

SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE “WITH QUANTITIES” FORM)

INDEX

General

- SCC-1 Interpretation and definitions
- SCC-2 Contractor's obligations
- SCC-5 Documents forming the Contract and other documents
- SCC-6 Statutory obligations
- SCC-8 Materials, good, workmanship and work
- SCC-12 Architect's representative
- SCC-13 Variations, Provisional Quantities, Provisional Items and Provisional Sums
- SCC-14 Contract Bills
- SCC-17 Substantial Completion and defects liability
- SCC-18 Partial possession by Employer
- SCC-19 Assignment and sub-letting
- SCC-21 Insurance against injury to persons and property
- SCC-22 Insurance of the Works
- SCC-23 Possession, commencement and completion
- SCC-24 Damages for non-completion
- SCC-25 Extension of time
- SCC-26 Delay recovery measures
- SCC-27 Direct loss and/or expense
- SCC-32 Certificates and payments
- SCC-33 Surety Bond
- SCC-35 Determination by Employer
- SCC-38 Fluctuations
- SCC-39 Notices, certificates and other communications
- SCC-41 Settlement of disputes
- SCC-42 Contracting out of the Contracts (Rights of Third Parties) Ordinance

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

General

- (1) These Special Conditions of Contract are to be read in conjunction with the Conditions of Contract which shall be the General Conditions contained in the "Agreement and Schedule of Conditions of Building Contract for use in the Hong Kong Special Administrative Region, Private Edition - With Quantities, 2005 Edition" published by the Hong Kong Institute of Architects, the Hong Kong Institute of Construction Managers and the Hong Kong Institute of Surveyors (hereinafter "the General Conditions"). Wherever these Special Conditions vary from the General Conditions the terms of the Special Conditions shall take precedence.
- (2) Delete recital (2B) and (2C) on Page 6.
- (3) The following typographical errors in the Conditions shall be corrected :-
 - (a) Add the word "or" at the end of clause 13.4(1)(a).
 - (b) Delete the comma after the word "equipment" in the first line of clause 35.4(8).
 - (c) Replace "40.1(1)" with "40(1)" in second line of clause 40(2).
- (4) Each SCC Clause number matches the clause number of the General Conditions clause to be amended. Therefore the SCC numbers may not run in sequence.
- (5) Wherever the term "Architect" appears in the Contract, it shall refer to "Architect".

SCC-1 Interpretation and definitions

Delete sub-clause (vii) in clause 1.6 under the "Variation" sub-heading on Page 15 and replace with the following sub-clause:-

- "(vii) the sequence or timing of carrying out or completing work;"

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-2 Contractor's obligations

- (1) Delete clause 2.1(2) on Page 16 and replace with the following clause 2.1(2) and add a new clause 2.1(3) :-

"(2) Where the Contract requires the Contractor to carry out the design or the development of the Architect's design, the design or the development of the Architect's design shall be carried out with reasonable skill and care and the Contractor shall be responsible to the Employer for such work.

Such design work:

- shall constitute part of the Works;
- shall, if appropriate, include selection of proprietary articles;
- shall be carried out in due time by a trained and experienced person competent in the relevant field; and
- shall follow the relevant Standard Codes of Practices and/or good practice, to meet conditions imposed by the Specification, the environment, the expected life of the building and other relevant factors.

The Contractor warrants each and every such design accordingly. A review by the Architect of the visual intent of the design of permanent work and its compliance with the contract terms shall be obtained, but this shall not constitute any waiver of the design responsibility of the Contractor, or of any actual implied warranty of the Contractor or the supplier to him of any proprietary article.

- (3) Where the Contract requires the Contractor to prepare details, or shop drawings or installation drawings, the details or shop drawings or installation drawings shall be carried out with reasonable skill and care and the Contractor shall be responsible to the Employer for such work."

