

**Demande d'acompte/Down  
payment request N°/Nb 99900922**

TVA N°/VAT Nb : FR 54 055 809 255

Date de la facture/Invoice date

07.05.2018

Notre référence/Our reference - du/date

**18660027 - 14.03.2018**

Votre référence/Purchase order Nb - du/date

**PE2B-7200-KOCS-014 - 09.04.2018**

Demandeur/Requester - Téléphone/Phone

Julien Ryckeboer - [REDACTED]

Compte Client/Customer account Nb

513012

Incoterms

Autre référence/ Other reference

99900922

**Client facturé/Invoice Customer**

Compañía Minera del Pacífico S.A.

RUT: 94.638.000-8

Giro: Minería

Av. Pedro Pablo Muñoz N°675

LA SERENA

CHILI

Attn : Comptabilité Fournisseurs/Accounts Dpt.

ORIGINAL

Poste Item N°	Désignation Article Description	Qté Qty	Unité Unit	Prix Unitaire Unit Price	Montant Total Price
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**TOTAL COMMANDE H.T / Order Amount Without Tax** [REDACTED] **EUR**

Payment Certification n°1

Purchase ORder no 4533011247

"Computational Fluid Dynamycs (CFD) Model"

HES : 1000309920

Total Purchase Order price : 54 180 Euros

1ST TERM: 70%

AT THE ORDER

[REDACTED] EUR

**Fives Pillard**

13, rue Raymond Teissère - 13272 Marseille Cedex 8 - FRANCE

Tél. : +33 (0)4 91 80 90 21 - Fax : +33 (0)4 91 25 72 71

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www.fivesgroup.com



# SPECIFIC CONDITIONS APPLICABLE TO THE CONTRACT

## FIVES PILLARD SALES

The Client is alone to know the overall risks of the project, and it is why he ensures Mastery of Works, FIVES PILLARD being sub-supplier for its part of supply and/or services.

## EXISTING EQUIPMENT

The condition of existing equipment at site which is not covered by a contractual guarantee period by FIVES PILLARD, still in force at the moment of the carrying out of the contract - in particular new equipment not supplied by FIVES PILLARD and older equipment out of guarantee, whatever the origin, for which adequate maintenance by the client determines its condition - is of the clients responsibility; the client recognises having taken all necessary measures to enable their use during the carrying out of the contract as per the usual regulations, such that they work without defect.

The service of the FIVES PILLARD agent does not include a technical audit on the existing equipment; the equipment concerned by the above stipulations is supposed to be in good working order, and all eventual repair or replacement required to meet this condition and their consequences are at the clients cost.

## STAFF AVAILABILITY

For all availability of FIVES PILLARD Staff, the exclusive conditions which apply are those specified in document "S.C.D.P.S." ref AQ011-21.

## VALIDITY TIME OF FIVES PILLARD OFFERS

It is reminded that once past the validity date (quotation date + validity time) all FIVES PILLARD offers (sometimes called "proposals", "quotations", "bids", "tenders") become null and void, FIVES PILLARD being relieved of all obligations with regard to the recipient or third party for that which it concerns.

## ACKNOWLEDGEMENT OF RECEIPT OF ORDER OR CONTRACT

The terms and amendments introduced by the acknowledgement of receipt prevail over the terms of the order or of the draft contract, define the applicable conditions of the contract and do not need acknowledgement in order to apply.

## BRANDS AND STANDARDS OF the proposed goods:

Unless specifically mentioning the sole choice of a supplier by FIVES PILLARD, the conditions of the present quotation have been established assuming the free choice of FIVES PILLARD for selecting the supplier for carrying out the purchase order. Any imposing by the client could lead to a modification of the present quotation.

Except where specifically stipulated in our quotation the construction standards are those in force in our Company, generally to French Standards (NF).

## DELIVERY TIME

With the sole exception that an eventual contractual clause for late delivery penalties applies, no damages relating to lateness of supply of goods or documents, or date of operation or delivery of supplied equipment can be claimed from FIVES PILLARD, insurance against such risk is incumbent on the buyer.

No contractual penalty can be applied to FIVES PILLARD for delays which are not of FIVES PILLARD's responsibility.

## GUARANTEES excluding sales of spare parts

The Client must facilitate all the interventions in this connection, notably in permitting the shutdowns for necessary adjustments or replacements.

