Renewable Energy Insurance – When You Need Specialist Advice

The Renewable Energy Industry is diverse and fast evolving, however, with advances in technology comes new risk. Insurance for the renewables sector has evolved to meet the developments of the industry, but there are complexities and expert advice is vital to ensure maximum protection.

Nsure Renewables have a long established understanding of the renewables sector, with access to specialist markets, bespoke policy wordings and great experience with claims handling and due diligence work. In this factsheet we will pass on some of our experience and take you through the phases of cover required, from when a site is first considered to when it is fully operational, highlighting some of the things to watch or consider along the way.
The factsheet primarily deals with wind energy, but much of the information is equally relevant to other renewables, which we mention later.

What cover is required and when?

There are 3 phases of cover as follows:

Phase 1 – Before Construction (Land Options)

Public Liability – if you have an option on a piece of land, not only do you incur a legal responsibility to ensure that the land is "safe" for visitors, there is invariably a contractual requirement with the landowner to arrange public liability insurance.
At this stage there will also be environmental, ground condition and wind speed assessments undertaken on the site with subcontractors and consultants accessing the land on your behalf and you will need to ensure they also have suitable cover.
All Risks cover for Wind Measurement Equipment – Whether you own the equipment or it is hired or leased (you will generally be responsible for insurance), cover can be arranged for loss or damage to the equipment whilst on site, in transit or in storage. You should note

that insurers may have security requirements, particularly for higher value equipment such as lidar and sodar units.

Phase 2 – Construction

Who Insures? – is the first and in many ways the main question. The responsibility for arranging insurance during the construction phase will depend on both the contractual conditions in force and the lending agreement with financiers. The contract can affect the extent of insurance cover available and it is not unusual for duplicate insurance to be in force.

The cover available is as follows:

1. **Contractors All Risks** (also known as Contract Works), covers the contract works, as well as materials prior to and during assembly, including in transit (within the UK) and both on and offsite storage. Cover is for ‘All Risks’ including subsidence and terrorism (optional).

2. **Marine Transit**, (subject to contractual responsibility) cover will be required if the turbines or any other equipment is being imported from overseas.

3. **Advance Loss of Profits/Delayed Start Up** – covers loss of revenue if the project does not complete on time as a result of damage insured by the Contractors All Risks or Marine policies. Cover extends to include additional expenses incurred in reducing the loss (subject to an economic test) and policies also provide Business Interruption cover for loss of revenue following loss or damage to operational wind turbines occurring prior to the final handover of multi-turbine sites. However, Advance Loss of Profits/Delayed Start Up cover will only be available if the principal arranges the insurance.

4. **Public Liability Insurance** – The contractors and equipment suppliers will have their own public liability insurance and should include ‘an indemnity to principal’ provision. These need to be checked, however, in the event of a significant loss or injury, lawyers for an aggrieved party are likely to take a ‘scattergun approach’ to any person or company potentially at fault. Separate Public Liability cover is therefore recommended for any principal who will retain overall responsibility for the land as a contingency. The level of indemnity limit required is usually dictated by the contractual conditions.

As mentioned previously, the contract conditions can dictate who arranges the insurance and it is worth considering the following before contracts are finalised.

Turnkey Contract– the contractor is responsible for arranging cover on the contract works and materials, but the Advanced Loss of Profits and Delayed Start Up covers will not be available.

Turbine Supply Agreement/Balance of Plant Contract – the turbine suppliers assume responsibility for insuring the turbines until they are handed over and the contractor assumes responsibility for the 'balance of plant' being other facilities and infrastructure. As with turnkey contracts, Advanced Loss of Profits and Delayed Start Up covers are not available.

With either the Turnkey or Turbine Supply/Balance of Plant contracts, in the event that the project is delayed, any claim for compensation will depend on the contractual conditions. There will probably be a provision for liquidated damages, however, these are unlikely to provide an adequate indemnity in the event of a serious delay as claims on liquidated damages clauses are invariably subject to limitations and exclusions, such as 'force majeure' incidents.

Principal – when the Contractors All Risks cover is arranged by the principal it can be extended to include Advanced Loss of Profits and Delayed Start Up covers to protect against loss of operational revenue and avoid reliance on liquidated damages clauses.

Financed Projects – financiers funding projects will usually insist on Advanced Loss of Profits and Delayed Start Up covers being in place to protect the return on their investment. There may also be other issues with a contractors (or manufacturers) policy, so generally, cover has to be arranged by the principal. See the section on Financed Projects and Due Diligence.

Interests – whichever contractual option is selected, insurers will usually note the interest of the other parties and financiers involved, to comply with the contractual conditions.

Phase 3 – Operational

When the project is completed, annual insurance is usually required to provide continuing protection in three key areas as follows:

Property Assets – "All Risks" including electrical and/or mechanical breakdown, subsidence and terrorism (optional) cover on the turbines, as well as ancillary infrastructure and equipment including the likes of buildings, cabling, switchgear and access roads.

Business Interruption – Loss of Revenue (including tariffs, ROC's etc) arising from loss or damage to the Property Assets insured above and additional costs incurred in reducing the loss of revenue (subject to an economic test).

