



## Clause 13

### Summary

Sub-Clause 13.1 deals with the right of the Engineer to vary the Contract. This right can be exercised at any time up to the issue of the Taking-Over Certificate. Sub-Clause 13.2 deals with value engineering and permits the Contractor to propose a change which will benefit the Employer. The proposal is prepared at the cost of the Contractor, who designs the change. Sub-Clause 13.3 deals with the procedure prior to the Engineer instructing a variation. The Engineer may request a proposal from the Contractor. However, while the Contractor is preparing the proposal it must proceed with the works.

Sub-Clause 13.4 deals with payment in applicable currencies. Sub-Clause 13.5 deals with Provisional Sums and ought to be read with Sub-Clause 13.4.19 which defines Provisional Sums as follows: "a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 (Provisional Sums)." The Provisional Sums can only be used where there is an Engineer's instruction and the Contractor receives payment for only the work done to which the Provisional Sums relate. Sub-Clause 13.6 deals with daywork. This is where work of a minor or incidental nature is to be carried out. The work is then valued in accordance with the Daywork Schedule in the Contract or if there is no Daywork Schedule then the alternative method of payment as prescribed in the Contract.

Sub-Clause 13.7 deals with the Cost arising from changes in the Law of the Country which affect the Contractor in performance of his obligations under the Contract. Where the Contractor suffers delay or additional Cost then it must give notice under Sub-Clause 20.1 of the Contract. Sub-Clause 13.8 deals with adjustments for changes in cost. This Sub-Clause only applies where the "table of adjustment data" included in the Appendix to Tender has been completed. If the Sub-Clause does apply then the amounts payable to the Contractor for cost and bill in the end of the Works are adjusted by a formula.

### Origin of clause

The right to vary work was found in Clause 71 of the Red Book (1<sup>st</sup> edn) and 7<sup>th</sup> edn. There are, however, substantial differences. In particular the classification in Clause 71.2 regarding an increase or decrease in quantities has been removed from FIDIC 1999. This is a surprising gap. Sub-Clause 13.2 (Value Engineering) is a new clause – although it had been included in Sub-Clause 14.2 of FIDIC's Orange Book. Sub-Clauses 13.1 and

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**William Mack, William Benjamin Hale**



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The New South Wales Industrial Gazette, 1955      Structural & Construction Conf Franco Bontempi, 2003-01-01 Objective of conference is to define knowledge and technologies needed to design and develop project processes and to produce high quality competitive environment and consumer friendly structures and constructed facilities This goal is clearly related to the development and re use of quality materials to excellence in construction management and to reliable measurement and testing methods

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## **Table of Contents Clause 13 Variations And Adjustments Corbett**

1. Understanding the eBook Clause 13 Variations And Adjustments Corbett
  - The Rise of Digital Reading Clause 13 Variations And Adjustments Corbett
  - Advantages of eBooks Over Traditional Books
2. Identifying Clause 13 Variations And Adjustments Corbett
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Clause 13 Variations And Adjustments Corbett
  - User-Friendly Interface
4. Exploring eBook Recommendations from Clause 13 Variations And Adjustments Corbett
  - Personalized Recommendations
  - Clause 13 Variations And Adjustments Corbett User Reviews and Ratings
  - Clause 13 Variations And Adjustments Corbett and Bestseller Lists
5. Accessing Clause 13 Variations And Adjustments Corbett Free and Paid eBooks
  - Clause 13 Variations And Adjustments Corbett Public Domain eBooks
  - Clause 13 Variations And Adjustments Corbett eBook Subscription Services
  - Clause 13 Variations And Adjustments Corbett Budget-Friendly Options
6. Navigating Clause 13 Variations And Adjustments Corbett eBook Formats
  - ePub, PDF, MOBI, and More
  - Clause 13 Variations And Adjustments Corbett Compatibility with Devices
  - Clause 13 Variations And Adjustments Corbett Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Clause 13 Variations And Adjustments Corbett
  - Highlighting and Note-Taking Clause 13 Variations And Adjustments Corbett
  - Interactive Elements Clause 13 Variations And Adjustments Corbett

8. Staying Engaged with Clause 13 Variations And Adjustments Corbett
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Clause 13 Variations And Adjustments Corbett
9. Balancing eBooks and Physical Books Clause 13 Variations And Adjustments Corbett
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Clause 13 Variations And Adjustments Corbett
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Clause 13 Variations And Adjustments Corbett
  - Setting Reading Goals Clause 13 Variations And Adjustments Corbett
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Clause 13 Variations And Adjustments Corbett
  - Fact-Checking eBook Content of Clause 13 Variations And Adjustments Corbett
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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