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Dispute Resolution Service

Adjudication Application (South Australia)

Building and Construction Industry Security of Payment Act 2009

Please complete all details of this application where applicable			
Application Scheme	Fixed Fee <input type="checkbox"/>	Non Fixed Fee <input type="checkbox"/>	
<p><i>Please refer to the relevant terms and conditions for each application scheme prior to making an application. The full details for each scheme are included as an appendix to this adjudication application.</i></p> <p><i>Please complete all applicable details below and take care particularly in regards to the business details of the respondent and the contract. All details must be correctly completed.</i></p>			
Claimant Details			
Name of business (and trading name if applicable)			
Business Address (i.e. number, street, suburb, state and postcode)			
Postal Address			
Phone Number			
Fax Number			
Email Address			
Contact person			
Claimant Type (Please select one)	Pty Ltd Company <input type="checkbox"/>	Limited Company <input type="checkbox"/>	Partnership <input type="checkbox"/>
	Sole Trader <input type="checkbox"/>	Trust <input type="checkbox"/>	Incorporated Association <input type="checkbox"/>
Claimant Business Type (Please select one)	Trade Contractor/ Subcontractor <input type="checkbox"/>	General / Main / Head Contractor <input type="checkbox"/>	Project Manager <input type="checkbox"/>
	Consultant <input type="checkbox"/>	Supplier <input type="checkbox"/>	Surveyor <input type="checkbox"/>
	Designer <input type="checkbox"/>	Developer /Client <input type="checkbox"/>	Other [Describe] <input type="checkbox"/>
Claimant Trade (i.e. building, tiling, development etc)			
ABN / ACN (Provide both if applicable)	ABN:	ACN:	
Industry membership associations (please list all)			

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Name of business (and trading name if applicable)						
Business Address (i.e. number, street, suburb, state and postcode)						
Postal Address						
Phone Number						
Fax Number						
Email Address						
Contact person						
Respondent Type (Please select one)	Pty Ltd Company	<input type="checkbox"/>	Limited Company	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
	Sole Trader	<input type="checkbox"/>	Trust	<input type="checkbox"/>	Incorporated Association	<input type="checkbox"/>
Respondent Business Type (Please select one)	Trade Contractor/ Subcontractor	<input type="checkbox"/>	General / Main / Head Contractor	<input type="checkbox"/>	Project Manager	<input type="checkbox"/>
	Consultant	<input type="checkbox"/>	Supplier	<input type="checkbox"/>	Surveyor	<input type="checkbox"/>
	Designer	<input type="checkbox"/>	Developer /Client	<input type="checkbox"/>	Other [Describe] _____	<input type="checkbox"/>
Respondent Trade (i.e. building, tiling, development etc)						
ABN / ACN (Provide both if applicable)	ABN:		ACN:			
Industry membership associations (please list all)						

Contract and Project Details

Project Name					
Project Address					
Project Type (e.g. building apartments)					
Contract Number					



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Contract Type (Written, Oral, Part Written / Part Oral)		
Date Contract was formed (must be on or after 10/12/11)		
Payment Claim Reference Number		
Date of Payment Claim		
Date Payment Claim served on Respondent		
Due Date for Payment		
Payment Claim Amount (inc GST)		
Date Notice of Intent to Apply For Adjudication served on Respondent (<i>if applicable, refer to section 17(2) of the Act</i>)		
Payment Schedule Served?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Date of Payment Schedule		
Date Payment Schedule served on Claimant		
Payment Schedule Amount (inc GST)		
Service of this application		
The date claimant served this application on the respondent OR the date claimant intends to serve this application. (including all submissions)		



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Application Checklist

Please make sure you consider the following items	
This application refers to a valid payment claim	<input type="checkbox"/>
This application is accompanied by a copy of the payment claim	<input type="checkbox"/>
This application is accompanied by a copy of the payment schedule (if applicable)	<input type="checkbox"/>
The dates have all been checked and are correct and valid under the Act	<input type="checkbox"/>
A copy of the relevant contract is included. If a written contract does not exist, a document referring to the terms of the verbal agreement	<input type="checkbox"/>
This application may also be accompanied by relevant submissions (e.g. legal submissions, statutory declarations, emails, previous invoices, expert reports, faxes, other relevant communication)	<input type="checkbox"/>
This application contains information regarding the service of documents on the respondent, including the payment claim, notice of intent to apply for adjudication as well as the adjudication application.	<input type="checkbox"/>
If this application is subject to the fixed-fee adjudication regime, I have included my fixed fee with the application.	<input type="checkbox"/>

Please Note the following:

- The Act does not apply to contracts which were formed before 10 December 2011 and as such can not be adjudicated under the Act.
- The claimant **is required** to serve a copy of the adjudication application (including all attachments) to the respondent.
- If it is not served on the same day the Applicant will immediately notify the Authorised Nominating Authority of the date of service upon the respondent and provide evidence of service.
- Withdrawal of adjudication application prior to release of final determination will incur a charge on the **claimant**.

