

Contracts Policy Guidelines

Introduction:

The contractual policy explains what should be covered under the different contracts, the extent of exposure that TGT is willing to take and determines the different levels of approvals for exposure/variances from the policy, who should review, and all the steps to be followed before the signature of the contract.

Roles of different departments:

Business Unit role: technical and commercial points, starting with contract / Purchase Order (PO)/ Work Order (WO) price list, advise on the actual operations' exposure, advise on the acceptable value of the caps depending on the value of the work, advise on the acceptable lost in hole charges, warranty periods and liquidated damages.

Legal department role: review the terms and conditions, draft wording to give the company the best coverage, advise Business Unit (BU) and management of the risks at hand and discuss with them whether they can be accepted.

Legal department also coordinates with all internal functions (like Tax, Finance, and S&P), and external vendors such as Insurance companies, brokers, other relevant regulatory bodies or external advisors, and obtain their recommendation. Accordingly, Legal will recommend the most adequate terms and conditions and communicate back to the respective Business Unit / Sales team.

Negotiate with customers' legal department better terms and conditions, where needed.

Provide risk analysis whenever there is a variance from the policy.

Perform a final review of the contract before it is signed.

Make sure the contract is signed by an authorised signatory of the company such as a Power of Attorney holder or a director.

Document / Archive the executed contract /agreement under share point (*to provide read only link to the contracts SharePoint*).

Communicate the executed contract to the Finance / Tax team, in parallel to communicating same to the respective BU.

All executed contracts/agreements to be under the custody of legal team and accordingly to be archived in the designated contracts share point.

Finance department role: review payment terms, invoicing, audit rights among other points.

It is also important to secure all revenue recognition criteria into any contract to ensure timely billing process followed by quick payment by customer.

- Revenue recognition criteria are:

- 1) Pricing is determined: There is an agreed price list as part of the contract or agreed as per PO or WO from customer, ideally prior to job mobilization.
- 2) Evidence of agreement; contract or PO/WO with defined terms and conditions.
- 3) Job completion confirmation: Customer WO/PO/signed FST, or confirmation email.
- 4) Revenue collectability: Meaning to ensure that customer is financially capable to settle their dues. This is not a concern with known International Oil Companies and National Oil Companies, however, it is necessary to obtain credit assessment in advance for small, new, local, unknown customers and if operations are planned in high-risk country/geography. This will help to price our services taking into account the customer credit risk by taking additional measures such as payment in advance, or the application of a risk factor percentage on the standard price, on a case by case basis. Any deviation from standard customers / geographies will require the approval of the CFO or his delegate on case-by-case basis.

- Billing requirements and payment terms:

- It is important to have in place a clear list of documents covered under the billing terms, that are required by the customer to accept our billing, such as, signed PO or WO from customers.
- In certain markets, or with certain customers, where POs or WOs are not required, it is strongly recommended to obtain a “mobilization email” to secure our revenue recognition process.
- It is important that billing/invoicing timing to customer be flexible (i.e. to enable us to submit the invoice to customer as and when job is completed with all agreed contractual billing supporting documents, and not only at the end of the month of operations).
- It is important that payment term to be calculated from the job end date, or from invoice date if the former job end date is not accepted by end customer.
- Payment terms: we should aim for the lowest possible and in no case exceed 90 days.
- In case of back-to-back payment term contracts (i.e. TGT contract is with conveyance partner, or with a local partner who have direct access to end customer) where TGT billing is raised to the local/conveyance partner, we must try to obtain the lowest payment term (for example but not for all cases: “5 work days from the date of payment from end customer, or within 90 days from job end date or invoice date whichever occurs earlier”).
- Any increase of payment term days from existing contract, or for any new contract above 90 days will require Financial Controller, or CFO pre-approval.

Any deviation from the above recognition, billing and payment terms, will require preapproval from Financial controller or Chief Financial Officer.

Tax department role: review tax provisions in the contract, advise on the entity to be used and verify the country specific provisions. In the countries where TGT has no legal presence (no legal entity registered in the area of operation), the Tax team has to advise the appropriate offshore legal entity to enter into the contract to minimise the Withholding tax costs and Permanent Establishment risks.

