

Clarification 04

19-ZP-2020 – Shale Shaker Screens

Dear Sirs,

Please find our answers for some questions asked by bidder(s):

ITEM	Bidder Question	Exalo Drilling S.A. Answer.
1.	<p>„[...] Deliveries have to be made on the terms of DDP Incoterms 2020 to territory of the Republic of Poland, to Exalo’s Drilling S.A, Warehouse (P003), al. Powstańców Wielkopolskich 167, 64-920 Piła.</p> <p>can it be changed to FOB(Incoterms 2020) or CIF (Incoterms 2020)?”.</p>	<p>The Buyer do not accept any other delivery terms than DDP Incoterms 2020 to territory of the Republic of Poland, to Exalo’s Drilling S.A, Warehouse (P003), al. Powstańców Wielkopolskich 167, 64-920 Piła.</p>
2.	<p>„[...] item k), Section 1 Clause 3.2</p> <p>Payment Scheme – after each delivery based on properly issued invoice. Paid within 30 days from delivery of the invoice to the Buyer,</p> <p>Please specify payment terms.”.</p>	<p>Payment terms for successive deliveries are exact as mentioned, within 30 days after delivery of Screens and properly issued invoice</p>
3.	<p>„About your payment terms, can you elaborate? Letter of credit? Telegraphic Transfer ? D/P? or other payment methods?”.</p>	<p>All payments are made by bank transfer.</p>
4.	<p>- Clarification: In art. 1.9(b), 1.10(b) and 2.3 roles seem to have been reversed. Assume that it is for Buyer’s Representative to receive invoices and Seller’s Representative to issue invoices, not the other way around? Also it must be the obligation of Seller to supply or deliver screens, not purchase.</p>	<p>Correct, it is typing mistake. The Buyer change provisions of the Draft of Sales Agreement in accordance:</p> <p>In article 1.9 letter b) about Buyer’s Representative responsibilities, was:</p> <p>„b) commercial aspects of the implementation of the Agreement, including issuing orders and invoices is:, tel., e-mail:,”</p> <p>has changed into:</p> <p>„[...] b) commercial aspects of the implementation of the Agreement, including issuing orders and receiving invoices is: [...]”</p>

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		<p>In article 1.10 letter b) about Seller's Representative responsibilities, was:</p> <p>„b) commercial aspects of the implementation of the Agreement, including receiving orders and invoices is:, tel., e-mail:,“</p> <p>has changed into:</p> <p>„[...] b) commercial aspects of the implementation of the Agreement, including receiving orders and issuing invoices is: .[...]"</p> <p>As for article 2.3 about Seller's obligations, was:</p> <p>“[...]and the Seller is obliged to purchase in such quantities and their implementation.”</p> <p>has changed into:</p> <p>“and the Seller is obliged to supply such quantities and to fulfill such orders”</p>
5.	- In art. 8, please change to English law, and delete the last two sentences of art. 8.2.	The Buyer cannot agree with the Bidder's request and the provision of Article 8 will remain in its current form, as follows: „8.1 The present Agreement is governed by and construed in accordance with the Polish laws.“
6.	- In the very last paragraph, the English language version prevails over the Polish language version.	The last paragraph will remain in its current form. Please notice that Polish* language version of this Agreement shall prevail only, if the Seller chooses such version. Otherwise English language will prevail.
7.	<p>- In addition, please include the following provisions:</p> <p>“Limitation and Exclusion of Liability</p> <p>x.1 Notwithstanding anything to the contrary, Buyer shall release, save, indemnify, defend and hold harmless Seller from Buyer's own Consequential Loss and Seller shall release, save, indemnify, defend and hold harmless Buyer from Seller's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of this contract. For the purposes of this article ... the expression "Consequential Loss" shall mean: (i) any consequential, indirect, or exemplary loss or damage under governing law; and (ii) any loss and/or deferral of production, rig down time or standby time, loss of product, loss of use, loss and/or deferral of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (i), and whether or not foreseeable at the effective date of the Agreement.</p> <p>x.2 Buyer's overall liability arising out of or in any way related to this Agreement or the delivery or failure to deliver any products hereunder shall be limited to an amount equal to the remuneration set out in article 3.1. This limitation of liability shall apply whether any such claim arise in contract, tort or at law, and shall apply irrespective of the expiration or earlier termination of the Agreement and shall also apply in</p>	<p>The Buyer agrees to include suggested provisions into the Draft of Sales Agreement as new article 10 „Limitation and Exclusion of Liability“ with amendments to the second point as below:</p> <p>10.1 Notwithstanding anything to the contrary, Buyer shall release, save, indemnify, defend and hold harmless Seller from Buyer's own Consequential Loss and Seller shall release, save, indemnify, defend and hold harmless Buyer from Seller's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of this Agreement. For the purposes of this article 10 the expression "Consequential Loss" shall mean: (i) any consequential, indirect, or exemplary loss or damage under governing law; and (ii) any loss and/or deferral of production, rig down time or standby time, loss of product, loss of use, loss and/or deferral of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (i), and whether or not foreseeable at the effective date of the Agreement.</p> <p>10.2 Seller's overall liability arising out of or in any way related to this Agreement or the delivery or failure to deliver any products hereunder shall be limited to an amount equal to the remuneration set out in article 3.1. This limitation of liability shall apply whether any</p>