The claimant hereby applies for adjudication under section 17 of the Building and Construction Industry Security of Payment Act 2009 of the progress payment to be made in respect to the payment claim.

By signing this application, the claimant submits that all information entered above is correct, particularly with regards to contact and business details for both parties.

Signed (claimant):

Date: _____



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Terms & Conditions of Application (SOUTH AUSTRALIA)

Please make yourself aware of the following terms and conditions for the adjudication regime you are applying under.

1. Pro Bono Adjudication Application.

- 1.1. Your payment claim, to which this application relates, must be less than \$1,500.00 AUD *inclusive* of GST.
- 1.2. Acceptance of this adjudication application on pro bono terms is at the absolute discretion of the RICS DRS.
- 1.3. The RICS DRS reserves the right at its sole discretion to ultimately decide whether an application purporting to come under pro bono adjudication qualifies for pro bono adjudication. This decision will be based upon complexity of issues, numbers of matters in dispute and the extent of documentation submitted.
 - 1.3.1. The RICS DRS will confirm to both the claimant and respondent in writing whether or not an application purporting to come under pro bono adjudication qualifies for pro bono adjudication.
 - 1.3.2. If the RICS DRS decide an application purporting to come under pro bono adjudication *does not qualify* for pro bono adjudication, the RICS DRS will inform *the claimant* of this fact in writing.
 - 1.3.3. In the situation where the RICS DRS decide an application does not qualify for pro bono adjudication, the claimant may withdraw the application by notice in writing to the RICS DRS. However, the claimant may elect to have the adjudication continue under normal RICS DRS adjudication rates.
 - 1.3.4. This notice must be received within one (1) business day of being informed that the application is not suitable for pro bono adjudication. If this notice is not received, the RICS DRS will move to appoint an adjudicator under normal adjudication rates.
- 1.4. By accepting this pro bono application the RICS DRS discharge all fees to both parties, including
 - 1.4.1. Any fees for application
 - 1.4.2. Any fees for the adjudication of the dispute
 - 1.4.3. Any fees for disbursements
 - 1.4.4. Any fees for production of an adjudication certificate.
- 1.5. These terms and conditions are subject to change without prior notice.

2. Fixed Fee Adjudication Application

- 2.1. The fees for the fixed fee adjudication regime are shown in table 1 below:

Band	Payment Claim Range	Adjudication Fee	Total Adjudication Fees (inc. GST & Disbursements charge)
1	0 – 6,500	1,000.00	1,100.00
2	6,501-15,000	1,455.00	1,600.00
3	15,001-25,000	2,000.00	2,200.00
4	25,001-40,000	3,100.00	3,410.00

Table 1.

***Please Note: Payment Claims with a range greater than 40,000 will be charged at an hourly rate.**

- 2.2. The fixed fees shown above include:
 - 2.2.1. The fees and expenses of the nominated adjudicator and the Authorised Nominating Authority (RICS DRS)
 - 2.2.2. The cost of an adjudication certificate, if required.
 - 2.2.3. Goods and Services Tax (GST)
 - 2.2.4. Disbursements up to the value of \$50.00 excluding GST for fixed fee bands 1 through to 4 (see above table).
- 2.3. The payment for fixed fee adjudication must accompany the adjudication application. If payment is not forthcoming with the adjudication application, the adjudication application will be deemed to come under the regular non-fixed RICS DRS adjudication rates.
- 2.4. The payment of fixed fee adjudication is non-refundable, except in the cases as explained in terms 2.4 and 2.7 herein, or pursuant to section 29(6) of the Building and Construction Industry Security of Payment Act 2009.
- 2.5. In the event of withdrawal of an adjudication application, the outstanding fees will be calculated on the basis of work already completed by the adjudicator at the nominated adjudicator's hourly rate, disbursements at cost, plus a \$220.00 (including GST) ANA withdrawal fee. If this calculation is less than the up front fixed fee, the claimant will be refunded the difference.
- 2.6. Fixed Fee adjudication does not include any costs associated with conducting a conference or inspections. While the requirement for a conference or inspection occurring pursuant to the adjudication process is rare, if this requirement arises, the fees associated with this requirement will be charged in accordance with the nominated adjudicator's hourly rate.
- 2.7. The RICS DRS reserves the right at its sole discretion to ultimately decide whether an application purporting to come under fixed fee adjudication qualifies for fixed-fee adjudication. This decision will be based upon complexity of issues, numbers of matters in dispute and the extent of documentation submitted.



