CONSTRUCTION ADJUDICATION AUTHORITY

# CONSTRUCTION ADJUDICATION AUTHORITY MANUAL

10 October 2026

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# 1. Introduction

## Purpose of this Manual

This Policy Manual (**Manual**) sets out the professional standards, ethical obligations, and procedural requirements for all adjudicators (**Adjudicators**) appointed by the Construction Adjudication Authority Limited (**CAA**).

CAA is a company authorised by the Minister for Building and Construction to act as an authorised nominating authority (**ANA**) under section 65 of the Construction Contracts Act 2002, with effect from 25 June 2026 (refer SCHEDULE 1 – MINISTERIAL AUTHORISATION).

The purpose of this Manual is to ensure that all adjudications are conducted in a manner that is fair, impartial, efficient, and consistent with the principles of natural justice and the requirements of the Construction Contracts Act 2002 (**Act**). Adherence to this Manual, and an understanding of the policy and procedures it prescribes, is a condition of an Adjudicator's ongoing inclusion on the CAA List of Adjudicators.

## Overarching Duties of Adjudicators

In accordance with s 41 of the Act, every Adjudicator appointed by CAA must:

1. Act independently, impartially, and in a timely manner;
2. Avoid incurring unnecessary expense;
3. Comply with the principles of natural justice;
4. Disclose any conflict of interest to the parties; and
5. Resign the appointment if a conflict of interest arises, unless all parties agree otherwise.

## Application

This Manual applies to all individuals nominated and appointed as Adjudicators by CAA. It should be read in conjunction with the Act, the Construction Contracts Regulations 2003, and the Adjudicator's Terms and Conditions of appointment with CAA (refer SCHEDULE 2 – TERMS AND CONDITIONS WITH ADJUDICATOR). If there is any inconsistency, the Act

and the Regulations prevail, then the applicable terms and conditions, then this Manual.

## 2. Conflicts of Interest

### Guiding Principles & Definitions

A conflict of interest exists if facts or circumstances would, from the point of view of a reasonable and informed third person, give rise to justifiable doubts as to the Adjudicator's impartiality or independence. The test is objective.

Justifiable doubts will exist where there is a likelihood that an Adjudicator may be influenced by factors other than the merits of the case as presented by the parties.

### Adoption of IBA Guidelines

To ensure clarity, consistency, and adherence to international best practice, CAA formally adopts the IBA Guidelines on Conflicts of Interest in International Arbitration (2024) as the standard for assessing, disclosing, and managing all potential and actual conflicts of interest. All Adjudicators appointed by CAA are required to be familiar with and act in accordance with these guidelines.

The IBA Application Lists (Non-Waivable Red List, Waivable Red List, and Orange List) provide a non-exhaustive framework for identifying situations that are disqualifying for the purposes of a CAA appointment.

Several of the IBA Application Lists turn on the Adjudicator's relationship with an affiliate of a party. The IBA Guidelines define that term for the purposes of the Application Lists: *"Throughout the Application Lists, the term 'affiliate' encompasses all companies in a group of companies, including the parent company, and/or an individual having a controlling influence on the party in the arbitration, and/or any person or entity over which a party has a controlling influence."* Controlling influence is not recorded on any public register in New Zealand, and an Adjudicator considering a nomination will ordinarily hold no information beyond the notice of adjudication, the referring party's application, and the names of the parties.

CAA therefore sets the following minimum enquiry. Before accepting a

nomination, the Adjudicator must search each party that is a company registered in New Zealand on the Companies Register maintained by the Companies Office, and must review the directors, the shareholders, and the ultimate holding company recorded for that party. Where a party is not a company registered in New Zealand, no search is required under this section.

The Adjudicator is not required to look behind the Companies Register, and is not taken to know a relationship that this search would not reveal. Nothing in this section limits the Adjudicator's duty under s 34(3)(a) of the Act to disclose any conflict of interest, whether financial or otherwise, of which the Adjudicator in fact has knowledge.

## Duty of Disclosure

The duty to disclose is paramount and continuous throughout the adjudication process. While the circumstances listed in the **IBA Non-Waivable Red List, Waivable Red List, and Orange List** are disqualifying for the purposes of a CAA appointment, the duty remains for an Adjudicator to disclose any other facts or circumstances not on those lists which may, in the eyes of the parties, give rise to a doubt as to their impartiality or independence.

## Procedure for Declaration and Disclosure

1. Upon being approached for a nomination, the potential Adjudicator must review:
    - the Notice of Adjudication;
    - the referring party's application form to CAA;
    - the names of the parties, their known representatives, and the nature of the dispute.
2. If the potential Adjudicator forms the view that there is no actual or perceived conflict, they must immediately complete and return to CAA an acceptance of the appointment using CAA's prescribed form to explicitly confirm that:
    - They have read and understood the IBA Guidelines on Conflicts of Interest.
    - No circumstances exist that are described in the IBA Non-Waivable Red List, the Waivable Red List, or the Orange List.

- No other circumstances are known to them which may give rise to justifiable doubts as to their impartiality or independence.

(the full particulars of this confirmation can be viewed at SCHEDULE 2 – TERMS AND CONDITIONS WITH ADJUDICATOR).

3. If a conflict or potential conflict arises or becomes apparent during an adjudication, the Adjudicator must immediately cease all substantive work, notify CAA and all parties in writing of the circumstances, and if the parties do not universally consent to them continuing to act as Adjudicator, resign from the matter.

### Conflicts of interest within the CAA

In the performance of their duties, the CAA Director and case manager shall ensure that there is no conflict of interest, or perceived conflict of interest, between them and the nominee and/or parties. The CAA Director and case manager shall be guided by the IBA Guidelines on Conflicts of Interest in International Arbitration (2024) as the standard for assessing, disclosing, and managing all potential and actual conflicts of interest. If circumstances arise where:

- the CAA case manager has a conflict or perceived conflict, then they must disclose that conflict or perceived conflict to the CAA Director, who shall act in their place.
- The CAA Director has a conflict or perceived conflict, then they must disclose the conflict or perceived conflict to the Advisory Board, who shall nominate a member of the Advisory Board to act in their place. If no Board member is available, or if all Board members have a conflict of interest or a perceived conflict of interest, CAA shall engage an independent lawyer with at least 15 years of experience in construction disputes to act in their place.

## 3. Confidentiality

### Confidential Information

In line with s 68 of the Act, confidential information includes:

- Any statement, admission, or document created or made for the purposes of the adjudication.

- Any information, whether written or oral, disclosed in the course of the adjudication.

## Duty of Confidentiality

The Adjudicator must not disclose any confidential information to any other person. This duty of confidentiality continues indefinitely, even after the adjudication has concluded.

## Exceptions

An Adjudicator may only disclose confidential information in the following circumstances:

- With the consent of the relevant party.
- To the extent that the information is already in the public domain.
- To the extent that disclosure is necessary for the purposes of, or in connection with, the adjudication or the enforcement of the Adjudicator's determination, including disclosure to an expert adviser appointed under s 42(1)(e) of the Act and disclosure to CAA for the purpose of responding to a complaint made under the procedures in this Manual.
- Where disclosure is compelled by law, including by an order of a court.
- In statistical or summary form arranged in a manner that prevents the information from being identified as relating to any particular person.
- For research purposes, where the information will not be published in a way that could reasonably identify any particular person.

## Assistance by Adjudicator's Staff

1. Consistent with s 68(2)(c) of the Act, an Adjudicator may use their employees, partners, or other members of their firm or organisation (**Assistants**) to provide administrative, organisational, and other forms of professional assistance in relation to the adjudication.
2. The scope of an Assistant's role may include, but is not limited to:
    - Summarising submissions and evidence.
    - Conducting legal or technical research.
    - Preparing drafts of procedural orders or sections of the determination for the Adjudicator's review and adoption.
3. The Adjudicator's core decision-making function must not be delegated.

The Adjudicator is solely responsible for making all findings of fact and law and for the final content of the determination. While an Assistant may help prepare the determination, the Adjudicator must personally and diligently review, approve, and adopt any drafted content as their own.

4. The Adjudicator remains personally responsible for ensuring the confidentiality of all information related to the adjudication. Before an Assistant is given access to any confidential information, the Adjudicator must ensure the Assistant is aware of and is bound by the same duties of confidentiality set out in this Manual and the Act. This obligation may be satisfied through the Assistant's terms of employment, professional obligations, or a specific written undertaking.

## 4. Use of Artificial Intelligence (AI)

### Core Principles

AI tools can materially improve the efficiency and quality of adjudication work, and Adjudicators may use them, governed by the paramount principles of adjudicative integrity, confidentiality, and personal responsibility.

### Adjudicator Responsibility & Accountability

The Adjudicator remains solely and personally responsible for all aspects of the adjudication process and the final determination.

- AI is a tool to augment, not replace, the Adjudicator's professional judgment, analysis, and decision-making.
- All AI-generated content (e.g., summaries, draft text, research) must be critically reviewed, independently verified for accuracy and completeness, and adopted by the Adjudicator as their own work.
- An Adjudicator cannot delegate their decision-making function to an AI tool.