Standard Tax clause to be used is as follows :

“The prices are exclusive of Sales Tax or any other similar taxes applicable taxes. If applicable in area of operations. Sales Tax or similar applicable taxes will be added to Contractor’s invoices and such invoices will be presented in accordance with applicable regulations.

Unless otherwise specified in this Agreement, Contractor shall be responsible for and pay directly all corporate and individual taxes measured by net income or profit imposed by any governmental authority on Contractor, its employees or subcontractors in any way connected with this Agreement. Company shall be responsible for and pay directly when due and payable all taxes, duties, fees, or other charges of any nature (including, but not limited to, consumption, franchise, gross receipts, import, license, property, sales, turnover, use, interest, or assessment related thereto). All payments due and payable to Contractor by Company under this Agreement shall be made without deduction or withholding except that if Company shall be required by law to deduct or withhold any taxes from or in respect of any amount payable by it to Contractor. Company shall provide to Contractor on a timely basis accurate official receipt for deducted or withheld taxes.”

Legal/contractual issues:

- Knock for knock: each party shall be responsible for any loss to its equipment and personnel, regardless of cause. We need to make sure the other party’s group includes its other contractors and the end client, if not, a specific coverage for the client’s property and personnel is needed.
- Back-to-back provisions: if it is a subcontract, we need to have the same protection as the other party is getting from the end client. We also need to make sure that we don’t accept under the back-to-back contract all the same liabilities that the main contractor is taking under the end contract, since most of the time TGT’s scope is smaller than the contractors’ scope.
- Catastrophic events: we need to make sure we will not be held liable in case of a catastrophic event, regardless of cause, that could happen if the other party or the end client alleges that TGT’s work contributed to said event, it’s either we get coverage by extension from the catastrophic loss clause in the main contract, or by overall cap and indemnification above the cap. Catastrophic events include events such as blow out, fire, explosion, loss of the well, loss of the reservoir, subsurface pollution or contamination and radioactive contamination.
- Lost in hole/Damage beyond repair/Equipment under the control of the other party or the end client: payment for the value of equipment less depreciation which should be capped with BU advice, the exception is TGT’s sole negligence. BU to advise on whether depreciation is acceptable and the maximum amount thereof. A separate Lost in Hole price list should be provided by BU, whereby the value of each tool will be based on two main elements: 1. The replacement cost for equivalent tool which in many cases would be a new tool production. 2. The value of lost revenue for losing any tool.

- Fishing clause should be included to ensure that the end client will fish for any TGT equipment lost downhole.
- Consequential damages: each party should indemnify the other for its own consequential damages regardless of cause. A clear definition of consequential damages should be included since their definitions may vary from one jurisdiction to the other.
- Insurance: any requirement to name the other party or the end client as additional insured in TGT's insurance policy shall be limited to the liabilities assumed by TGT under the contract. The same limitation applies for the requirement of a waiver of subrogation by TGT insurers in favour of the other party or the end client.
- Disclaimer of results: all TGT logs should include a disclaimer of liability for results or decisions made by the other party or the end user based on the data provided by TGT.
- Warranty: the ideal for the warranty period is to be until demobilisation from the worksite. If this is not the case, BU to advise on the acceptable warranty period, which shall in no case exceed 12 months. BU to advise also on the nature of the warranty given and whether it is just reperformance or it has financial impact, in the latter case, TGT's liability should be capped to a reasonable amount.
- Liquidated damages: Ideally, TGT should not assume liquidated damages charges, however, if the customer is insisting, liquidated damages must always be capped to a reasonable amount.
- Other financial exposures: TGT should not accept any open-ended liability for any costs incurred by the other party, even if caused by TGT's negligence, and TGT's liability shall be capped by a reasonable cap value that is in proportion to its scope of work and its economic benefit under the contract.
- Intellectual Property: it is important to ensure that the other party is not taking ownership of any of TGT's existing Intellectual Property (IP) or any IP that TGT may develop while performing the work.