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18 July 2024

Miss Dorothy YUNG
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Dear Miss YUNG,

Construction Industry Security of Payment Bill

Thank you for your letter dated 19 June 2024 seeking clarifications on issues in relation to the captioned Bill. The Government's responses are set out below.

Paragraphs 1 and 4 in the Appendix to your letter

Definition of "construction contract" and exclusion of certain construction contracts

2. It is the intention that a development contract under which the whole consideration payable is calculated otherwise than by reference to the value of the construction work carried out or related goods and services supplied is not a "construction contract", thus will not be covered by the Bill.

3. If a contract fulfils para. (a) of the definition of "construction contract" in clause 2(1) but only part of the consideration payable under such contract is calculated otherwise than by reference to the value of the construction work carried out or related goods and services supplied, the contract is a "construction contract". By operation of clause 9(1)(a), the Bill will not apply to the extent of the part of such contract that the consideration payable is to be calculated otherwise than by reference to the value of the construction work carried out or related goods and services supplied.

Paragraphs 2 and 3 in the Appendix to your letter

Definition of “residential unit” and exclusion of certain main private contracts and their subcontracts

4. Under clause 2(1), the meaning of “residential unit” is based on, among other things, whether a unit in a building is constructed “solely or principally” for human habitation. In other words, if a unit is constructed not “solely or principally” for human habitation, such unit will not be regarded as a “residential unit” under the Bill. The use of a non-residential unit for residential purpose does not render it a “residential unit” as defined in the Bill.

5. The meaning of “existing residential unit” for the purposes of clause 8(4) and clause 9(3) is to be construed accordingly. Therefore, for construction work to be carried out, or related goods and services to be supplied for the construction work, in an existing non-residential unit, despite the unit is contained in a composite building, clause 8(4) and clause 9(3) are not relevant. The contract for such construction work or related goods and services will be covered by the Bill if it fulfils the other relevant provisions of clause 8 and clause 9 (including the work requiring the approval and consent of the Building Authority under section 14(1) of the Buildings Ordinance, and the contract value calculated in accordance with clause 8(3) not less than the value specified in Schedule 4).

Paragraph 5 in the Appendix to your letter

Split contracts to circumvent application of the Bill

6. The intent of clause 11 is to avoid parties to make provisions in a contract or agreement to contract out the Bill. The threshold values specified in Schedule 4 apply to “construction contract” at the main contract level (i.e. the contract between the owner and the main contractor) and are set to avoid disproportionate application of the Bill to small value main contracts and their subcontracts. Making reference to contract value of typical main contracts in Hong Kong, the threshold values are set at a minimal level. It is considered that splitting the main contract into multiple contracts in order to contract out the application of the Bill is unlikely, because the owner would have to manage a large number of contracts at the same construction site, which would impose difficulties in project management. For example, there will likely be interfacing problems between the contracts which could result in costs and time implications on the whole construction project.

7. On the other hand, the suggested expansion of clause 11 to render multiple contracts which have the effect of excluding, modifying or restricting the operation of the Bill void would require differentiation between the deliberate split of contracts to avoid the operation of the Bill and the genuine need of the owner to procure construction work by phases. Such differentiation is difficult to establish in practice. Thus, the proposed expansion of clause 11 is not adopted.

Paragraph 6 in the Appendix to your letter

Amendment to payment claim

8. The intent of clauses 18(4) and 18(5) is to prevent a claiming party from serving repetitive payment claim for the same billing date but allow a paying party to consider subsequent payment claim at its own discretion. In other words, the claiming party does not have a right to serve more than one payment claim for the same billing date, if it does so, the paying party is entitled to consider or disregard the subsequent ones (including amendment to payment claim). Under the current provisions of the Bill, the paying party is to submit a payment response by the deadline specified in clause 20 and the paying party will likely take into account the extent of the differences between the original and the amended payment claim and whether there is sufficient time to handle the amended payment claim in order to decide whether to accept the same under clause 18(5). This approach allows the paying party the discretion to consider any amended payment claims submitted if it considers appropriate but at the same time maintains the tight payment timeframe specified under the Bill. The express provision for amendment to payment response is to cater for situation where the parties may agree on a revised admitted amount to avoid unnecessary payment dispute. In such situation, the paying party may amend payment responses by the payment response deadline.

