

Index

ABANDONMENT

- Damages, abandonment following start of construction, § 15:32
- Delay, § 7:39

ABNORMALLY DANGEROUS ACTIVITIES

- Generally, § 1:25

ABSENCE OF FUNDS

- Mechanics' liens, absence of funds to which lien can attach, § 9:50

ACCELERATION

- Delay (this index)

ACCEPTANCE OF BIDS

- Generally, § 2:10

ACCESS

- Delay, denial of access, § 7:24

ACCIDENT INSURANCE

- Generally, § 10:9

ACCORD AND SATISFACTION

- Changes and extra work, § 6:33

ACCOUNTING

- Generally, § 15:9

ACCOUNT STATED

- Generally, § 15:38

ACQUIESCENCE

- Changes and extra work, waiver of writing requirement, § 6:11

ACTS OF GOD

- Delay, § 7:8

ACTUAL AND APPARENT AUTHORITY

- Contract formation, § 2:30

ADJOINING LANDOWNERS

- Duties to, § 1:26

ADVERTISING

- Bidding, § 2:7

AFFIRMATIVE DEFENSES

- Safety, affirmative defenses to statutory liability, § 13:14

ALLOCATION OF RISK

- Contract Formation (this index)

ALTERATION

- Change (this index)

ALTERNATIVE DISPUTE RESOLUTION

- Dispute Resolution (this index)

AMENDMENT OF LIENS

- Mechanics' liens, § 9:33

AMOUNT OF JUDGMENT

- Mechanics' liens, § 9:62

ANSWERS

- Mechanics' liens, answers of defendant lienors, § 9:46

APPARENT AUTHORITY

- Contract formation, § 2:30

APPORTIONMENT OF RESPONSIBILITY

- Delay, § 7:50

ARBITRATION

- Dispute resolution, § 16:15 to 16:19
- Mechanics' liens, § 9:41

ARCHITECTS

- Generally, § 1:4
- Bonds, § 8:36, 8:51
- Damages, architects' breach, § 15:34
- Default and termination
 - generally, § 4:5, 4:19
 - architects' and engineers' approval, § 4:5
- Professional liability, § 11:4-11:14

ARCHITECTS—Cont'd

Safety, § 13:11, 13:15

ARTICLE 78 REMEDIES

Damages and Other Remedies (this index)

ASBESTOS ABATEMENT

Generally, § 14:29-14:32

Federal law, § 14:30

Local law, § 14:32

State law, § 14:31

ASSIGNING AND ASSUMING RISK

Environmental issues, § 14:10

ATTACHMENT OF LIEN

Mechanics' Liens (this index)

ATTORNEYS

Contract formation, risk allocation, § 2:44

ATTORNEY'S FEES

Bonds, § 8:21, 8:41

Damages and other remedies, § 15:14

AUTHORITY

Changes, authority to make, § 6:7

Contract formation, § 2:29, 2:30

AUTOMOBILES

Insurance, § 10:30

AWARD OF BIDS

Generally, § 2:13, 2:15

BACK CHARGES

Subcontracts, § 3:20

BAD FAITH

Delay, § 7:41

BANKRUPTCY

Default and termination, insolvency of contractor, § 4:11

BANKS

Bonds, lending institutions' claims, § 8:52

BASIC CLAUSE COVERAGE

Changes and Extra Work (this index)

BEGINNING WORK

"Call before you dig," § 1:27

Damages, failure to commence work, § 15:25, 15:31

BENEFITS

Mechanics' liens, employee benefits as items covered, § 9:21

Subcontractor's employees, § 3:27

BEST INTEREST OF PROJECT

Contract Formation (this index)

BIDS AND BIDDING

Generally, § 2:2-2:22

Accepting, § 2:10

Advertising, § 2:7

Awarding, § 2:13, 2:15

Bid bonds. **Bonds** (this index)

Challenging awards and rejections, § 2:15

Compliance with bid documents, § 2:5

Environmental issues, § 14:12

Exceptions to bidding rules, § 2:14

Excusable mistakes, § 2:19

Exempt agencies, from competitive bidding requirements, § 2:16

Illegal bids and contracts, § 2:11

Lowest responsible bidder, § 2:4

Mistakes

generally, § 2:18-2:20

excusable and nonexcusable unilateral mistakes, § 2:19

mutual mistake, § 2:20

Mutual mistake, § 2:20

Nonexcusable mistakes, § 2:19

Prequalification of bidders, § 2:6

Private contracts, § 2:17

Public contracts

generally, § 2:3-2:16

accepting bids, § 2:10

advertising bids, § 2:7

agencies exempt from competitive bidding requirements, § 2:16

awarding bid, § 2:13

challenging an award or rejection of bid, § 2:15

compliance with bid documents; responsiveness, § 2:5

INDEX

BIDS AND BIDDING—Cont'd

- Public contracts—Cont'd
 - exceptions to bidding rules, § 2:14
 - illegal bids and contracts, § 2:11
 - lowest responsible bidder, § 2:4
 - prequalification of bidders, § 2:6
 - public agencies exempt from competitive bidding requirements, § 2:16
 - separate specifications for certain types of work, § 2:9
 - specifications, § 2:8, 2:9
 - Wicks Law, § 2:9
 - withdrawal of bid, § 2:12
- Rejection of bids, § 2:22
- Responsiveness, § 2:5
- Specifications, § 2:8, 2:9
- Subcontractor bids, § 2:21
- Unilateral mistakes, § 2:19
- Wicks Law, § 2:9
- Withdrawal of bid, § 2:12

BILLING

- Prompt Payment Act** (this index)

BOILERPLATE CONTRACTS

- Subcontractors, § 3:5

BONDS

- Generally, § 8:1-8:53
- Allowing completion of work, § 8:13 to 8:15
- Architects, § 8:36, 8:51
- Attorney's fees, § 8:21, 8:41
- Bid bonds
 - generally, § 8:5-8:7
 - releasing surety, § 8:7
 - surety's liability, § 8:6
- Breach of contract, discharge by, § 8:26
- Claims
 - architects' and engineers' claims, § 8:51
 - attorney's fees, § 8:21
 - cost of completion, § 8:18
 - incidental and consequential damages, § 8:20
 - interest, § 8:23
 - items claimable, § 8:46
 - lending institutions' claims, § 8:52

BONDS—Cont'd

- Claims—Cont'd
 - liquidated and delay damages, § 8:19
 - obligees
 - claims by, § 8:17-8:23
 - sureties' claims against obligees, § 8:50
 - punitive damages, § 8:22
 - subcontractors' claims against, § 8:53
 - sureties' claims, § 8:49-8:53
- Combination bonds, § 8:10
- Completion bonds, § 8:9
- Completion of work, § 8:13 to 8:15
- Consequential damages, § 8:20
- Cost of completion, § 8:18
- Defenses available to surety, § 8:48
- Defenses of sureties
 - generally, § 8:24-8:31
 - excessive liability, § 8:29
 - fraud, discharge by, § 8:27
 - modification or breach of contract, discharge by, § 8:26
 - notice, lack of or untimely, § 8:25
 - party not protected by bond, § 8:31
 - principals' defenses and claims, § 8:30
 - untimely claim or notice, § 8:25, 8:28
- Delay damages, § 8:19
- Discharge by breach or modification of contract, § 8:26
- Engineers, § 8:36, 8:51
- Environmental issues, § 14:26
- Excessive liability, § 8:29
- Fraud, discharge by, § 8:27
- Guaranty and completion bonds, § 8:9
- Guaranty bonds, § 8:9
- Incidental damages, § 8:20
- Insurance
 - distinguished, § 8:1
 - subcontractors' insurers, § 8:53
- Interest, § 8:23, 8:42
- Interpretation, § 8:2
- Items covered
 - generally, § 8:37-8:39

