

**BANK REQUIRED AMENDMENTS TO INDUSTRY STANDARD FORM
COLLATERAL WARRANTIES**

Subject to legal advice, industry standard form collateral warranties (JCT standard forms in respect of the Contractor and Sub-Contractors and the BPF standard forms in respect of Consultants) are generally acceptable to the Bank provided that they include, inter alia, the following amendments:

1. Appropriate narrative explaining the Bank's interest in the project.
2. Duty of skill and care to refer to skill, care and diligence expected of a competent Contractor / Consultant experienced in carrying out equivalent services / works on equivalent projects.
3. the "net contribution" clause, clause 1 (a) is deleted.
4. Clauses 1(b) of MCWa/F and CoWa/F refer to limitations and rights of set-off under the Building Contract and the Appointment respectively. This clause be deleted and a provision equivalent to the following added:-

'The [Firm / Contractor] shall owe no greater duties to the [Company / Funder] than it would have owed to the [Company / Funder] had the [Company / Funder] been named as the [client / employer] under the [Appointment / Building Contract].'

If it is argued that the words "duties and/or liabilities" should be added to the above wording, the following wording should be used "duties and/or liabilities ignoring any rights of set-off or deduction."
5. The prohibited materials clause must match the Building Contract / Appointment and be approved by the Bank's technical adviser (monitoring surveyor / legal adviser).
6. Notice period for the Bank to exercise its step-in rights under MCWa/F to be at least 21 days.
7. Any notice to the Bank is only deemed duly given if it is given by hand at or by registered post / recorded delivery to the Bank's office at [] marked for the attention of [].
8. The licence in respect of copyright material should be granted to the Bank regardless of whether or not the Contractor or other professional has received all funds due to it. In addition, the Bank requires the Contractor or other professional to be under an obligation to provide copies of any documents, subject to payment of a reasonable administrative charge for copying.
9. PII is to be maintained for 12 years. Amount of insurance cover to be on a 'per event' and not aggregate claims basis.
10. Bank's right to assign not to be limited to another Funder. The Bank is to have the right to assign to a third party acquiring an interest in the property / development. The Warranty should be capable of assignment at least twice without prior consent.
11. Limitation period to be not less than 12 years from the date of Practical Completion.