Paragraph 7 in the Appendix to your letter

Amendment to adjudication notice

9. To initiate adjudication proceedings, an adjudication notice is required to state the basic information as required under clause 25(2), for example the names and addresses of the parties, nature and descriptions of the payment dispute and the amounts in relation to the payment dispute. Whilst an adjudication notice is not a complicated list of factual information, the responsibility to serve a valid notice is on the claimant. Arguments and supporting documents for the payment dispute are required to be submitted in subsequent stage of the proceedings, e.g. adjudication submission. In view of the above, we consider that provisions for amending an adjudication notice are not required.

Paragraph 8 in the Appendix to your letter

Re-selection of nominating bodies

10. The provision for initiating new adjudication proceedings by serving another adjudication notice to the selected body under clause 25(7) is to cater for situations such as the appointment of adjudicator not being made within 7 working days due to unexpected delay in communication between the nominating body, nominees and the adjudicating parties. We consider that the parties should have previously given careful consideration in selection of the nominating body. With the intention to resolve payment dispute quickly, the parties would prefer the same selected body to complete the

appointment rather than spending further 8 working days to select another nominating body pursuant to clause 27. By the operation of clause 25(7), the claimant may re-initiate new adjudication by serving notice on the previous selected nominating body, but it cannot initiate to nominate and select nominating body all over again.

Paragraph 9 in the Appendix to your letter

Eligibility criteria of adjudicators

11. A nominating body is required to establish and maintain its panel of adjudicators under clause 63(a). Whilst a nominating body may impose the eligibility criteria for including an individual in its panel of adjudicators, the Secretary for Development (“**Secretary**”) is conferred with the power under clause 61(2)(a) of the Bill to determine an application for registration as a nominating body.

12. It is the intention that the Secretary will establish a set of basic criteria (such as the professional qualification and post-qualification experience requirements, etc.). When a body applies to be registered as a nominating body, the body should provide a set of the draft eligibility criteria for the Secretary’s consideration. The draft eligibility criteria should be in line with the basic criteria but the body may supplement with additional criteria, which are subject to approval by the Secretary. The Secretary will review the body’s proposed eligibility criteria when considering whether to admit the body into the register of nominating bodies under clause 61(2)(a). The Secretary may refuse the registration application of the body in accordance with clause 61(2)(a) if the draft eligibility criteria (including additional criteria supplemented by the body) are not in line with the basic criteria. In case that the nominating bodies have to amend its eligibility criteria, the Secretary may give direction to the nominating bodies pursuant to clause 61(2)(d) of the Bill to ensure the amendment is consistent with the above-mentioned basic criteria.

13. Upon registration, the Secretary may require the nominating bodies, as a condition of the registration as nominating body, to publish the approved eligibility criteria on its dedicated webpage for public information and to assess the applicants based on the approved eligibility criteria for inclusion into the panel of adjudicators. Any failure to comply with the condition of registration as a nominating body may result in suspension or cancellation of its registration based on clause 61(2)(b). Based on these administrative arrangements, the eligibility criteria are not specified in the Bill.

Requirements to be stated in the Bill or in adjudication rules, etc.

14. For the concerns relating to whether a requirement may be stated in the Bill or in adjudication rules (with specific issues to be responded in ensuing paragraphs individually), it is the intention that the Bill will specify the necessary rules and regulatory requirements to ensure the implementation of the intent to adopt adjudication for speedy resolution of payment dispute. Ancillary requirements, such as administrative procedures, operational details, best practice or standards, are subject to adjustment from

time to time in future and are therefore intended to be suitably addressed in adjudication rules, practice notes or codes of conduct, etc. The implementation of these ancillary requirements are enabled by the powers conferred upon the Secretary under clause 61 of the Bill.

Paragraphs 10 and 11 in the Appendix to your letter

Procedures of declaration and disclosure

15. As to the initial declaration and disclosure as well as the disclosure during adjudication proceedings as required under clause 29(1) and (3) respectively, it is the intention, as mentioned in paragraph 14 above, that the relevant procedure will be provided for in the adjudication rules. The initial declaration and disclosure forms part of the procedures for the nomination and appointment of adjudicators. In general, the procedures will include the nominee providing the declaration and/or disclosed information to the parties and the nominating body, the parties to be given an opportunity to raise objection on the ground of conflicts of interest or justifiable doubts on the nominee's independence or impartiality, and the nominating body making a final decision on the adjudicator's appointment.