The guarantees comprise:

### Mechanical Guarantee (or "warranty")

- Except where contrary to the contract, the guarantee period is fixed at 12 calendar months from provisional acceptance and at the latest 18 calendar months once the goods have been made available ex-works.

- This guarantee applies exclusively to those goods delivered as part of the contract, and with the following conditions:

- the codes of practice and our recommendations have been adhered to by the User,
- there has been no mishandling, nor any faulty usage or maintenance,
- the parts subject to wear (cited in our quotation) are excluded.

- Except where a special contract provision exists, replacement goods under the terms of guarantee will be supplied according to the same conditions stipulated in the contract.

- In the case of replacement, only the replaced item will be guaranteed again for the period stated above, once only.

- If an event subject to claim has occurred in the absence of our qualified personnel, the burden of our responsibility rests with the Buyer.

- No invoicing, nor retention of payment relative to the costs incurred by the Buyer, contingently due under the contract guarantee, will be imputable to us if we have not been previously requested by the Buyer to carry out, ourselves, our obligations.

The guarantee only applies if the client takes all necessary steps to facilitate the FIVES PILLARD interventions, in particular to obtain the necessary shutdowns.

During the above mentioned guarantee period, the user must obtain, under its sole responsibility, that any intervention on the goods supplied by FIVES PILLARD be achieved exclusively by FIVES PILLARD personnel.

After the end of the above mentioned guarantee period, the user must obtain under its sole responsibility that any intervention on the goods be carried out exclusively by adequately trained personnel who have acquired the mandatory skill enabling them to master all safety and reliability problems with relation to the use of such goods.

### Performances guarantee

- For modification of existing goods, the non-supplied equipment is assumed to be in correct operating order and giving satisfaction: our guarantee can in no circumstance be extended to include this equipment. It's reconditioning or replacement must be the object of a supplementary order which might imply a delay in the contract delivery time cited in the present document.

- It is incumbent on the Client to provide all the means necessary for observing the burner flames in operating conditions.

- The performances guarantee are limited to those which may be mentioned in a specific clause or chapter of the contract, and excludes any other characteristics or specifications which could be mentioned elsewhere in the contract.

- The performances guarantee is only valid if the assistance service for commissioning of the supplied equipment described in our quotation has been subject to a purchase order to FIVES PILLARD.

- Once the performance has been reached during testing, the performance guarantee is deemed to have been achieved and accepted once and for all.

- With the sole exception of the application of a specific contract clause for performance penalty, no damages can be claimed from us as a result of poor performance. Insurance against such a risk is incumbent on the Buyer.

- The guarantees are not applicable if FIVES PILLARD has not been completely informed about the true operating conditions.

- Unless stipulated to the contrary in the contract, the equipment is installed at an altitude not exceeding 500 metres, and does not correspond to any special conditions imposed by the Buyer or the User. The atmosphere is not dusty, saline or corrosive and none of the material nor equipment is prohibited.

- The end of the contractual guarantee period for the goods leads to the expiration of all other contractual guarantees.

### Noise level

Depends on the configuration of the following:

- air and flue gas path
- mechanical structures
- buildings

} excluded from our supplies and services

This affects the specific frequencies of the overall plant.

Our commitment is limited to such values as may eventually be mentioned as performance guarantees relative to an agreed method of measurement.

### Guarantee concerning sales of spare parts

Such a guarantee is limited to the sending of replacement parts to the Client, further to the receipt by FIVES PILLARD of the defective parts returned by the Client which have a defect making them improper for the use to which they were intended, as defined by the part manufacturer, and which must be respected by the Client.

Such a guarantee does not apply in the case of a defect which is the result of abnormal use, or mishandling, or not following maintenance or running instructions, with regards to professional codes of practice.

Such a guarantee expressly excludes:

- Any site services for dismantling or fitting of parts or costs concerning any necessary shutdowns which are and remain at the Client's expense.

- Any guarantee concerning the sub-assembly or set or complete plant to which the spare parts are fitted, excluding in particular any guarantee of result.

Such a guarantee applies for one calendar year from the date of ex-works availability at the FIVES PILLARD warehouse (or FIVES PILLARD's subcontractor) for the spare parts sold.

## DOCUMENTATION

Unless stipulated otherwise in our quotation, the prices include the supply by us of three sets of the drawings or schematic diagrams of the assembly and adaptation of equipment, flow diagrams, operating guide.

