VARIATIONS and CHANGE
ORDERS
A CLASH OF PERSPECTIVES
13.1 Variations may be initiated by the Engineer at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal. The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Engineer stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Engineer shall cancel, confirm or vary the instruction. Each Variation may include:

(a) changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),

(b) changes to the quality and other characteristics of any
(c) changes to the levels, positions and/or dimensions of any part of the Works,
(d) omission of any work unless it is to be carried out by others,
(e) any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or
(f) changes to the sequence or timing of the execution of the Works.
The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Engineer instructs or approves a Variation
20.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance. If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply:

The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance. The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Employer’s liability, the Engineer may, after receiving any
Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Engineer a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed.

If the event or circumstance giving rise to the claim has a continuing effect:

(a) this fully detailed claim shall be considered as interim;
(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Engineer may reasonably require; and
requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.
Art. 657 - (1) If a contract is entered into in accordance with an estimate on a unit price basis and it becomes apparent during the course of the work that in order to execute the agreed upon design it will be necessary to considerably exceed the estimated price, the contractor must immediately notify the employer, showing him the anticipated increase in price. If he fails to do so he forfeits his right to recover the expenses incurred in excess of the estimate.

(2) If the excess necessary for execution of the design is exorbitant, the employer may terminate the contract and halt the execution, provided that he does so without delay and pays the contractor the value of the work he accomplished, calculated according to the provisions of the contract, without compensating him for the profits he could have realized had he completed the work.
It is not sufficient that the excess be considerable… it must also be unforeseeable, otherwise the Employer has no option and must pay the additional costs…

Failure to notify… a deemed implied waiver of right…
Art. 658 - (1) If a contract is entered into on a lump sum basis according to a design agreed upon with the employer, the contractor cannot demand any increase in the fee, even if modifications or additions are made to the design unless they are due to the fault of the employer or have been authorized by him and the fee therefor has been agreed with the contractor.

(2) Such agreement must be made in writing unless the original contract was agreed upon orally.
Art. 659 - If the fee has not been determined in advance, it must be determined according to the value of the work and the expenses of the contractor.
Art. 374 - The statute of limitations for enforcement of obligations is fifteen years except in cases for which a special provision of law exists, and in the following exceptional situations:

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Art. 388 - (1) The benefit of the statute of limitations cannot be relinquished before the right to invoke it has been established. It is likewise impermissible to agree on a limitations period other than that established by law.