16. Likewise, the rules will also provide for the procedures of disclosure during adjudication proceedings. In general, the procedure will include the adjudicator disclosing the relevant information to the parties and the nominating body, the parties' view on the way forward and in case of disagreement between the parties, the nominating body to make final decision on whether the disclosed circumstances amount to conflicts of interest or give rise to justifiable doubts as to the adjudicator's independence or impartiality.

17. In this regard, we are managing to formulate a unified guideline on conflicts of interest in adjudication ("**Unified Guideline**") based on the International Bar Association's Guidelines on Conflicts of Interest in International Arbitration 2024. Upon completion of the Unified Guideline (and any future update where appropriate), the Secretary will publish it on dedicated webpage for public information. The Secretary may give a direction, under clause 61(2)(d), to the nominating body to comply with the Unified Guideline when exercising its function of nomination and appointment of adjudicator under clause 26 and clause 27 as well as considering whether an adjudication proceeding should be terminated under clause 41(f).

Paragraphs 12 and 13 in the Appendix to your letter

Adjudication submission to be served within 1 working day

18. Upon a payment dispute arises, the claiming party may, within the 28-day period specified in clause 24, initiate adjudication proceedings by serving an adjudication notice on the paying party. We consider that a claiming party could make use of this 28-day period to prepare for the adjudication submission. Requiring the adjudication

submission to be served within 1 working day after the appointment of the adjudicator is in line with the 2015 public consultation, which revealed that the majority of the stakeholders supported that the claiming party must serve the adjudication submission within 1 working day after the date of appointment of the adjudicator and no extension of time should be allowed. Whilst the claimant has 28 days to get prepared for adjudication submission, as compared with 20 working days for the respondent to serve adjudication response, we consider that the current proposal is a balanced approach.

Paragraph 14 in the Appendix to your letter

Discretion to resign under clause 39(1) and the role of nominating body

19. It is the intention that, when an adjudicator considers that it is not possible to make a determination fairly within the period required under clause 42(5), the adjudicator may resign or consult the adjudicating parties about whether an extension of time (or further extension of time) for making the determination is agreeable by the parties, where appropriate. The nominating bodies will monitor whether the adjudicator has made a determination within the period required. They do not have any role in relation to the parties' decision to agree any extension of time or the adjudicator's decision to resign in case no extension (or no further extension) is agreed by the parties. The nominating bodies will be required to appoint another adjudicator if the claiming party initiate another adjudication proceeding for the same payment dispute pursuant to clause 25(6) or (7) as the case may be.

Provision of reasons for resignation under clause 39(1) and (3)

20. The Bill does not require the resigning adjudicator to state reasons for resignation. Nonetheless, we consider that the resignation of an adjudicator on the ground of impossibility to determine the payment dispute fairly within the period required under clause 42(5) is very likely to follow from prior communication between the adjudicator and the parties regarding extension of time for making the determination. Likewise, if the adjudicator considers that a relevant circumstance that requires the adjudicator to resign under clause 39(3) has arisen, the adjudicator should have already disclosed the relevant circumstances during the adjudication proceedings under clause 29(3). The parties should therefore be well aware of the reason for resignation. Furthermore, a requirement to state reason for resignation may lead to argument on validity of the reason, which are not intended and may affect initiation of new adjudication for resolution of the same payment dispute. Thus, we consider it more appropriate to address it in practice notes or code of conduct.

Paragraph 15 in the Appendix to your letter

Service requirements of written notice of resignation

21. Given the intent that the resignation takes effect on the date on which a written notice of resignation is served on each party to the adjudication proceedings, the

resignation notice shall be served on each party on the same date in order to avoid any arguments on the date of termination of the proceedings. The date of termination of the proceeding is important because clause 25 provides that the claimant may re-initiate any other adjudication proceedings for that payment dispute within 28 days after the date of termination of the proceedings. We do not intend to require that the written notice of resignation is necessarily to be served on the nominating body on the same date.

Paragraph 16 in the Appendix to your letter

Consequential matters of resignation

22. According to clause 41(e), the adjudication proceedings are terminated if the adjudicator resigns under clauses 39(1) or (3). Clause 55(1) provides that the resigned adjudicator is not entitled to be paid any fees or expenses. Under clause 42(2)(b), the resigned adjudicator is not required to determine the proportion and the amount of the costs of adjudication proceedings payable by each party. Under clause 53(4)(b), the adjudicating parties are each liable to pay the costs of adjudication proceedings (other than the fees and expenses of the adjudicator under clause 53(1)(a)(ii)) in equal proportions.

