

No		Question	Answer
1		<p>Terms of Tender</p> <p>Page 11: Annexe no. 3 -second line: ...five ship to shore quay container gantry cranes... WRONG - Should read: THIRTY THREE CONTAINER TERMINAL TRACTORS</p>	<p>The part is amendment: "THIRTY THREE CONTAINER TERMINAL TRACTORS"</p>
2		<p>Agreement</p> <p>§2: Please add the following: 4. <i>Signing of Acceptance protocol should be done latest 45 days after delivery of the equipment (date of CMR)</i></p> <p>§3: 1. (ii) ...up to 40% of... §3: 2. ...amount of 40% of... §3: 4. (ii) ...amount of 40% of... Please change 40% to 20%.</p> <p>§8: 3. (ii) ...equipment requires registration in UDT/TDT... This cannot be accepted as we do not know if registration is needed and we do not have any kind of influence on such issues. Please note that in case the tractors need to be registered for public roads a so called road package has to be installed against surplus price.</p>	<p>Section § 8 p. 3 is amended. Section § 3 is amended.</p>
3		<p>Clause § 2.3: The clause states that "At the time of signing of the Acceptance Protocol confirming a lack of any defects in the Subject of the Contract the title to the Equipment shall pass to the Buyer."</p>	<p>Section § 2.3 of the Contract is amended: "The Equipment shall become the property of the Buyer at the time of signing of the Acceptance Protocol confirming a lack of any defects in the Subject of the Contract, provided that the appropriate payments have been made in full by the Buyer."</p>

		<p>This is not acceptable to us, as the title to the Equipment should only pass upon full payment of the Equipment. We suggest to amend the clause with the following: “The Equipment shall become the property of the Buyer at the time of signing of the Acceptance Protocol confirming a lack of any defects in the Subject of the Contract, provided that the appropriate payments have been made in full by the Buyer.”</p>	
4		<p>Section §3:</p> <p>This section refers to contractual penalties, also known as “liquidated damages”. Liquidated damages are damages whose amount the parties designate during the formation of a contract for the injured party to collect as compensation upon a specific breach. Therefore, the damages are a lump sum of money, predetermined at the time of the formation of the contract. Liquidated damages always replace actual damages. Therefore, having liquidated damages as a compensation system excludes the possibility for other claims for damages. The liquidated damages should thus be the only consequence for the delay and the Buyer should have no other claims. Therefore the part stating “The afore-mentioned contractual penalties shall not exclude the Buyer's right to pursue claims for remedy of the damage under general principles” is unacceptable. We suggest to delete this part.</p> <p>Moreover, the maximum penalty we are able to accept is 10% instead of 15%. Moreover, the liquidated damages of 40% in case of termination of the agreement are disproportionate and thus not acceptable.</p>	<p>Section § 3 is amended.</p> <p>The maximum penalty is amended from 15% to 10% instead. The part “The afore-mentioned contractual penalties shall not exclude the Buyer's right to pursue claims for remedy of the damage under general principles” is deleted.</p>
5		<p>Clause § 8.3:</p>	<p>The Contract remains unchanged.</p>

		The Buyer should not be allowed to use the equipment in commercial operation during the trial period. The trial period is for trial purposes only. In case the Buyer wants to use the equipment in commercial use, we will have to amend the text so that the risk is transferred to the Buyer and the Buyer accepts the machine.	
6		<p>Limitation of liability</p> <p>It is common contractual practice that agreements have a clause determining the liabilities. This clause commonly excludes the liability for indirect and consequential damages and install a liability cap. It is company policy that Cargotec never accepts agreements that do not contain such a clause. This is common practice and does not increase the risks of the buyer. The following clause is to be introduced in section § 3:</p> <p style="text-align: center;">“In no event shall the Seller be liable, whatever the cause thereof for loss of business, goodwill, revenue, profits, data, production or any indirect, special punitive or consequential damage. The aggregate liability of the Seller shall always be limited to fifteen percent (15%) of the total value of this Agreement.”</p>	<p>The following clause is introduced in section §3 p. 5:</p> <p>“In no event shall the Seller be liable, whatever the cause thereof for loss of business, goodwill, revenue, profits, data, production or any indirect, special punitive or consequential damage. The aggregate liability of the Seller shall always be limited to fifteen percent (15%) of the total value of this Agreement.”</p>
7		§1,p.1 - words mean the same thing? „Equipment”, „Item of Equipment”, „Subject of Contract”	<p>According to § 1 of the Contract:</p> <p>“The Seller sells and the Buyer buys the following equipment (...) severally referred to as the <<Item of the Equipment>> jointly referred to as the <<Subject of the Contract>>.”</p>
8		§2,p.2 - Is the amount with VAT?	All amounts stated in the contract are net and should be increased by VAT in compliance with applicable legal provisions in force
9		§2,p.2.i - ether the may be paid for specific parties after the	The Contract remains unchanged.