### Confidentiality and Data Security

Protecting the confidentiality of the parties' information is non-negotiable.

- **Prohibition:** Adjudicators must not input identifying or confidential information from an adjudication into any AI tool, or under any account or settings, that uses inputs to train models or that lacks the safeguards below.
- **Safeguards:** Before use, the Adjudicator must confirm that, under the applicable account and settings: inputs and outputs are not used to train models, inputs are treated as confidential and appropriately secured, retention can be controlled, and data stored outside New Zealand has safeguards comparable to those of the Privacy Act 2020, whether under the law of the place of storage or the provider's commitments. The Adjudicator must keep that check current. These limits do not apply to material that is public or effectively anonymised.

### Accuracy and Verification

Adjudicators must be aware of the potential for AI tools to produce inaccurate, biased, or fabricated information ("hallucinations"). Any output from an AI tool must be independently validated against primary sources before being relied upon.

### Prohibited Uses

Adjudicators must not use AI for:

- Making the final decision on any issue in dispute.
- Sending the parties any communication generated or sent by an AI tool autonomously. AI may draft correspondence and procedural documents, provided the Adjudicator reviews and approves each before it is sent.
- Any purpose that would breach the confidentiality or natural justice obligations owed to the parties.

## 5. CAA Advisory Board

### Composition and Membership

1. The Advisory Board shall consist of three members appointed by the Director of CAA.
2. The Director will appoint one of the members as Chair of the Advisory

Board.

3. The Board will be composed as follows:
    - Two professional members, each of whom must be a legal professional or construction professional with at least 15 years of relevant experience and possess corporate governance experience. A legal professional is a person who holds a current practising certificate as a barrister or as a barrister and solicitor, or who has been admitted as a barrister and solicitor of the High Court of New Zealand, or admitted to practise law in another jurisdiction, and works or has worked in a legal capacity, including in private practice, in-house, in a consultancy, or in a public-sector, regulatory or investigative role. Any period in which a legal professional has worked in that capacity counts towards the 15 years of relevant experience, whether or not they held a practising certificate during that period.
    - One lay member, who will be appointed to represent the public interest.
4. Board members will be appointed for a term of three years and may be reappointed by the Director at the conclusion of each term.
5. To ensure independence, members of the Advisory Board cannot be a shareholder or director of CAA, nor can they be on the CAA List of Adjudicators.
6. Members of the Advisory Board are entitled to a fee for their services, as recorded in their written terms of appointment with CAA.
7. A Board member's term will cease upon resignation in writing to the Director, or removal by the Director for just cause (such as a breach of confidentiality or failure to attend meetings). In the event of a retirement, resignation, or removal of a Board member, the Director shall appoint a suitable replacement within 15 working days.

## Role and Responsibilities

The primary function of the Advisory Board is to provide independent oversight and governance to ensure CAA operates fairly, impartially, and to the highest professional standards. Its key responsibilities are:

1. **Adjudicator Appointments:** To review applications for the CAA List and make final, binding recommendations on the appointment of individuals, including whether to approve an applicant who is not an

associate or fellow of AMINZ and on what conditions, as detailed in Section 6.

2. **Complaints Determination**: To act as the final and binding decision-maker for all formal complaints investigated by the Director, subject to the adjudicator's right to arbitration under the Terms and Conditions with Adjudicator, and to determine and impose any sanctions, as detailed in Section 7.
3. **Proactive Performance Review**: To conduct the annual Proactive Performance Review by auditing a random, anonymised sample of determinations to ensure procedural compliance, as detailed in Section 8.
4. **General Oversight**: To conduct a twice-yearly review of CAA's operational processes, including its nomination procedures, to ensure they remain fair, robust, and free from bias.
5. **Fee Review**: To review the reasonableness of CAA's administrative fees and charges on a twice-yearly basis.

## Meetings and Decision Making

1. The Advisory Board shall meet in person or by audio or audio-visual link at least twice per year to conduct its general review responsibilities.
2. Additional meetings to consider specific matters such as adjudicator appointments, formal complaints, or the Proactive Performance Review may be called by the Director of CAA as required.
3. The quorum for any meeting shall be two members.
4. Decisions of the Board shall be made by a majority vote. The Chair of the Board shall not have a casting vote. In the event of a tied vote, the recommendation will be to maintain the status quo (e.g., the application is not approved; the sanction is not imposed). The Board may also make a decision without a meeting by a written resolution signed, or agreed to by email, by every member entitled to take part in the decision, provided at least two members do so, and that resolution has the same effect as a decision made at a meeting.
5. The advisory board members will adhere to the Advisory Board Centre best practice guidelines. The Board will otherwise regulate its own procedures, guided by the principles of natural justice.

### Reporting

1. **Specific Matters:** For all matters relating to adjudicator appointments and formal complaints, the Board will provide its formal, written, and binding determination, including reasons, to the Director of CAA.
2. **General Review:** Following each twice-yearly meeting, the Board will provide a summary report to the Director outlining its findings on CAA's processes and fees. This report will also include the findings and recommendations from the Proactive Performance Review.

### Confidentiality

1. All information, applications, reports, submissions, and other materials provided to the Advisory Board for the purpose of carrying out its functions under this Manual are strictly confidential.
2. Board members must not disclose this information to any person, except where disclosure is required by law or is expressly authorised in writing by the Director of CAA for the purpose of the Board fulfilling its duties.
3. This duty of confidentiality continues indefinitely and survives the retirement or removal of a member from the Board.

## 6. Appointment to the CAA List of Adjudicators

### Application

Individuals seeking appointment to the CAA List of Adjudicators must submit a formal application to the Director of CAA. The application must include a current curriculum vitae, proof of all required qualifications and professional memberships, and the names of at least two professional referees.

### Director's Initial Review and Due Diligence

1. **Minimum Criteria Check:** The Director will conduct a preliminary administrative review to ensure each applicant meets the mandatory minimum criteria, being that the applicant must:
    - Have at least 10 years' experience in construction or

infrastructure law or litigation;

- Have been adjudicator or counsel in at least 5 adjudications under the Act or an equivalent statutory adjudication scheme in another jurisdiction;
- Be a partner, special counsel, or senior associate in the construction / infrastructure or litigation team of a New Zealand law firm or be a barrister sole practising in construction / infrastructure or litigation;
- Be a member of the New Zealand Law Society (**NZLS**) with a current practising certificate;
- Be qualified as an associate or fellow of Arbitrators' & Mediators' Institute of New Zealand Inc (**AMINZ**), unless the Advisory Board approves the applicant under the "Advisory Board discretion" paragraph below;
- Be registered for goods and services tax under the Goods and Services Tax Act 1985, or supply their adjudication services through an entity that is so registered;
- Have agreed in writing to the CAA's terms (refer SCHEDULE 2 – TERMS AND CONDITIONS WITH ADJUDICATOR); and
- Not be a Director, case manager, shareholder, or Advisory Board member of CAA.

Applications that do not meet these criteria will not proceed, except that an application that meets every criterion other than AMINZ status may proceed to the Advisory Board for consideration under the "Advisory Board discretion" paragraph below.

2. **Further Inquiries:** The Director may undertake any further inquiries or investigations they deem necessary to verify the applicant's qualifications, experience, and suitability for appointment. This includes, but is not limited to, verifying information with the NZLS and AMINZ.
3. **Referee Checks:** For applications that meet the minimum criteria, or that are to be considered under the "Advisory Board discretion" paragraph below, the Director will contact the applicant's professional referees to seek comment on the applicant's suitability, experience, and temperament.
4. **Reporting:** The Director will prepare a summary report for the Advisory Board, which will include the original application, confirmation of the minimum criteria being met, and a summary of the feedback received

from referees and any other inquiries. Where the applicant is not an associate or fellow of AMINZ, the report will address the applicant's experience and standing in construction law and in adjudication under the Act, and any conditions of approval the Director recommends.

## Advisory Board Review and Binding Recommendation

1. **Referral:** The complete application package, including the Director's report, will be forwarded to the CAA Advisory Board for a full review.
2. **Deliberation:** The Advisory Board will consider all information provided by the applicant and the Director. The Board will make its determination based on this written record.
3. **Binding Recommendation:** Following its review, the Advisory Board will make a formal, written, and binding recommendation to the Director of CAA. The recommendation will clearly state whether the applicant is "Approved for Appointment" or "Not Approved for Appointment" and will provide concise reasons for the Board's decision.
4. **Advisory Board discretion:** Where an applicant meets every minimum criterion other than AMINZ status, the Advisory Board may approve the applicant's appointment if it is satisfied that the applicant's experience and standing in construction law and in adjudication under the Act make the applicant suitable for the CAA List. The Advisory Board may impose conditions on its approval, including that the applicant complete AMINZ adjudication training or become an associate or fellow of AMINZ within a stated period, and may direct suspension or removal from the CAA List if a condition is not met. An approval under this paragraph is recorded as "Approved for Appointment" with any conditions stated. An adjudicator approved on this basis remains bound by the AMINZ Code of Ethics, and the AMINZ membership and CPD requirements in this Manual apply to that adjudicator only to the extent of any condition imposed (refer clause 3.6 of the Terms and Conditions with Adjudicator).