23. As to the re-initiation of proceedings after resignation, it is the intention that a nominating body is not required to automatically appoint another adjudicator for the parties after the resignation of an adjudicator. The decision of initiating any other adjudication proceedings for the payment dispute should rest with the claimant, who may serve another adjudication notice in accordance with clause 25.

Paragraphs 17 and 18 in the Appendix to your letter

Procedure of termination under clause 41(f)

24. As to the 'ineligibility' ground of termination (e.g. adjudicator has conflict of interest or circumstances exist that give rise to justifiable doubts as to his/her independence or impartiality), the procedure of disclosure before appointment by a potential adjudicator under clause 29(2) will be addressed in the adjudication rules. Likewise, for a challenge raised by an adjudicating party after appointment, the procedure of such challenge will also be provided in the adjudication rules. In general, the procedure includes a party raising a challenge and an opportunity for the other party and the adjudicator to respond. The adjudication rules will require all relevant communications to be provided to the nominating body. If the adjudicator agrees with the challenge, the adjudicator must resign pursuant to clause 39(3) and the proceedings are terminated under clause 41(e). If the adjudicator disagrees with the challenge, the nominating body will make a final decision on the challenge (if affirmative, the proceedings will be terminated under clause 41(f)). Pursuant to the direction of the Secretary given under clause 61(2)(d), the nominating body is required to follow the above-mentioned Unified Guideline in making the decision on whether conflict of interest exists or circumstances exist that give rise to justifiable doubts as to the

adjudicator's independence or impartiality.

25. Similarly, for the 'inability' ground of termination, in case the parties opine that the adjudicator is unable to act as the adjudicator (e.g. the adjudicator is in serious illness or absent in the proceedings), the procedures to be set out in the adjudication rules should be followed to request the nominating body to decide whether the proceedings should be terminated under clause 41(f).

26. The procedures to be set out in the adjudication rules will provide for, among other things, the factors that the nominating body should take into consideration, that the nominating body should provide reason for its decision and the nominating body should notify the parties and the adjudicator regarding its decision.

27. As for termination on ground of impossibility to make a determination fairly within the period required under clause 42(5), we consider that it involves a fair assessment of the adjudicator. It is the intention that termination on this ground should be on adjudicator's own initiative to resign under clause 39(1).

Functions of nominating body to decide on termination under clause 41(f)

28. The above functions of the nominating body are to be exercised pursuant to clause 41(f) (which is also enabled by clause 63(i)) as well as clause 63(d).

Paragraphs 19 and 20 in the Appendix to your letter

Notification of fees and expenses payable

29. Regarding the notification of fees and expenses of the adjudicator, it is the intention, after making reference to the prevailing practice of arbitration proceedings (e.g. HKIAC's arbitration rules), that the adjudicators may communicate with the nominating body as to the estimated fees and expenses and request the nominating body to seek payment of deposit or further deposits by both parties (rather than the claimant only) at appropriate time (including at initial stage, during the proceedings and near the end of proceedings). The procedure of requesting the parties to settle deposits and any final payment of the fees and expenses not yet covered by the deposits or return of any unexpended balance to the parties will be addressed in the adjudication rules.

30. The nominating body will be required by a direction of the Secretary given under clause 61(2)(d) to undertake relevant functions in accordance with clause 63, for example, to ensure the requested amount are reasonable and record the amount of deposit made by each parties. In this relation, the adjudication rules and practice notes of nominating body will provide for the relevant procedure and assessment of reasonable amount of deposit.

31. Regarding the fees and expenses of the nominating body, it is the intention, after making reference to the prevailing practice of arbitration proceedings (e.g. HKIAC's

arbitration rules), that the payment of these fees and expenses should be made upon service of adjudication notice on the nominating body. The relevant procedure and schedule of fees and expenses will be provided for in the adjudication rules. As for the costs of independent experts appointed, the adjudication rules will provide the procedure of requesting payment by the parties at appropriate time.