These documents are in English unless indicated otherwise in the quotation.

Any additional documentation or translation will be charged extra.

The "know-how" contained in the drawings and documents remains our property.

For documents/drawings to be submitted for approval to Client, those have to be returned to FIVES PILLARD approved, with or without comments, within 10 working days after date of notified receipt by Client of the documents/drawings.

Any delay of the approval duration could lead to equivalent delay on any delivery time defined in the contract.

**Drawings/Documents** for local fabrication by other. In the case of a mistake on our documents, our responsibility is strictly limited to correcting the above documents.

### Test certificates

For pressure equipment subject to statutory European requirements, we supply a declaration of conformity to the P.E.D. 97/83/CE for pressure equipment where applicable. Any material, conformity, extra test certificates specifically asked for beforehand and will be charged extra.

### X-Ray tests

Unless these tests are compulsory, such testing must be asked for beforehand and will be charged extra.

### Equipment and pipework subject to regulations

Where regulations demand specific testing, the test certificates (CCPU according to French Standard NF 03115 and NFA 49 000) are at Buyer's disposal.

### LIMITATION OF LIABILITY

Fives Pillard, its officers, employees, agents, sub-contractors and its insurers shall have no liability to the Buyer in respect of any actual or expected:

- loss of profits;
- loss of revenue, loss of goodwill, loss of opportunity, or loss of business;
- increased costs or expenses;
- wasted expenditure including pre-contract expenditure;
- loss arising out of any liability of the Buyer to any other person; or
- special, indirect or consequential loss of any kind.

The total liability of Fives Pillard to the Buyer (as well as its insurers) for all claims of any kind, however such liability arises, whether for breach of contract, in tort, (including negligence or breach of statutory duty, misrepresentation or otherwise, and regardless of the degree of fault or negligence involved), for any loss or damage arising out of, connected with, or resulting from the performance or breach of this Contract shall not exceed in aggregate 100 % of the amount of the Contract Price.

The parties acknowledge and represent that a fair balance of the risks has been taken into account in the fixing of the price and that the present limitation of liability is not unfair.

### DELIVERY OF SUPPLIED EQUIPMENT

- When commissioning service for the equipment supplied is not part of the contract, the transfer of ownership and responsibility as well as delivery of the supplied equipment take place at the time of availability of the items supplied according to the contract, without need for a special written document.

Transportation and starting-up are carried out at the Buyer's exclusive risk.

The Buyer is responsible for maintaining the goods in perfect condition and for any loss from the moment that the equipment becomes available.

- When commissioning service is part of the contract, the transfer of ownership and responsibility as well as delivery of the supplied equipment take place at the time of signature by the Client of the Provisional Acceptance Certificate attesting that the commissioning is effective. The authorisation to use the equipment supplied by us will only be granted to the Client after signature of the above document attesting that the commissioning is effective.

Use of the equipment prior to the above signature renders the Client solely responsible in the case of any causing damages occurrence, without him having the right to claim against FIVES PILLARD and their insurers citing the equipment supplied.

Refusal to sign the preceding document authorises FIVES PILLARD to stop the utilisation of the equipment without granting any right to claim from the client.

- With the sole exception of the existence of a contractual penalty clause for late delivery, no damages can be claimed against us for late delivery of the equipment, or for lateness in obtaining the contract performance or in the lifting of the reservations mentioned in the Provisional Acceptance Certificate. The insurance against such risks is incumbent on the Buyer.

Otherwise stated in the contract, the goods are always shipped at recipient's own risk, and this whatsoever the selling conditions, the mode of transport, the shipping conditions, even if our prices are given at destination bases.

The damages and delays occurred during transport are not taken into account by our Company.

In case of damage, it is on the recipient's responsibility to express all reservations on the B/L and/or A.W.B. and to confirm those within 48 hours by registered letter, to the freight company, and to apply all claims to him.

### SALES AND INVOICING AT FOB CONDITIONS

Should vessel(s) not be secured at the port of shipment, or shipping instructions not given to the Seller by the Buyer, for any reason whatsoever, excluding reasons attributable to the Seller, on the relevant contractual date of shipment, the Seller shall be entitled to put the relevant equipment into a warehouse, and all the charges thus incurred shall be borne by the Buyer after 15 days grace period.

