This text is unique in several respects, and we believe a word about its origins is appropriate. Construction law is now a relatively well defined practice area. The field supports several journals, many scholarly treatises, and countless continuing legal education programs. At the same time, construction law as an academic subject is only now starting to enjoy the growth that the practice area has experienced over recent decades. The American Bar Association Forum on the Construction Industry believes that the publication of this book will facilitate the expansion of construction law education into law schools, as well as provide a useful resource for construction law courses in other professional programs.

Several attributes of this book distinguish it from traditional law school textbooks. Assimilation of construction law principles requires some working knowledge of the construction contracting process, and the first few chapters of this textbook therefore focus on describing the business relationships among parties to the construction process. The subject matters of these chapters do not lend themselves to being taught through the standard casebook method, and indeed the study of case law itself is not always a fruitful means of conveying information about how the parties to a construction project go about doing business with each other. As a result, the text will be instructive to new construction lawyers as well.

The book covers the many facets of the construction process—from initial design through construction and concluding with the dispute resolution process. Once the student has acquired some knowledge of the parties’ roles in the more common project delivery systems, he or she can begin to study the contracts that define the parties’ respective rights and obligations, with special emphasis on form contracts used in the industry. We have done this largely through the prism of a typical small commercial construction project and the American Institute of Architects contract forms that reflect it.
We then explore the design undertaking and contractor selection, and the essential terms of scope, time, and price. The related issues of scheduling, payment, subcontracting, and the role of the architect in contract administration are then discussed in separate chapters, as are changes, differing site conditions, construction safety, and contractual provisions for the termination of the construction contract. The remainder of the text deals with issues arising out of construction disputes, including mechanic’s liens, insurance and bonding, defective construction, damages, the Economic Loss Rule, and, of course, alternative dispute resolution systems.

This text is published by the Forum on the Construction Industry and is written by industry-leading practitioners, most of whom teach construction law. The selection of topics and the scope of treatment have been dictated by practical needs in the industry, and the student can assume with confidence that the subject areas presented are those that are most commonly faced in the field. We believe the text benefits from its identification of a core group of subjects with which a well-rounded construction attorney should be familiar on a practical level.

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