## Notification and Onboarding

1. The Director of CAA will implement the binding recommendation of the Advisory Board.
2. The Director will notify the applicant of the final decision in writing.
3. Successful applicants will only be added to the official CAA List of

Adjudicators after they have signed CAA's Adjudicator Terms and Conditions, which includes their agreement to be bound by this Manual.

## 7. Complaints and Quality Assurance

### Guiding Principles

CAA is committed to ensuring the highest standards of competence, efficiency, and integrity from all adjudicators on the CAA List. This process is established to ensure CAA actively meets its statutory obligation to disqualify any individual who fails to perform the functions and duties of an adjudicator in an efficient and proper manner.

This process provides a fair, independent, and transparent framework for the lodging, investigation, and determination of complaints.

### Lodging a Complaint

1. Any person who is a party to an adjudication (or their representative) may submit a formal complaint regarding the conduct or performance of a CAA-appointed adjudicator.

2. Complaints must be made in writing to the Director of CAA and must:

    - Identify the complainant and the adjudicator.
    - Provide clear and concise details of the alleged failure or misconduct.
    - Be accompanied by any relevant supporting documentation.

### Step 1: Director's Initial Review (Triage)

1. Upon receiving a written complaint, the Director of CAA will conduct an initial assessment to determine the complaint's jurisdiction and prima facie validity.

2. Within 10 working days of receiving the complaint, the Director will make an initial decision to:

    - **Dismiss the complaint:** If it is determined to be frivolous, vexatious,

or lacking in substance.

- **Refer the complaint to an external body:** If the complaint falls more appropriately within the jurisdiction of a professional body. Specifically, complaints relating to an adjudicator's professional conduct outside of their role as a CAA adjudicator will be referred to the NZLS or AMINZ.
- **Accept the complaint for investigation:** If the complaint appears to disclose a potential failure by the adjudicator to perform their functions and duties in an efficient and proper manner.

3. If the complaint is accepted for investigation, or if the Director determines the allegation is sufficiently serious on its face, the Director has the discretionary power to place the adjudicator on Interim Suspension.

    - This suspension means the adjudicator will not be eligible to receive new nominations from CAA pending the outcome of the investigation and the final determination of the Advisory Board.
    - The Director will notify the adjudicator in writing if this power is exercised.

4. The Director will notify the complainant in writing of the initial decision (Dismiss, Refer, or Accept) and the reasons for it.

## Step 2: Director's Investigation

1. If a complaint is accepted for investigation, the Director will:

    - Formally notify the adjudicator in writing of the complaint and provide them with all materials submitted by the complainant.
    - Request a formal written submission from the adjudicator in response to the complaint, to be provided within 20 working days.

2. Upon receipt of the adjudicator's submission, the Director will forward a copy to the complainant, inviting them to provide a written reply within 10 working days. This reply must be limited to new matters raised in the adjudicator's submission.

3. The Director may request any further information or clarification from the complainant or the adjudicator as deemed necessary to conduct a thorough investigation.

4. All parties are required to engage with the investigation process in good faith. Failure by an adjudicator to respond to the Director's investigation may, in itself, be grounds for a sanction.

## Step 3: Director's Report and Recommendation

5. Upon concluding the investigation and within 20 working days of the close of the investigation (i.e., after receiving the complainant's reply or the expiry of the time to do so), the Director will prepare a confidential Complaints Report for the CAA Advisory Board.

6. This report will include:

    - A summary of the complaint and the investigation process.
    - All submissions and evidence received from both the complainant and the adjudicator.
    - The Director's findings of fact and a recommendation on whether the complaint should be upheld, dismissed, or referred.

## Step 4: Advisory Board Review and Determination

7. The Advisory Board will convene to review the Director's Complaints Report.

8. The Advisory Board will consider all materials, including the Director's Report, all party submissions, and the adjudicator's final submission, to make a final and binding determination within 40 working days of receiving the Director's Report.

9. The Board's review is a quality assurance process for the CAA List and does not constitute an appeal of the adjudicator's determination.

## Step 5: Sanctions and Outcomes

10. Based on its binding determination, the Advisory Board may direct the Director of CAA to impose one or more of the following sanctions:

    - Take no further action and dismiss the complaint.
    - Issue an admonishment or warning to the adjudicator.
    - Require the adjudicator to undertake specific mentoring or continuing professional development.
    - Impose a temporary suspension from the CAA List of Adjudicators for a specified period.
    - Impose permanent disqualification and removal from the CAA List of Adjudicators.
    - Formally refer the complaint and the Board's findings to AMINZ or the NZLS for their independent disciplinary consideration.

11. The Director will communicate the Advisory Board's final determination and any sanctions in writing to both the complainant and the adjudicator within 5 working days of the Board's decision.

12. The Advisory Board's determination is final and binding, subject only to the adjudicator's right to arbitration under the Terms and Conditions with Adjudicator. The complainant is not a party to any arbitration, which is not an appeal of the adjudicator's determination.

## Complaints Register

13. CAA will maintain a confidential register of all reported complaints and their outcomes. This register will be a key document for the Advisory Board's twice-yearly review of CAA's operational processes and the overall performance of the CAA List.

## Confidentiality

14. The complaints process is private and confidential. All parties (the complainant, the adjudicator, the Director, and Advisory Board members) must maintain the confidentiality of all information, submissions, and reports related to the investigation.

15. This duty of confidentiality does not prevent:

    - CAA from making a referral and providing its findings to the NZLS or AMINZ as permitted by this process.
    - Any party from complying with a legal requirement for disclosure.

## 8. Annual Audit and Performance Review

### Purpose

To ensure ongoing compliance with CAA's standards and the requirements of the Act, CAA will conduct an annual audit and performance review. This process is twofold:

- The Annual Audit ensures ongoing compliance with professional standards, including CPD and good standing, via the Annual Declaration.
- The Proactive Performance Review proactively monitors the quality and procedural compliance of determinations to ensure they meet the high standards of the Act and this Manual.

### Proactive Performance Review

The CAA Advisory Board shall conduct an annual Proactive Performance Review.

This review will consist of an audit of a random sample of determinations issued by CAA adjudicators in the preceding 12 months as selected by the Director.

All determinations selected for review will be fully anonymised to remove all party and adjudicator-identifying information.

The Board's review is not an appeal and will not assess the substantive merits of a decision. The review is a quality assurance mechanism focused solely on procedural compliance and adherence to the Act and this Manual, including (but not limited to):

- Compliance with statutory timeframes (s 46);

- The correct issuing of a determination with reasons (s 47(1));
- The appropriate exercise of an adjudicator's powers (s 42); and
- General adherence to the principles of natural justice.

This Board review shall inform areas for improvement and CAA's future continuing professional development (CPD) recommendations for its adjudicators.

This proactive review is distinct from the complaints process in Section 7 and does not preclude any party from lodging a complaint.

## Annual Declaration Process

1. On or before the 1st of March each year, the Director of CAA will contact every Adjudicator on the CAA List in writing, requesting they complete and return a formal Annual Declaration.
2. Adjudicators must complete, sign, and return the Annual Declaration to the Director within 20 working days of the request being sent.

## Content of Declaration

The Annual Declaration will require the Adjudicator to formally confirm and declare that:

1. They have complied with the continuing professional development (**CPD**) obligations of the New Zealand Law Society and, subject to any condition of an approval under clause 3.6 of the Terms and Conditions with Adjudicator, AMINZ for the preceding year, and where possible, have undertaken CPD specifically relevant to construction law and adjudication.
2. They have not been the subject of any adverse complaint outcome from the CAA Advisory Board in relation to any CAA-appointed adjudication, and have not been the subject of any adverse disciplinary finding by the NZLS or AMINZ in any matter.
3. They have read, understood, and agree to continue to be bound by the most current version of the CAA Manual.
4. They remain a member in good standing of the NZLS (with a current practising certificate) and, subject to any condition of an approval under clause 3.6 of the Terms and Conditions with Adjudicator, AMINZ.
5. They have complied with any condition of an approval under clause 3.6

of the Terms and Conditions with Adjudicator that applies to them.

### Non-Compliance

1. Failure to provide a completed Annual Declaration within the specified 20-working day timeframe will result in the Adjudicator's immediate suspension from the CAA List. The Adjudicator will not be eligible for nomination until a compliant declaration is received.
2. An Adjudicator who is suspended for non-compliance will be formally notified in writing by the Director.
3. If a declaration reveals any non-compliance or is found to contain false or misleading information, the matter will be referred to the Advisory Board for review under the same process as an adverse finding, which may result in sanctions including permanent removal from the List.