Should the warehousing continue for more than thirty (30) days after the contractual date of shipment, the shipment shall be deemed to have been done and the payment upon shipment shall be released by the Buyer upon presentation of the corresponding warehouse certificate, in replacement of the shipping documents.

### TRANSFER OF OWNERSHIP AND RISKS

- The Seller is the owner of equipment until such time the Buyer has made all payments (French Law 80335 dated 12th May 1980).

- In case of non payment of all or part of contract price, FIVES PILLARD have the right to retake possession of the equipment 15 days after notification to pay by registered letter. In this case, any payment already received by FIVES PILLARD will remain with us and this without affecting our possibility to claim for damages.

- Upon transfer of ownership, the Buyer is responsible for loss or damage of the goods as well as for any other damage.

- The Buyer is authorised to sell the goods but he cannot give them or transfer ownership as security. Prior to selling the goods, the Buyer will have to inform the Seller so that the latter may enforce his right to retake possession of the goods or request the balance of the sums due. The authorisation to resell is void in the case where the Buyer has gone into receivership or liquidation.

### RE-INVOICING OR "BACK-CHARGES"

No re-invoicing or withholding of costs/expenses (or whatever nature they may be) of the client to FIVES PILLARD is authorised under the contract, unless it has been preceded by the sending of a formal letter of notice from the client to FIVES PILLARD by registered post with acknowledgement of receipt which has not been followed by the start of corrective action by FIVES PILLARD in the 7 days following the date of receipt by FIVES PILLARD.

### RESOLVING DISPUTES

For all disputes concerning the interpretation or application of FIVES PILLARD offers (sometimes called "proposals", "quotations", "bids", "tenders") and of the contract which cannot be amicably settled, the parties agree to submit the dispute expressly to the "Tribunal de Commerce" of MARSEILLES, France, which will apply the French law.

### OTHER SPECIFIC CONDITIONS

For any other conditions not mentioned here before, the parties shall refer exclusively to the General Conditions of Sales drawn up by the French "Syndicat National des Industries d'Equipeement" (MTPS).

### LATE PAYMENTS

In accordance with Article L441-6 of the Code of Commerce, any delay in payment will give rise to, if deemed appropriate by the supplier, and from the first day of lateness:

- The application of interest equal to, or around, the most recent refinancing rate of the European Central Bank, increased by ten points (economy modernisation law - LME - N° 2008-776 dated August 4, 2008)

- The application of a fixed indemnity amount for the recovery expenses for an amount of € 40 (European Directive 2011/7 dated 16 February 2011, Law 2012-387 dated 22 March 2012, and Decree 2012-1115 the October 2, 2012)

- When the recovery costs exceed the amount of this lump sum, additional compensation on presentation of justification.

AQ003-4t 06/05/13

# FIVES PILLARD

**Demande d'acompte/Downpayment request**  
**N°/Nb 99900922**

**ORIGINAL**

**Echéancier de facturation/Payment terms**

**AT THE ORDER (At Reception) Due Date 07.05.2018 / 37.926,00 EUR**

Final Invoice (Net 30 days) / Due Date 07.05.2018 / 16.254,00 EUR

**Terme réclamé/Term requested :**

**AT THE ORDER**

EUR

**TOTAL HT**

EUR

**Seller's Bank**

BANQUE NATIXIS

408, Avenue du Prado

13008 Marseille

Bank Account :

IBAN : FR76 3000 7530 3704 0025 7800 004

SWIFT : NATXFRPPXXX

**Fives Pillard**

13, rue Raymond Teissère - 13272 Marseille Cedex 8 - FRANCE

Tél. : +33 (0)4 91 80 90 21 - Fax : +33 (0)4 91 25 72 71

S.A. au Capital de 1 543 300 € - 055 809 255 R.C.S. Marseille

Siret 055 809 255 00015 - APE 2821Z - TVA n° FR 54 055 809 255

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# SPECIFIC CONDITIONS APPLICABLE TO THE CONTRACT

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The Client is alone to know the overall risks of the project, and it is why he ensures Mastery of Works, FIVES PILLARD being sub-supplier for its part of supply and/or services.

## EXISTING EQUIPMENT

The condition of existing equipment at site which is not covered by a contractual guarantee period by FIVES PILLARD, still in force at the moment of the carrying out of the contract - in particular new equipment not supplied by FIVES PILLARD and older equipment out of guarantee, whatever the origin, for which adequate maintenance by the client determines its condition - is of the clients responsibility; the client recognises having taken all necessary measures to enable their use during the carrying out of the contract as per the usual regulations, such that they work without defect.