BONDS—Cont'd

- Items covered—Cont'd
 - materials, § 8:38
 - rental equipment, § 8:39
- Lending institutions' claims, § 8:52
- Letters of credit, § 8:47
- Limitation of actions, § 8:45
- Liquidated damages, § 8:19
- Materialmen, § 8:35
- Materials, § 8:38
- Miller Act Bonds** (this index)
- Modification of contract, discharge by, § 8:26
- Notice
 - generally, § 8:40, Appx 8A
 - lack of or untimely, § 8:25
 - limitation of actions, § 8:45
- Obligations and options of sureties
 - generally, § 8:12-8:16
 - completion of work, § 8:13 to 8:15
 - original contractors, completion of work, § 8:13
 - payment of penal sum to obligees, § 8:16
 - substitute contractors, completion of work, § 8:14
- Obligees' claims, § 8:17-8:23, 8:50
- Obligee's obligations, § 8:11
- Original contractors' completion of work, § 8:13
- Parties
 - generally, § 8:3
 - unprotected parties, § 8:31
- Payment bonds
 - generally, § 8:32
 - notice provisions, § Appx 8A
- Payment of penal sum to obligees, § 8:16
- Penal sum, § 8:16, 8:29
- Performance bonds, § 8:8
- Persons protected
 - generally, § 8:33-8:36, 8:44
 - architects and engineers, § 8:36
 - subcontractors, § 8:34
 - suppliers and materialmen, § 8:35
 - third-party beneficiaries and combination bonds, § 8:10

BONDS—Cont'd

- Principals' defenses and claims, § 8:30
- Punitive damages, § 8:16, 8:22, 8:29
- Release of sureties, § 8:7
- Rental equipment, § 8:39
- Subcontractors, § 8:34, 8:53
- Substitute contractors, § 8:14
- Suppliers, § 8:35
- Surety's liability, § 8:6
- Terms of bonds, § 8:4
- Third-party beneficiaries and combination bonds, § 8:10
- Time
 - delay damages, § 8:19
 - untimely claim or notice, § 8:25, 8:28

BUILDING LOAN CONTRACTS

- Mechanics' liens, priorities and preferences among lienors, § 9:53

BURDEN OF PROOF

- Delay, § 7:49

CALL BEFORE YOU DIG

- Generally, § 1:27

CAPACITY TO CONTRACT

- Contract formation, § 2:29

CARDINAL CHANGE DOCTRINE

- Generally, § 6:4

CARE, CUSTODY, AND CONTROL

- Insurance, care, custody, or control exclusions, § 10:26

CERTAINTY

- Contract formation, certainty of terms, § 2:26
- Limitations on damages, § 15:19

CERTIFICATION

- Professional liability, certifying progress payments, § 11:10, 11:20

CHANGE

- Bonds, discharge by modification of contract, § 8:26
- Change orders, § 3:12, 6:6
- Delay, changed conditions, § 7:29

INDEX

CHANGE—Cont'd

Scope of Work. **Changes and Extra Work** (this index)

CHANGES AND EXTRA WORK

Generally, § 5:1-5:20, 6:1-6:34

Accord and satisfaction, § 6:33

Acquiescence, waiver of writing requirement, § 6:11

Authority to make changes, § 6:7

Basic clause coverage

generally, § 6:2-6:5

cardinal change doctrine, § 6:4

contract's scope of work, § 6:3

deductive changes vs. convenience terminations, § 6:5

Cardinal change doctrine, § 6:4

Change orders, § 3:12, 6:6

Claims

generally, § 5:17-5:18

notice and documentation, § 5:18

Clarification, contractor's duty to seek, § 6:16

Concealment, § 5:12

Conditions changed, § 5:1-5:20

Constructive changes

generally, § 6:15-6:21

contractor's duty to seek clarification, § 6:16

defective specifications, § 6:18

dictating performance methods, § 6:21

interference with work by owner, § 6:17

nondisclosure of technical information, § 6:19

overmeticulous inspection, § 6:20

Contract clauses

generally, § 5:6-5:9

changed conditions clauses, § 5:7

disclaimer clauses, § 5:8

exculpatory clauses, § 5:9

Contract interpretation rules

applicable to scope of work disputes, § 6:23

Contractors' duty to perform, § 5:15

Convenience terminations, § 6:5

Costs

impact costs, § 5:20

CHANGES AND EXTRA WORK—Cont'd

Costs—Cont'd

price adjustments, below

reimbursement contracts, § 6:28

Damages

generally, § 5:19-5:20

impact costs, § 5:20

Deductive changes, § 6:5

Defective specifications, § 6:18

Defenses, § 6:32, 6:33

Definitions of changed conditions, § 5:2-5:5

Delay, § 7:28

Dictating performance methods, § 6:21

Disclaimer clauses, § 5:8

Disputed work, contractor's duty to proceed, § 6:13, 6:14

Dispute resolution, § 16:4

Documentation. Records, below

Exculpatory clauses, § 5:9, 6:31

Fraud, § 5:12

Impact costs, § 5:20, 6:29

Innocent misrepresentations, § 5:11

Inquiries and investigations, § 5:13

Interference with work by owner, § 6:17

Issuing change orders, § 6:6

Latent above-ground conditions, § 5:4

Mechanics' liens, extras as covered items, § 9:23

Misrepresentations by owner

generally, § 5:10-5:12

fraud, concealment, and reckless representation, § 5:12

innocent misrepresentations, § 5:11

Nondisclosure of technical information, § 6:19

Notice, § 5:18, 6:24

Oral order waiving, § 6:10

Origin of changes, § 6:1

Overmeticulous inspection, § 6:20

Performance

contractors' duties, § 5:15

CHANGES AND EXTRA WORK

—Cont'd

- Performance—Cont'd
 - detailed specifications vs. performance specifications, § 6:22
- Preservation of claims, § 6:32, 6:33
- Price adjustments for changed work
 - generally, § 6:25-6:30
 - impact costs, § 6:29
 - pricing of costs related to change, § 6:26
 - proving costs, § 6:30
 - reimbursement contracts, § 6:28
 - unit pricing, § 6:27
- Protest requirements, § 6:24
- Proving costs, § 6:30
- Reckless representation, § 5:12
- Records
 - claims, § 5:18
 - recordkeeping requirements, § 6:24
- Reliance on owners' data, § 5:14
- Remedies, § 5:16, 6:34
- Rules of interpretation applicable to scope of work disputes, § 6:23
- Site investigations, § 5:13
- Specifications, § 6:18, 6:22
- Subsurface conditions, § 5:3
- Unit pricing, § 6:27
- Waiver, § 6:9-6:12
- Writing requirement
 - generally, § 6:8-6:12
 - acquiescence, § 6:11
 - oral order waiving, § 6:10
 - waiver, § 6:9-6:12

CLAIMS

- Bonds (this index)
- Changes and Extra Work (this index)
- Defects and failures, claims against bond, § 12:9
- Environmental issues, claims made vs. occurrence policies, § 14:23

CLARIFICATION

- Changes and extra work, contractor's duty to seek clarification, § 6:16

CODES

- Licenses and Codes (this index)

COLLAPSE

- Insurance, § 10:24

COLLATERAL SOURCE RULE

- Generally, § 15:18

COMBINATION BONDS

- Generally, § 8:10

COMMENCEMENT

- Mechanics' liens, commencement of actions, § 9:39
- Work. **Beginning Work** (this index)

COMMERCIAL PRACTICE

- Delay, § 7:16

COMPENSATION

- Compensable delay. **Delay** (this index)
- Payment. **Payment** (this index)
- Retainage** (this index)
- Subcontractor's employees, § 3:27

COMPLAINTS

- Mechanics' liens, form of complaint, § 9:45

COMPLETION BONDS

- Generally, § 8:9, 8:13 to 8:15

COMPLIANCE

- Bid documents, compliance with, § 2:5
- Zoning ordinances, § 1:39

COMPREHENSIVE INSURANCE

- Environmental issues, comprehensive general liability insurance exclusions, § 14:22

CONCEALMENT

- Changes and extra work, § 5:12

CONCURRENT DELAY

- Generally, § 7:31, Appx 7C-7E

CONDITIONS CHANGED

- Generally, § 5:1-5:20

CONDOMINIUMS

- Lienable property, § 9:12

INDEX

CONSENT DECREES

Environmental issues, § 14:43

CONSENT OF OWNERS

Mechanics' liens, § 9:5

CONSEQUENTIAL DAMAGES

Bonds, § 8:20

CONSTRUCTION DEFECTS

Generally, § 12:3

CONSTRUCTION MANAGERS

Generally, § 1:13

Professional liability, § 11:15-11:22

Safety, § 13:12, 13:16

CONSTRUCTIVE

ACCELERATION

Delay, § 7:46

CONSTRUCTIVE CHANGES

Changes and Extra Work (this index)

CONTINGENT PAYMENT CLAUSES

Subcontracts, § 3:18

CONTINUOUS TREATMENT DOCTRINE

Professional liability, § 11:25

CONTRACTORS

Generally, § 1:10-1:12

Changes and extra work, contractors' duty to perform, § 5:15

Contractors' Liens. **Mechanics' Liens** (this index)

Default, § 4:7-4:11

General contractors, § 1:11

Independent prime or trade contractors, § 1:12

Insurance, contractors' own work exclusions, § 10:22

Prompt Payment Act, § 1:33

Safety, contractors' obligations, § 13:4, 13:7

Subcontracts and Subcontractors (this index)

CONTRACTS

Generally, § 1:18-1:22

CONTRACTS—Cont'd

Actual and apparent authority, § 2:30

Allocation of risk. Risk allocation in best interest of project, below

Analysis of boilerplate, § 2:34

Attorneys, risk allocation, § 2:44

Authority to contract, § 2:29

Best interest of project. Risk allocation in best interest of project, below

Capacity to contract, § 2:29

Certainty of terms, § 2:26

Changes and Extra Work (this index)

Cost reimbursable contracts, § 1:21

Defects and failures, contractual indemnification and contribution, § 12:11

Evaluating risks and responsibilities, § 2:36, 2:37

Evaluating special terms, § 2:35

Execution of contracts, § 2:32

Extrinsic evidence, § 2:48

Formation of contracts, § 2:23 et seq.