## 9. Nomination and Adjudication Workflow

This section outlines the end-to-end process from a party's application for the nomination of an adjudicator to the issuing of a final determination which is consistent with the prescribed process and timeframes under the Act (refer SCHEDULE 4 – OVERVIEW OF ADJUDICATION PROCESS). This workflow is administered by CAA directly, using an online application form and email-based correspondence to ensure efficiency, security, and transparency.

### End-to-end process

1. The referring party serves the respondent with a notice of adjudication (s 28).

2. The referring party requests CAA to nominate a person to act as adjudicator within 2 to 5 working days of serving the notice, or any further period the parties agree, (s 33(1)(d) and (2)(c)). To do so, the referring party:

    - Accepts CAA's terms and conditions (refer SCHEDULE 5 – TERMS AND CONDITIONS WITH REFERRING PARTY);
    - completes CAA's online request for appointment form;
    - pays the specified Application Fee;
    - uploads a copy of the Notice of Adjudication and proof of service of

that Notice on the respondent (and Owner, if applicable); and
- Selects one of two nomination paths:
    - (a) Party-elected Shortlist: The referring party selects their own shortlist of at least five potential adjudicators; OR
    - (b) CAA-elected Shortlist: The referring party formally opts for CAA to create a suitable shortlist on their behalf.

3. CAA reviews the documents provided to ensure the application is complete and that the adjudication has been validly initiated under the Act. If accepted, the process continues. If not, the referring party is informed via email of any deficiencies.

4. The CAA case manager opens a new matter and sends confirmation to the applicant.

5. **Establish Initial Shortlist:** The CAA establishes an "Initial Shortlist" of nominees based on the path chosen in Step 2:

    *(a) If the Party-elected Shortlist was chosen:*

    - The CAA case manager will check if the party has selected five or more nominees.
        - If YES: All selected individuals become the "Initial Shortlist."
        - If NO: The referring party is deemed to have failed to make a valid selection and to have chosen the "CAA-elected Shortlist" path. The case manager will notify the party of this and proceed as per 5(b) below.
    - The CAA Director will review the Notice of Adjudication and conduct a formal "Suitability Audit" on every nominee in the "Initial Shortlist."
        - This audit ensures each nominee meets the minimum objective requirements for the dispute. A nominee will be deemed not suitable if there is an objective and demonstrable lack of core jurisdiction or qualification (e.g., a nominee with no residential building experience being selected for a residential dispute, or a nominee with no engineering qualifications being selected for a complex structural engineering dispute).
        - This audit is to prevent factual mismatches, not to subjectively override the party's preference on cost or general experience.

    - The CAA Director shall certify that they have no conflict of interest in relation to the parties or the nominees before conducting the Suitability Audit (refer “Addressing intervening events” section below for further conflict guidance).
- All nominees who pass this audit are moved into the "Valid Selection Shortlist."

*(b) If the CAA-elected Shortlist (2b) was chosen:*

- The CAA Director will review the Notice of Adjudication and select a "Valid Selection Shortlist" of five adjudicators who have the appropriate knowledge, skills, and expertise for the particular case.

6. **Random Selection:**

(a) Check Shortlist: The CAA case manager checks if the "Valid Selection Shortlist" names two or more nominees.

- If it names two or more nominees: Proceed to (b) Random Selection.
- If it is empty or has only one nominee: The shortlist is deemed exhausted. Proceed to Step 7 (Fallback to CAA-elected Shortlist).

(b) Random Selection: CAA’s case manager uses the **CAA Adjudicator Selection Tool**, or other random selection software tool, to randomly select one nominee from the "Valid Selection Shortlist." CAA’s case manager saves a record of the random selection output to the matter file.

(c) Contact Nominee: CAA’s case manager sends the nominee an email request to accept the nomination, enclosing the notice of adjudication (refer s 33(5) of the Act) and the Conflict and Availability Certification, and asking the nominee to confirm that they have conducted a conflict check consistent with this Manual and to certify that no disqualifying circumstance exists.

(d) Handle Response:

- If the nominee accepts: proceed to Step 8 (Notice of Willingness).

- If the nominee declines, does not reply within 8 working hours,[1] or is unable to certify they are free from conflict: The case manager removes that nominee from the "Valid Selection Shortlist" and returns to (a) Check Shortlist to continue the selection process.

7. **Fallback to CAA-elected Shortlist:** This step is triggered *only* if the "Valid Selection Shortlist" becomes exhausted (either because all but one of the nominees were found to be unsuitable in Step 5(a), or were busy/conflicted in Step 6).

    - The CAA case manager will notify the referring party that their shortlist was exhausted and that CAA will now complete the nomination as per the "CAA-elected Shortlist" process.
    - The process then returns to Step 5(b) ("CAA-elected Shortlist") and the CAA Director will select a new "Valid Selection Shortlist" of five adjudicators who have the appropriate knowledge, skills, and expertise for the particular case from the main CAA List (excluding any who have already failed the process), which will guarantee an appointment.

8. When a nominee accepts, the case manager will send a "willingness to act" email (refer SCHEDULE 6 – NOTICE OF WILLINGNESS TO ACT AND REQUEST FOR SECURITY DEPOSIT) with a request that the claimant pay the adjudicator's published security deposit to the CAA's bank account.

9. Upon receipt of payment, the case manager will send an "acceptance" email (refer SCHEDULE 7 – NOTICE OF ACCEPTANCE) confirming the nominated adjudicator's acceptance pursuant to s 35A, and that the claimant must serve the adjudication claim within five working days of receiving the notice of acceptance (s 36(1)).

10. From service of the claim, the adjudicator conducts and communicates the timetable exclusively: any further time for the response agreed by the parties or allowed by the adjudicator (s 37(1) and (5)), the reply (s 37A(2)), any rejoinder the adjudicator allows (s 37A(4)(b)), and the

[1] Working Hours means an hour between 9:00 am and 5:00 pm on a working day as defined in the Act (s 5). For example, if contact is made at 10:18 am on a Tuesday, the nominee has until 10:18 am the next day (Wednesday) to respond. If contact is made at 4:30 pm on a Friday, the nominee has until 4:30 pm on Monday to respond.

timing of the determination (s 46(2)). CAA does not notify the parties of procedural deadlines and does not monitor compliance with them.

11. The parties copy each document served in the adjudication to CAA for its records only (clause 11.4 of the Terms and Conditions with Referring Party). The case manager records the dates in the CAA Case Register as and when they become known and takes no further step until the adjudicator notifies completion of the determination (clause 10.3 of the Terms and Conditions with Adjudicator) or an intervening event arises (refer "Addressing intervening events" below).

12. Upon completion of the determination on the CAA prescribed form (refer SCHEDULE 8 – DETERMINATION TEMPLATE), and receipt of the adjudicator's fee notification confirming that the determination was completed within the time allowed by s 46(2) of the Act (clause 10.3 of the Terms and Conditions with Adjudicator), the case manager will notify the parties of the adjudicator's total fee and of the balance required, after allowing for the security deposit held (refer step 8 above), to obtain release of the determination, using the template titled "Request for Payment of Adjudicator's Fees and Expenses". That template must contain the statement that the request is not taxable supply information, the permitted payment sources in clause 6.15 of the Terms and Conditions with Referring Party, and the statement that CAA receives each payment as stakeholder, and must itemise the adjudicator's fee for their time and, as an expense of the adjudicator, CAA's charge (refer clause 10.4 of the Terms and Conditions with Adjudicator and clause 6.3 of the Terms and Conditions with Referring Party).

13. Upon receipt of cleared funds in full, the case manager will, at the same time, issue CAA's taxable supply information to each paying party for the amounts that party has paid, itemised in the same way as the request for payment, dated the date of the request for payment (giving credit for all funds held), trigger the release of the determination to the parties, and refund any surplus to the payer or payers pro rata. At the same time, the case manager issues to the adjudicator the buyer-created taxable supply information for the adjudicator's supply, dated the same date and showing CAA's charge as a deduction, being the

adjudicator's expense that CAA collects on the adjudicator's behalf and retains.

14. The CAA will retain its charge, which it collects on the adjudicator's behalf as the adjudicator's expense, and distribute the balance to the adjudicator.

## Addressing intervening events

The above process may be impacted by intervening events, such as:

- the adjudicator's resignation;
- a settlement between the parties;
- the adjudicator's failure to determine the dispute within the time allowed (s 46(2));
- the adjudicator's failure to serve a notice of acceptance within 5 working days of the person referred to in s 33 receiving a request to act as an adjudicator (that is, the nominee receiving CAA's request to act); or
- the claimant's withdrawal of the claim (s 39).

