CONTOURGLOBAL MARITSA EAST 3 AD

CONTRACT

FOR PROCUREMENT OF SERVICES

This ……………………….., between:

1. **CONTOURGLOBAL MARITSA EAST 3 AD**, having its seat and registered office at Sofia 1505, 48 Sitnyakovo Blvd, 9th Floor, registered with the Commercial Register with the Agency of Entries under UIC 130020522, Tax number BG 130020522, represented by Krassimir Velikov Nenov in his capacity of Executive Director and Quinto Di Ferdinando in his capacity of Member of the Board of Directors, hereinafter referred to as Contracting Authority,

and

2.**STEINMÜLLER ENGINEERING GMBH**, having its seat and registered office address in GERMANY, Gummersbach, 51643, Fabrikstrasse 5, tel. +49 (0) 226178950 0, fax. +49 (0) 226178950 199, email: info@steinmueller.com, registered under UIC number 212/5724/1684, TAX number DE 227 433 233, represented by Dr.-Ing. Hans-Ulrich Thierbach in his capacity of a Managing Director, hereinafter referred to as Contractor, this contract was signed for the following:

**DEFINITIONS**

In this contract unless the context otherwise requires, the following words and phrases shall have the following meanings:

“Business Day” means a day (other than a Saturday or a Sunday or official holiday) on which banks are generally open for the conduct of normal banking business in Bulgaria;

“Contract” – this document with all the attachments and appendices;

“Supply” - all the products to be delivered under this Contract as per offer from CONTRACTOR and from tender ref.№ 80-182-19 (Appendix 3);

“CONTRACTING AUTHORITY’s Site” shall mean TPP ContourGlobal Maritsa East 3, Village of Mednikarovo, Municipality of Galabovo.

1. **SUBJECT OF THE CONTRACT**

1.1. Under the provisions of the present agreement Contracting Authority assigns and Contractor accepts to complete the following activities:

- Feasibility Study Maritsa East3 Co-Combustion

- Option Thermodynamic Boiler Calculations

1. **PRICES AND PAYMENTS**

2.1. The total price of the goods amounts to …………………………………………………. Euro, VAT excluded, which price is in accordance with the accepted offer of the Contractor by the Contracting Authority, and price offer – Appendix 4. Travel expenses over and above those described in the proposal of Contractor will be charged separately at prime costs. Furthermore, travelling and working time of Contractor’s engineers related to such additional visits will be charged according to the attached list "Daily Rates for Engineering Services" to the proposal of Contractor.

2.2. The unit prices from the financial offer of the CONTRACTOR are fixed for the term of the present contract and are not subject to change.

2.3. The payment for the performed activities shall be paid as follows:

-100 % after the final report has been submitted by Contractor.

Payments are due 14 days upon receipt of the original invoice.

2.4. All payments according to this contract shall be made through bank transfers in Euro. The bank fees at the CONTRACTOR’s bank are at the CONTRACTOR’s expense, the bank fees at the CONTRACTING AUTHORITY’s bank are at the expense of the CONTRACTING AUTHORITY. The bank accounts of the Parties are:

CONTRACTING AUTHORITY:

SG Еxpressbank

IBAN: BG35 TTBB 9400 1521 0392 95

BIC: TTBBBG22

CONTRACTOR:

Deutsche Bank AG, Gummersbach

IBAN DE49 3847 0091 0016 4533 00

BIC DEUTDEDW 384

**3.PERFORMANCE PROCESS**

3.1. The activities regarding the implementation of the contract obligations shall be carried out with sufficient quality and in full compliance with the safety regulations of the Contracting Authority and the obligations in accordance with the Bulgarian environmental protection legislation and health and safety legislation and the specific obligations in this respect are the following:

a/ to carry out the entrusted works in full compliance with the contract clauses and legal requirements that are applicable to the subject of the contract, rules and prescriptions of the competent authorities in each and every moment of the performance of the contract as well as to fulfil the requirements of all other conditions, applicable to this contract by undertaking full responsibility for the fulfilment of all obligations specified above;

b/ to assure personnel, appointed in accordance with the applicable legal requirements, to pay to its personal all remunerations, taxes, compulsory and voluntary insurances required by the applicable law as well as the applicable in this case labor agreements;

c/ to perform the activities in full compliance with all health and safety rules, regulations and legal requirements;

d/ to perform the necessary actions in order the personal identification of its personnel to be clear for the Contracting Authority or/and third parties;

е/ to inform the Contracting Authority in due time for assignment of works to sub-contractors, in case Contracting Authority is informed for that by the Contractor during the assignment of the public procurement procedure and the contract allows it. The Contractor shall inform the Contracting Authority for such assignment before the beginning of the performance of the works by the sub-contractor.

f/ to apply a health and safety plan as required by the Contracting Authority;

g/ not to use nonqualified or unauthorized personal. This shall be determined by means of a duly performed inspection by the Contracting Authority during the performance of the Contractor’s activities under the contract.

h/ to satisfy the applicable legal requirements and the requirements under the present contract for the use of personal protection equipment on temporary sites of movable objects, for safety warning system, upon establishing of a manual material transportation and in all other aspects of safety.

**4.TIME FOR COMPLETION**

The time for completion of the services - subject of this contract, shall be 3 months from the date of signing of this contract.

**5.PENALTIES**

5.1. In case the Contractor is in delay in reaching the acceptance date, except in the case of Force Majeure, the Contractor shall pay liquidated damages amounting to 0,1% of the contract price for each day of delay but not more than 4% of the contract price.