Guaranteed maximum price contracts, § 1:22

Illegal contracts, § 2:28

Incorporation by reference, § 2:51

Insurance, contractual liability, § 10:25

Intent to be bound, § 2:25

Interpretation of contracts

generally, § 2:47-2:50

changes and extra work, contract interpretation rules applicable to scope of work disputes, § 6:23

conflict between contract and other documents, § 2:49

conflict between plans and specifications, § 2:50

extrinsic evidence, parol evidence rule, § 2:48

Language of contracts, risk allocation, § 2:42

Letter of intent, § 2:31

Lump sum contracts, § 1:19

Minority business enterprises, § 2:35

Mutual assent, § 2:25

CONTRACTS—Cont'd

- Negotiating terms and conditions, § 2:33
- Offer and acceptance, § 2:24
- Parol evidence rule, § 2:48
- Plans and specifications, conflict between, § 2:50
- Prevailing wage, § 2:35
- Pricing risks, § 2:37
- Procurement policy rules, § 17:10, 17:11
- Risk allocation in best interest of project generally, § 2:38-2:44
- counsel advocates and counselors, § 2:44
- language of contracts, § 2:42
- options for allocating risk, § 2:41
- philosophies for dealing with risk, § 2:40
- types of risk, § 2:39
- Risks and responsibilities, § 2:36, 2:37
- Scope of work disputes, contract interpretation rules applicable to, § 6:23
- Standard contract forms, § 2:46
- Statute of frauds, § 2:27
- Subcontracts and Subcontractors** (this index)
- Unit price contracts, § 1:20

CONTRIBUTION

- Professional liability, § 11:23
- Safety, § 13:18

CONVENIENCE

- Termination for, § 4:4

COOPERATIVES

- Lienable property, § 9:12

COORDINATION

- Professional liability, § 11:9, 11:19

CORRECTION OF DEFECTIVE WORK

- Generally, § 4:10

COST CAP INSURANCE

- Environmental issues, § 14:25

COST ESTIMATES

- Professional liability, § 11:7, 11:17

COST OF COMPLETION

- Bonds, § 8:18
- Damages, § 15:29

COST REIMBURSABLE CONTRACTS

- Generally, § 1:21

CRITICAL PATH METHOD (CPM) SCHEDULES

- Generally, § Appx 7A

DAMAGES AND OTHER REMEDIES

- Generally, § 15:1-15:41
- Abandonment following start of construction, § 15:32
- Accounting, § 15:9
- Account stated, § 15:38
- Architects' breach, § 15:34
- Article 78
 - generally, § 15:1-15:4
 - procedure, § 15:2
 - standard of review, § 15:4
- Attorney's fees, § 15:14
- Breach of contract versus quantum meruit, § 15:10
- Certainty, limitations on damages, § 15:19
- Changes and extra work, § 5:16, 6:34
- Changes and Extra Work** (this index)
- Collateral source rule, § 15:18
- Commencement, failure, § 15:25, 15:31
- Cost of completion, § 15:29
- Declaratory judgment, § 15:8
- Defective performance, § 15:28
- Delay, § 7:48, 7:65
- Delay** (this index)
- Diminution in value, § 15:29
- Economic loss rule, § 15:20
- Engineers' breach, § 15:34
- Fraud, § 15:11
- Injunctions** (this index)
- Interest, § 15:15

INDEX

DAMAGES AND OTHER REMEDIES—Cont'd

- Limitations on damages
 - generally, § 15:22
 - certainty, § 15:19
 - collateral source rule, § 15:18
 - economic loss rule, § 15:20
 - mitigation, § 15:17
 - noncontractual limitations,
§ 15:16-15:18
- Liquidated Damages** (this index)
- Materialmen's remedies
 - generally, § 15:36-15:38
 - account stated, § 15:38
 - replevin, § 15:37
- Mechanics' liens, § 9:22
- Mitigation of damages, § 15:17
- Noncontractual limitations on damages, § 15:16-15:18
- Nonpayment, § 15:33
- Partial performance, § 15:26
- Permanent injunctions, § 15:7
- Preliminary injunctions, § 15:6
- Prompt Payment Act, § 1:35
- Public contracts, § 15:13
- Punitive Damages** (this index)
- Quantum meruit, § 15:10
- Reformation, § 15:41
- Replevin, § 15:37
- Rescission and restitution, § 15:40
- Specific breaches by contractor,
§ 15:24-15:33
- Specific breaches by owner, § 15:30-15:33
- Specific performance, § 15:39
- Subcontractors
 - breach, § 3:36, 15:35
 - remedies for nonpayment, § 3:25
- Substantial performance, § 15:27
- U.C.C., § 15:21

DEADLINES

- Mechanics' liens, commencement of actions, § 9:39

DECLARATORY JUDGMENTS

- Generally, § 15:8

DEDUCTIVE CHANGES

- Generally, § 6:5

DEFAULT AND TERMINATION

- Generally, § 4:1-4:21
- Architects, § 4:5, 4:19
- Architects** (this index)
- Architects' and engineers' approval,
§ 4:5
- Bankruptcy of contractor, § 4:11
- Cause, termination for, § 4:3
- Contractor default
 - generally, § 4:7-4:18
 - correction of defective work,
§ 4:10
 - defenses, § 4:12-4:18
 - failure to prosecute work, § 4:8
 - insolvency or bankruptcy of contractor, § 4:11
 - subcontractors and suppliers, payment, § 4:9
- Convenience, termination for, § 4:4
- Correction of defective work, § 4:10
- Engineers, § 4:5, 4:19
- Failure to prosecute work, § 4:8
- Insolvency of contractor, § 4:11
- Notice requirements, § 4:6
- Rescission, § 4:20
- Right of termination
 - generally, § 4:2-4:5
 - architects' and engineers' approval,
§ 4:5
 - cause, termination for, § 4:3
 - convenience, termination for, § 4:4
- Subcontracts and subcontractors,
§ 3:24, 4:9
- Wrongful termination, § 4:21

DEFECTS AND FAILURES

- Generally, § 12:1-12:16
- Changes and extra work, defective specifications, § 6:18
- Claims against bond, § 12:9
- Construction defects, § 12:3
- Contractual indemnification and contribution, § 12:11
- Damages and other remedies, defective performance, § 15:28

DEFECTS AND FAILURES

—Cont'd

Default and termination, failure to prosecute work, § 4:8
 Delay, defective design, § 7:27
 Design defects, § 12:2
 Divided responsibility, § 12:6
 Faulty or improper materials, § 12:4
 Guarantee. **Warranty (guarantee) Clauses** (this index)
 Improper installation, § 12:5
 Indemnification and contribution, § 12:10, 12:11
 Mechanics' liens defective, foreclosure, § 9:48
 Statutes of limitations, § 12:8
 Waiver of defects, § 12:7
 Warranty (guarantee) clauses
 generally, § 12:13-12:16
 exclusive remedy, § 12:16
 express warranties, § 12:15
 implied warranties, § 12:13
 implied warranties in sale of new homes, § 12:14

DEFENSES

Bonds (this index)
 Changes and extra work, § 6:32, 6:33
 Environmental issues, § 14:42
 Mechanics' liens, defenses to foreclosure, § 9:47-9:50

