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## Dispute Resolution Service

### Adjudication Application (New South Wales)

Made under the Building and Construction Industry Security of Payment Act 1999 (NSW).

Please complete all details of this application where applicable			
Application Scheme	Pro Bono <input type="checkbox"/>	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 and are available from our website (<a href="http://www.ricsdrs.com.au">www.ricsdrs.com.au</a>)</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 (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:	



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Respondent Details		
Name of business (and trading name if applicable)		
Business Address (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:
Contract and Project Details		
Project Name		
Project Address		
Project Type (e.g. building apartments)		
Contract Number		
Contract Type (Written, Oral, Part Written / Part Oral)		

**RICS Dispute Resolution Service**

Level 3  
Waterfront Place  
1 Eagle Street  
Brisbane QLD  
Australia 4000

PO Box 7815  
Waterfront Place  
Brisbane QLD  
4001

Suite 2, Level 16  
1 Castlereagh Street  
Sydney NSW  
Australia 2000

T 1300 953 459  
F 1300 953 529

submissions@ricsdrs.com.au  
www.ricsdrs.com.au

ABN 18 089 873 067

Date Contract Formed		
Payment Claim Reference Number		
Date of Payment Claim		
Date Payment Claim served on Respondent		
Due Date for Payment		
Date Notice of Intent to Apply For Adjudication served on Respondent ( <i>if applicable, refer to section 17(2)(a) 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 Claim Amount (inc GST)		
Payment Schedule Amount (inc GST)		
<b>Service of this application</b>		
The date claimant served this application on the respondent OR the date claimant intends to serve this application. (including all submissions)		



# Dispute Resolution Service

## 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"/>
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 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 decision 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 1999 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: \_\_\_\_\_

## Terms & Conditions of Application (NSW)

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	650.00	<b>715.00</b>
2	6,501-15,000	1,000.00	<b>1,100.00</b>
3	15,001-25,000	2,000.00	<b>2,200.00</b>
4	25,001-40,000	3,100.00	<b>3,410.00</b>
5	40,001 – 60,000	4,100.00	<b>4,510.00</b>
6	60,001 – 100,000	5,600.00	<b>6,160.00</b>

*Table 1.*

- 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).
  - 2.2.5. Disbursements up to the value of \$100.00 excluding GST for fixed fee bands 5 and 6 (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(4) of the Building and Construction Industry Security of Payments Act, 1999.
- 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, plus a \$220.00 (including GST) ANA administrative withdrawal fee. If this calculation is less than the up front fixed fee, the claimant will be refunded the difference.



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- 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.
  - 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 & 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 decision.
  - 2.8.2. For payment claims that fall under bands 5 & 6 (refer Table 1 above): If the value of disbursements exceeds \$100.00 (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 decision.

### 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 - \$325.00 per hour excluding GST
    - 3.1.2.2. Intermediate II Adjudicator - \$225.00 per hour excluding GST
    - 3.1.2.3. Intermediate I Adjudicator - \$160.00 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, plus a \$220.00 (including GST) ANA administrative withdrawal fee.
- 3.3. Release of adjudication decision.
  - 3.3.1. Upon receiving notification of the adjudicator's decision, 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 decision 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:

## Submission of Application

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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 either of the following addresses:

DRS Main Office	RICS Oceania Office
Business/Courier Address: RICS Dispute Resolution Service Level 3, Waterfront Place 1 Eagle Street, Brisbane, QLD, 4000.  Postal: RICS Dispute Resolution Service PO Box 7815 Waterfront Place, Brisbane, QLD, 4001	Business/Courier/Postal Address: RICS Oceania Suite 2, Level 16 1 Castlereagh Street, Sydney, NSW 2000

**Or by fax:** To 1300 953 529

**Or by email:** [By prior arrangement – please call] to [submissions@ricsdrs.com.au](mailto:submissions@ricsdrs.com.au)

## Statistical Information

The NSW Department of Commerce has asked the RICS DRS to collect statistical information with regards to the adjudication of disputes. The following information is for government reporting purposes only. Please note that this information is separate to the adjudication application and the lack of preciseness will not affect the process or outcome of your adjudication application.

Claimant Information		Respondent Information	
Claimant Annual Turnover		Respondent Annual Turnover	
Less than \$100,000 \$100,000 to \$500,000 \$500,000 to \$1million \$1million to \$5million \$5million to \$10million \$10million to \$50million More than \$50million	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Less than \$100,000 \$100,000 to \$500,000 \$500,000 to \$1million \$1million to \$5million \$5million to \$10million \$10million to \$50million More than \$50million	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Claimant's Number of Employees		Respondent's Number of Employees	
Less than 5 5 to 10 11 to 20 21-50 More than 50	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Less than 5 5 to 10 11 to 20 21-50 More than 50	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Claimant's Years in Business		Respondent's Years in Business	
Less than 5 years 5 to 10 years More than 10 years	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Less than 5 years 5 to 10 years More than 10 years	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>



## 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. The fixed fee costs are also available on [www.ricsdrs.com.au](http://www.ricsdrs.com.au).

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: 012 003 Account Number: 481694188)

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 credit card will attract a 2.5% credit card fee.