- (2) Delete lines 1 and 2 of clause 2.4(1) on Page 17 and replace with the following :-

"(1) The Contractor shall as soon as practicable but in any event within 30 days after his receipt of any of the following documents carefully check and inform the Architect if the Contractor finds any ambiguity or discrepancy in or divergence between the following documents:"

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-2 Contractor's obligations (Cont'd)

(3) Add the following as new clause 2.4(3) on Page 17 :-

"(3) If in the opinion of the Architect (which shall not be exercised unreasonably) any discrepancy or divergence is one which should have been apparent to a reasonably competent contractor and notified by the Contractor in compliance with clause 2.4(1) and if such discrepancy or divergence was not in fact notified by the Contractor; then, in determining the entitlement of the Contractor to any extension of time or any direct loss and/or expense to which the Contractor would otherwise be entitled in consequence of an instruction issued by the Architect under this clause, the Architect shall exclude from such extension or direct loss and/or expense (as applicable) any delay or direct loss and/or expense which could reasonably have been avoided had the discrepancy or divergence been notified in accordance with clause 2.4(1) and the Contractor's entitlements shall be limited accordingly."

(4) Add the following as new clause 2.4(4) on Page 17 :-

"(4)(a) The Contractor shall in the course of carrying out the Works take full responsibility for the adequate stability and safety of all operations on the Site other than those of persons for whom the Employer is responsible under clause 30.1 and have full regard for the safety of all persons on the Site.

(b) The Contractor shall comply with the Building Ordinance, the Construction Site (Safety) Regulations, all Labour Department Regulations, all Electrical and Mechanical Services Department Regulations, the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and all other statutory requirements regarding safety on construction sites.

(c) The Contractor shall employ at least the number of safety officers and safety supervisors prescribed by the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations for the time being in force as at the date of the Contract. The Safety Officers shall be registered by the Commissioner for Labour under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and shall be employed on a full-time basis to undertake all duties entailed by the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and any additional duties as specified in the Contract.

None of the requirements of this clause shall in any way relieve the Contractor of his obligations under clause 6 of the Conditions. In particular, the Contractor shall not be relieved of his obligations to employ Safety Supervisors, any additional Safety Officers and/or any other safety personnel in excess of the number required by this clause as may be separately required by any Act or Ordinance of Government, instrument, rule, order, regulation or by-law as may be in force at any time during the progress and continuance of the Works."

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-5 Documents forming the Contract and other documents

- (1) Delete clause 5.1(2) on Page 20 and replace with the following:-
 - "(2) The order of precedence of the documents forming the Contract shall be as listed in paragraphs (a) to (e) above and for all purpose the Contract Drawings and the Specification shall take precedence over the Contract Bills"
- (2) Delete clause 5.12(1) on Page 23 and replace with the following :-
 - "(1) The Contractor shall submit to the Architect 2 copies of the as-built drawings which are required by the Contract within 60 days of the date when, in the Architect's opinion, substantial completion of any particular trade or portion of the Works occurred."

SCC-6 Statutory obligations

- (3) Delete clause 6.1 on Page 24 and replace with the following:-
 - "6.1 The Contractor shall comply with and give the notices required by any Ordinance, regulation, rule, order or by-law applicable to the Works and any changes thereto upto and including the Date of Substantial Completion of the Works ("the Statutory Requirements")."
- (4) Delete clause 6.3(1) on Page 24 and replace with the following :-
 - "(1) The Contractor shall pay and indemnify the Employer against liability in respect of all fees or charges legally demandable or which shall become legally demandable during the course of the Works under the Statutory Requirements."
- (5) Delete clause 6.3(2) on Page 24.
- (6) On the sixth line of clause 6.4(1) on Page 24 after "legally demandable" insert "or which shall become legally demandable".