DEFICIENCY JUDGMENTS

Mechanics' liens, sale upon execution, § 9:66

DEFINITIONS

Changed conditions, § 5:2-5:5

DELAY

Generally, § 7:1-7:73
 Abandonment, § 7:39
 Acceleration
 generally, § 7:44-7:47
 actual acceleration, § 7:45
 constructive acceleration, § 7:46
 Access, denial of, § 7:24
 Active interference, § 7:38
 Acts of God, § 7:8

DELAY—Cont'd

Apportionment of responsibility for delay, § 7:50
 Bad faith, § 7:41
 Bar chart for swimming pool construction, § Appx 7B
 Bonds, § 8:19
 Breach of contract, § 7:42
 Burden of proof, § 7:49
 Changed conditions, § 7:29
 Changes and extras, § 7:28
 Commercial practice, § 7:16
 Compensable delay
 generally, § 7:22-7:29
 changed conditions, § 7:29
 contract changes and extras, § 7:28
 defective design, § 7:27
 denial of access, § 7:24
 inspections and approvals, § 7:26
 notice to proceed, § 7:25
 owner interference, § 7:23
 Concurrent delay, § 7:31, Appx 7C-7E
 Constructive acceleration, § 7:46
 CPM schedule, § Appx 7A
 Damages
 generally, § 7:52-7:74, 7:65
 exceptions to enforcement of no damage for delay clauses, below
 field overhead, § 7:58
 financing costs, § 7:61
 home office overhead, § 7:60
 idle equipment, § 7:59
 impact costs, § 7:57
 inability to take on other work, § 7:62
 interest, § 7:64
 labor escalation, § 7:53
 loss of productivity, § 7:55
 material escalation, § 7:54
 no damage for delay clauses
 Generally, § 7:33
 exceptions to enforcement of no damage for delay clauses, below
 procurement costs, § 7:56
 profit, § 7:63

INDEX

DELAY—Cont'd

- Defective design, § 7:27
- Disruptions, § 7:5, 7:43
- Escalation, § 7:53, 7:54
- Exceptions to enforcement of no damage for delay clauses
 - generally, § 7:36-7:42
 - active interference, § 7:38
 - breach of contract, § 7:42
 - fraud or bad faith, § 7:41
 - uncontemplated delay, § 7:37
 - unreasonable delay and abandonment, § 7:39
 - willful or gross negligence, § 7:40
- Excusable delay
 - generally, § 7:7-7:12
 - acts of God and force majeure, § 7:8
 - owner-caused, § 7:10
 - sovereign and other interfering acts, § 7:11
 - strikes and labor disputes, § 7:9
 - subcontractors' and suppliers' delays, § 7:12
- Excuse, § 7:20
- Federal contracts, § 7:14
- Field overhead, § 7:58
- Financing costs, § 7:61
- Force majeure, § 7:8
- Fraud, § 7:41
- General vs. specific no damage for delay clauses, § 7:34
- Gross negligence, § 7:40
- Home office overhead, § 7:60
- Idle equipment, § 7:59
- Impact costs, § 7:57
- Inspections and approvals, § 7:26
- Interest, § 7:64
- Interference, § 7:43
- Labor
 - disputes, § 7:9
 - escalation, § 7:53
- Liquidated damages, § 7:72
- Material escalation, § 7:54
- No damage for delay
 - generally, § 7:32, 7:33

DELAY—Cont'd

- No damage for delay—Cont'd
 - exceptions to enforcement of no damage for delay clauses, above
- Noncompensable excusable delays, § 7:21
- Nonexcusable delay, § 7:30
- Notice
 - generally, § 7:17-7:19
 - content, § 7:19
 - proceed, notice to, § 7:25
 - time of notice, § 7:18
- Other work, availability for, § 7:62
- Owners
 - actual damages, § 7:68
 - damages for delay, § 7:67-7:71
 - interest, § 7:70
 - interference by owners, § 7:23
 - loss of use, § 7:69
 - owner-caused delay, § 7:10
 - professional fees, § 7:71
- Payments. **Prompt Payment Act** (this index)
- Procurement costs, § 7:56
- Productivity, loss of, § 7:55
- Profit, § 7:63
- Progress schedules, § 7:4
- Public contracts, § 7:14, 7:15
- Relevant contract clauses, § 7:13-7:16
- Remedies, § 7:48
- Scheduling procedures, § 7:4
- Sovereign and other interfering acts, § 7:11
- State and local contracts, § 7:15
- Strikes, § 7:9
- Subcontracts and subcontractors, § 3:22, 7:12
- Swimming pool construction, § Appx 7B
- Time-money relationship, § 7:3
- Uncontemplated delay, § 7:37
- Unreasonable delay, § 7:39
- Waiver, § 7:51
- Willful negligence, § 7:40

DESIGN

- Architects** (this index)

DESIGN—Cont'd

- Defects and failures, § 12:2
- Design professionals
 - generally, § 1:2-1:6
 - Architects** (this index)
 - designer fees, § 1:3
 - Engineers** (this index)
 - subconsultants, § 1:6
- Engineers** (this index)
- Fees, § 1:3
- Insurance, design-build contracts, § 10:37
- Professional liability, § 11:5, 11:16

DESIGN BUILD PROJECTS

- Generally, § 1:23

DIMINUTION IN VALUE

- Generally, § 15:29

DIRECTORS' LIABILITY

- Insurance, § 10:29

DISCHARGE

- Bonds, discharge by breach or modification of contract, § 8:26
- Mechanics' liens, § 9:36

DISCLAIMERS

- Changes and extra work, § 5:8
- Insurance, § 10:34

DISCLOSURE

- Changes and extra work, nondisclosure of technical information, § 6:19

DISPUTED WORK

- Change. **Changes and Extra Work** (this index)

DISPUTE RESOLUTION

- Generally, § 16:1-16:19
- Contract scope of work disputes, § 16:4
- Environmental issues, § 14:44, 14:46
- Formal dispute resolution, § 16:13 to 16:19
- Freedom of information laws, § 16:3
- Informal dispute resolution, § 16:5 to 16:12

DISPUTE RESOLUTION—Cont'd

- Limitations regarding procurement policy, § 17:16
- Notice of claim requirements, § 16:2
- Procurement, § 17:12 to 17:17
- Professional liability, § 11:11

DISRUPTIONS

- Delay, § 7:5, 7:43

DISTRIBUTION OF PROCEEDS

- Mechanics' liens, distribution of sale proceeds, § 9:65

DIVERSION OF TRUST FUNDS

- Mechanics' liens, § 9:78

DIVIDED RESPONSIBILITY

- Defects and failures, § 12:6

DOCUMENTATION

- Records** (this index)

ECONOMIC LOSS RULE

- Generally, § 15:20

EMERGENCY PURCHASES

- Procurement policy rules, § 17:8

EMPLOYEES

- Mechanics' liens, employee benefits as items covered, § 9:21
- Workers' Compensation** (this index)

ENFORCEMENT OF LIENS

- Mechanics' liens, § 9:38-9:45, 9:81-9:85

ENGINEERS

- Bonds, § 8:36, 8:51
- Breach, damages and other remedies, § 15:34
- Default and termination, § 4:5, 4:19
- Design professionals, § 1:5
- Professional liability, § 11:4-11:14
- Safety, § 13:11, 13:15

ENVIRONMENTAL ISSUES

- Generally, § 14:1-14:46
- Alternative dispute resolution, § 14:44, 14:46
- Asbestos Abatement** (this index)
- Assigning and assuming risk, § 14:10

INDEX

ENVIRONMENTAL ISSUES

—Cont'd

Bids, § 14:12
Bonds, § 14:26
Claims made vs. occurrence policies, § 14:23
Comprehensive general liability insurance exclusions, § 14:22
Consent decrees, § 14:43
Cost cap insurance, § 14:25
Defenses, § 14:42
Environmental Protection Agency (EPA), § 14:45
Errors and omissions liability insurance, § 14:21
Federal legislation
 generally, § 14:5, 14:30
 asbestos abatement, § 14:30
 Environmental Protection Agency (EPA), § 14:45
Hazardous waste insurance coverage, § 14:24
Indoor pollution, § 14:34
Industry standard forms, § 14:16, 14:19
Insurance
 generally, § 10:23, 14:20-14:24
 claims made v. occurrence policies, § 14:23
 comprehensive general liability insurance exclusions, § 14:22
 errors and omissions liability insurance, § 14:21
 hazardous waste insurance coverage, § 14:24
Lead, § 14:33
Local laws
 generally, § 14:7, 14:32
 asbestos abatement, § 14:32
Managing environmental risks, § 14:8
Occurrence policies, § 14:23
Owner-contractor agreements
 generally, § 14:11-14:16
 bid, § 14:12
 industry standard forms, § 14:16
Owner-design professional agreements, § 14:17-14:19
Potential risks, § 14:9

