

# **Innovative Energy Consulting Pty Ltd**

## **Consulting Services Agreement**

**THIS AGREEMENT** made effective as of and from the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

### **BETWEEN:**

\_\_\_\_\_, a company incorporated under the laws of \_\_\_\_\_ and registered as A.C.N. \_\_\_\_\_ with a principal place of business at \_\_\_\_\_.

(hereinafter referred to as the “Company”)

OF THE FIRST PART

- and -

**Innovative Energy Consulting Pty Ltd**, a company incorporated under the laws of Australia and registered as A.C.N. 122 373 719 with a principal place of business at 2222, 178 Grey St., South Brisbane, Queensland

(hereinafter referred to as the “IEC”)

OF THE SECOND PART

### **WHEREAS:**

1. IEC has expertise in the area of the petroleum industry in general and the commercial aspect of negotiations, business development and acquisitions in particular, and is willing to provide consulting services to the Company; and

2. The Company is willing to engage IEC as an independent contractor in relation to its \_\_\_\_\_ on the terms and conditions set forth herein.

**IT IS AGREED** that:

In consideration of the foregoing and of the mutual promises set forth herein, and intending to be legally bound, the parties hereto agree as follows:

1. Engagement.

(a) The Company hereby engages IEC to render, as an independent contractor, the consulting services described in Exhibit A hereto and such other services as may be agreed to in writing by the Company and IEC from time to time.

(b) IEC hereby accepts the engagement to provide consulting services to the Company on the terms and conditions set forth herein.

2. Term. This Agreement will commence on the \_\_\_<sup>th</sup> day of \_\_\_\_, 200\_\_, (the "Effective Date") and unless modified by the mutual written agreement of the parties, shall continue until \_\_\_\_\_, 200\_\_. Notwithstanding the foregoing, if IEC fails or refuses to comply with the written policies or reasonable directive of the Company, is guilty of misconduct in connection with performance hereunder, or materially breaches provisions of this Agreement, the Company at any time may terminate the engagement of IEC immediately and without prior written notice to IEC. Furthermore, if the Company refuses to pay any valid invoice related to this Agreement within 10 working days of receiving it or materially breaches provisions of this Agreement, then IEC at any time may terminate this engagement to the Company immediately and without prior written notice to the Company.

3. Compensation.

(a) In consideration of the services to be performed by IEC, the Company agrees to pay IEC in the manner and at the rates set forth in Exhibit A.

(b) During the term of this Agreement, IEC shall bill and the Company shall reimburse IEC for all reasonable out-of-pocket expenses which are incurred in connection with the performance of the duties hereunder at cost plus 15%. IEC shall seek permission from the Company before incurring expenses individually in excess of \$1,000 and in aggregate in excess of \$5,000.

(c) In the event of the expiration or termination of this Agreement, the Company shall remain responsible to IEC for payment of all consulting fees earned by IEC and all expense reimbursements to which IEC was entitled, pursuant to and in accordance with the terms and conditions of this Agreement, up to and including the date of expiration or termination.

4. IEC's Business Activities.

(a) During the term of this Agreement, IEC will engage in no business or other activities, which are or may be, directly or indirectly, competitive with the

business activities of the Company without obtaining the prior written consent of the Company.

(b) IEC shall devote such time, attention and energy to the business and affairs of the Company as requested by the Company, and in any event no less than the amount of time specified in Exhibit A hereto.

(c) IEC shall keep and periodically make available upon request by the Company a log describing the work activities and hours of IEC.

5. Confidential Information and Assignments. IEC is simultaneously executing a confidentiality agreement in the form of Exhibit B (the "Confidentiality Agreement"). The obligations under the Confidentiality Agreement shall survive termination of this Agreement for any reason.

6. Interference with the Company's Business.

(a) Notwithstanding any other provision of this Agreement, for a period of one year after termination of this Agreement, IEC shall not, directly or indirectly, employ, solicit for employment, or advise or recommend to any other person that such other person employ or solicit for employment, any person employed or under contract (whether as a consultant, employee or otherwise) by or to the Company during the period of such person's association with the Company.

(b) Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, for a period of one year after termination of this Agreement, IEC shall not, directly or indirectly, solicit any clients or customers of the Company who do not have a long term contractual relationship with the Company. IEC agrees that such solicitation would necessarily involve disclosure or use of confidential information in breach of the Confidential Information.

7. Representations and Warranties. IEC represents and warrants (i) that IEC has no obligations, legal or otherwise, inconsistent with the terms of this Agreement or with IEC's undertaking this relationship with the Company, (ii) that the performance of the services called for by this Agreement do not and will not violate any applicable law, rule or regulation or any proprietary or other right of any third party, (iii) that IEC will not use in the performance of his responsibilities under this Agreement any confidential information or trade secrets of any other person or entity and (iv) that IEC has not entered into or will enter into any agreement (whether oral or written) in conflict with this Agreement, (v) that it has the power and authority to enter into this Agreement and otherwise perform under this Agreement and (vi) that the professional services will be performed, findings obtained, and recommendations prepared, in accordance with generally and currently accepted management consulting principles and practices and will be carried out with reasonable care and skill.