5.2. In case the Contractor violates the health and safety legal requirements as well as these specified in the present contract the Contracting Authority may suspend any of the Contractor’s activities and the term of the suspension shall depend on the gravity of the violation. After an inspection is performed and the proposed by the Contractor remediation plan is approved the Contracting Authority shall have the right to allow or to ban the continuation of the works. The term of the contract shall be prolonged with the term of the suspension. In this case the Contracting Authority may request from the Contractor to organize and hold a health and safety training to its personal who is engaged with the execution of the contract, with duration of not less than 16 hours.

5.3. In case of 5.2. the Contracting Authority may not only suspend the works but also may request from Contractor to pay a single time fine up to an amount of 500 (five hundred) Euro and shall notify Contractor for that.

**6.CONTRACT TERMINATION**

This contract shall be terminated:

6.1. upon fulfilment of all obligations of the parties to it;

6.2. upon mutual agreement by both parties, expressed in writing.

6.3. This contract may be terminated unilaterally by the Contracting Authority:

- In case of any default, with 7 days written notice addressed to the Contractor;

- in case of interruption of the operation of the main equipment or in case of accident caused by the Contractor as well as in cases under Art. 3.1 and 3.2. immediately without notification;

- in case Contractor becomes bankrupt or insolvent or carries on its business under a receiver for the benefit of its creditors;

The Parties acknowledge that in conducting their business and managing their internal relations, both the Contracting Authority and the Contractor operate by reference to the principles contained in the Contracting Authority’s Anticorruption Policy – Appendix 6, the Supplier Code of Conduct – Appendix 7 and Vendor Certificate – Sanctions Laws - Appendix 8 Policies. The Parties shall not engage in any conduct that would constitute a breach of these Policies or would result in a breach of these Policies. The Parties agree that, with respect to the services provided under any agreement, whether written or otherwise, neither it nor any of its principals, employees, affiliates, or to its knowledge, agents or representatives will directly or indirectly, make, promise or authorize the making of any offer, gift or payment of anything of value, including without limitation, the sharing or promise to share its fees or any other funds that it has received, receives or will receive under any agreement with ContourGlobal, to or for the benefit of any Government Official or family member or close business associate of any Government Official, for the purpose of improperly: (i) influencing any act or decision of the Government Official in his or her official capacity; (ii) inducing the Government Official to do or omit to do any act in violation of his or her lawful duty; (iii) securing any improper advantage; or (iv) inducing the Government Official to use his or her influence to affect any governmental act or decision (any of the foregoing a “Prohibited Payment”). The Parties shall promptly report to the other any Prohibited Payment.

**7. SUSPENSION / TERMINATION BY CONTRACTOR**

Contractor shall be entitled to suspend or terminate this Agreement by written notice to the Contracting Authority provided that:

a.) Contracting Authority has not paid any payment due under this Agreement within the time specified in Contract plus an additional cure period of twenty (20) days after Contractor’s non-payment notice to Contracting Authority;

b.) Contracting Authority breaches any of its material obligations under this Agreement and, in the case of a breach capable of remedy, fails to initiate steps to diligently remedy such breach within twenty (20) days after receipt of a notice from Contractor requiring it to do so;

c.) Contracting Authority becomes bankrupt or insolvent or carries on its business under a receiver for the benefit of its creditors;

d.) Contractor has submitted the services under Article 1 not in conformity with the terms of the contract and the cap of the penalties for delay is reached (4% of the contract price).

In the event of termination according to this Article d.) above, the Contracting Authority shall not be obliged to pay to the Contractor the price under Article 2.

**8. FORCE MAJEURE**

If Contractor is impeded in providing its deliverables under this Contract by circumstances beyond Contractor’s control, including instances of force majeure such as but not limited to war, fire, typhoon, earthquake, flood, riots, natural disasters, sabotage, terrorism, strike, lockout or other labor disputes, embargo, acts, omissions or interventions of public authorities involved in providing timely licenses, clearances, approvals or permit (“Force Majeure”), the schedules for the deadlines to be met by Contractor shall be postponed accordingly. Should the effect of Force Majeure last for more than sixty (60) days in aggregate, then Contractor has the right to terminate the Agreement according to Article 6, Termination.

For all issues unresolved in the present contact shall be applied the General Terms and Conditions of the Contracting Authority, applicable to contracts for public procurement – Appendix 1 and List of negotiated amendments in General Terms and Conditions of the Contracting Authority - Appendix 2.

An integral part of the present contract are:

Appendix 1 – General Terms and Conditions of the Contracting Authority;

Appendix 2 – List of negotiated amendments in General Terms and Conditions of the Contracting Authority;

Appendix 3 – Contractor`s Technical proposal

Appendix 4 – Price offer;

Appendix 5 – CONTRACTING AUTHORITY’s Anti-corruption policy and Compliance Declaration;

Appendix 6 – Code of Supplier’s Conduct;

Appendix 7 – Supplier’s Certificate – Penalty and Sanction Laws;

FOR THE CONTRACTING AUTHORITY: ………………………………

Krassimir Nenov

Executive Director

…………………….……………

Quinto Di Ferdinando

Member of the Board of

Directors

FOR THE CONTRACTOR: …………………………………………………….

Dr.-Ing. Hans-Ulrich Thierbach

Managing Director

…………………………………………………….

Bernd Hohnschopp

CFO