ENVIRONMENTAL ISSUES

—Cont'd

Reducing superfund risk, § 14:28
Sources of environmental law, § 14:4-14:7
State legislation
 generally, § 14:6, 14:31
 asbestos abatement, § 14:31
Storage tanks, § 14:35
Storm water, § 14:37
Superfund
 generally, § 14:27, 14:28, 14:41-14:43
 consent decrees, § 14:43
 defenses, § 14:42
Trial preparation, § 14:38 to 14:40
Underground storage tanks, § 14:35
Wetlands, § 14:36

ERRORS

Mistakes (this index)

ESCALATION

Delay, § 7:53, 7:54

EVIDENCE

Changes and extra work, proving costs, § 6:30

EXAGGERATION

Mechanics' liens, § 9:49

EXCEPTIONS

Bidding rules, § 2:14
Delay (this index)

EXCESSIVE LIABILITY

Bonds, § 8:29

EXCLUSIONS

Insurance (this index)

EXCULPATORY CLAUSES

Changes and extra work, § 5:9, 6:31

EXCUSE

Bidding, excusable mistakes, § 2:19
Delay (this index)

EXECUTION

Mechanics' Liens (this index)

EXECUTION OF CONTRACTS

Generally, § 2:32

EXECUTION SALE

Mechanics' Liens (this index)

EXEMPT AGENCIES

From competitive bidding requirements, § 2:16

EXPIRED LIENS

Foreclosure, § 9:48

EXPLOSIONS

Insurance, § 10:24

EXTENSION OF LIENS

Mechanics' liens, § 9:32

EXTRA WORK

Changes and Extra Work (this index)

EXTRINSIC EVIDENCE

Contract formation, § 2:48

FAILURES

Defects and Failures (this index)

FAULTY MATERIALS

Defects and failures, § 12:4

FEDERAL CONTRACTS

Delay, § 7:14

FEDERAL LEGISLATION

Environmental Issues (this index)

FIDELITY INSURANCE

Generally, § 10:28

FIDUCIARY RELATIONSHIP

Mechanics' liens, trust funds, § 9:72

FIELD OVERHEAD

Delay, § 7:58

FINAL PAYMENT

Subcontracts, § 3:19

FINANCING COSTS

Delay, § 7:61

FORCE MAJEURE

Delay, § 7:8

FORECLOSURE

Mechanics' Liens (this index)

FORMAL DISPUTE RESOLUTION

Dispute Resolution (this index)

FORMATION OF CONTRACTS

Contract Formation (this index)

FORMS

Environmental issues, industry standard forms, § 14:16, 14:19

Mechanics' liens, form for notice of lien, § 9:85

FRAUD

Bonds, discharge, § 8:27

Changes and extra work, § 5:12

Damages and other remedies, § 15:11

Delay, § 7:41

FREEDOM OF INFORMATION

LAWS

Dispute resolution, § 16:3

GENERAL CONTRACTORS

Generally, § 1:11

GLOSSARY

Common construction insurance terms, § Appx 10A

"GRAVE INJURY" EXCEPTION

Generally, § 1:10, 1:24, 2:27

GROSS NEGLIGENCE

Delay, § 7:40

GUARANTEE

Defects and Failures (this index)

Guaranteed maximum price contracts, § 1:22

Wrap-up insurance, § 10:11

GUARANTY

Bonds, § 8:9

HAZARDOUS WASTE

Insurance coverage, § 14:24

HOLD HARMLESS CLAUSES

Subcontracts, § 3:13

HOME IMPROVEMENT

Contracts, § 1:10, 1:24, 2:27

INDEX

IDLE EQUIPMENT

Delay, § 7:59

ILLEGAL BIDS

Generally, § 2:11

ILLEGAL CONTRACTS

Formation, § 2:28

IMPACT COSTS

Changes and extra work, § 5:20, 6:29

Delay, § 7:57

IMPROPER WORK AND

MATERIALS

Generally, § 12:4

Defects and failures, § 12:5

IMPROVEMENTS

Mechanics' liens, improvement
requirement, § 9:4, 9:9

INCIDENTAL DAMAGES

Bonds, § 8:20

INCORPORATION BY

REFERENCE

Formation of contracts, § 2:51

Subcontracts, § 3:6

INDEMNIFICATION

Defects and failures, § 12:10, 12:11

Professional liability, § 11:23

Safety, § 13:18

Subcontracts, § 3:13

INDEPENDENT PRIME OR TRADE CONTRACTORS

Generally, § 1:12

INDOOR POLLUTION

Generally, § 14:34

INFORMAL DISPUTE

RESOLUTION

Dispute Resolution (this index)

INJUNCTIONS

Generally, § 15:5-15:7

Permanent injunctions, § 15:7

Preliminary injunctions, § 15:6

INNOCENT

MISREPRESENTATIONS

Changes and extra work, § 5:11

INSOLVENCY

Default and termination, insolvency
of contractor, § 4:11

INSPECTION

Delay, inspections and approvals,
§ 7:26

Professional liability, § 11:6, 11:8

INSURANCE

Generally, § 1:17, 10:1-10:38

Accident coverage, § 10:9

Bonds (this index)

Care, custody, or control exclusions,
§ 10:26

Contractual liability, § 10:25

Coverage

generally, § 10:6-10:9

liability coverage, § 10:7

occurrence or accident, § 10:9

property coverage, § 10:8

Design-build contracts, § 10:37

Disclaimers, § 10:34

Duty of cooperation, § 10:33

Duty of defense, § 10:31

Environmental Issues (this index)

Exclusions

generally, § 10:21-10:26

care, custody, or control, § 10:26

contractor's own work, § 10:22

contractual liability, § 10:25

explosion, collapse, and
underground damage, § 10:24

pollution, § 10:23

Explosion, collapse, and underground
damage, § 10:24

Fidelity insurance, § 10:28

Glossary of common construction
insurance terms, § Appx 10A

Joint ventures, § 10:38

Liability coverage, § 10:7

Limitation of actions, § 10:32

Motor vehicles and equipment,
§ 10:30

Notice to insurers, § 10:18

INSURANCE—Cont'd

- Obtaining necessary insurance
 - generally, § 10:3-10:5
 - claims made v. occurrence policies, § 10:4
 - duplicative coverage, § 10:5
- Occurrence Coverage** (this index)
- Officers' and directors' liability, § 10:29
- Policy limits, § 10:15
- Policy requirements
 - generally, § 10:16-10:18
 - notice to insurers, § 10:18
 - premiums, § 10:17
- Pollution, § 10:23
- Premiums, § 10:17
- Professional liability, § 10:12, 10:13, 11:26
- Project-specific professional liability insurance, § 10:13
- Property coverage, § 10:8
- Special coverages, § 10:14
- Special insurance problems, § 10:36-10:38
- Termination, § 10:20
- Terrorism insurance, § 10:27
- Worker's compensation, § 10:10
- Wrap-up insurance, § 10:11

INTENT

- Contract formation, intent to be bound, § 2:25

INTEREST

- Bonds, § 8:23, 8:42
- Damages and other remedies, § 15:15
- Delay, § 7:64

INTERFERENCE

- Changes and extra work, interference with work by owner, § 6:17
- Delay, § 7:11, 7:38, 7:43
- Utility interference work, § 1:29

INTERPRETATION

- Bonds, § 8:2
- Contracts** (this index)
- Scope of work disputes, applicable rules of contract interpretation, § 6:23

INVOICES

- Prompt Payment Act, § 1:31

JOB SITES

- Subcontractors, § 3:10

JOINT LIABILITY

- Contractors jointly liable for unpaid wages of subcontractors, § 3:37

JOINT VENTURES

- Insurance, § 10:38

JUDGMENT

- Mechanics' Liens** (this index)

JURISDICTION

- Mechanics' liens, § 9:42, 9:43

LABOR

- Delay** (this index)
- Mechanics' liens, labor as covered item, § 9:17
- Safety** (this index)

LANGUAGE OF CONTRACTS

- Risk allocation, formation of contracts, § 2:42

LATENT ABOVE-GROUND CONDITIONS

- Changes and extra work, § 5:4

LATE SCHEDULES

- Delay** (this index)

