

# 10 Construction Insurance Top Tips

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COMMERCIAL ADVANTAGE. MUTUAL BENEFIT

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# 1 Saving money on Sabotage & Terrorism (S&T) cover across multiple projects

## Background:

- A number of IPP Projects on the go / planned / in operation
- Debt financed
- Client a “reluctant” buyer of S&T
- Different lenders / JV partners on each deal / project

# 1 Saving money on Sabotage & Terrorism (S&T) cover across multiple projects (cont.)

## Solution:

- An annually renewing facility offering a single aggregate limit for each Project's term – this single aggregate shared across all Projects costs a fraction of the cost of buying separate covers.
- Following a loss, the first reinstatement in any given policy year is automatic and free.
- Following second loss in any policy year, the claiming Project pays the reinstatement (the reinstatement is automatic, but the AP is to be agreed). All Projects remain covered.
- Coverage can include Political Violence (ie. War on Land).

*OUR FIRST SUCH DEAL WON THE DEVELOPER'S RISK MANAGER  
"FINANCIAL DEAL OF THE YEAR" AWARD*

## 2 Saving money on Emerging market location IPPs

### Background:

- In Emerging markets lenders often insure against Political Risks for their own account, often including Political Violence, (i.e. S&T including war on land).

### Solution:

- Special purpose vehicles only need take out "DIC" Political Risks insurance thus saving a ton of cash

# 3 Dovetailing Delay in start up (DSU) and Liquidated damages (LD)

## Background:

- Contractors usually have LDs imposed on them for late completion where they cannot claim a Force Majeure relief
- Insurers give DSU cover to owner (and lenders) only
- DSU insurers claim they don't give "LD cover" but they do ..... kind of
- Contractors do not understand why they are not a named (and therefore waived) party on the DSU section of the Owner Policy

## 3 Dovetailing Delay in start up (DSU) and Liquidated damages (LD) (cont.)

### Solution:

- Contractors CAN be named and waived (although insurers deny this)
- Be clear which pays first
- Our solution is that DSU should pay first ignoring any LD recovery, but then have Subrogation Rights against LDs if they exist

## 4 A Brave New World – letting contractors off risk of loss (mad as it sounds?)

### Background:

- Many man months spent arguing risk of loss allocation
- Contractors can be very astute in limiting or contracting out their liabilities
- Contractors increasingly not willing to accept risk of loss where they are not procuring the All Risks insurance

## 4 A Brave New World – letting contractors off risk of loss (mad as it sounds?) (cont.)

### Concept:

- Give contractors a very wide risk of loss up to a manageable limit – say US \$5m (any higher and they might try and buy a DIC/E and guess who pays for that?)
- Waive them out above that other than for gross negligence or wilful misconduct (define very carefully – note also that LDs still exist)
- This leaves owner free to insure risk of loss as they see fit, but ...
- puts “insurer failure” risk on owner

## 5 How not to make a deal “unbankable”

### Background:

- Many IPP projects rely on debt finance
- Many are “off balance sheet”
- Many start thinking about insurance too late

## 5 How not to make a deal “unbankable” (cont.)

### Solution:

- Understand lender’s concerns
- Control the placements
- Don’t be a broker’s or insurer’s learning curve
- Make the deal “lender friendly” from day one
- Have a say in who the lender’s insurance advisor is

## 6 How to deal with “unproven” technology

### Background:

- OEMs under pressure to increase efficiency
- Owners under pressure on margin
- All engineers are optimists
- Lenders and insurers mistrust “unproven” technology

# 6 How to deal with “unproven” technology

(cont.)

## **Solution:**

- Get insurers / brokers involved early
- Use brokers who understand the issues and carry weight in the insurance market
- Gain access to insurers’ specialist engineers
- Bench test equipment that may be prototypical with insurers before committing
- If there is a compelling case to use a “prototype” piece of critical equipment, negotiate new technology indemnities (NTIs). Check what lenders will require, and what insurers will grant

## And...

- Never pat a burning dog
- Never eat yellow snow
- Etc
- Etc

Thank You