Equipment Performance Guarantees

FGD System Structural Steel Fabrication

for Rutenberg Power Station - Units 1 & 2

Name of Supplier: __________

1. Definitions

1.1 “Equipment Package” shall mean the Equipment (Steel Structures) to be provided by the Contractor under this Contract as defined in the Contract for a related Unit as defined in the Agreement.

1.2 “Unit” shall mean the complete Power Station Unit as defined in the Contract.

1.3 “Start-Up” shall mean completion of erection and commissioning work of the Equipment Package.

1.4 “Trial Period” shall mean a period of maximum three (3) months commencing at the successful completion of the “Start-Up”, and ending at the “Successful Completion of the Trial Run” as defined below.

1.5 “Successful Completion of the Trial Run” shall mean that the Equipment Package has been available for safe and reliable utilization without any limitation for a continuous period of four weeks (excluding interruptions not attributable to the Equipment itself). In case the Equipment Package is not available for utilization as detailed above the count down of four weeks shall restart.

1.6 “Provisional Acceptance” of the Equipment shall mean that the Equipment Package has been accepted for normal operation after Successful Completion of the Trial Run.
2. **Purchaser’s and Contractor’s general responsibilities**

2.1 The Contractor shall be responsible for the compliance of the Equipment with the required features and its reliability as per specification requirements.

2.2 Before Start-Up and as a pre-condition for Provisional Acceptance the Contractor shall submit for Purchaser's approval all the documentation called for by the Contract.

3. **Verification of Equipment features during the Four Weeks of Continuous Operation**

3.1 The Equipment features required in the Specification are guaranteed by supplier and shall be verified during the Four Weeks of Continuous Operation.

3.2 Both the Purchaser and the Contractor shall certify in writing the observations during the Four Weeks of Continuous Operation.

4. **Acceptance Certificate**

The Purchaser shall issue a Provisional Acceptance Certificate for Equipment Package related to a Unit by no later than one (1) month of the Successful Completion of the Trial Run.

5. **Rectifying Procedures**

5.1 In case the Equipment Package does not successfully pass the Trial Run, the Contractor shall analyze the deficiency, and propose such measures (hereinafter the “Repair Plan”) necessary to meet the Specification requirements (hereinafter the “Repairs”). The Repair Plan shall indicate the period within which the Repairs are to be completed (hereinafter the “Repair Period”) including all direct and indirect activities, such as diagnostics, technical details, restoration, final checks, testing, etc..
The Repair Plan shall meet the following requirements:

(a) Replacement or repair of defective components.
(b) Shortest possible down-time.
(c) Testing/Inspection by Purchaser and witnessing by Contractor.

5.2 The Purchaser shall review the proposed Repair Plan and shall reasonably endeavor to let the Contractor implement it, as soon as possible, subject to mutual agreement on timing and warranty extension, duration, scope and test/inspection procedure.

5.3 In case a Repair Plan is agreed upon, the Contractor shall:

(a) utilize the Repair Period conscientiously and make good faith attempts to adhere to its obligations according to the Contract.
(b) bear the entire costs of the Repairs and of such further tests as may be required to demonstrate that the Equipment Package meets the performance requirements.
(c) extend the Warranty Period to compensate for the periods during which the Equipment Package is non available to the Purchaser in the process of being repaired.

5.4 In case the Equipment does not meet the specification requirements by the end of the Repairs the Purchaser shall elect at its sole discretion from the following:

a. to further let the Contractor repair the Equipment upon terms and conditions to be agreed upon; or -

b. to declare the Equipment as materially non-conforming with the specification requirements and avail itself of the remedies available to the Purchaser due to a breach of a fundamental term of the Contract by the Contractor.

- Final -