LEAD

- Environmental issues, § 14:33

LEASEHOLDS

- Lienable property, § 9:13

LENDING

- Bonds, lending institutions' claims, § 8:52
- Mechanics' liens, notice, § 9:76
- Prompt Payment Act, § 1:37

LETTERS OF CREDIT

- Bonds, § 8:47

LETTERS OF INTENT

- Contract formation, § 2:31

LIABILITY COVERAGE

- Generally, § 10:7

INDEX

LICENSES AND CODES

- Generally, § 1:24
- Professional liability, § 11:2, 11:3

LIENS

- Mechanics' Liens** (this index)

LIMITATION OF ACTIONS

- Statutes of Limitations** (this index)

LIMITATIONS ON DAMAGES

- Damages and Other Remedies** (this index)

LIQUIDATED DAMAGES

- Bonds, § 8:19
- Delay, § 7:72

LIQUIDATING AGREEMENTS

- Subcontracts, § 3:23

LOCAL CONTRACTS

- Delay, § 7:15

LOCAL LAW

- Environmental issues, § 14:32
- Environmental Issues** (this index)

LOST PROFITS

- Mechanics' liens, § 9:22

LOWEST RESPONSIBLE BIDDER

- Generally, § 2:4

LUMP SUM CONTRACTS

- Generally, § 1:19

MANAGERS

- Construction Managers** (this index)

MATERIAL ESCALATION

- Generally, § 7:54

MATERIALMEN

- Generally, § 1:15
- Bonds, § 8:35
- Damages and Other Remedies** (this index)
- Liens. **Mechanics' Liens** (this index)

MATERIALS

- Bonds, § 8:38
- Mechanics' liens, materials covered, § 9:18

MECHANICS' LIENS

- Generally, § 9:1-9:85
- Absence of funds to which lien can attach, foreclosure, § 9:50
- Amendment of liens, § 9:33
- Amount of judgment, § 9:62
- Answers of defendant lienors, § 9:46
- Arbitration, § 9:41
- Assignment, notice of, § 9:77
- Attachment of lien to real property generally, § 9:6
 - absence of funds to which lien can attach, § 9:50
- Benefits as items covered, § 9:21
- Building loan contracts, priorities and preferences among lienors, § 9:53
- Commencement of actions, § 9:39
- Complaint, form of, § 9:45
- Condominiums and cooperatives as lienable property, § 9:12
- Consent of owners, § 9:5
- Courts of record and courts not of record, § 9:43
- Damages, § 9:22
- Deadlines for commencement of actions, § 9:39
- Defective liens, foreclosure, § 9:48
- Defenses to foreclosure, § 9:47-9:50
- Deficiency judgments, sale upon execution, § 9:66
- Discharge of liens, notice, § 9:36
- Distribution of sale proceeds, § 9:65
- Diversion of trust funds, § 9:78
- Duration
 - generally, § 9:32
 - trust funds, § 9:69
- Employee benefits as items covered, § 9:21
- Enforcement, § 9:38-9:45, 9:81-9:85
- Exaggeration, § 9:49
- Execution. Judgment and execution, below
- Expired liens, foreclosure, § 9:48
- Extension of liens, § 9:32
- Extras as covered items, § 9:23
- Fiduciary relationship, trust funds, § 9:72

MECHANICS' LIENS—Cont'd

Filing notice
 generally, § 9:25
 time, § 9:28-9:30
 Foreclosure
 generally, § 9:41, 9:47-9:50
 absence of funds to which lien can attach, § 9:50
 defective and expired liens, § 9:48
 defenses, § 9:47-9:50
 notice of demand for foreclosure, § 9:37
 sale upon execution, below trial, § 9:51
 willful exaggeration, § 9:49
 Form for notice of lien, § 9:85
 Improvement requirement, § 9:4, 9:9
 Interest in funds, securing, § 9:10
 Items covered
 generally, § 9:16-9:23
 extras, § 9:23
 labor, § 9:17
 lost profits and contract damages, § 9:22
 materials, § 9:18
 overhead and employee benefits, § 9:21
 property lienable, below rental equipment, § 9:19
 temporary works, § 9:20
 Judgment and execution
 generally, § 9:63
 Foreclosure (this index)
 obtaining judgments, § 9:61, 9:62
 sale upon execution, below trust funds, § 9:84
 Jurisdiction, § 9:42, 9:43
 Labor as covered item, § 9:17
 Leaseholds as property lienable, § 9:13
 Lending, notice, § 9:76
 Lost profits, § 9:22
 Materials covered, § 9:18
 Mortgages, priorities and preferences among lienors, § 9:53, 9:54
 Notice
 assignment, notice of, § 9:77
 discharge liens, § 9:36

MECHANICS' LIENS—Cont'd

Notice—Cont'd
 filing, § 9:25, 9:28-9:30, 9:40
 foreclosure demand, § 9:37
 form for notice of lien, § 9:85
 lending, § 9:76
 pendency, filing notice, § 9:40
 private improvements, proper lien notice for, § 9:26
 public improvements, proper lien notice for, § 9:27
 response by owner, § 9:34-9:37
 service of notice of lien, § 9:31
 statement, demand for, § 9:35
 time and place for filing, § 9:28-9:30
 trust funds, § 9:76, 9:77
 Oil and gas, property lienable, § 9:14
 Overhead as covered item, § 9:21
 Parity among lienors, § 9:60
 Parties
 generally, § 9:8, 9:44
 necessary parties, § 9:44
 private sector liens, § 9:3
 trust funds, § 9:71
 Pendency, filing notice, § 9:40
 Priorities and preferences among lienors
 generally, § 9:52-9:60
 agreements to subordinate, § 9:58
 assignment of moneys due under contract for improvement of real property, § 9:55
 building loan contracts, § 9:53
 miscellaneous liens, § 9:56
 mortgages, § 9:53, 9:54
 public improvement liens, § 9:59
 subsequent purchasers, § 9:57
 trust funds, § 9:83
 Profits lost, § 9:22
 Property lienable
 generally, § 9:11-9:14
 condominiums and cooperatives, § 9:12
 leasehold, § 9:13
 lienable items, § Appx 9B
 oil and gas, § 9:14

INDEX

MECHANICS' LIENS—Cont'd

- Public property
 - generally, § 9:15, Appx 9A
 - priorities and preferences among lienors, § 9:59
 - proper lien notice for public improvements, § 9:27
 - time and place for filing notice, § 9:30
- Records of trust funds, § 9:73, 9:74
- Rental equipment as covered item, § 9:19
- Response to notice of lien, § 9:34-9:37
- Restoration of trust after diversion, § 9:80
- Sale upon execution
 - generally, § 9:64-9:67
 - deficiency judgments, § 9:66
 - distribution of proceeds, § 9:65
 - setting aside a sale, § 9:67
- Service of notice of lien, § 9:31
- Setting aside sale upon execution, § 9:67
- Statement, demand for, § 9:35
- Subcontracts, lien waivers, § 3:26
- Subordination of liens. Priorities and preferences among lienors, above
- Subsequent purchasers, § 9:57
- Temporary work as covered item, § 9:20
- Time
 - deadlines for commencement of actions, § 9:39
 - duration of lien, § 9:32
 - expired liens, foreclosure, § 9:48
 - filing notice, § 9:28-9:30
 - trust funds, duration, § 9:69
- Trial on foreclosure, § 9:51
- Trust funds
 - generally, § 9:68-9:85
 - claims for relief, § 9:82
 - diversion, § 9:78 to 9:80
 - duration, § 9:69
 - fiduciary relationship, § 9:72
 - judgment, § 9:84
 - notice, § 9:76

MECHANICS' LIENS—Cont'd

- Trust funds—Cont'd
 - notice of assignment, § 9:77
 - notice of lending, § 9:76
 - parties involved, § 9:71
 - priorities and preferences, § 9:83
 - records
 - availability to claimants, § 9:74
 - recordkeeping requirements, § 9:73
 - restoration of trust after diversion, § 9:80
- Venue, § 9:42
- Waivers, § 9:24
- Willful exaggeration, § 9:49

METICULOUS INSPECTION

- Changes and extra work, § 6:20

MILLER ACT BONDS

- Generally, § 8:43-8:46
- Claimable items, § 8:46
- Notice of claim and limitation of action, § 8:45
- Persons protected, § 8:44