A party's refusal to pay fees and expenses

32. In case one of the parties refuse to settle the deposit in respect of the adjudicator's fees and expenses, the other party may pay the fees and expenses of the adjudicator in full with a view to obtaining the adjudicator's determination. Apart from the amount payable in relation to the payment dispute under clause 42(4), the adjudicator is also required under clause 42(1)(b) to determine the proportion and amount of the costs of adjudication proceedings payable by each party. A net amount owed by a party to the other party should be worked out in the adjudicator's determination taking into account the amount of deposit already paid by each party, the proportion of the costs of adjudication proceedings to be borne by each party as well as the amount in respect of the substantive payment dispute. It is the intention, after making reference to the prevailing practice of arbitration proceedings (e.g. HKIAC's arbitration rules), that the procedure of payment of the fees and expenses of the adjudicator by one party on behalf of the unpaying party and the recovery of it from the unpaying party through the adjudicator's determination will be addressed in the adjudication rules.

33. If a party fails to settle the adjudicated amount by the payment deadline under clause 43, the other party may apply to the Court for enforcement of the determination under clause 49. The enforcement can therefore ensure the recovery of the part of the fees and expenses that should be borne by the other party in accordance with the adjudicator's determination.

Paragraph 21 in the Appendix to your letter

Procedure of correction of errors

34. It is our intention that the adjudication rules will also provide for the procedures of correcting computational and typographical errors in a determination. The rules will provide for, among other things, the way of making the correction, the period within which the adjudicator should make the correction, the requirements for serving the corrected determination to the nominating bodies and the parties, etc.

35. Though we expect that adjudicators will carefully assess and compute the adjudicated amount and review the written determination before issue, computational or typographical errors, whether materials or otherwise, may still occur in some cases. We therefore propose that the power under clause 45 to correct computational or typographical errors is not limited to those that is of a "immaterial" nature.

Paragraphs 22 and 27 in the Appendix to your letter

Consistency of adjudication rules and practice notes and code of conduct for adjudicators

36. As to the concern on consistency of adjudication rules and practice notes, and code of conduct for adjudications, we have recently reached a consensus with the industry on this aspect at the meeting of the Task Force for the Construction Industry Security of Payment Ordinance that the Development Bureau (“**DEVB**”) will formulate the main content of adjudication rules, practice notes and codes of conduct to be made by nominating bodies, and that, in making these documents, the nominating bodies must comply with the above-mentioned main content. To implement the Bill, the Secretary may give direction to the nominating bodies pursuant to clause 61(2)(d) including that the nominating bodies have to adopt the main content and may supplement in the aforesaid documents (which are subject to approval by the Secretary) with certain details to meet their operational needs and professional ethics requirements, so as to fulfil their functions of nominating body in accordance with clause 63(d) and 63(e) to make adjudication rules, practice notes and codes of conduct.

37. In implementation, the Secretary will, pursuant to the power under clause 61(2)(a) of the Bill for determining an application for registration or for renewal of registration from a nominating body, review the adjudication rules, practice notes and codes of conduct drafted by the nominating bodies in its application for registration. If the above draft documents submitted by a body (including the main content and the body’s supplementary details) do not comply with the specified contents, the Secretary may refuse the registration application of the body in accordance with clause 61(2)(a). In case that the nominating bodies have to amend its adjudication rules, practice notes and codes of conduct, the Secretary may give direction to the nominating bodies pursuant to clause 61(2)(d) of the Bill to ensure the amendment complies with the above-mentioned main content and other supplementary details are also subject to the Secretary’s approval. Apart from above, the Secretary may, as a condition of the registration as nominating body, require the nominating body to publish the approved adjudication rules, practice notes and codes of conduct on its dedicated webpage for public information. Any failure to comply with the condition of registration as a nominating body may result in suspension or cancellation of its registration.

38. We trust that the administrative arrangements as set out above would be sufficient to ensure the consistency and effectiveness of the adjudication rules and practice notes of different nominating bodies. We have engaged relevant professional institutions to formulate the main content of the above-mentioned documents in June this year.

Paragraph 23 in the Appendix to your letter

Register of nominating bodies

39. In relation to the register of nominating bodies to be established by the Secretary

under clause 61(1)(b), upon the gazettal of the Ordinance, an interested body may apply to the Secretary for registration as a nominating body. We will publish the eligibility criteria and application arrangement on a dedicated webpage for public information. The interested body needs to establish, among other things, that the body has sufficient manpower, financial resources and capabilities in undertaking the functions of a nominating body, its proposed adjudication rules, practice notes and code of conduct are in line with the main content of these documents published by the Secretary and the body has good recognition/reputation in the local construction industry. The register of nominating bodies will set out the name and contact information of the nominating bodies. The register will be published on a dedicated webpage for public information. Based on these administrative arrangements, the details regarding the register are not specified in the Bill.

