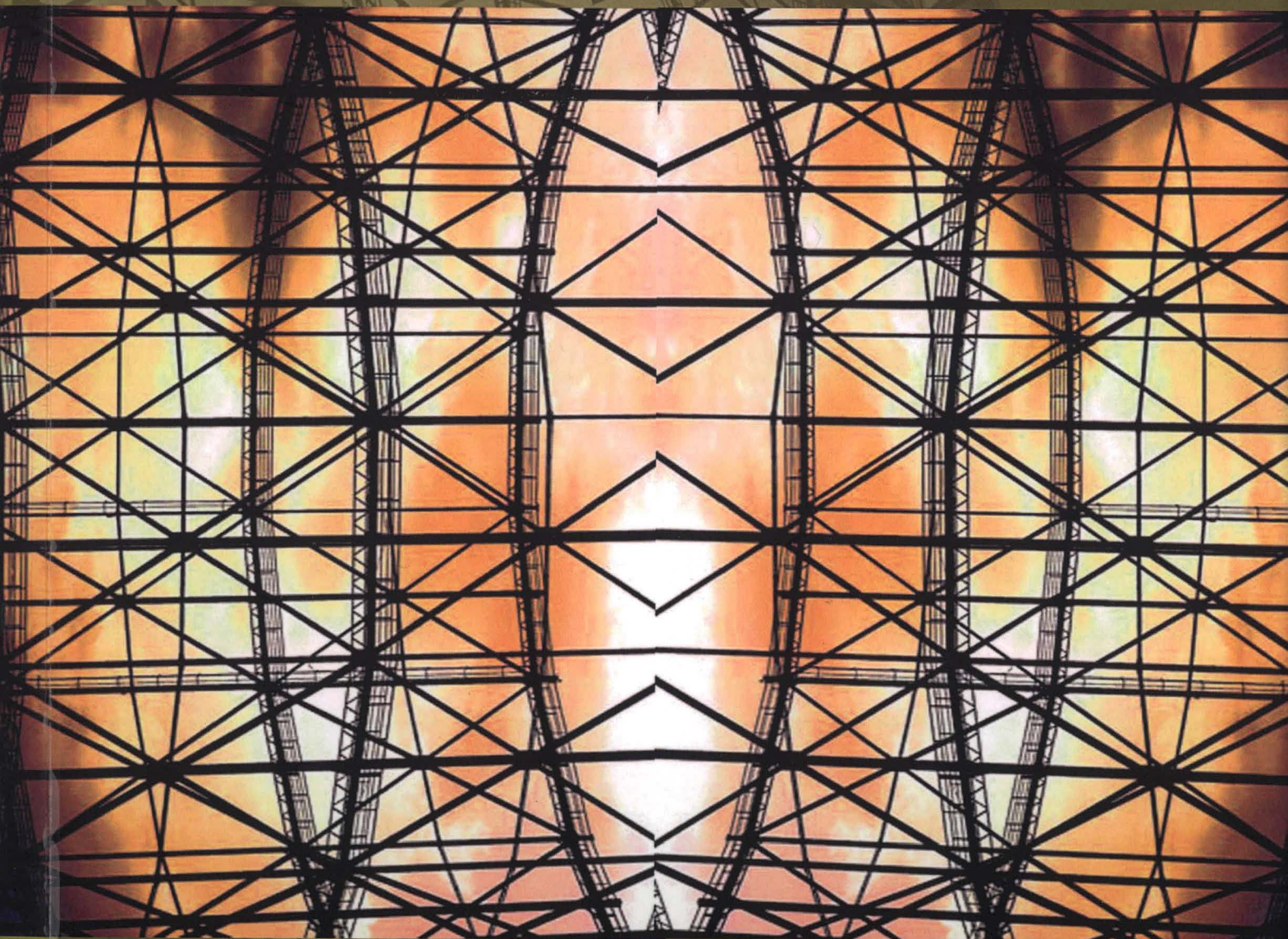


RESEARCH IN *QUANTITY SURVEYING*

Tan Chin Keng



Research Management Centre
INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA



RESEARCH IN QUANTITY SURVEYING

**Editor
Tan Chin Keng**



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CHAPTER 2

THE LEGAL ASPECT OF PROCUREMENT SYSTEM - DOCTRINE OF VARIATION ORDER WITH RESPECT TO DESIGN AND BUILD PROCUREMENT SYSTEM

Masidah Abdul Majid¹

ABSTRACT

The current scenario in Malaysia perceived design and build as a procurement system that caused lots of mishap in the construction industry. This is due to the notorious Martrade Building, Middle Ring Road 2 project and also Navy Recruitment Training Center which had suffered major cost overruns and delays. Nevertheless, undoubtedly design and build is a procurement system that offers lots of benefits as compared to the traditional lump sum system. Apart from single point responsibility that a client may enjoy it is also a system that gives guarantee in terms of cost and time completion. Despite all advantages that the system could offers, there are still some disadvantages on this system. The most apparent is on how the system works whereby it is not accommodative to change. This is due to the nature of the system which is there is no comprehensive document been prepared for reference. Having the fact that the design was prepared by the contractor, it is also tedious for any varied works to be evaluated. Other than that, instruction to vary work will affect the overall work programme and eventually it may leads to time and cost overruns. However, it is impossible for the clause on variation order to be omitted from a design and build contract. The clause on variation order is important due to the unpredictable nature of construction project. With the existence of variation order clause, it permits a client to impose changes in order to suit the current site condition or authorities' requirement. This chapter attempts to explain the common legal issues on variation order pertaining to design and build procurement system. By highlighting the common legal issues, it is hoped that it will become a lesson learned to improve the delivery of design and build procurement system as well as the construction industry in Malaysia.

Keywords: Design and Build, Variation Order, Additional Works, Judgment, Damages.

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