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- 2.7.1. The RICS DRS will confirm to both the claimant and respondent in writing whether or not an application purporting to come under fixed-fee adjudication qualifies for fixed fee adjudication.
- 2.7.2. If the RICS DRS decide an application purporting to come under fixed-fee adjudication **does not qualify** for fixed-fee adjudication, the RICS DRS will inform **the claimant** of this fact in writing.
- 2.7.3. In the situation where the RICS DRS decide an application does not qualify for fixed-fee, the claimant may withdraw the application by notice in writing to the RICS DRS. However, the claimant may elect to have the adjudication continue under normal RICS DRS non-fixed fee adjudication rates.
- 2.7.4. This notice must be received within one (1) business day of being informed that the application is not suitable for fixed-fee adjudication. If this notice is not received, the RICS DRS will move to appoint an adjudicator under normal RICS DRS non-fixed fee adjudication rates.

2.8. Disbursements, such as postage, copying, faxing, courier, and other miscellaneous costs are charged at cost.

- 2.8.1. For payment claims that fall under bands 1, 2, 3 and 4 (refer Table 1 above): If the value of disbursements exceeds \$50.00 (excluding GST) on any adjudication application, the parties will be liable for the amount in excess. Payment of these costs is a precondition to the release of the adjudication determination.

3. Non-Fixed Fee Adjudication

3.1. The following **fee schedule** is relevant to the Non-Fixed Fee adjudication regime.

3.1.1. No application fee is required with non-fixed fee adjudication.

3.1.2. Adjudicator hourly rates are as follows:

3.1.2.1. Senior Adjudicator - \$400.00 per hour excluding GST

3.1.2.2. Intermediate II Adjudicator - \$300.00 per hour excluding GST

3.1.2.3. Intermediate I Adjudicator - \$260.00 per hour excluding GST

3.1.3. The Adjudication Certificate Fee is \$200 excluding GST.

3.1.4. Disbursements are charged at cost price.

3.2. Withdrawal of adjudication application.

- 3.2.1. In the event of withdrawal of an adjudication application, the outstanding fees will be calculated on the basis of work already completed by the adjudicator at the nominated adjudicator's hourly rate, disbursements at cost, plus a \$220.00 (including GST) ANA withdrawal fee.

3.3. Release of adjudication determination.

- 3.3.1. Upon receiving notification of the adjudicator's determination, the RICS DRS will provide both the claimant and the respondent with a tax invoice indicating the hours spent on the adjudication application, the relevant hours charged by the adjudicator, the disbursement costs regarding the application, and any other relevant fee regarding the processing of the adjudication by the RICS DRS.
- 3.3.2. The adjudication determination will not be released by the RICS DRS until the relevant fees have been paid in full.

I confirm that I have read and understand all the relevant terms and conditions for the adjudication scheme under which I am applying.



Signature

Date:



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Submission of Application

This adjudication application must be served on the RICS Dispute Resolution Service. It can be done in the following ways.

By post or delivery to the following address:

RICS DRS Main Office	Adelaide Serviced Office
<p>Business/Courier Address:</p> <p>RICS Dispute Resolution Service Suite 317, 60 Martin Place, Sydney, NSW 2000</p> <p>Postal: RICS Dispute Resolution Service As above</p>	<p>Address:</p> <p>RICS Dispute Resolution Service Ground Floor City Central Tower 2, 121 King William St Adelaide SA 5000</p>

Or by fax: 1300 953 529

Or by email: drsaus@rics.org



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Fixed Fee Adjudication Tax Invoice

If you are nominating for **Fixed Fee adjudication**, RICS DRS require an upfront payment of the adjudication fees.

Section 2 of the terms and conditions included with this application indicate the relevant fixed fee costs.

Please complete the following details. A fixed fee adjudication application will be deemed invalid if upfront payment is not received with the application (as per the terms and conditions of application).

Payment Method (tick appropriate)

- Cheque (payable to RICS Dispute Resolution Service)
- EFT (Bank Details - ANZ BSB: 012 019 Account Number: 481694188)
Please send through remittance advice for proof of service

Credit Card

- MasterCard
- Visa
- AMEX

Card Details

Cardholder

Card number

Expiry date /

Amount \$ **(Please remember to include GST)**

Signature

Once this form is completed, it will act as a tax invoice. Please retain for tax purposes.

Please note that all payments made via AMEX/Visa/MasterCard will attract a 2.5% credit card fee.