SCC-8 Materials, good, workmanship and work

- (1) Add the following as new clause 8.1(7) to clause 8.1 on Page 26 :-
 - "(7) Without prejudice to the generality of the foregoing, the Contractor shall carry out the Works :
 - (a) using materials which are new, free of defects and of good quality;
 - (b) using methods of construction which are in accordance with sound practice and which are not likely to endanger any existing structures or finishes, adjacent property or the safety of the public; and
 - (c) in a good and workmanlike manner."
- (2) Add the following as new clause 8.2(4) to clause 8.2 on Page 26 :-

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

- (4) Where the Specification requires any item of work to be inspected prior to being covered up, then the Contractor shall notify the Architect in writing before work is covered up and give him at least 2 full working days' notice to inspect. Should any work be covered up without the required notice being given then, whether or not the work is in accordance with the Contract, the Contractor will be responsible for all costs of the testing, opening up for inspection, and any consequential making good and the Contractor shall not be entitled to any extensions of time or to any adjustment of the Contract Sum or other additional monetary compensation in respect of any delay or disruption caused thereby any such entitlement being hereby irrevocably waived."
- (3) Delete the word "individual" in the first line of clause 8.5 on Page 27 and replace with the words "person or persons".

SCC-12 Architect's representative

- (1) Delete the words "to be resident on the Site" in the second line of the first paragraph of clause 12.1 on Page 28 and replace with the following :-
"who may or may not be resident on the Site".
- (2) Add the following as new clause 12.4 to clause 12 on Page 29 :-
12.4 *"Contractor not relieved of obligations by any act of Architect's Representative*

No act or omission by the Architect's representative in the performance of any of his duties or exercise of any of his powers under the Contract shall in any way operate to relieve the Contractor of any of the duties, responsibilities, obligations or liabilities imposed upon him by any of the provisions of the Contract."

SCC-13 Variations, Provisional Quantities, Provisional Items and Provisional Sums

- (1) Delete clause 13.1(1) on Page 29 and replace with the following:-
"(1) The Architect may issue an instruction requiring a Variation."
- (2) Add the following clause 13.4(1)(v) on Page 31:-
"(v) For work which is to be the subject of a fair valuation under clause 13.4(1) (iii), the Contractor shall obtain, if so requested by the Quantity Surveyor, three competitive tenders, and the fair valuation shall be based upon the most competitive tender so received by the Contractor together with an adjustment for the Contractor's profit and overheads as may be agreed with the Quantity Surveyor."
- (3) Add the following to the end of clause 13.4(3)(b) on Page 32:-
"Provided that no such adjustments shall be made if the omission of work is due to omission of work which is included in or covered by any Provisional Quantities, Provisional Items or Provisional Sums."

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

(4) Add the following new clause at the end of clause 13.4 on Page 32:-

“(10) If required by the Architect the Contractor shall within fourteen (14) days of the Architect’s written request submit a detailed estimate of the value of any variation.”

SCC-14 Contract Bills

(1) On the third line of clause 14.1 on Page 33 after “the Specification” insert “and Contract Drawings”.

(2) On the third line of clause 14.2(2) on Page 33 between “Bills” and “and” insert “or as part of the relevant bill item description or headings”.

(3) Add the following clauses at the end of clause 14 on Page 33-

“14.4 Any correction made in accordance with clause 14.3 shall not entitle the Contract to any extension of time under the provisions of clause 25 unless the correction results in an increase in the work to be carried out of sufficient magnitude to cause delay and provided that the error in description was not apparent from the Contract Drawings.

14.5 Any correction made in accordance with clause 14.3 shall not entitle the Contractor to any loss and/or expenses under the provisions of clause 27 unless the correction results in an increase in the work to be carried out of sufficient magnitude to cause delay or disruption and provided that the error in description was not apparent from the Contract Drawings.”

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-17 Substantial Completion and defects liability

- (1) Delete clause 17.1 on Page 34 and replace with the following:-

"17.1 The Architect shall issue the Substantial Completion Certificate for the Works when he is satisfied that the Works have been substantially completed and have passed the inspections and tests that are required by the Contract to be carried out and completed before Substantial Completion and that any approvals, permits or temporary permits required by the Contract have been issued by the relevant authorities or, if any such approval, permit or temporary permit, remains unissued it is not as a consequence of any default of the Contractor and that (subject to any written undertaking the Architect may require) all unfinished items of work shall be completed as soon as practicable after the issue of the Substantial Completion Certificate, or as instructed by the Architect, and in any case before the expiry of the Defects Liability Period."