	case Buyer withdraws from the Agreement in accordance with article 4.4. Buyer shall defend, indemnify and hold Seller harmless from and against any claims in excess hereof."	such claim arise in Agreement, tort or at law, and shall apply irrespective of the expiration or earlier termination of the Agreement and shall also apply in case Buyer withdraws from the Agreement in accordance with article 4.4. Buyer shall defend, indemnify and hold Seller harmless from and against any claims in excess hereof." Former article 10 converts in article 11.
8.	„3.1. Section 3 please confirm warranty refers to shelf life (min 24 months)"	Warranty, minimum 24 months refers to the period from delivery of Screens. The Buyer confirms and explains that during this period the Seller is responsible for any defects disclosed in the sold Screens".
9.	3.2. Section 3 Appendix No. 6 – not compliant with GDPR, however we can give other clients company name	The Buyer agrees with Bidder request and will not require Customer Direct Contact Details in Appendix No. 6
10.	Do you accept digitally sign (certified signature) offer in pdf file by Bidders authorized person instead of signed and stamped by Bidders authorized person, then scanned and converted to .pdf file as mentioned in point 2.3 19-ZP-2020_Tender Invitation_Shale Shaker Screens EXALO "2.3 Absolutely each page of Commercial Offer and Technical Offer have to be numbered, signed and stamped by Bidders authorized person, then scanned and converted to .pdf file."	The Buyer will accept offers in pdf digitally signed (certified signature) by Bidders authorized person (not just certified signature for the Bidder entirely)
11.	Is screen samples a must for Bidding?	The Buyer (Exalo Drilling S.A) allows Offers without sending samples, they will not be automatically rejected as suggested by point 4.2 3) of Unlimited Tender Invitation. At the same time, the Buyer reserves that Offers without samples will not be evaluated in accordance with section 7.2. Unlimited Tender Invitation. This means that the Bidder will automatically lose 15 points, which can be maximally obtained in the criterion "Quality test results".
12.	What's the API number and its QTY for each screen model sample?	API number is something like a catalog / reference number that defines our technical requirements for a given Screens. You can refer to mesh number as well. QTY stands for "quantity"



13.	When shall the samples arrive to Buyer? (Delivery time as in point 4.2.3 above, but in point 4.2.3, mentioned only an email for receiving technical and commercial offers)	Point 4.2.3 of the Unlimited Tender Invitation speaks of the deadline for submitting bids, which the Buyer has set for 22th of June. However, due to the fact that this deadline was extended to 6th of July 2020 , samples should be delivered according to this date
14.	Does Exalo Drilling SA accept the certified signature of Bidders authorized person with one graphic symbol on each document? For example "Certum" provides certified digital signature only with one symbol graphic of signature on each document. It means that the certified signature cannot be visible on each page (only once).	The Buyer will allow Offers with the certified signature from Certum – subject to the provisions of point 10 of these Clarifications.

Z poważaniem

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