The service of the FIVES PILLARD agent does not include a technical audit on the existing equipment; the equipment concerned by the above stipulations is supposed to be in good working order, and all eventual repair or replacement required to meet this condition and their consequences are at the clients cost.

## STAFF AVAILABILITY

For all availability of FIVES PILLARD Staff, the exclusive conditions which apply are those specified in document "S.C.D.P.S." ref AQ011-21.

## VALIDITY TIME OF FIVES PILLARD OFFERS

It is reminded that once past the validity date (quotation date + validity time) all FIVES PILLARD offers (sometimes called "proposals", "quotations", "bids", "tenders") become null and void, FIVES PILLARD being relieved of all obligations with regard to the recipient or third party for that which it concerns.

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## BRANDS AND STANDARDS OF the proposed goods:

Unless specifically mentioning the sole choice of a supplier by FIVES PILLARD, the conditions of the present quotation have been established assuming the free choice of FIVES PILLARD for selecting the supplier for carrying out the purchase order. Any imposing by the client could lead to a modification of the present quotation.

Except where specifically stipulated in our quotation the construction standards are those in force in our Company, generally to French Standards (NF).

## DELIVERY TIME

With the sole exception that an eventual contractual clause for late delivery penalties applies, no damages relating to lateness of supply of goods or documents, or date of operation or delivery of supplied equipment can be claimed from FIVES PILLARD, insurance against such risk is incumbent on the buyer.

No contractual penalty can be applied to FIVES PILLARD for delays which are not of FIVES PILLARD's responsibility.

## GUARANTEES excluding sales of spare parts

The Client must facilitate all the interventions in this connection, notably in permitting the shutdowns for necessary adjustments or replacements.

The guarantees comprise:

### Mechanical Guarantee (or "warranty")

- Except where contrary to the contract, the guarantee period is fixed at 12 calendar months from provisional acceptance and at the latest 18 calendar months once the goods have been made available ex-works.

- This guarantee applies exclusively to those goods delivered as part of the contract, and with the following conditions:

- the codes of practice and our recommendations have been adhered to by the User,
- there has been no mishandling, nor any faulty usage or maintenance,
- the parts subject to wear (cited in our quotation) are excluded.

- Except where a special contract provision exists, replacement goods under the terms of guarantee will be supplied according to the same conditions stipulated in the contract.

- In the case of replacement, only the replaced item will be guaranteed again for the period stated above, once only.

- If an event subject to claim has occurred in the absence of our qualified personnel, the burden of our responsibility rests with the Buyer.

- No invoicing, nor retention of payment relative to the costs incurred by the Buyer, contingently due under the contract guarantee, will be imputable to us if we have not been previously requested by the Buyer to carry out, ourselves, our obligations.

The guarantee only applies if the client takes all necessary steps to facilitate the FIVES PILLARD interventions, in particular to obtain the necessary shutdowns.

During the above mentioned guarantee period, the user must obtain, under its sole responsibility, that any intervention on the goods supplied by FIVES PILLARD be achieved exclusively by FIVES PILLARD personnel.

After the end of the above mentioned guarantee period, the user must obtain under its sole responsibility that any intervention on the goods be carried out exclusively by adequately trained personnel who have acquired the mandatory skill enabling them to master all safety and reliability problems with relation to the use of such goods.

### Performances guarantee

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- It is incumbent on the Client to provide all the means necessary for observing the burner flames in operating conditions.

- The performances guarantee are limited to those which may be mentioned in a specific clause or chapter of the contract, and excludes any other characteristics or specifications which could be mentioned elsewhere in the contract.

- The performances guarantee is only valid if the assistance service for commissioning of the supplied equipment described in our quotation has been subject to a purchase order to FIVES PILLARD.

- Once the performance has been reached during testing, the performance guarantee is deemed to have been achieved and accepted once and for all.

- With the sole exception of the application of a specific contract clause for performance penalty, no damages can be claimed from us as a result of poor performance. Insurance against such a risk is incumbent on the Buyer.

- The guarantees are not applicable if FIVES PILLARD has not been completely informed about the true operating conditions.