8. Indemnification.

a) IEC hereby indemnifies and agrees to defend and hold harmless the Company from and against any and all claims, demands and actions, and any liabilities, damages or expenses resulting therefrom arising out of or relating to the representations and warranties made by IEC pursuant to paragraph 7 hereof. IEC's obligations under this paragraph 8 hereof shall survive the termination, for any reason, of this Agreement.

b) The Company shall, to the extent permitted by law, indemnify and save harmless IEC and its respective directors, officers, employees (including its key employee pertaining to this Agreement) and agents from and against all losses, damages, costs (including costs as between a solicitor and his client), expenses, claims, demands, actions, proceedings and suits of every kind or nature whatsoever which may be brought against or suffered by IEC or its key employee or its respective directors, officers, employees or agents or which any of them may sustain, pay or incur as a result of the negligence or wilful misconduct of the Company, its agents or representatives or its or their directors, officers or employees in connection with, related to or arising out of the performance, purported performance or non-performance of this Agreement.

c) IEC shall, to the extent permitted by law, indemnify and save harmless the Company and its respective directors, officers, employees and agents from and against all losses, damages, costs (including costs as between a solicitor and his client), expenses, claims, demands, actions, proceedings and suits of every kind or nature whatsoever which may be brought against or suffered by the Company or its respective directors, officers, employees or agents or which any of them may sustain, pay or incur as a result of IEC providing the services under this Agreement or as a result of the negligence or wilful misconduct of IEC, its key employee or its directors, officers or employees in connection with, related to or arising out of the performance, purported performance or non-performance of this Agreement.

9. Attorney's Fees. Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce this Agreement, the party or parties prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party or parties against whom enforcement was sought.

10. Entire Agreement. This Agreement, contains the entire understanding and agreement between the parties hereto with respect to its subject matter and supersedes any prior or contemporaneous written or oral agreements, representations or warranties between them respecting the subject matter hereof.

11. Amendment. This Agreement may be amended only by a writing signed by IEC and by a representative of the Company duly authorized.

12. Severability. If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of

this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

13. Rights Cumulative. The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either party hereto (or by its successors), whether pursuant to this Agreement, to any other agreement, or to law, shall not preclude or waive its right to exercise any or all other rights and remedies.

14. Nonwaiver. No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party to be charged and, in the case of the Company, by an executive officer of the Company or other person duly authorized by the Company.

15. Remedy for Breach. The parties hereto agree that, in the event of breach or threatened breach of this Agreement, the damage or imminent damage to the value and the goodwill of the Company's business will be inestimable, and that therefore any remedy at law or in damages shall be inadequate. Accordingly, the parties hereto agree that the Company shall be entitled to injunctive relief against Consultant in the event of any breach or threatened breach by IEC, in addition to any other relief (including damages and the right of the Company to stop payments hereunder which is hereby granted) available to the Company under this Agreement or under law.

16. Agreement to Perform Necessary Acts. IEC agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

17. Assignment. The services provided by IEC hereunder are in the nature of personal services. Accordingly, without the Company's prior written consent, IEC may not assign to or subcontract with any person or entity, this Agreement or any right or obligation hereunder. This Agreement may be assigned by the Company in connection with a merger or sale of all or substantially all of its assets, and in other instances with the Consultant's consent which consent shall not be unreasonably withheld or delayed. All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors, and assigns.

18. Compliance with Law. In connection with his services rendered hereunder, Consultant agrees to abide by all federal, state, and local laws, ordinances and regulations.

19. Independent Contractor. The relationship between IEC and the Company is that of independent contractor under a "work for hire" arrangement. This Agreement shall not render IEC an employee, partner, agent of, or joint venturer with the Company for any purpose. IEC is and will remain an independent contractor in his relationship to the Company. This Agreement is not authority for IEC to act for the Company as its agent or make commitments for the Company. All work product developed by IEC



Attention: Glen Gill

Email: \_\_\_\_\_

**For the Company:**

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Attention: \_\_\_\_\_

Email: \_\_\_\_\_

Any party hereto may change its address for purposes of this paragraph by written notice given in the manner provided above.

**Agreed to and accepted this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.**

**Innovative Energy Consulting Pty Ltd.**

Per: \_\_\_\_\_  
Name:  
Title:  
\_\_\_\_\_

Per: \_\_\_\_\_  
Name:  
Title:

## **Exhibit A**

### **To Consulting Services Agreement Dated \_\_\_\_\_, 200\_\_**

#### 1. Description of Services to be Rendered

The services to be performed by IEC will be as shown in Exhibit C. Other deliverables associated with this project will be as mutually determined by the parties from time to time over the term;

IEC will provide such services in a first class and professional manner and Glen Gill is the key employee of IEC that is responsible for the quality and timing of services delivered pursuant to this Agreement. .