If circumstances arise wherein the adjudication process is not completed due to:

a. the adjudicator's failure to determine the dispute within the time allowed, disentitling them to payment of their fee (per s 57(5)); or

b. the claimant has not received any notice of acceptance from an adjudicator within 5 working days of the person referred to in s 33 receiving a request to act as an adjudicator (that is, the nominee receiving CAA's request to act), then:

- The CAA case manager shall notify the parties of the claimant's rights under s 66 of the Act to seek a fresh adjudication via service of a new notice of adjudication under s 28.
- CAA shall refund any security deposit to the payer, or pro rata to the payers, as applicable, within 5 working days of the above notification.
- If the claimant seeks a fresh adjudication and requests the appointment of an adjudicator by the CAA, then the above workflow shall recommence from step 1, save insofar as the claimant shall not be required to pay the Application Fee referred

to in step 2 above.

If, after serving a notice of acceptance, the adjudicator dies, becomes seriously ill, resigns (including on a conflict of interest arising), or is otherwise unavailable for any reason (s 66(1)(b)(i) of the Act), then:

- The CAA case manager shall notify the parties of the claimant's rights under s 66 of the Act to seek a fresh adjudication via service of a new notice of adjudication under s 28.
- CAA shall refund the security deposit in full to the payer, or pro rata to the payers, as applicable, within 5 working days of the above notification.
- If the claimant seeks a fresh adjudication and requests the appointment of an adjudicator by the CAA, then the above workflow shall recommence from step 1, save insofar as the claimant shall not be required to pay the Application Fee referred to in step 2 above.

If circumstances arise wherein the adjudication process is not completed because the adjudication claim is terminated or withdrawn, or the dispute between the parties is resolved, and the adjudicator remains entitled to payment of their fee up to the date of that occurrence (per s 57(7)), then:

- The CAA case manager shall issue CAA's taxable supply information for the adjudicator's fees and expenses, itemised in the same way as a request for payment.
- CAA shall refund any balance of the security deposit to the payer, or pro rata to the payers, as applicable, within 5 working days of doing so.
- The CAA will retain its charge, which it collects on the adjudicator's behalf as the adjudicator's expense, and distribute the balance to the adjudicator.

## 10. Handling of Funds

**Where funds are held:** CAA receives Security Deposits and payments of adjudicators' fees and expenses into a bank account that CAA uses only for funds it holds for others and that is separate from CAA's operating account. The account does not bear interest. CAA receives each Security Deposit as stakeholder for the person paying it and for the adjudicator, and holds it in

that character until the adjudicator's fee is ascertained and invoiced.

**Who may pay, and how:** Payment is by direct credit only. CAA does not accept cash in any amount. Payment must come from an account in the name of the claimant, the respondent or an owner who is a party to the adjudication, held with a bank registered in New Zealand, from the trust account of a New Zealand law firm recorded as acting for one of them, or from another source that CAA's Director has approved in writing (refer clause 6.15 of the Terms and Conditions with Referring Party). CAA may decline or return a payment where it considers that necessary to comply with the law, is not obliged to give reasons, and returns a declined payment to the account from which it was received.

**Refunds:** Every refund is made only to the account from which the payment was received. If the adjudicator fails to determine the dispute within the time allowed, the Security Deposit is refunded in full. If the adjudication ends early, the adjudicator is paid for the work done and the balance is refunded. If, on completion, the fee is less than the Security Deposit held, the difference is refunded. The timeframes are set out in Part 7 of the Terms and Conditions with Referring Party.

**Fraud protection:** CAA's bank account details are provided at the time payment is requested and do not change during an adjudication. CAA never notifies a change of bank account details by email. Any message purporting to do so should be treated as fraudulent and reported to CAA by telephone. A change to an adjudicator's bank account details takes effect only once CAA has verified it by telephone.

**Checks and records:** CAA screens the parties to each adjudication against the list of designated terrorist entities maintained by the New Zealand Police and the sanctions lists administered by the Ministry of Foreign Affairs and Trade. CAA keeps a record of every payment received and made for at least five years. CAA maintains a separate policy governing the handling of funds, which it does not publish.

# SCHEDULE 1 – MINISTERIAL AUTHORISATION

**Hon Chris Penk**

Minister of Defence
Minister for Building and Construction
Minister for Veterans
Minister Responsible for the GCSB and NZSIS
Minister for Space
Associate Minister for Emergency Management and Recovery

25 JUN 2026

Scott Gazley
Construction Adjudicators Authority Limited
Quay Chambers
Level 7, 2 Commerce Street
PO Box 106215
Auckland 1143

**Application for Construction Adjudicators Authority Limited to be a nominating authority under section 65 the *Constructions Contracts Act 2002***

Dear Mr Gazley,

I am pleased to advise that I agree to authorise Construction Adjudicators Authority Limited as a nominating authority under the Construction Contracts Act 2002 (the Act).

I have instructed the Ministry of Business, Innovation and Employment (MBIE) to update its Building Performance website to reflect your company's authorisation.

I am advised you propose to appoint a minimum of ten adjudicators to your pool of adjudicators prior to commencing operation as a nominating authority. The size of the pool of candidates is important to ensure that there is a wide range of skills available, in the event conflicts of interest arise, and to ensure sufficient availability of adjudicators.

Please note that authorisation as a nominating authority can be withdrawn if a nominating authority ceases to operate in accordance with the requirements of the Act or the Construction Contracts Regulations 2003.

Thank you for your application. I can confirm that this letter of agreement authorises Construction Adjudicators Authority Limited to nominate adjudicators for the purposes of the Act. This authorisation takes effect immediately.

Kind regards

Hon Chris Penk
**Minister for Building and Construction**

Private Bag 18041, Parliament Buildings, Wellington 6160, New Zealand | +64 4 817 6816 | c.penk@ministers.govt.nz

# SCHEDULE 2 – TERMS AND CONDITIONS WITH ADJUDICATOR

CONSTRUCTION ADJUDICATION AUTHORITY

# TERMS AND CONDITIONS FOR ADJUDICATORS

10 October 2026

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## Part 1 — Introduction and how these Terms apply

1.1 These terms and conditions (**Terms**) are an agreement between Construction Adjudication Authority Limited (**CAA**, **we**, **us**, **our**) and you, an adjudicator on, or applying for appointment to, the CAA List of Adjudicators (**you**, the **Adjudicator**).

1.2 CAA is a company authorised by the Minister for Building and Construction to act as an authorised nominating authority (**ANA**) under section 65 of the Construction Contracts Act 2002 (**Act**), with effect from 25 June 2026. As an ANA, CAA nominates adjudicators to determine disputes under the Act.

1.3 These Terms have two aspects: (a) standing terms that apply for as long as you remain on the CAA List (in particular Parts 3 to 8, 12 and 13); and (b) appointment terms that apply each time CAA nominates you to a particular dispute (in particular Parts 9 to 11). Agreeing to, and complying with, these Terms and the Manual is a condition of your inclusion on the CAA List.

1.4 These Terms must be read together with the Act, the Construction Contracts Regulations 2003 (**Regulations**), the CAA Manual (**Manual**), and the AMINZ Code of Ethics.

1.5 You agree to these Terms by signing them. CAA will add you to the CAA List only after you have signed these Terms.

## Part 2 — Definitions and interpretation

In these Terms, unless the context requires otherwise:

**Act** means the Construction Contracts Act 2002.

**Advisory Board** means the CAA Advisory Board described in the Manual.

**AMINZ** means the Arbitrators' and Mediators' Institute of New Zealand Incorporated.

**Annual Declaration** means the annual declaration described in Part 5.

**CAA List** means the list of adjudicators approved by CAA and available for nomination.

**CPD** means continuing professional development.

**Determination** means your determination of a dispute under section 46 of the Act.

**Director** means the director of CAA, or a person performing that role.

**IBA Guidelines** means the IBA Guidelines on Conflicts of Interest in International Arbitration (2024).

**Manual** means the CAA Manual published by CAA and amended from time to time, which sets out the professional standards, ethical obligations and procedural requirements for CAA adjudicators.

**Nomination** means CAA's nomination of you to act as adjudicator in a particular dispute, and Nominate has a corresponding meaning.

**Notice of Acceptance** means a notice of acceptance under section 35A of the Act.

**Notice of Willingness to Act** means a notice under section 35(1) of the Act indicating whether you are willing and able to act.

**NZLS** means the New Zealand Law Society.

**Referring Party** means the claimant that refers a dispute to adjudication and requests CAA to nominate an adjudicator; and Parties means the claimant and the respondent to an adjudication.

**Security Deposit** means an amount you require to be paid as security for your fees and expenses before you serve a Notice of Acceptance.

**Website** means CAA's website on which CAA publishes the CAA List (showing each adjudicator's required Security Deposit and, at the adjudicator's election, their hourly rate, a range within which their hourly rate falls, or "Price on Inquiry"), its forms, its complaints process, and its terms.

**Working Day** has the meaning given in section 5 of the Act.

**Working Hour** means an hour between 9:00 am and 5:00 pm on a Working Day.

2.1 In these Terms: headings are for convenience only; the singular includes the plural and vice versa; a reference to a statute includes its amendments, replacements and regulations made under it; including and similar words are not words of limitation; a reference to dollars is to New Zealand dollars; and a reference to a Part or clause is to a Part or clause of these Terms.

