 3 (three) days, except in cases of serious and fundamental breach of this Agreement by either party.

Section 22

WAIVER

- 22.1 A right under this Agreement will only be waived where the waiver is in writing and is signed by the relevant party.
- 22.2 A waiver by either party will not prejudice its rights in respect of any subsequent breach of this Agreement by the other party.

Section 23

GOVERNING LAW

The construction, validity, performance and execution of this Agreement shall be governed by and interpreted in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

Section 24

SUBCONTRACTING

- 24.1 The Consultant will not subcontract any part of the consultancy services without the Company's prior consent in writing.
- 24.2 Any consent given by the Company for the Consultant to subcontract:
- a. will not operate as an authority to transfer responsibility to the subcontractor; and
 - b. will not relieve the Consultant from any of its liabilities or obligations under this Agreement.
- 24.3 The Consultant will not assign this Agreement or any of the benefits under this Agreement without the Company's consent.

Section 25

PROJECT REVIEW AND TESTIMONIAL

- 25.1 Within 30 (thirty) days of the certified completion of this Agreement, the Authorised Officer of the Company shall take all reasonable steps to provide a fair and objective assessment of the Consultant's performance under this Agreement in the form of a completed 'Project Review and Testimonial' questionnaire, as issued by the Consultant and appended to this Agreement as Schedule 3.
- 25.2 The Company grants the Consultant permission to use the completed questionnaire as a case study and reference for the purposes of supporting client marketing initiatives of the Consultant. The Company similarly agrees to take all reasonable steps to respond objectively and fairly to reference requests from potential clients of the Consultant on a timely basis.

- 25.3 The Consultant warrants that no other use of the Company's name or any other identifiable feature of the Company shall be used in marketing initiatives as instigated by the Consultant from time to time.
- 25.4 Any variation to this clause 25 shall only be acceptable upon express written agreement by both parties.

Section 26

FURTHER ASSISTANCE

The Consultant will do all things reasonably required by the Company to give effect to this Agreement or to perfect or protect the rights of the Company including, without limitation, giving or obtaining confidentiality undertakings acceptable to the Company in relation to records and the consultancy services.

Section 27

RESOLUTION OF DISPUTES

- 27.1 If any disputes or differences shall arise between the parties out of or in connection with this Agreement then either party may give the other 7 day's notice in writing to resolve the dispute or difference through an Alternative Dispute Resolution (ADR) Procedure as recommended by the Centre for Dispute Resolution.
- 27.2 If the matter has not been resolved by the ADR procedure within a reasonable timeframe of such notice having been received or if the other party will not participate in an ADR procedure then the matter shall be deferred to a single Arbitrator agreed between the parties or failing such agreement as may be nominated by the President for the time being of the Chartered Institute of Arbitrators.
- 27.3 For the purposes of this clause 27, a dispute will have arisen between the parties when a party gives notice to that effect to the other party.

Section 28

CLAUSES TO SURVIVE TERMINATION

The following clauses will survive termination or expiration of this Agreement:

- a. clause 9 (Contract Material and Intellectual Property Rights);
- b. clause 11 (Disclosure of Information & Confidentiality);
- c. clause 26 (Further Assistance – assistance to protect the rights of the Company).

Section 29

NOTICES

Notices must be in writing and may be delivered by prepaid postage, by hand, by fax or by acknowledged e-mail transmission to the parties at the address specified in Schedule 2 or other address subsequently notified by a party to the other. Notices will be deemed to be given:

- a. 2 (two) days after deposit in the mail with postage prepaid;
- b. immediately upon delivery by hand;
- c. immediately upon an apparent successful fax transmission of the entire notice being noted by the sender's transmitter, unless sent on a Saturday or Sunday or after 5.00pm on any other day ("a week day"), in which case the notice will be deemed to be given at 9.00am on the next week day;
- d. immediately upon e-mail acknowledgement from the Authorised Officer or Consultant being received (excluding "auto-reply").

Section 30

RIGHTS OF THIRD PARTIES

30.1 The Agreement shall not create or give rise to, nor shall it be intended to create or give rise to, any third party rights. No third party shall have any right to enforce or rely on any provision of the Agreement which does not or may confer any right or benefit on any third party, directly or indirectly, expressly or implied. The application of any legislation giving to or conferring on third parties contractual or other rights in connection with the Agreement shall be excluded.

The parties have executed this Agreement as follows:

A. on behalf of the 'Company' by			
Name:			
(Designation)	this day of	20	
In the presence of		Name:	

B. on behalf of the 'Consultant' by			
Name:			
(Designation)	this day of	20	
In the presence of		Name:	

SCHEDULE 1 – THE CONSULTANCY SERVICES

Term: _____

SCHEDULE 2 – SPECIAL REQUIREMENTS

Consideration	Clause	Provision – condition - term
a. Key Personnel	4.1	
b. Consultant’s warranties as to qualifications, admissions and memberships	3.3	
c. Compliance with standard’s and specifications	3.8	
d. Assistance to be provided by the Company	3.8	
e. Fees to be paid for the consultancy services	5.1	
f. Expenses for which the Consultant may be reimbursed	5.4	
g. Payment of fees and invoicing	6.2 / 6.6	
h. Intellectual property rights	9.1 / 9.8	
i. Authorised Officer	10.1	The Company appoints : Contact Details: Tel. e-mail:
j. Public liability insurance	19.1	Agreement required with the Consultant subject to the assessment of the project work undertaken and reference to relevant insurance expert advice

k. Professional indemnity insurance	19.1	Agreement required with the Consultant subject to the assessment of the project work undertaken and reference to relevant insurance expert advice
l. Addresses for notices:	28	<p>Company Notices address: Energy Coast West Cumbria Limited Ingwell Hall, Westlakes Science & Technology Park Moor Row Cumbria CA24 3JZ</p> <p>Consultant Notices address:</p>

SCHEDULE 3 - PROJECT REVIEW AND TESTIMONIAL

PROJECT REVIEW

Please answer the questions under the following subject headings:

Executive Summary

- ≈ What was the problem, challenge or issue?
- ≈ What was your solution or approach to this?
- ≈ Your details as author of this document.

Outline Conclusions and Outcomes

- ≈ A two or three line summary of what was delivered and how it would impact the organisation.

The Company – History and Summary of Services

- ≈ Background (including any organisational issues or limitations)
- ≈ Services delivered and client base
- ≈ Management structure
- ≈ Any other issue of relevance

The Project Team

- ≈ Who was involved, their respective roles and the established reporting lines and control.

Scope and Coverage of the Project and How it Developed

- ≈ How was the provider selected – criteria for assessment
- ≈ Timeline for delivery
- ≈ Phasing of the project – policy and procedures covered
- ≈ Any other service
- ≈ Understanding of the organisational background and working environment.

Detailed Outcomes

- ≈ An assessment of the work provided and a statement as to the 'before and after' scenario
- ≈ The impact of the work on the organisation including any evaluation of financial impact (costs savings, etc)

Reflections

- ≈ A statement as to any post-project reflections – what could have been handled in a different way in hindsight?

Working with the Consultant – please comment on the following issues and performance criteria

- ≈ The overall work ethic
- ≈ The quality of the deliverables
- ≈ Did the work and the level of engagement meet your expectations?
- ≈ Perceived understanding of the organisation, its needs and working environment
- ≈ Communication and engagement at all levels of the organisation
- ≈ Perceived 'value for money'
- ≈ Would you be happy to re-engage the provider or recommend in the future?

Contact Information

Your details and contact information