Policies generally extend to cover losses arising from;

a. damage at the first non owned sub station
b. denial of access to the site
c. failure of utilities
d. suppliers' premises, preventing supply of essential services, equipment or maintenance

Liability insurance – Employers, Public and Products cover for your legal liability for injury to employees or third party persons or damage to third party property arising from your business activities.

Policy Excesses – there will be monetary excess applying to claims for physical assets or damage to third party property. For loss of revenue claims, a time deductible is applied, e.g. the first 10 days of each and every claim.

Financed Projects and Due Diligence

If a bank or financier is lending money for a project they usually require the principal to arrange the insurance with the financier named as an insured party. The financiers' cover requirements and conditions can be onerous and often go beyond an insurer's normal wording, so it is advisable to check these at a very early stage as not all insurers are prepared to extend their policies to conform to the requirements.
For larger projects, a financier will appoint its own due diligence insurance advisor to check on the insurances being arranged by their customer. It is vitally important that the customer's 'placing' broker understands the policy cover, conditions, exclusions and additional policy extensions that may be necessary; and has experience in the negotiation that will likely be required between the various parties involved (the financier, their advisor, their lawyer, customer, customer's lawyer and the insurer).

Choice of Insurer

It almost goes without saying that cost is important, however, when choosing an insurer, their ability to deliver the cover and service required also needs to be taken into account. Any recommendation of an insurer, in addition to their competitiveness, should take into account not just the range of cover, but where relevant, their capability to accommodate financier's cover requirements to avoid due diligence problems. For risks involving overseas assets, the insurer needs to be able to deal with local taxes and cover requirements.

And of course, the insurer's claims service and financial rating are as important as the cost.

Claims Process

Wind turbine claims can be expensive, complex and challenging, often involving the coordination of the hire of heavy lifting equipment within weather windows and tight timescales to minimise loss of revenue and it is not uncommon for several parties to be involved in the claims process (loss adjuster, turbine company engineers and insurer claims departments). It is vital that you have a specialist insurance broker with experience of the industry on your side, not only to ensure that all parties involved are working in the same direction, but also to negotiate on your behalf when 'sticking points' occur, such as differentiating between insured damage and 'wear and tear' (which is excluded) or occurrences deemed 'serial' losses.

Other Points to Watch

Post Warranty Protection and Ageing Machines – turbine manufacturers will provide a warranty for a period of time supported by an Operation and Maintenance (O & M) programme; so during the warranty period, breakdown claims are generally directed at the manufacturer, rather than the insurer. The insurance is there as a contingency, although is usually 'first call' for the resultant business interruption claims.

Once the initial warranty expires insurers will provide 'full' breakdown cover, although they expect a continuing O & M service, ideally complemented by an extended warranty package. However, just like a motor vehicle, the older a turbine becomes the more prone it will be to breakdown. For older machines, insurers will wish to manage their exposure (to the potential escalation of claims, both in terms of frequency and severity), and the availability of cover will depend on the O & M Strategy in place and whether it provides predictive and preventative maintenance, rather than just reactive maintenance, as well as the claims history.
A broker's assistance with how this information is presented to insurers can be a significant factor, as the absence of a suitable maintenance programme and/or a history of claims may see insurers increasing policy excesses or the removal of breakdown cover.

Obsolete Technology – when equipment is no longer in production, claims settlement can be problematic and some insurers will agree how claims will be settled before cover is incepted, so both parties know where they stand if a claim occurs. Many insurers will also restrict the indemnity period during which they will pay Business Interruption claims following damage to the 'obsolete' equipment.

Underinsurance – many insurers apply the average condition to policies covering Property Assets or Business Interruption, meaning that if you do not insure for the full value you will bear a pro rata share of the loss that you suffer. It is therefore vital that you insure for the full amount to prevent your claim bearing reduced. Further information is available in the Nsure Insurance underinsurance factsheet.

Other renewables – Anaerobic Digestion, Bio Fuels, Biomass, Hydro, Solar and Tidal

The risks are largely similar to wind energy, but all have various nuances and peculiarities.

Biomass – involve an insurance broker early. Decisions on the equipment to be used may have an influence on the availability of insurers and your choice may inadvertently restrict the insurance markets available to you. It is worth checking before orders for equipment are placed.

Bio Fuels – when a Short Term Operating Reserve (STOR) agreement is in place, loss of revenue cover can be extended to include damage suffered at a Triad peak period.

Solar – reduction in yield cover due to lack of radiation from inclement weather or temporary sky obstructions, is available to provide financial security for the project.

Tidal – this area of renewable energy is still very much in development or to use insurance terminology, 'prototypical'. Nsure have insured the 'Seagen' project located in Strangford Loch, Northern Ireland, so have invaluable experience in working with developers and investors in this demanding sector.

Other Covers

In addition to the specialist Renewables cover for the project, you should also consider a range of other insurances, including;

Cyber Liability – protect your systems against cyber risks, such as hacking and viruses.

Directors and Officers – protection for your personal liability for actions and decisions you take.

Environmental Liability – protection against environmental liabilities from owning or operating a site that go beyond the 'sudden, identifiable, unintended and unexpected' cover provided by conventional public liability policies.

We can also arrange other business insurances including Office, Motor, Bonds and Professional Indemnity.

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