## Part 3 — Eligibility and admission to the CAA List

### Minimum criteria

3.1 To be admitted to, and to remain on, the CAA List, you must:

(a) have at least 10 years' experience in construction or infrastructure law or litigation;

(b) have been an adjudicator or counsel in at least five adjudications under the Act or an equivalent statutory adjudication scheme in another jurisdiction;

(c) be a partner, special counsel, or senior associate (or equivalent) in the construction, infrastructure or litigation team of a New Zealand law firm, or a barrister sole practising in construction, infrastructure or litigation;

(d) be a member of NZLS with a current practising certificate;

(e) be qualified as an associate or fellow of AMINZ, unless the Advisory Board approves your appointment under clause 3.6;

(f) be registered for goods and services tax under the Goods and Services Tax Act 1985, or supply your adjudication services through an entity that is so registered;

(g) have agreed in writing to these Terms; and

(h) not be a director, case manager, shareholder, or Advisory Board member of CAA.

### Application and appointment

3.2 To apply for appointment, you must email the Director a signed copy of these Terms, a current curriculum vitae, together with evidence of your qualifications and professional memberships, and the names of at least two professional references.

3.3 The Director will review your application against the minimum criteria, may make further inquiries (including with NZLS and AMINZ), and will contact your referees. The Director will then refer your application, with a report, to the Advisory Board.

3.4 The Advisory Board makes the final, binding recommendation on whether you are approved for appointment. CAA will notify you of the decision in writing. You will be added to the CAA List only after CAA has countersigned these Terms.

3.5 Appointment to the CAA List is at CAA's discretion in accordance with the Manual. Being on the CAA List does not guarantee that you will be nominated to any, or any particular number of, adjudications.

3.6 If you meet each of the minimum criteria in clause 3.1 other than clause 3.1(e), the Advisory Board may nevertheless approve your appointment if it is satisfied that your experience and standing in construction law and in adjudication under the Act make you suitable for the CAA List. The Advisory Board may make its approval subject to conditions, including that you complete AMINZ adjudication training or become an associate or fellow of AMINZ within a stated period, and may direct that you be suspended or removed from the CAA List if a condition is not met. If you are approved under this clause: (a) you must comply with the AMINZ Code of Ethics under these Terms and the Manual whether or not you are a member of AMINZ; and (b) the requirements in clauses 4.1(b), 5.1 and 5.3(d) that relate to AMINZ apply to you only to the extent of any condition the Advisory Board imposes.

## Part 4 — Your ongoing obligations while on the List

4.1 For as long as you are on the CAA List, you must:

(a) comply with these Terms, the Manual (as amended), the Act, the Regulations, and the AMINZ Code of Ethics;

(b) remain a member of NZLS with a current practising certificate, and, subject to clause 3.6, remain an associate or fellow of AMINZ, in each case in good standing;

(c) meet the CPD requirements set out in Part 5;

(d) be familiar with, or promptly familiarise yourself with, CAA's processes and forms for administering nominations and adjudications; and

(e) act at all times in a manner consistent with the standing and reputation of CAA and the integrity of adjudication under the Act.

4.2 You must be registered for goods and services tax and tell CAA your registration number. You must keep CAA informed by promptly notifying CAA in writing of any change to:

(a) your bank account details for the disbursement of funds. A change to those details takes effect only when CAA has verified it by telephone call to the number CAA holds on file for you;

(b) your hourly rate for adjudications;

(c) the Security Deposit you require (whether a fixed amount or an amount calculated as a percentage of the amount in dispute); and

(d) your registration for goods and services tax, or your registration number.

4.3 You must notify CAA in advance of any period of three months or more during which you will be unavailable to accept nominations, so that CAA can record your availability accurately.

4.4 You must notify CAA in writing, as soon as reasonably practicable, if:

(a) any complaint is made against you to NZLS, AMINZ, or any other professional body in relation to your work as an adjudicator;

(b) you cease to hold a current practising certificate, or your NZLS or AMINZ membership is suspended, cancelled, or made subject to conditions;

(c) you become subject to any adverse disciplinary finding, bankruptcy or insolvency event, or relevant criminal charge or conviction; or

(d) any other matter arises that affects, or may affect, your eligibility for the CAA List or your ability to perform the functions of an adjudicator.

## Part 5 — Continuing professional development and the Annual Declaration

5.1 You must comply with the CPD obligations of NZLS and, subject to clause 3.6, of AMINZ and, where possible, undertake CPD that is specifically relevant to construction law and adjudication.

5.2 On or before 1 March each year, CAA will request you to complete an Annual Declaration. You must complete, sign, and return it to the Director within 20 Working Days of the request.

5.3 In the Annual Declaration you must confirm that you:

(a) have complied with clause 5.1 for the preceding year;

(b) have not been the subject of any adverse complaint outcome from the Advisory Board, NZLS, or AMINZ in relation to any CAA-appointed adjudication;

(c) have read, understood, and agree to continue to be bound by the most current version of the Manual; and

(d) remain a member in good standing of NZLS (with a current practising certificate) and, subject to clause 3.6, AMINZ.

5.4 If you do not return a completed Annual Declaration within the 20 Working Day period, you will be suspended from the CAA List immediately and will not be eligible for nomination until a compliant declaration is received. CAA will notify you in writing of any such suspension.

5.5 If an Annual Declaration discloses any non-compliance, or is found to contain false or misleading information, the matter will be referred to the Advisory Board, which may impose sanctions including permanent removal from the CAA List.

5.6 You agree to the Advisory Board's Proactive Performance Review, under which a random, anonymised sample of determinations is audited each year for procedural compliance with the Act and the Manual. This review is a quality-assurance process and is not an appeal of any Determination.

## Part 6 — Professional standards and duties

6.1 In conducting any adjudication, you must comply with the duties of an adjudicator under section 41 of the Act, namely to: act independently, impartially, and in a timely manner; avoid incurring unnecessary expense; comply with the principles of natural justice; disclose any conflict of interest to the Parties; and resign if a conflict of interest arises, unless all Parties agree otherwise.

6.2 You must exercise your powers and perform your functions in accordance with the Act (including sections 42, 46, 48 and 57), the Manual, and the AMINZ Code of Ethics, and must issue your Determination within the time allowed by the Act.

6.3 You remain solely and personally responsible for the conduct of each adjudication and for the content of each Determination, and must not delegate your decision-making function.

## Part 7 — Conflicts of interest and impartiality

7.1 CAA adopts the IBA Guidelines as the standard for assessing, disclosing and managing conflicts of interest. You must be familiar with, and act in accordance with, the IBA Guidelines.

7.2 You must not accept a Nomination if any circumstance described in the IBA Non-Waivable Red List, Waivable Red List, or Orange List applies. The duty to disclose any other matter that may, in the eyes of a Party, give rise to justifiable doubts as to your impartiality or independence is paramount and continuous.

7.3 Before accepting a Nomination you must review the Notice of Adjudication, the Referring Party's application, and the names of the Parties, their known representatives, and the nature of the dispute, and certify that no disqualifying conflict exists.

7.4 If a conflict or potential conflict arises or becomes apparent during an adjudication, you must immediately cease all substantive work, notify CAA and all Parties in writing of the circumstances, and resign unless all Parties consent to your continuing to act.

## Part 8 — Confidentiality, privacy, assistants and artificial intelligence

8.1 You must keep confidential all information that is confidential under section 68 of the Act, including any statement, admission, document or information created, made or disclosed for the purposes of an adjudication. This duty continues indefinitely, including after the adjudication concludes.

8.2 You may disclose confidential information only: with the express consent of all Parties; to the extent the information is lawfully in the public domain; to the extent necessary for the purposes of the adjudication or the enforcement of your Determination; as required by law or court order; or for the purpose of responding to a complaint under the Manual.

8.3 Consistent with section 68(2)(c) of the Act, you may use your employees, partners, or others in your firm (**Assistants**) for administrative, organisational, research, and drafting assistance. You must not delegate your decision-making function, and you remain solely responsible for all findings and for the Determination. Before giving an Assistant access to confidential information, you must ensure the Assistant is bound by the same duties of confidentiality.

8.4 You must handle personal information in accordance with the Privacy Act 2020.

8.5 You must comply with the Manual's policy on the use of artificial intelligence (**AI**).

## Part 9 — Accepting a nomination

9.1 When CAA Nominates you, CAA will ask you to respond within eight Working Hours. You must promptly review the Parties' details and the Notice of Adjudication and either accept, or decline, the Nomination within that time. If you do not respond within eight Working Hours, or cannot certify that you are free of conflict, CAA may withdraw the Nomination and approach another adjudicator.

