

## Terms and Conditions of Application (NSW & A.C.T)

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

### 1. Fixed-fee adjudication application

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

**Table 1.**

Band	Payment claim range	Adjudication fee	Total adjudication fees (inc GST & Disbursements charge)
1	0 – 6,500	700.00	<b>770.00</b>
2	6,501 – 15,000	1,050.00	<b>1,155.00</b>
3	15,001 – 25,000	2,050.00	<b>2,255.00</b>
4	25,001 – 40,000	3,150.00	<b>3,465.00</b>
5	40,001 – 60,000	4,150.00	<b>4,565.00</b>
6	60,001 – 100,000	5,650.00	<b>6,215.00</b>

1.2. The fixed fees shown above include:

- 1.2.1. The fees and expenses of the nominated adjudicator and the Authorised Nominating Authority (ABC DRS).
- 1.2.2. The cost of an adjudication certificate, if required.
- 1.2.3. Goods and Services Tax (GST).
- 1.2.4. Disbursements up to the value of \$50.00 excluding GST for fixed fee bands 1 through to 6 (see above table).

1.3. 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 ABC DRS adjudication rates.

1.4. The payment of fixed-fee adjudication is non-refundable, except in the cases as explained in term 1.7 herein, or pursuant to section 29(4) of the Building and Construction Industry Security of Payment Act 1999 (NSW) or section 36(4) of the Building and Construction Industry (Security of Payment) Act 2009 (A.C.T).

1.5. 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 \$300.00 (excluding GST) ANA administrative withdrawal fee. If this calculation is less than the upfront fixed fee, the claimant will be refunded the difference.

1.6. 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.

1.7. ABC 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.

- 1.7.1. ABC 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.
- 1.7.2. If ABC DRS decides an application purporting to come under fixed-fee adjudication **does not qualify** for fixed-fee adjudication, ABC DRS will inform **the claimant** of this fact in writing.
- 1.7.3. In the situation where ABC DRS decides an application does not qualify for fixed-fee, the claimant may withdraw the application by notice in writing to ABC DRS. However, the claimant may elect to have the adjudication continue under normal ABC DRS non-fixed fee adjudication rates.
- 1.7.4. 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, ABC DRS will move to appoint an adjudicator under normal ABC DRS non-fixed fee adjudication rates.

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

- 1.8.1. For payment claims that fall under bands 1 through to 6 (refer to 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. Non-fixed fee adjudication

2.1. The following **fee schedule** is relevant to the non-fixed fee adjudication regime.

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

2.1.2. Adjudicator hourly rates are as follows:

2.1.2.1. Grade 1 – \$225.00 excluding GST

2.1.2.2. Grade 2 – \$325.00 excluding GST

2.1.2.3. Grade 3 – \$365.00 excluding GST

2.1.2.4. Disbursement of \$50.00 excluding GST included

2.1.3. The Adjudication certificate fee is \$200 excluding GST.

2.1.4. 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. Disbursements are charged at cost.

2.2. Withdrawal of adjudication application.

2.2.1. 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 \$300.00 (excluding GST) ANA administrative withdrawal fee.

2.3. Release of adjudication decision.

2.3.1. Upon receiving notification of the adjudicator's decision, ABC 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 ABC DRS.

2.3.2. The adjudication decision will not be released by ABC DRS until the relevant fees have been paid in full.