



Schedule of Amendments published on 14 October 2024

The following amendments have been incorporated into Model Form 1.12 Collateral Warranty (PW-CF1 to 5) and Model Form 2.3 Collateral Warranty for Sub-Consultants, with a publication date of 14-10-2024.

1. Model Form 1.12 Collateral Warranty – 14-10-2024

| Clause Reference | Description |
|-------------------------|--|
| Flysheet | Version number, publication date etc. have been updated to reflect amendments made. |
| Title Details | The form of Collateral Warranty has been changed from “DEED” to “AGREEMENT” |
| Recitals | The order of the Recitals has been amended for flow and clarity. |
| 2.1a/b | Restates the PII requirements depending on whether the insurance is held in the Annual Aggregate or on an Each and Every Claim basis. The correct option should be selected depending on whether the Specialist has design responsibilities. |
| 2.2 | States that the maximum excess for Professional Indemnity Insurance shall be the greater of 2% of the Specialist’s annual turnover or €5,000. |
| 2.3 | Now states for clarity: On or before the date of renewal of the professional indemnity insurance policy, and in any event , when it is reasonably requested to do so by the Employer, the Specialist shall produce for inspection satisfactory documentary evidence that its professional indemnity insurance is being maintained. |
| 2.5 | New sub-clause outlining the Insurance provisions which shall apply if clause 2.1a is selected. |
| 4 | The benefit of the Collateral Warranty can now be assigned 3 times with consent, and assigned on further instances with consent which cannot be unreasonably withheld. |
| 5 | Clause 5 Step In has been amended to include, the procedure where Step In may be exercised, the Employers obligations, the Specialists obligations. |
| 7 | Clarification added that Common Law rights not affect by the Liability Cap. |
| 8.2 | Dispute Resolution procedure is stated, arbitration is the final dispute resolution mechanism. |
| 11.1 | Liability cap amount to be entered in euro. |
| 11.2 | Exclusions from the Liability Cap are outlined . |
| 11.3 | Specialists Liability to the Employer is limited to the Cap in the main contract and reduces commensurate to any payments made. |
| Execution Blocks | Amended for sealing. |

2. Model Form 2.3 Collateral Warranty –14-10-2024

| Clause Reference | Description |
|----------------------|--|
| Flysheet | Version number, publication date etc. have been updated to reflect amendments made. |
| Title Details | The form of Collateral Warranty has been changed from “DEED” to “AGREEMENT”. |
| Misc | Clause numbering style changed from 1.1, 1.2 etc. to 1,2, 3, etc. Sub headings have been introduced to describe the clause sections. |
| Recitals | Recital A (c) is now Cl 1 <i>Interpretation</i> and Recital A (c) is withdrawn “Headings appearing in this Agreement in italics are for reference purposes only and shall not affect the construction or interpretation of this Agreement.” Consideration of €5 is introduced. |
| 3.1 | States that professional indemnity insurance can be either each and every claim insurance or in the annual aggregate. |
| 3.3 | Employers Liability Insurance indemnity cover shall not be less than €13,000,000. |
| 5 | Proof of insurance must be provided on or before the date of renewal if requested by the Client. |
| 10 | Cl 10 <i>Copyright</i> now states: “The copyright in all designs, drawings, reports, specifications, bills of quantities, consents, papers and other similar documents produced by the Sub-Consultant in connection with any Services (the “Documents”) shall remain vested in the Sub-Consultant but the Client shall have a perpetual non-exclusive irrevocable and assignable royalty free licence to reproduce, copy and use the Documents for all purposes connected with the Services related to any individual project or type of project identified in Schedule A of the Main Appointment.” |
| 14 | Cl 14 <i>Assignment</i> now states: “The Client may assign the benefit of this Agreement on three six occasions without the consent of the Sub-Consultant. Thereafter, any further assignment shall require the consent of the Sub-Consultant with such consent not to be unreasonably withheld or delayed.” |
| 15 | Cl 15 <i>Notices</i> , clarifies that any notice must be given in writing. |
| 16-21 | Cl 16 <i>Step In</i> has been amended to include, the procedure where Step In may be exercised, the Employers obligations, the Specialists obligations. |
| 22 | Cl 22 <i>Governing Law and Disputes</i> , amended cross -reference due to general renumbering of Clauses. Dispute Resolution procedure is stated, arbitration is the final dispute resolution mechanism. |
| 25 | New Clause 25 <i>Liability</i> reads as follows: “The Sub-Consultant’s liability to the Client as ascertained in any year commencing on 1 January arising out of or under this Agreement is limited to the amount of, and subject to the exceptions in Clause 22 to, the Liability Cap (as defined below).” A form field is provided to input the amount of the Liability Cap. |
| 26 | New Clause 26 <i>Liability</i> states the exclusions from the Liability Cap and reads as follows: “The Liability Cap shall not apply to any claim, loss, damage, cost, expense, or liability relating to: |

- a) death, personal injury or illness;
- b) fraud or fraudulent misrepresentation;
- c) wilful default;
- d) gross negligence;
- e) third party property;
- f) any infringement upon a third party's intellectual property rights; or
- g) any liability which the Sub-Consultant cannot lawfully exclude or limit."

Execution Blocks Amended for sealing.

END.