9.2 You will accept a Nomination only if, having reviewed the Parties' details and the Notice of Adjudication:

(a) you are willing and able to act as adjudicator for the dispute, and you meet the criteria for appointment under section 34 of the Act;

(b) you undertake to act in accordance with the Act, the Manual, and the AMINZ Code of Ethics;

(c) you are independent of each of the Parties and intend to remain so, and to the best of your knowledge there are no circumstances likely to give rise to justifiable doubts as to your impartiality or independence, and no circumstance described in clause 7.2 applies;

(d) there are no health or other issues that may affect your ability to perform the role of adjudicator;

(e) you have capacity to perform the role within the statutory timeframes, subject to any extension under section 46(2) of the Act; and

(f) you undertake to comply with the continuing duty of disclosure in clause 7.2 until the adjudication is concluded.

9.3 You authorise CAA to act as your agent to serve on the Parties, on your behalf: your Notice of Willingness to Act (section 35(1)); your Notice of Acceptance (section 35A); and your Determination (section 46). You further authorise CAA, as your agent, to receive payment of your fees and expenses on your behalf, with taxable supply information issued as Part 10 provides. CAA does not receive a Security Deposit on your behalf. CAA receives each Security Deposit as stakeholder in accordance with clause 11.5. The adjudication commences when your Notice of Acceptance is served, following payment of any Security Deposit.

9.4 You must conduct the adjudication in accordance with the statutory timetable, including the service of the claim, response, reply, and any rejoinder (sections 36 to 37A), and the issuing of your Determination within the time allowed by section 46.

## Part 10 — Fees, CAA's charge and payment

10.1 Your fee for an adjudication must be reasonable and may include only: (a) your time at the hourly rate you have notified to CAA that is current at the time of the Referring Party's Application, which rate includes CAA's charge under clause 10.4 as an expense you incur; (b) other expenses reasonably incurred; and (c) any other amounts an adjudicator may charge under the Act.

10.2 Your required Security Deposit is published on the Website, and you must keep it, your hourly rate, and any range displayed, current under clause 4.2. You may elect for the Website to display, instead of your hourly rate, either: (a) a range within which your hourly rate falls; or (b) "Price on Inquiry", in which case you authorise CAA to advise a prospective Referring Party of your hourly rate when contacted.

10.3 On completing your Determination, you will notify CAA of the hours you have spent on the adjudication and the particulars and amounts of any expenses and other amounts charged under clause 10.1, and will confirm that you completed the Determination within the time allowed by section 46(2) of the Act. CAA will calculate the charge for your time from the hours notified, at the rate applicable under clause 10.1(a), and will itemise, in the notification under paragraph (a) and in the taxable supply information under paragraph (b), your fee for that time and CAA's charge under clause 10.4 as an expense you have incurred. You authorise CAA to require payment of your fee and expenses in full before the Determination is communicated to the Parties (section 57(6)), to release the Determination once payment in full is received, and to proceed as follows:

(a) CAA will notify the Parties of the total amount and of the balance required, after allowing for any Security Deposit and other funds held, to obtain release of the Determination, by a notification that is a request for payment, not taxable supply information;

(b) when CAA holds cleared funds for your fee and expenses in full, CAA will, at the same time: (i) issue CAA's taxable supply information to each Party for the amounts that Party has paid, dated the date of the notification under paragraph (a) and giving credit for the funds held; (ii) apply the funds held in payment; and (iii) release the Determination;

(c) if the balance is not paid in full within ten Working Days of the notification under paragraph (a), CAA may issue the taxable supply information for the amounts paid and apply the funds it holds towards payment, and the Determination will not be released until your fees and expenses are paid in full, unless you direct release earlier; and

(d) the taxable supply information will not reflect any apportionment of your fees and expenses in the Determination, which takes effect between the Parties on release, and either Party may pay all or part of the balance at any time without prejudice to that apportionment or to recovery between the Parties.

10.4 CAA's charge for administering and case-managing the adjudication is an amount equal to 10% of the amount charged for your time under clause 10.1(a), plus GST, and does not apply to disbursements. CAA's charge is payable by you to CAA, is an expense you incur in the adjudication, and forms part of the fees and expenses to which you are entitled under section 57(1) of the Act. It is included in the hourly rate you notify under clause 4.2 and is itemised as your expense in the request for payment and the taxable supply information issued to the Parties under clause 10.3. You authorise CAA to collect CAA's charge on your behalf from the amounts the Parties pay, to retain it in satisfaction of your liability for it, and to pay the balance to your nominated bank account within two Working Days of CAA receiving cleared payment. CAA's taxable supply information for its charge is provided as clause 10.7 records.

10.5 All amounts are in New Zealand dollars and GST is payable in addition where applicable. You are responsible for your own tax obligations. You are not an employee or partner of CAA, and CAA acts as your agent only for the limited purposes set out in clause 9.3.

10.6 For GST purposes only, you and CAA agree, and record that agreement in these Terms for every supply of your adjudication services under them, that section 60(1B) of the Goods and Services Tax Act 1985 applies, so that each supply is treated as a supply by you to CAA and a supply by CAA to the Parties, with CAA treated as if it were the principal for the purposes of the supply to the Parties. This treatment applies for GST only. It does not alter your appointment, the Parties' joint and several liability for your fees and expenses under section 57(2) of the Act, or any other right or obligation under these Terms.

10.7 CAA will issue buyer-created taxable supply information for each supply of your adjudication services to CAA, showing your GST registration number as notified under clause 4.2, and CAA's charge under clause 10.4, being your expense that CAA collects on your behalf and retains, may appear on the same document as a deduction, in which case that document is also CAA's taxable supply information for the charge. You agree that only CAA will provide taxable supply information for the adjudication, and you will not issue an invoice or taxable supply information for it to CAA or to a Party. The reasons for this agreement are: CAA standardises invoicing for

CAA-nominated adjudications, CAA knows when the time of supply is triggered, and it is standard practice for an agent to invoice on a principal's behalf.

## Part 11 — Security deposits and statutory fee protections

11.1 You may require a Security Deposit to be paid before you serve a Notice of Acceptance. CAA will request and hold the Security Deposit on the basis set out in CAA's terms with the Referring Party.

11.2 In accordance with section 57(5) of the Act, if you fail to determine the dispute within the time allowed by section 46(2), you are not entitled to any fees or expenses. In that case you authorise and direct CAA to refund the Security Deposit in full to the paying Party or Parties (pro rata) within five Working Days, and you will not seek to recover any fee or expense to which you are not entitled.

11.3 If an adjudication ends early, for example because the claim is withdrawn under section 39, the dispute is settled, or the adjudication is otherwise terminated, and you remain entitled under section 57(7) of the Act to fees for the work done to that point, CAA will issue the taxable supply information for your fees for the work actually performed, itemised as clause 10.3 provides, and refund any balance of the Security Deposit to the paying Party or Parties (pro rata) within five Working Days of doing so.

11.4 You authorise CAA to hold and apply Security Deposits, and to make refunds, in accordance with the Act and CAA's terms with the Referring Party. You also authorise CAA to decline to accept, or to return, a payment where CAA considers it necessary in order to comply with the law, and CAA is not liable to you for the consequences of a payment so declined or returned.

11.5 CAA holds each Security Deposit, and any payment of your fees and expenses it receives, on trust for the person or persons entitled to the funds until they are disbursed in accordance with these Terms. CAA holds those funds in a bank account that CAA uses only for funds it holds for others and that is separate from CAA's operating account. CAA receives each payment of a Security Deposit, and each payment towards your fees and expenses, as stakeholder for the person making that payment and for you, and not for your benefit. CAA holds those funds in that character until your fee is ascertained and CAA applies the funds held in payment of it under clause 10.3 or clause 11.3, from which time CAA holds so much of the funds as equals that fee for you, and any balance for the person or persons who paid it, pro rata to their contributions.

11.6 Where an adjudication is completed and your fees and expenses are less than the Security Deposit held, you authorise and direct CAA to refund the difference to the paying Party or Parties (pro rata to their contributions) within five Working Days of CAA releasing your Determination.

11.7 Recovery of any balance of your fees and expenses that remains unpaid after CAA has applied the funds it holds is your responsibility, at your cost. CAA will provide you with the taxable supply information, the payment history, and the records of the adjudication that you reasonably require for recovery, but CAA has no obligation to demand, sue for, or otherwise

pursue payment of your fees and expenses. CAA's charge under clause 10.4 applies only to amounts received by CAA, and CAA waives it for any amount you recover directly from a Party. The Terms and Conditions with Referring Party provide, for your benefit, for interest on amounts unpaid after their due date and for the costs of recovery, and you may enforce those provisions directly against the Referring Party under section 12 of the Contract and Commercial Law Act 2017.

## Part 12 — Complaints and quality assurance

12.1 You are bound by, and must cooperate fully and in good faith with, the complaints and quality-assurance processes in the Manual.

12.2 A Party (or their representative) may complain in writing to the Director about your conduct or your performance of your functions and duties under the Act. The Director conducts an initial review and, if the complaint is accepted, investigates it, including by providing you with the complaint and inviting your written response within 20 Working Days.