- (2) Delete clause 17.3(5) on Page 35 and replace with the following:-

"(5) The Architect may instruct the Contractor not to rectify some or all of the defects specified in the schedules of defects, in which case the Quantity Surveyor shall assess a fair value for defects not rectified and reduce the Contract Sum accordingly."

- (3) Delete the word "and" at the end of clause 17.4(b) on Page 35.

- (4) Delete ". " at the end of clause 17.4(c) on Page 35 and add " ; and" at the end of clause 17.4(c) on Page 35.

- (5) Add the following sub-clause to the end of clause 17.4 on Page 35 :-

"(d) the Contractor has submitted all specified guarantees and warranties as required by the Contract and all such guarantees and warranties have been approved by the Architect."

SCC-18 Partial possession by Employer

- (1) Delete clause 18.1(1) on Page 36

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-19 Assignment and sub-letting

- (1) Delete the words "giving prior notice to the Employer" in the first line of clause 19.1(4) on Page 37 and replace with "the Employer's consent."
- (2) Add the following as new clause 19.2(g) to clause 19.2 on Page 38 :-
 - "(g) it shall be a condition in any sub-letting which may occur that the employment of the sub-contractor under the sub-contract shall determine immediately upon the determination (for any reason) of the Contractor's employment under this Contract."

SCC-21 Insurance against injury to persons and property

- (1) Insert the words "the Employer," after the words "names of" in the third line of clause 21.1(1) on Page 39.
- (2) Delete the words "the Contractor's or any sub-contractor's of all tiers employees" and replace with "employees of the Contractor or any sub-contractor of all tiers" in the fifth line of clause 21.1(1) on Page 39
- (3) Add the following as clause 21.1(4) on Page 39 :-
 - "(4) The Employer shall not be liable for or in respect of any damages or compensation payable at law in respect of or in consequence of any accident or injury to any workman or other person whether in the employment of the Contractor or his sub-contractors and their respective sub-contractors of any tier and the Contractor shall indemnify and keep indemnified the Employer against all such damages or compensation and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto."
- (4) Add the following new sub-clause at the end of clause 21.2 on Page 40 :-
 - "(4) The Contractor's attention is drawn to clause 20 which sets out his contractual obligations to indemnify the Employer against certain damage, expense, liability or loss in respect of any claim or proceedings. If the Contractor considers the limit of indemnity referred to in clause 21.2(4) for any one occurrence or series of occurrence of loss or damage to be inadequate to cover these contractual obligations he is at liberty to take out a policy with an increased limit of indemnity but any additional premium or differential in premium shall be at his own expense."
- (5) In clause 21.2(1)(b)(ii) on Page 39 replace the "; and" with "; or"

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-22 Insurance of the Works

- (1) Add the following words at the beginning of the second sentence of clause 22.4(1) on Page 42 :-

"Subject to clause 22.4(4),"

and the following word "The" shall be replaced by the word "the".
- (2) Add the following as new clause 22.4(4) to clause 22.4 on Page 42 :-

"(4) The Contractors' All Risks Insurance Policy shall be extended beyond the period of 14 days after the issue of the Substantial Completion Certificate required under clause 22.4(1) above to extend the period of cover to include the carrying out of unfinished items of work and works of repair or maintenance etc. by the Contractor, his sub-contractors and their sub-contractors of all tiers during the Defects Liability Period".
- (3) Add the words "(less only any amount included for the professional fee as stated in clause 22.2(b))" after the words "of the Works" in the third line of clause 22.6 on Page 43.
- (4) Add the following as new clause 22.8 to clause 22 on Page 43 where clause 22B or 22C is applicable to the Contract :-

"22.8 (a) Where insurance policies are effected and maintained by the Employer as referred to in clauses 21.2, 22B or 22C as appropriate, the Contractor shall be deemed to have examined such insurance policies effected and maintained and to have made allowance in his tender for any insufficiencies for which he may consider additional cover is required. The Contractor shall conform to the conditions of the insurance policies and all requirements of the insurer in connection with the prevention of accidents, the recovery of losses and the settlement of claims and shall bear at his own expense all consequences of any failure to do so.