Paragraph 24 in the Appendix to your letter

Regulation of fees and expenses of nominating bodies and adjudicators

40. It is the intention that, when a body applies to be registered as a nominating body, the Secretary will request the body to propose its schedule of fees and expenses. In determining a body's application to be a nominating body under clause 61(2)(a), the Secretary will consider the body's proposed schedule of fees and expenses. Pursuant to clause 63(f), nominating bodies are required to establish and publish its own schedule of fees and expenses on a dedicated webpage for public information.

41. Notwithstanding the above, we intend to adopt a competitive market approach in relation to the adjudicator's fees (i.e. the adjudicator will be able to set his/her own hourly rate and expenses). When being approached for potential appointment as an adjudicator, the nominees will propose his/her hourly rate and expenses together with his/her experience, qualification etc. to the parties via the nominating body for the parties' consideration and selection.

42. The Secretary is empowered under clause 61(2)(c) to regulate the fees of nominating bodies and adjudicators. Given the intent that adjudication should be accessible by parties at affordable level of costs, the Secretary will provide some references to the industry taking into account the hourly rates for mediation and arbitration, and may impose fee caps on nominating bodies and/or adjudicators pursuant to clause 61(2)(c), where appropriate.

Paragraph 25 in the Appendix to your letter

Complaint against nominating bodies and against adjudicators

43. Regarding the Secretary's function under clause 61(2)(e), a communication channel (e.g. post, email and telephone) will be set up and the details published on a dedicated webpage to receive complaints against a nominating body. The Government will follow up the cases, investigate and take necessary actions. DEVB will establish

mechanism on regular review with the nominating bodies on the complaint cases received and parties' feedback.

44. As to complaints against adjudicators, since adjudicators will be required to comply with the adjudication rules, practice note and code of conduct of the nominating bodies, we consider that complaints against individual adjudicators are best handled by the nominating bodies. It is the intention that, when a body applies to be registered as a nominating body, the Secretary will request the body to propose its mechanism of handling complaints against adjudicators. The Secretary may take this factor into consideration in determining whether to admit the body into the register under clause 61(2)(a). The Secretary may, as a condition of the registration as nominating body, require the nominating body to publish the complaint mechanism on its dedicated webpage for public information.

Paragraph 26 in the Appendix to your letter

Publication of panel of adjudicators

45. Clause 63(a) states that the function of a nominating body is to establish and maintain its panel of individual for nomination and appointment of adjudicators. Upon registration, the Secretary may require the nominating bodies, as a condition of the registration as nominating body, to publish their panels of adjudicators on its dedicated webpages for public information.

Paragraph 28 in the Appendix to your letter

Exclusion of premises specified in Schedule 1 from the meaning of "residential unit"

46. The premises specified in Schedule 1 to the Bill are premises where the owners do not occupy as his residence. We consider that these owners should be able to familiarise themselves with the requirements under the Bill and should have the resources and skills to handle the payment mechanism and to deal with potential adjudication under the Bill. Residential care homes for the elderly or persons with disabilities fall within the substantive meaning of "hotel or guesthouse" under section 2A of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349). It is therefore not necessary to explicitly include them in Schedule 1. Schedule 1 can be reviewed from time to time and be amended pursuant to clause 69 where appropriate.

Paragraph 29 in the Appendix to your letter

Specified structure

47. Our clarification in response to the query for "composite building unit" has been addressed in paragraph 4 above. It is the intention that the coverage of "specified structure" is wide. Whilst the covered building, structure and works are categorised as a list of items in Schedule 2, we consider that item 15 "any other building or structure"

should be sufficient to include any other buildings that may not fall under item 2. Schedule 1 can be reviewed from time to time and be amended pursuant to clause 69 where appropriate.

Paragraph 30 in the Appendix to your letter

Specified entity

48. The entities specified in Schedule 3 are entities which are statutory and public organisations or enterprises which, by reason of its functions or business, regularly procure construction contracts. These entities should have sufficient knowledge and experience to handle the payment mechanism and to deal with potential adjudication under the Bill.

49. Statutory and public organisations or enterprises which do not regularly procure construction contracts (e.g. Hong Kong Arts Development Council and Occupational Safety and Health Council) are not included in Schedule 3. Schedule 1 can be reviewed from time to time and be amended pursuant to clause 69 where appropriate.

Yours sincerely,



(Alan TANG)
for Secretary for Development

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