MINORITY BUSINESS ENTERPRISES

- Contracts, § 2:35

MISREPRESENTATIONS BY OWNER

- Changes and Extra Work (this index)

MISTAKES

- Bids and Bidding (this index)
- Environmental issues, errors and omissions liability insurance, § 14:21

MITIGATION OF DAMAGES

- Damages and other remedies, § 15:17

MODIFICATION

- Change (this index)

MORTGAGES

- Mechanics' liens, priorities and preferences among lienors, § 9:53, 9:54

MOTOR VEHICLES

Insurance, § 10:30

MUTUAL ASSENT

Contract formation, § 2:25

MUTUAL MISTAKE

Bids and bidding, § 2:20

NEGLIGENCE

Professional liability, § 11:21

NEW YORK CITY

Special construction problems in,
§ 1:28

NO DAMAGE FOR DELAY

Delay (this index)

NONDISCLOSURE

Changes and extra work,
nondisclosure of technical information, § 6:19

NONEXCUSABLE DELAY

Generally, § 7:30

NONEXCUSABLE MISTAKE

Bidding, § 2:19

NONPAYMENT

Damages and other remedies, § 15:33

NOTICE

Bonds (this index)
“Call before you dig,” § 1:27
Changes and extra work, § 5:18, 6:24
Default and termination, § 4:6
Delay (this index)
Dispute resolution, § 16:2
Insurance, notice to insurers, § 10:18
Mechanics’ Liens (this index)
Prompt Payment Act, § 1:34

**OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION**

Safety, § 13:20

OCCURRENCE COVERAGE

Generally, § 10:9, 10:19
Environmental issues, § 14:23

OFFER AND ACCEPTANCE

Contract formation, § 2:24

OFFICERS’ LIABILITY

Insurance, § 10:29

OFFSETS

Subcontracts, § 3:21

OIL AND GAS

Mechanics’ liens, property lienable,
§ 9:14

ORAL ORDERS

Changes and extra work, oral order
waiving, § 6:10

OSHA

Safety, § 13:20

OTHER WORK

Delay, availability for other work,
§ 7:62

OVERHEAD

Mechanics’ liens, covered item,
§ 9:21

OVERMETICULOUS INSPECTION

Changes and extra work, § 6:20

OWNERS

Generally, § 1:7-1:9
Delay (this index)
Environmental Issues (this index)
Private owners, § 1:9
Prompt Payment Act, § 1:32
Public owners, § 1:8
Safety, § 13:3, 13:8, 13:9

PARITY

Mechanics’ liens, parity among
lienors, § 9:60

PAROL EVIDENCE

Contract formation, § 2:48

PARTIAL PERFORMANCE

Damages and other remedies, § 15:26

PARTIES

Generally, § 1:1
Bonds (this index)
Mechanics’ Liens (this index)

PAYMENT

Bonds (this index)
Prompt Payment Act (this index)

INDEX

PAYMENT—Cont'd

Retainage (this index)

PENAL SUM

Bonds, § 8:16, 8:29

PENDENCY

Mechanics' liens, filing notice, § 9:40

PERFORMANCE

Changes and Extra Work (this index)

PERFORMANCE BONDS

Generally, § 8:8

PERMANENT INJUNCTIONS

Generally, § 15:7

PLANS AND SPECIFICATIONS

Conflict between, § 2:50

POLLUTION

Environmental Issues (this index)

POTENTIAL RISKS

Environmental issues, § 14:9

PREFERENCES AMONG LIENORS

Mechanics' Liens (this index)

PREINDEMNIFICATION

Safety, § 13:19

PRELIMINARY INJUNCTIONS

Generally, § 15:6

PREMIUMS

Insurance, § 10:17

PREQUALIFICATION

Bidders, § 2:6

PRESERVATION OF CLAIMS

Changes and extra work, § 6:32, 6:33

PREVAILING WAGE

Contracts, § 2:35

PRICE

Changes and Extra Work (this index)

Contract formation, pricing risks, § 2:37

Unit Pricing (this index)

PRIME CONTRACTORS

Generally, § 1:12

PRIORITIES AMONG LIENORS

Mechanics' Liens (this index)

PROCUREMENT

Alternative dispute resolution, limits, § 17:16

Bidding

competitive sealed, § 17:3

disputes, resolution, § 17:13

Borough president complaints, hearings on, § 17:19

Clarity and fairness, § 17:20

Common pitfalls in dispute resolution, § 17:17

Competitive sealed bidding and proposals, § 17:3, 17:4

Contract

administration, § 17:11

award, § 17:10

dispute resolution, § 17:15

Costs, delay, § 7:56

Debarment and suspension, § 17:18

Dispute resolution, § 17:12 et seq.

Emergency purchases, § 17:8

Negotiated acquisitions, § 17:6

Policy rules, § 17:1 et seq.

Pre-qualification

disputes, resolution, § 17:14

selection, § 17:5

Small purchases, § 17:9

Sole source, § 17:7

Source selection, method, § 17:2

PRODUCTIVITY

Loss of, § 7:55

PROFESSIONAL LIABILITY

Generally, § 11:1-11:26

Architects, § 11:4-11:14

Certifying progress payments, § 11:10, 11:20

Construction manager liability, § 11:15-11:22

Continuous treatment doctrine, § 11:25

Contribution, § 11:23

Cost estimates, § 11:7, 11:17

PROFESSIONAL LIABILITY

—Cont'd

Design, § 11:5, 11:16
 Dispute resolution, § 11:11
 Engineers, § 11:4-11:14
 Indemnification, § 11:23
 Inspection, § 11:6, 11:8
 Insurance, § 10:12, 10:13, 11:26
 Licensing, § 11:2, 11:3
 Licensing and qualifying to do business, § 11:3
 Negligence, liability in, § 11:21
 Qualifying to do business, § 11:2, 11:3
 Scheduling and coordination, § 11:9, 11:19
 Statutes of limitations, § 11:24, 11:25
 Supervision and inspection, § 11:8, 11:18
 Testing, § 11:6
 Third parties, § 11:12 to 11:14, 11:22

PROFITS

Delay, § 7:63
 Mechanics' liens, profits lost, § 9:22

PROGRESS

Delay, progress schedules, § 7:4
 Subcontractors, progress payments, § 3:16

PROJECT LABOR AGREEMENT

Generally, § 2:8

PROJECT-SPECIFIC INSURANCE

Professional liability insurance, § 10:13

PROMPT PAYMENT ACT

Generally, § 1:30-1:38
 Billing cycles and invoices, § 1:31
 Contractors, payments by, § 1:33
 Lenders' disbursements, exceptions to payment provisions for failure of lender to disburse funds, § 1:37
 Notice of due dates for payments from owner or contractor, § 1:34
 Owners, payments by, § 1:32
 Remedies, § 1:35
 Retainage, § 1:36

PROMPT PAYMENT ACT—Cont'd

Subcontractors, payments by, § 1:33
 Void provisions of construction contracts, § 1:38

PROPERTY COVERAGE

Insurance, § 10:8

PROPERTY LIENABLE

Mechanics' Liens (this index)

PROTEST REQUIREMENTS

Changes and extra work, § 6:24

PROVING COSTS

Changes and extra work, § 6:30

PUBLIC CONTRACTS

Bids and bidding
 Damages and other remedies, § 15:13
 Delay, § 7:14, 7:15
Mechanics' Liens (this index)
 Owners, § 1:8

PUBLIC UTILITIES

Utility interference work, § 1:29

PUNITIVE DAMAGES

Generally, § 15:12
 Bonds, § 8:16, 8:22, 8:29

PURCHASE ORDERS

Subcontracts, § 3:28

QUALIFICATION

Professional liability, qualifying to do business, § 11:2, 11:3

QUANTUM MERUIT

Generally, § 15:10

RECKLESS REPRESENTATION

Changes and extra work, § 5:12

RECORDS

Changes and Extra Work (this index)
 Freedom of information laws, § 16:3
 Mechanics' liens, records of trust funds, § 9:73, 9:74