- Unless stipulated to the contrary in the contract, the equipment is installed at an altitude not exceeding 500 metres, and does not correspond to any special conditions imposed by the Buyer or the User. The atmosphere is not dusty, saline or corrosive and none of the material nor equipment is prohibited.

- The end of the contractual guarantee period for the goods leads to the expiration of all other contractual guarantees.

### Noise level

Depends on the configuration of the following:

- air and flue gas path
- mechanical structures
- buildings

} excluded from our supplies and services

This affects the specific frequencies of the overall plant.

Our commitment is limited to such values as may eventually be mentioned as performance guarantees relative to an agreed method of measurement.

### Guarantee concerning sales of spare parts

Such a guarantee is limited to the sending of replacement parts to the Client, further to the receipt by FIVES PILLARD of the defective parts returned by the Client which have a defect making them improper for the use to which they were intended, as defined by the part manufacturer, and which must be respected by the Client.

Such a guarantee does not apply in the case of a defect which is the result of abnormal use, or mishandling, or not following maintenance or running instructions, with regards to professional codes of practice.

Such a guarantee expressly excludes:

- Any site services for dismantling or fitting of parts or costs concerning any necessary shutdowns which are and remain at the Client's expense.

- Any guarantee concerning the sub-assembly or set or complete plant to which the spare parts are fitted, excluding in particular any guarantee of result.

Such a guarantee applies for one calendar year from the date of ex-works availability at the FIVES PILLARD warehouse (or FIVES PILLARD's subcontractor) for the spare parts sold.

## DOCUMENTATION

Unless stipulated otherwise in our quotation, the prices include the supply by us of three sets of the drawings or schematic diagrams of the assembly and adaptation of equipment, flow diagrams, operating guide.

These documents are in English unless indicated otherwise in the quotation.

Any additional documentation or translation will be charged extra.

The "know-how" contained in the drawings and documents remains our property.

For documents/drawings to be submitted for approval to Client, those have to be returned to FIVES PILLARD approved, with or without comments, within 10 working days after date of notified receipt by Client of the documents/drawings.

Any delay of the approval duration could lead to equivalent delay on any delivery time defined in the contract.

**Drawings/Documents** for local fabrication by other. In the case of a mistake on our documents, our responsibility is strictly limited to correcting the above documents.

### Test certificates

For pressure equipment subject to statutory European requirements, we supply a declaration of conformity to the P.E.D. 97/83/CE for pressure equipment where applicable. Any material, conformity, extra test certificates specifically asked for beforehand and will be charged extra.

### X-Ray tests

Unless these tests are compulsory, such testing must be asked for beforehand and will be charged extra.

### Equipment and pipework subject to regulations

Where regulations demand specific testing, the test certificates (CCPU according to French Standard NF 03115 and NFA 49 000) are at Buyer's disposal.

### LIMITATION OF LIABILITY

Fives Pillard, its officers, employees, agents, sub-contractors and its insurers shall have no liability to the Buyer in respect of any actual or expected:

- loss of profits;
- loss of revenue, loss of goodwill, loss of opportunity, or loss of business; increased costs or expenses;
- wasted expenditure including pre-contract expenditure;
- loss arising out of any liability of the Buyer to any other person; or
- special, indirect or consequential loss of any kind.

The total liability of Fives Pillard to the Buyer (as well as its insurers) for all claims of any kind, however such liability arises, whether for breach of contract, in tort, (including negligence or breach of statutory duty, misrepresentation or otherwise, and regardless of the degree of fault or negligence involved), for any loss or damage arising out of, connected with, or resulting from the performance or breach of this Contract shall not exceed in aggregate 100 % of the amount of the Contract Price.

The parties acknowledge and represent that a fair balance of the risks has been taken into account in the fixing of the price and that the present limitation of liability is not unfair.

### DELIVERY OF SUPPLIED EQUIPMENT

- When commissioning service for the equipment supplied is not part of the contract, the transfer of ownership and responsibility as well as delivery of the supplied equipment take place at the time of availability of the items supplied according to the contract, without need for a special written document.

Transportation and starting-up are carried out at the Buyer's exclusive risk.

The Buyer is responsible for maintaining the goods in perfect condition and for any loss from the moment that the equipment becomes available.