(b) The Contractor shall be liable for all excesses (deductibles) contained in the policies and all exclusions or limitations under the said policies (insofar as they concern risks for which he is responsible under the terms of the Contract).

(c) In the event of any claims under the insurances, insofar as excesses are concerned they shall be recoverable from the Contractor by the Employer as a debt.

(d) If the Contractor requires that the excesses (deductibles) be reduced to lesser amounts, then the Contractor shall bear any additional premium payable entirely at his own expense."

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-23 Possession, commencement and completion

Replace clause 23.1(1) and (2) on Pages 44 and 45 with the following:-

"23.1 Access to the Site

The Contractor shall only be given access to the Site on the Commencement Date stated in the Appendix or when notified in writing by the Architect."

SCC-24 Damages for non-completion

In clause 24.2(1) on Page 46 delete the words "between the Completion Date and the Date of Substantial Completion" in the last line and replace with the words "commencing from the date by which the Architect certified the Works or Section ought to have been completed under clause 24.1(1) upto and including the date by which they were ultimately completed as certified under the Substantial Completion Certificate".

SCC-25 Extension of time

- (1) Delete clauses 25.1(3)(b), 25.1(3)(c), 25.1(3)(i)m, 25.1(3)(m), 25.1(3)(n) and 25.1(3)(t) on Pages 47 and 48.
- (2) Delete the words "but in any case within 60 days" in the second line of clause 25.3(2) on Page 49.
- (3) Delete the words "but in any case within 60 days of" in the second line of clause 25.3(3)(a) on Page 50 and replace with the words "after the".

SCC-26 Delay recovery measures

Add the following to the end of clause 26.3(1) on Page 52:-

"Unless it is provided for otherwise in the terms of the agreement, in the event that the delay targeted for recovery stated in the agreement cannot be fully recovered due to any act, omission or default of the Contractor, the additional payment to the Contractor for carrying out the delay recovery measures as stipulated in the agreement shall be subject to a discount factor which bears the same ratio as the actual delay recovered to the targeted delay recovery."

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-27 Direct loss and/or expense

Delete clauses 27.1(2)(d) and 27.1(2)(h) on Pages 53 and 54.

SCC-32 Certificates and payments

- (1) Insert the following words at the beginning of clauses 32.1(1) and at 32.1(5) on Pages 64 and 65:-

“Provided the Contractor complies with the requirements of clause 32.1(4) then”

- (2) Insert the words “with copies to the Architect and the Engineer as appropriate” after the words “Quantity Surveyor” in the first line of clause 32.1(4) on Page 64.

- (3) Add the following words to the end of clause 32.1(5) on Page 65:-

“or such other time as may be agreed between the Architect and the Quantity Surveyor provided always that the Quantity Surveyor shall submit the valuation prior to the Architect’s due date under clause 32.1(1).”

- (4) For the avoidance of doubt it is confirmed that clause 32.3 on Page 67 shall not be applicable to this Contract.

- (5) Delete the words “14 days after Substantial Completion” in the third line of clause 32.5(2) on Page 68 and replace with the words “within 14 days after the issue of the Substantial Completion Certificate”.

- (6) Delete the words “signed by the Quantity Surveyor and the Contractor” in clause 32.6(5) on Page 69 and replaced with the words “prepared by the Quantity Surveyor”.

- (7) Delete clause 32.7(3)(h)(i) on Page 70.

- (8) Delete the words “signed final account” in clause 32.8(1) line 4 on Page 71 and replace with the words “final account prepared by the Quantity Surveyor”.

- (9) Insert the word “within” before the words “28 days” in the third line of clause 32.8(4) on Page 71.

- (10) Delete clause 32.9(1)(a) on Page 71.