		signing machines Equipment Acceptance Protocols and not only after the final Acceptance Protocol	
10		§2,p.3 - Can we reserve, in accordance with Polish law to transfer ownership of sold items until receipt of the full price?	Section § 2.3 of the Contract is amended: "The Equipment shall become the property of the Buyer at the time of signing of the Acceptance Protocol confirming a lack of any defects in the Subject of the Contract, provided that the appropriate payments have been made in full by the Buyer."
11		§3,p.1 - whether the term 09.30.2016 r. is the term for the delivery of all equipment elements?	According to § 4 of the Contract: Complete Subject of the contract should be delivered latest till 30.09.2016
12		§3,p.1 - reception in factory orders may cover all such. 33pcs. ?	The Contract remains unchanged.
13		§3,p.1 – can we rule out delays not caused by the Seller?	The Contract remains unchanged.
14		§3,p.1 - Can we distinguish between punishment at fault and unfault by the Seller?	All of the contractual penalties settled in the Contract are irrespective of the culpability
15		§3,p.1i - Do we look at delivery in the context of the term of § 4 if on delivery as agreed by the parties regarding equipment?	The Contract remains unchanged.
16		§3,p.1i - Is the amount with VAT?	All amounts stated in the contract are net and should be increased by VAT in compliance with applicable legal provisions in force
17		§3,p.1i – can we clearly define punishment?	All of the contractual penalties settled in the Contract are connected with the event of any delay in the delivery of the Item/Items of Equipment in compliance with §4 of the Contract
19		§3,p.1 - consent to hand over the equipment may be in written form?	The consent may be in written form.
20		§3,p.1 - we assume that the consent of the Buyer shall not be unreasonably withheld ?	The Buyer shall not unreasonably withheld the consent.
21		§3,p.1 - Is the amount with VAT?	All amounts stated in the contract are net and should be increased by VAT in compliance with applicable legal provisions in force
22		§3,p.1 - can we determine the date of delivery for plus 7 days ?	The Seller has a right to determine the date of delivery 7 days in advance.
23		§3,p.1 - can we specify whether it is a weekdays if calendar?	It is calendar.
24		§3,p.2 - Is the amount with VAT?	All amounts stated in the contract are net and should be increased by VAT in compliance with applicable legal provisions in force
25		§3,p.2 – Which period during which the seller must pay for these replacement equipment?	The Contract remains unchanged.

26		§3,p.2 - could we change the punishment to 20% ?	The Contract remains unchanged.
27		§3,p.3 - Can we propose to identified defects affecting the ability to work, tasks machine or / and safety ?	The Contract remains unchanged.
28		§3,p.3 -Can we propose a period of 30 days ?	The Contract remains unchanged.
29		§3,p.4i - Can we propose an amendment to the punishment of 7% ?	The Contract remains unchanged.
30		§3,p.4ii - Is the value with VAT?	All amounts stated in the contract are net and should be increased by VAT in compliance with applicable legal provisions in force
31		§3,p.4ii - Can we add to withdraw from the agreement by the Seller to the Purchaser deviating conditions of delivery and payment due ?	The Contract remains unchanged.
32		§5,p.1 - Can we add a provision indicating the responsibility of the machine manufacturer in the implementation of the guarantee?	The Contract remains unchanged.
33		§5,p.2 - Can we change the record that He performed repairs during the warranty period the seller only ?	The Contract remains unchanged.
34		§5,p.2 - Can we remove the penalty for warranty repairs - these are repairs that are performed after delivery of the equipment without drawbacks.	The Contract remains unchanged.
35		§6,p.1 - Can we pinpoint the exact delivery address ?	DCT GDAŃSK S.A. ul. Kontenerowa 7, 80-601 Gdańsk, Poland
36		§7,p.1 - Can we accept delivery and guarantee implementation by OWGiD TMHPL ?	The Contract remains unchanged.
37		§7,p.1 - Can we accept protection machines in the buyer location on his side ?	The Contract remains unchanged.
38		§8,p.3i - At this the time to count towards the 48-hour endurance tests?	initial verification shall be distinguish by trial operation
39		§9,p.9 - Can we deleted this point ? because they are not clearly defined the exact parameters verification of PVE and how marks (if evaluation confirms with the Seller, if on one Buyer)	The Contract remains unchanged.