- When commissioning service is part of the contract, the transfer of ownership and responsibility as well as delivery of the supplied equipment take place at the time of signature by the Client of the Provisional Acceptance Certificate attesting that the commissioning is effective. The authorisation to use the equipment supplied by us will only be granted to the Client after signature of the above document attesting that the commissioning is effective.

Use of the equipment prior to the above signature renders the Client solely responsible in the case of any causing damages occurrence, without him having the right to claim against FIVES PILLARD and their insurers citing the equipment supplied.

Refusal to sign the preceding document authorises FIVES PILLARD to stop the utilisation of the equipment without granting any right to claim from the client.

- With the sole exception of the existence of a contractual penalty clause for late delivery, no damages can be claimed against us for late delivery of the equipment, or for lateness in obtaining the contract performance or in the lifting of the reservations mentioned in the Provisional Acceptance Certificate. The insurance against such risks is incumbent on the Buyer.

Otherwise stated in the contract, the goods are always shipped at recipient's own risk, and this whatsoever the selling conditions, the mode of transport, the shipping conditions, even if our prices are given at destination bases.

The damages and delays occurred during transport are not taken into account by our Company.

In case of damage, it is on the recipient's responsibility to express all reservations on the B/L and/or A.W.B. and to confirm those within 48 hours by registered letter, to the freight company, and to apply all claims to him.

### SALES AND INVOICING AT FOB CONDITIONS

Should vessel(s) not be secured at the port of shipment, or shipping instructions not given to the Seller by the Buyer, for any reason whatsoever, excluding reasons attributable to the Seller, on the relevant contractual date of shipment, the Seller shall be entitled to put the relevant equipment into a warehouse, and all the charges thus incurred shall be borne by the Buyer after 15 days grace period.

Should the warehousing continue for more than thirty (30) days after the contractual date of shipment, the shipment shall be deemed to have been done and the payment upon shipment shall be released by the Buyer upon presentation of the corresponding warehouse certificate, in replacement of the shipping documents.

### TRANSFER OF OWNERSHIP AND RISKS

- The Seller is the owner of equipment until such time the Buyer has made all payments (French Law 80335 dated 12th May 1980).

- In case of non payment of all or part of contract price, FIVES PILLARD have the right to retake possession of the equipment 15 days after notification to pay by registered letter. In this case, any payment already received by FIVES PILLARD will remain with us and this without affecting our possibility to claim for damages.

- Upon transfer of ownership, the Buyer is responsible for loss or damage of the goods as well as for any other damage.

- The Buyer is authorised to sell the goods but he cannot give them or transfer ownership as security. Prior to selling the goods, the Buyer will have to inform the Seller so that the latter may enforce his right to retake possession of the goods or request the balance of the sums due. The authorisation to resell is void in the case where the Buyer has gone into receivership or liquidation.

### RE-INVOICING OR "BACK-CHARGES"

No re-invoicing or withholding of costs/expenses (or whatever nature they may be) of the client to FIVES PILLARD is authorised under the contract, unless it has been preceded by the sending of a formal letter of notice from the client to FIVES PILLARD by registered post with acknowledgement of receipt which has not been followed by the start of corrective action by FIVES PILLARD in the 7 days following the date of receipt by FIVES PILLARD.

### RESOLVING DISPUTES

For all disputes concerning the interpretation or application of FIVES PILLARD offers (sometimes called "proposals", "quotations", "bids", "tenders") and of the contract which cannot be amicably settled, the parties agree to submit the dispute expressly to the "Tribunal de Commerce" of MARSEILLES, France, which will apply the French law.

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For any other conditions not mentioned here before, the parties shall refer exclusively to the General Conditions of Sales drawn up by the French "Syndicat National des Industries d'Equipeement" (MTPS).

### LATE PAYMENTS

In accordance with Article L441-6 of the Code of Commerce, any delay in payment will give rise to, if deemed appropriate by the supplier, and from the first day of lateness:

- The application of interest equal to, or around, the most recent refinancing rate of the European Central Bank, increased by ten points (economy modernisation law - LME - N° 2008-776 dated August 4, 2008)

- The application of a fixed indemnity amount for the recovery expenses for an amount of € 40 (European Directive 2011/7 dated 16 February 2011, Law 2012-387 dated 22 March 2012, and Decree 2012-1115 the October 2, 2012)

- When the recovery costs exceed the amount of this lump sum, additional compensation on presentation of justification.

AQ003-4t 06/05/13

# FIVES PILLARD