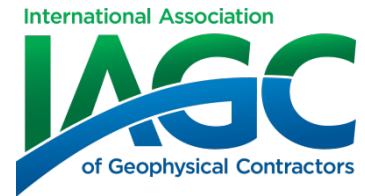


# Statement of Principles

## Right of First Refusal



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This document includes the Statement of Principles, a description of the issues (with examples) and contractual language.

## Statement of Principles

### Key Words:

- **Company**
- **Contract**
- **Contractor**
- **Geophysical Industry**
- **Geophysical Services**
- **Tender**
- **Third Party(ies)**

Terms that are in bold type are defined in the Glossary of Terms which forms part of this family of Statements of Principles.

**Contractors** acknowledge that, in certain circumstances and pending finalization of a **Contract** following a formal notification of intent to award or award of work for **Geophysical Services**, the granting of a limited Right of First Refusal (RoFR) or option over a geophysical resource may provide an equitable basis for both parties to manage an interim period during which the processes to finalize a **Contract** can be concluded. The following principles should apply with respect to the granting and exercising of a RoFR over **Tendered** geophysical resources.

### 1. **Company's** RoFR:

- Where **Company** has exercised its RoFR over a **Contractor's** geophysical resources by its intention to award the work for **Geophysical Services**, then subject to the mutually agreed terms upon which they are to be contracted, the **Contractor** should be willing to be bound by the exercising of this RoFR.
- Terms of the RoFR should include:
  - In consideration of **Contractor's** granting such RoFR, **Company** should agree not to award the work to any other **Third Party** and **Contractor** shall not commit its relevant geophysical resources to any **Third Party** without **Company's** waiver of its RoFR.
  - The RoFR should in all cases be subject to a strictly limited timeframe (xx days), to be determined by **Contractor** according to its commercial and operational schedules. Within such timeframe, upon **Contractor's** notification to **Company** of **Third Party** offers of work, **Company's** response deadline should also be limited (xx hours).
  - The RoFR should include an agreed amount of compensation that reflects the value such RoFR affords.

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## Commercial Context

The **Tendering** of **Geophysical Services** in different market sectors is typically concentrated within specific timeframes (i.e. following License Round Awards or in response to seasonal constraints such as the North Sea fair weather period, Arctic winter period, etc.). Consequently **Contractors** will often submit proposals simultaneously to different **Companies**, offering seismic services in the same timeframe and with the same geophysical resources.

In recognition of these conflicting demands, the market for **Geophysical Services** has traditionally been driven by the principle of "First Come – First Served" (i.e. the first to award has the first call on available geophysical resources). Therefore, **Contractor's** bids standardly include a short timeframe (2-3 days) inside which the **Contractor** can confirm its availability to perform the **Geophysical Services**.

**Contractors** agree that, in certain circumstances and pending finalization of a **Contract** following a formal notification of an intent to award or award of work for **Geophysical Services**, the granting of a mutual RoFR may provide an equitable basis for both parties to manage an interim period during which the processes to finalize a **Contract** can be concluded. In this circumstance, it is possible that the **Contractor** would be obliged to notify certain **Third Parties** to whom the geophysical resources were offered under a **Tender** that a RoFR is now applicable to such geophysical resources. Therefore, the principles listed on page 1 for preparing a RoFR agreement are essential to ensure that each **Contractor** retains its ability to competitively bid and acquire work for **Geophysical Services** in the event that the RoFR parties are unable to finalize a **Contract** following the notification of intent to award.

There have been instances where a **Company** has requested that **Contractor's** response to their **Tender** be submitted with the inclusion of a RoFR for **Contractor's** geophysical resources. Such position places an unrealistic burden on the **Contractor** as it would require **Contractor** to notify all **Companies** to whom it intends to **Tender**, or previously **Tendered** the same geophysical resources that its **Tenders** are now subject to a RoFR.

As a general rule, most **Companies** would not be prepared to accept such a **Tender**. Furthermore, if taken to its extreme and all **Companies** demanded a RoFR as part of their **Tender** conditions, then it would only be possible to bid to one **Company** at a time for specific time periods, which basically removes the healthy competition that both **Companies** and **Contractors** agree are imperative to sustain fair market conditions within the **Geophysical Industry**.

## Contractual Language

The next page is an example of a Letter of First Right of Refusal which would be typical of those currently being used within the **Geophysical Industry**.

[On letterhead of relevant **Company**]

[Date]

[**Contractor** Name/Address]

RE: Letter of Right of First Refusal relating to **Tender** No. XXX dated XXX ("**Tender**").

Dear Sirs:

This letter shall serve as confirmation that [insert **Company** name] ("**Company**") and [insert **Contractor** name] ("**Contractor**") have reached an agreement relating to a right of first refusal in respect of the **Contractor's** vessel, equipment, and crew identified in the referenced **Tender** (collectively the "Equipment").

In consideration of the payment of [insert dollar amount] by **Company** to **Contractor**, the **Contractor** hereby agrees that for the period of mm/dd/yyyy through mm/dd/yyyy [insert a minimal timeframe in which to finalize a **Contract**] **Contractor** will not accept any **Third Party** offer to engage **Contractor's** Equipment for the provision of services during [insert the timeframe for the work as indicated in the **Tender**] without first giving written notice to **Company** ("**Contractor's** Notice").

Upon **Company's** receipt of **Contractor's** Notice, **Company** shall have [xx] working days to either (i) formally engage the **Contractor** to perform the work identified in the **Tender** on the terms already agreed between the **Company** and the **Contractor**; or (ii) withdraw **Company's** conditional award for the referenced **Tender**. If **Company** opts to withdraw its award or fails to respond within [xx] working days of receipt of the **Contractor's** Notice, **Contractor** shall be free to offer **Contractor's** Equipment to such **Third Party** and the remaining provisions of this letter and any prior conditional award of the work relevant to the reference **Tender** shall be null and void.

The **Company** agrees that during the period of mm/dd/yyyy through mm/dd/yyyy [insert same timeframe as shown in paragraph 2 above] **Company** shall not award any portion of the work identified in the referenced **Tender** to any **Third Party**.

This Letter of Right of First Refusal is a legal and binding agreement when signed by **Company** and **Contractor**.

[INSERT **COMPANY** NAME] DOES HEREBY ACCEPT AND AGREE TO ALL COMMITMENTS AND TERMS PROVIDED FOR IN THIS LETTER OF RIGHT OF FIRST REFUSAL.

[INSERT SIGNATURE BLOCK]

[INSERT **CONTRACTOR** NAME] DOES HEREBY ACCEPT AND AGREE TO ALL COMMITMENTS AND TERMS PROVIDED FOR IN THIS LETTER OF RIGHT OF FIRST REFUSAL.

[INSERT SIGNATURE BLOCK]