Glen Gill of IEC agrees to make his services available to the Company during the period of engagement on a full-time and exclusive basis for 45 days, and will not take on any additional assignments or provide employment services during the term of this Agreement that would in any way interfere or reduce this commitment. The Company is aware of and accepts that Glen Gill has ongoing firm contractual responsibilities with \_\_\_\_\_ (approximately \_ day per week) that must be accommodated. The Company has elected a \_\_\_ month period of engagement commencing on \_\_\_\_\_, 200\_\_ and terminating on \_\_\_\_\_, 200\_\_.

#### 2. Compensation

As compensation in full for the services to be performed on behalf of the Company under this Agreement, and for the other obligations of IEC arising hereunder, the Company will pay IEC as follows:

- ❖ An up front retainer fee of \$ \_\_\_\_\_; plus
- ❖ A variable day rate of \$1 \_\_\_\_\_ per day for all days worked up to a maximum of \_\_\_ days;
- ❖ \$ \_\_\_\_\_ per day thereafter for any days worked beyond the \_\_\_ days over the term of this Agreement.

In addition,

- ❖ Reasonable direct office expenses will be billed at direct cost plus 15%
- ❖ Any and all subcontracts (as agreed in advance) will be billed at cost plus 15%
- ❖ Travel and accommodation expenses for onsite consultation or for meetings with industry participants (as agreed in advance) will be itemised and charged at cost plus 10%;
- ❖ Any and all air travel (as agreed in advance) will be business class except when such class



- is not regularly available;
- ❖ Rates exclude GST;
- ❖ All charges are billed on a semi-monthly basis and due within 10 business days of client receiving invoice (2% per month interest charged on all outstanding accounts)

3. Minimum Time

The Company shall have first call on \_\_\_ business days per week commencing at the Effective Date and over the \_\_\_ month term of this Agreement.

4. Credit for other assignments, sick days, leave, etc.

For the sole purposes of determining the daily rates under a long term assignment with an upfront retainer fee, the Company shall get a credit for all days within the applicable period (month or quarter as the case may be) that IEC is not able to perform its services under this Agreement due to sick leave or vacation leave. This credit will be applied by extending the term by a number of days equal to the days that IEC was not ready and able to perform its duties under this Agreement.

Agreed to and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_:

**Innovative Energy Consulting Pty Ltd**

Per: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_

Per: \_\_\_\_\_

Name:

Title:

**Exhibit B**

**To Consulting Services Agreement Dated \_\_\_\_\_, 200\_\_**

**Confidentiality**

IEC hereby covenants and agrees with the Company that it will not, either during or after the Term of this Agreement, or any extensions or renewals thereof, and for a period of 24 months thereafter, disclose or reveal to any third party or use for its own purposes or for any purposes other than those of the Company, any Confidential Information (as defined below) originated by or acquired by IEC or any Confidential Information of the Company, its subsidiaries and affiliates, which may be furnished to IEC or to which it may become privy or which it may produce or prepare in the course of work or services performed for the Company. IEC agrees to protect the Confidential Information by using all reasonable security measures to prevent the unauthorized use, dissemination or publication of the Confidential Information. IEC shall ensure that its employees assigned to perform the services under this Agreement observe the confidentiality obligations set out herein as if they were a direct party to this agreement.

Upon the expiration or earlier termination of this Agreement, or whenever requested by the Company, IEC shall immediately deliver to the Company all such files, records, documents, specifications, information, and other items in his possession or under its control. IEC further agrees that it will not disclose the terms of this Agreement to any person without the prior written consent of the Company

The phrase “Confidential Information” as used in this Exhibit B comprises any technical, economic, financial, marketing or other information (in whatever form) which relates to the Company, its subsidiaries or affiliates and any information which is discovered by, disclosed to or received, generated or produced by IEC (in any form whatsoever) as a result of or in the course of performing services under this Agreement and also includes any information provided to IEC or its employees by or on behalf of the Company which is specifically designated by the Company as being confidential. Confidential Information shall, for the purposes of this Agreement, not include:

- any information which was rightfully in the possession of IEC prior to the date of disclosure of such information to IEC;
- any information which was in the public domain prior to the date of disclosure of such information to IEC;
- any information which becomes part of the public domain by publication or otherwise except by an unauthorized act or omission on the part of IEC;
- any information which is supplied to IEC by a third party who is under no obligation to the Company to maintain such information in confidence; or
- any information which is developed by IEC independently of the disclosures made by the Company under this Agreement and which are not developed as part of IEC’s services under this Agreement.

**Agreed to and Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ :**

**Innovative Energy Consulting Pty Ltd**

Per: \_\_\_\_\_

Name:

Title:

\_\_\_\_\_

Per: \_\_\_\_\_

Name:

Title:

## Exhibit C

### Scope of Work and Deliverables

Scope of work	Key Deliverables
Support:	