

## DESIGN AND BUILD PI

*Reviewed by Matthew Bartlett, Director · Last reviewed 2026-06-22*

---

### WHY D&B IS A DIFFERENT PI CONVERSATION

A Design and Build contractor takes on both the design and the construction of a building under a single contract. The model concentrates risk that a traditional procurement route splits between architect, engineer and main contractor. From a PI perspective the central issue is the fitness-for-purpose obligation that D&B contracts routinely impose — an obligation that goes beyond the reasonable-skill-and-care standard most PI policies are built around.

### THE REASONABLE SKILL AND CARE VERSUS FITNESS-FOR-PURPOSE GAP

Standard PI wordings cover liability for breach of the duty to exercise reasonable skill and care. A fitness-for-purpose obligation is a strict obligation — the building must be fit for the purpose it was built for, regardless of whether the contractor exercised reasonable skill and care. Most PI insurers exclude or sub-limit fitness-for-purpose liability because the standard is strict and uninsurable on a standard wording. The [JCT Design and Build 2024](#) contract gives the parties a choice; the [NEC4 with Option X15](#) reduces the contractor's design liability to reasonable skill and care, aligning it with what PI cover supports. The [JCT D&B X15 warranty](#) page covers the technical mechanism in more detail.

### COLLATERAL WARRANTIES

D&B contractors and their consultants are typically asked to give collateral warranties to funders, tenants, purchasers and freeholders. A collateral warranty is a contract under which the consultant or contractor extends to the beneficiary a direct contractual right that mirrors the underlying appointment. PI insurers usually require:

- The warranty to mirror, not expand, the underlying duty
- The warranty to be limited to reasonable skill and care
- The warranty to include a net contribution clause where appropriate (see [net contribution clauses](#))
- The number of permitted assignments to be limited (typically two)

A warranty that expands the duty — for example by importing a fitness-for-purpose standard or removing the net contribution clause — may fall outside the PI policy. [Architects](#) and [engineers](#) novated to a D&B contractor are routinely asked to sign warranties that go beyond their PI position; the negotiation usually happens late and under time pressure.

## NOVATION OF CONSULTANTS

In a D&B procurement the employer typically appoints architects, engineers and other consultants under pre-construction agreements, then novates those appointments to the contractor when the construction contract is signed. After novation, the consultant's contractual employer is the contractor, not the original client. PI implications include:

- Pre-novation work was done for the employer; post-novation work is done for the contractor. The consultant's PI policy should cover both phases — most do by default, but the position should be confirmed
- The novation agreement should preserve the consultant's right to rely on its limitation of liability and net contribution clauses from the original appointment
- The contractor often requires the consultant to provide a warranty back to the employer post-novation; the warranty terms should align with the novated appointment

## WHAT D&B CONTRACTORS SHOULD TEST ON THEIR PI

For a [D&B contractor](#) the renewal questions sit around:

- Whether the policy responds to fitness-for-purpose obligations and at what sub-limit
- How the cladding and fire-safety position interacts with the design portfolio (see [fire safety PI exposure](#))
- Whether the collateral warranty bank is in line with the wording's warranty conditions
- How the BSA section 135 extended limitation affects historic projects

## THE APEX VIEW

The PI policy is one part of a wider position that also includes the form of contract, the warranties and the limitation regime. Apex reviews the contractual structure before quoting and flags wording terms that the PI policy will not pick up.

---

## RELATED PROFESSIONAL INDEMNITY GUIDES

- [Design And Build Contractors PI](#)
- [Architects PI](#)
- [Engineers PI](#)