REFORMATION

Damages and other remedies, § 15:41

INDEX

REJECTION

Bids, § 2:22

RELEASE OF SURETIES

Generally, § 8:7

RELIANCE

Changes and extra work, reliance on owners' data, § 5:14

RENTAL EQUIPMENT

Bonds, § 8:39

Mechanics' liens, covered item, § 9:19

REPLEVIN

Generally, § 15:37

RESCISSION

Generally, § 4:20, 15:40

RESIDENCES

Safety, residential dwelling exception, § 13:9

RES IPSA LOQUITUR

Safety, § 13:17

RESPONSIVENESS

Bids, § 2:5

RESTITUTION

Generally, § 15:40

RESTORATION OF TRUST

Mechanics' liens, restoration after diversion, § 9:80

RETAINAGE

Prompt Payment Act, § 1:36

Subcontractors, § 3:17

RIGHT OF TERMINATION

Default and Termination (this index)

RISK

Best Interest of Project. **Contracts** (this index)

Contract formation, § 2:36, 2:37

SAFETY

Generally, § 13:1-13:20

Affirmative defenses to statutory liability, § 13:14

SAFETY—Cont'd

Architects, § 13:11, 13:15

Construction managers' liability, § 13:12, 13:16

Contractors' obligations, § 13:4, 13:7

Contribution, § 13:18

Engineers, § 13:11, 13:15

Indemnification, § 13:18

Labor Law 240 and 241, § 13:5-13:12

OSHA, § 13:20

Owners' liability, § 13:8, 13:9

Owners' obligations, § 13:3

Preindemnification, § 13:19

Residential dwelling exception, § 13:9

Res ipsa loquitur, § 13:17

Subcontractors, § 13:13

Workers' compensation laws, § 13:2

SALE UPON EXECUTION

Mechanics' Liens (this index)

SCHEDULING

Delay (this index)

Professional liability, § 11:9, 11:19

SCOPE OF WORK

Generally, § 6:3, 6:23

Changes. **Changes and Extra Work** (this index)

Subcontracts, § 3:7

SERVICE

Mechanics' liens, notice, § 9:31

SETTING ASIDE SALE

Mechanics' liens, execution, § 9:67

SITE INVESTIGATIONS

Changes and extra work, § 5:13

SOVEREIGN ACTS

Delay, § 7:11

SPECIAL EMPLOYEE STATUS

Generally, § 13:2

SPECIFICATIONS

Bids and bidding, § 2:8, 2:9

Changes and extra work, § 6:18, 6:22

SPECIFIC PERFORMANCE

Generally, § 15:39

STANDARD CONTRACT FORMS

Generally, § 2:46

Subcontracts, § 3:3

STATE CONTRACTS

Delay, § 7:15

STATE LEGISLATION

Environmental Issues (this index)

STATEMENTS

Mechanics' liens, demand for statement, § 9:35

STATUTE OF FRAUDS

Contract formation, § 2:27

STATUTES OF LIMITATIONS

Generally, § 12:8

Bonds, § 8:45

Defects and failures, § 12:8

Insurance, § 10:32

Professional liability, § 11:24, 11:25

UCC, § 3:36

STORAGE TANKS

Environmental issues, § 14:35

STORM WATER

Environmental issues, § 14:37

STRIKES

Delay, § 7:9

SUBCONSULTANTS

Design professionals, § 1:6

**SUBCONTRACTS AND
SUBCONTRACTORS**

Generally, § 1:14, 3:1-3:37

Actions for breach and damages, § 3:36

Applicable law; U.C.C., § 3:29

Back charges, § 3:20

Bidding, subcontractor bids, § 2:21

Boilerplate, § 3:5

Bonds, § 8:34, 8:53

Change orders and extras, § 3:12

Contingent payment clauses, § 3:18

Contractor's duties, § 3:9

SUBCONTRACTS AND

SUBCONTRACTORS—Cont'd

Damages and Other Remedies (this index)

Default and termination, § 3:24, 4:9

Delay, § 3:22

Final payment, § 3:19

Formation of contracts, subcontract terms and conditions, § 2:45

Hold harmless and indemnification clauses, § 3:13

Incorporation by reference, § 3:6

Job site, § 3:10

Joint liability of contractors for unpaid wages, § 3:37

Lien waivers, § 3:26

Liquidating agreements, § 3:23

Offsets, § 3:21

Progress payments, § 3:16

Prompt Payment Act, § 1:33

Provisions in subcontracts, § 3:4-3:26

Purchase orders and supply contracts, § 3:28

Relations with other subcontractors, § 3:15

Remedies for nonpayment, § 3:25

Retainage, § 3:17

Safety, § 13:13

Scope of work, § 3:7

"Standard" subcontract forms, § 3:3

Sub-subcontractors and materialmen, § 3:14

Supply contracts

generally, § 3:30-3:34

acceptance and rejection, § 3:32

insurance and shipping, § 3:35

price and terms of payment, § 3:33

time of performance, § 3:31

warranties, § 3:34

Terms and conditions of subcontract, § 2:45

Time of performance, § 3:8

Wages and benefits of subcontractor employees, § 3:27

Warranties, § 3:11

SUBORDINATION OF LIENS

Mechanics' Liens (this index)

INDEX

SUBSEQUENT PURCHASERS

Mechanics' liens, § 9:57

SUBSTANTIAL PERFORMANCE

Damages and other remedies, § 15:27

SUBSTITUTE CONTRACTORS

Bonds, § 8:14

SUB-SUBCONTRACTORS

Generally, § 3:14

SUBSURFACE CONDITIONS

Changes and extra work, § 5:3

SUPERFUND

Environmental Issues (this index)

SUPERVISION

Professional liability, § 11:8, 11:18

SUPPLIERS

Materialmen (this index)

SUPPLY CONTRACTS

Subcontracts and Subcontractors
(this index)

SURETIES

Bonds (this index)

SWIMMING POOL CONSTRUCTION

Delay, § Appx 7B

TARDINESS

Delay (this index)

TELEPHONE CALLS

"Call before you dig," § 1:27

TEMPORARY WORK

Mechanics' liens, covered item,
§ 9:20

TERMINATION OF CONSTRUCTION

Default and Termination (this
index)

TERMINATION OF INSURANCE

Generally, § 10:20

TERRORISM INSURANCE

Generally, § 10:27

TESTING

Professional liability, § 11:6

THIRD PARTIES

Bonds, third-party beneficiaries,
§ 8:10

Professional liability, § 11:12 to
11:14, 11:22

TIME

Bonds (this index)

Delay (this index)

Foreclosure, expired liens, § 9:48

Mechanics' Liens (this index)

Subcontractors, time of performance,
§ 3:8

Time-money relationship, § 7:3

TRADE CONTRACTORS

Generally, § 1:12

TRIAL

Environmental issues, § 14:38 to
14:40

Mechanics' liens, trial on foreclosure,
§ 9:51

TRUST FUNDS

Mechanics' Liens (this index)

TURNKEY PROJECTS

Generally, § 1:23

U.C.C.

Uniform Commercial Code (this
index)

UNCONTEMPLATED DELAY

Delay, § 7:37

UNDERGROUND DAMAGE

Insurance, § 10:24

UNDERGROUND STORAGE TANKS

Environmental issues, § 14:35

UNIFORM COMMERCIAL CODE

Damages and other remedies, § 15:21

Statute of limitations, § 3:36

Subcontracts, § 3:29

UNILATERAL MISTAKES

Bidding, § 2:19

UNIT PRICING

- Generally, § 1:20
- Changes and extra work, § 6:27

UNREASONABLE DELAY

- Generally, § 7:39

UTILITIES

- Utility interference work, § 1:29

VENUE

- Mechanics' liens, § 9:42

VOID PROVISIONS

- Prompt Payment Act, void provisions of construction contracts, § 1:38

WAIVER

- Changes and extra work, § 6:9-6:12
- Defects, § 12:7
- Delay, § 7:51
- Mechanics' liens, § 9:24

WARRANTIES

- Defects and Failures (this index)
- Subcontractors, § 3:11

WATER

- Storm water, § 14:37
- Wetlands, § 14:36

WETLANDS

- Environmental issues, § 14:36

WICKS LAW

- Bidding, § 2:9

WILLFUL EXAGGERATION

- Mechanics' liens, § 9:49

WILLFUL NEGLIGENCE

- Delay, § 7:40

WITHDRAWAL OF BIDS

- Generally, § 2:12

WITHHOLDING FUNDS

- Retainage (this index)

WORKERS' COMPENSATION

- Insurance, § 10:10, 10:11
- Safety, § 13:2

WRAP-UP INSURANCE

- Generally, § 10:11

WRITING REQUIREMENT

- Changes and Extra Work (this index)

WRONGFUL TERMINATION

- Generally, § 4:21

ZONING ORDINANCES

- Compliance, § 1:39