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-33 Surety Bond

- (1) Delete the word "Architect" in line 2 of clause 33.1(1) on Page 73 and replace with the word "Employer".
- (2) Delete the words "or, if not set out in either of those documents, in the form set out in Schedule 1 of the Conditions," in clause 33.1(3) on Page 73.
- (3) Delete clause 33.2B on Page 72.
- (4) Insert the following words in clause 33.3 in line 3 on Page 73 between the words "Employer" and ",at":

"or the issue of the Substantial Completion Certificate for the Works, whichever occurs first,".
- (5) Add the following at the end of clause 33.3 on Page 73:-

"The amount so withheld shall be held upon trust by the Employer for the Contractor (without obligation to invest) subject to the rights of the Employer to have recourse to it for payment of any amounts which he is entitled to under the Contract or at law or to deduct from it any sum owed to him by the Contractor, provided that the Employer gives notice to the Contractor in accordance with clause 32.1(6)."

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-35 Determination by Employer

- (1) Delete the word "or" from clause 35.1(d) on Page 74.
- (2) Delete the full stop "." at the end of clause 35.1(e) on Page 74 and replace with the word ";or".
- (3) Add the following as clause 35.1(f) on Page 74 :-
 - "(f) persistently or significantly breaching his obligations under this Contract to the material detriment of the Employer."
- (4) Renumber clause 35.8 on Page 78 as clause 35.9 and add the following as clause 35.8 on Page 78 :-

35.8 *"Employer's right to determine in case of bribery*

In addition to the grounds for determination given in clause 35 of the Conditions, the Employer shall be entitled to immediately, without notice, determine the employment of the Contractor under this Contract and the Contractor shall be liable to forfeit the sum of money stated in clause 32.4 to be the Retention and in addition to pay to the Employer the amount of any loss to the Employer resulting from such determination, if the Contractor shall have offered, given or agreed to give to any person any bribe, gift, loan or advantage of any kind as defined in the Prevention of Bribery Ordinance, Cap 201 as an inducement or reward for doing or forbearing to do so or for having done or forborne to do any action in relation to the obtaining or execution of this Contract or any other contract with the Employer, or for showing or any forbearing to show favour or disfavour to any person in relation to this Contract or other contract with the Employer, or if the like acts shall have been done by any person employed by the Contractor or acting on his behalf whether with or without the knowledge of the Contractor."

- (5) Delete the clause reference "35.7" in the first line of the renumbered clause 35.9 on Page 78 and replaced by the clause reference "35.8".

SCC-38 Fluctuations

For the avoidance of doubt it is confirmed that clause 38 on Page 84 and Page 85 shall not be applicable to this Contract. No adjustment to the Contract Sum shall be made for any rises or falls in the cost of labour or materials, fluctuations in exchange rates, freight charges, insurance premium or for any other reasons whatsoever.

SPECIAL CONDITIONS OF CONTRACT
(FOR USE WITH THE HKIS STANDARD FORM OF BUILDING CONTRACT
"WITH QUANTITIES" 2005 EDITION) (CONT'D)

SCC-39 Notices, certificates and other communications

Delete clause 39(3) on Page 85 and replace with the following :-

- "(3) Any notice, certificate or other communication to be given or made under the Contract shall be deemed to have been delivered :
- in the case of delivery by electronic mail immediately following transmission (provided that the correct response is received by the sender); or,
 - in the case of delivery by facsimile machine immediately following transmission; or,
 - in the case of a document sent by post two days after the document has been posted in the case of a recipient in Hong Kong (irrespective of whether ordinary or registered post or recorded delivery is used) or seven days after the document has been posted in the case of an overseas recipient (irrespective of whether standard airmail, speedpost or any other form of airmail is used); or,
 - in the case of a document delivered by hand or courier, at the time of delivery."

SCC-41 Settlement of disputes

Replace the reference "(Chapter 341, Laws of Hong Kong)" of the Arbitration Ordinance with "(Chapter 609, Laws of Hong Kong)" in the second line of clause 41.4(5) on Page 86.

SCC-42 Contracting out of the Contracts (Rights of Third Parties) Ordinance

Nothing in this Contract confers or purports to confer on any third party any benefit or any right pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce any term of this Contract.