12.3 The Director may place you on interim suspension, so that you are not eligible for new nominations while a complaint is investigated, if the Director considers the allegation sufficiently serious.

12.4 The Advisory Board is the final and binding decision-maker on complaints, subject only to your right to arbitration under clause 16.8. Based on its determination, the Advisory Board may direct CAA to: take no action; issue a warning; require you to undertake mentoring or specific CPD; suspend you from the CAA List for a period; permanently disqualify and remove you from the CAA List; or refer the matter to NZLS or AMINZ.

12.5 The complaints process is private and confidential, and is not an appeal of any Determination. A failure by you to respond to an investigation may itself be grounds for a sanction.

12.6 You must provide CAA with a copy of any Determination on request for the purpose of the Proactive Performance Review.

## Part 13 — Suspension and removal from the List

13.1 CAA may suspend you from the CAA List, so that you are not eligible for new nominations, under clause 5.4 or clause 12.3, or if you cease to meet any minimum criterion in clause 3.1 or are in breach of these Terms or the Manual.

13.2 The Advisory Board may direct that you be removed from the CAA List, including following a complaint or a finding of non-compliance, and CAA will implement that binding determination.

13.3 Suspension or removal does not affect any adjudication in which you have already accepted appointment, unless the Act, the Parties, or the circumstances require otherwise, and does not affect rights or obligations accrued before the suspension or removal.

13.4 This Part is subject to your right to arbitration under clause 16.8.

## Part 14 — Liability and insurance

14.1 CAA's role is limited to nominating you and administering the adjudication, and CAA is not responsible for your conduct, your Determination, or the outcome of any adjudication.

14.2 To the maximum extent permitted by law, you release CAA and its directors, officers, employees and agents from all liability arising in connection with the exercise of CAA's functions, duties or powers as an authorised nominating authority, unless the relevant act or omission is fraudulent.

14.3 You must hold and maintain professional indemnity insurance appropriate to your practice and to your work as an adjudicator, and provide evidence of it to CAA on request.

## Part 15 — Term and termination

15.1 These Terms take effect when CAA countersigns them and continue until ended under this Part.

15.2 You or CAA may end your inclusion on the CAA List at any time, without cause, on five Working Days' written notice, after which CAA will no longer include you on the CAA List for nomination.

15.3 CAA may end your inclusion on the CAA List immediately if you cease to meet any minimum criterion, commit a serious or persistent breach of these Terms or the Manual, or are removed by the Advisory Board.

15.4 Ending your inclusion on the CAA List does not affect any adjudication you have already accepted (which you must complete unless the Act or the Parties require otherwise), any accrued rights or obligations, or any clause that by its nature survives, including those on confidentiality, fees already earned, liability, and general matters.

## Part 16 — General

16.1 CAA may amend the Manual and these Terms from time to time. CAA will notify you of material changes, and your continued inclusion on the CAA List after notice constitutes acceptance. The Annual Declaration includes your confirmation that you agree to be bound by the current Manual.

16.2 Notices under these Terms may be given by email to the addresses notified by you and CAA from time to time.

16.3 These Terms are personal to you and you may not assign them.

16.4 Nothing in these Terms creates a partnership, employment, or joint venture between you and CAA. You act as an independent adjudicator.

16.5 If there is any inconsistency, the Act and the Regulations prevail, then these Terms, then the Manual.

16.6 A failure or delay by CAA in exercising a right is not a waiver of it. If any provision is held to be invalid or unenforceable, it is severed and the remaining provisions continue in force.

16.7 These Terms are governed by New Zealand law.

16.8 Any dispute or disagreement arising out of or in connection with these Terms will be settled by arbitration by a sole arbitrator in accordance with the Arbitration Act 1996 and the AMINZ Arbitration Rules current at the time the arbitration is commenced. The place of arbitration will be Auckland, and the law applicable to the arbitral proceedings and to the matters in dispute will be New Zealand law.

## Execution

By signing below, you confirm that you have read, understood, and agree to be bound by these Terms and the Manual, and that you meet the criteria for inclusion on the CAA List of Adjudicators.

**Signed by the Adjudicator**

_____

Signature

_____

Name

_____

Date

**Signed for and on behalf of Construction Adjudication Authority Limited**

_____

Signature

_____

Name and title

_____

Date

# SCHEDULE 3 – COMPLAINTS CONTENT FOR CAA WEBSITE

## Making a Complaint About an Adjudicator

The Construction Adjudication Authority (CAA) is committed to ensuring the highest standards of professionalism, competence, and integrity from all adjudicators appointed from the CAA List.

We are responsible for the quality of our list and have established a formal, independent complaints process to manage any concerns about an adjudicator's performance. This process is managed internally and overseen by our independent Advisory Board to ensure all complaints are handled fairly, efficiently, and transparently.

## When to Make a Complaint

Our internal complaints process is designed to address concerns about an adjudicator's conduct or performance of their functions and duties under the Act. This may include:

- Failing to act independently, impartially, or in a timely manner.
- Failing to comply with the principles of natural justice.
- Failing to manage the adjudication in an efficient and proper manner.
- Any other conduct that you believe shows the adjudicator is not suitable to be on the CAA List.

Please Note: This complaints process is not an appeal process. It cannot be used to challenge the substance of an adjudicator's decision or to have the determination overturned.

## How to Make a Complaint to CAA

1. Complaint in Writing: All complaints must be submitted in writing to the Director of CAA.
2. Provide Details: Your complaint must include:
    - Your name and contact details.

- The name of the adjudicator the complaint is about.
- Clear and concise details of the alleged misconduct or failure.
- Any supporting documents or evidence.

3. Submit: Complaints should be emailed to complaints@nzcaa.co.nz.

## Our Complaints Process: An Overview

CAA manages complaints through a formal, multi-stage process:

*Step 1: Initial Review (Triage)*

The CAA will promptly review your complaint to determine the next steps. CAA may:

1. Accept the complaint for investigation.
2. Dismiss the complaint if it is found to be frivolous, vexatious, or lacking in substance.
3. Refer the complaint to a more appropriate body if it falls outside our jurisdiction (see "Other Complaints" below).

If a complaint is accepted for investigation and is deemed sufficiently serious, the Director has the power to place the adjudicator on interim suspension, meaning they cannot be nominated for new adjudications while the investigation is underway.

*Step 2: Investigation*

If your complaint is accepted, the Director will conduct a formal investigation. This process is designed to be fair to both parties:

1. The adjudicator will be formally notified and provided with a copy of the complaint.
2. The adjudicator will be given an opportunity to provide a formal written response.
3. You (the complainant) will be given a copy of that response and an opportunity to provide a final reply to any new matters raised.

*Step 3: Independent Advisory Board Determination*

Once the investigation is complete, CAA will prepare a confidential report

for our independent Advisory Board. The Board, which includes professional and lay members, will review all the materials and make a final determination. The adjudicator may refer the Board's determination to private arbitration. You are not a party to any arbitration.

*Step 4: Outcome & Sanctions*

The Advisory Board has a range of powers to ensure our standards are maintained. Based on its findings, the Board may:

1. Dismiss the complaint.
2. Issue a formal warning or admonishment to the adjudicator.
3. Require the adjudicator to undertake specific mentoring or professional development.
4. Suspend the adjudicator from the CAA List for a set period.
5. Permanently remove (disqualify) the adjudicator from the CAA List.

You and the adjudicator will both be notified in writing of the final outcome.

## Other Complaints

If your complaint relates to an adjudicator's general professional conduct outside of their role as a CAA adjudicator, we may refer the matter to the New Zealand Law Society (**NZLS**) Lawyers Complaints Service or the Arbitrators' and Mediators' Institute of New Zealand (**AMINZ**).

- For more information and to make a complaint to AMINZ, please visit the AMINZ website: https://www.aminz.org.nz/make-a-complaint

- For more information about the process and to make a complaint to NZLS, please visit the Law Society's website: https://www.lawsociety.org.nz/lawyers-complaints-service/how-to-make-a-complaint/

## Confidentiality

Our complaints process is private and confidential. All parties, including the complainant and the adjudicator, are required to maintain the confidentiality of the investigation.

# SCHEDULE 4 – OVERVIEW OF ADJUDICATION PROCESS

**CLAIMANT** — s 28

The claimant serves the notice of adjudication on the respondent.

WITHIN 2 TO 5 WORKING DAYS

**CLAIMANT** — s 33(1)(d)

The claimant requests CAA to select a person to act as adjudicator.

AS SOON AS PRACTICABLE

**CAA** — s 33(4)

CAA selects a nominee and requests that person to act as adjudicator.

WITHIN 2 WORKING DAYS

**ADJUDICATOR** — s 35(1)

The Notice of Willingness to Act and Request for Security Deposit is served on both parties, by CAA as the adjudicator's agent.

**CLAIMANT**

The claimant pays the security deposit to CAA. Either party may pay, and payment in full secures the appointment.

**ADJUDICATOR** — s 35A

The Notice of Acceptance is served. The adjudicator is appointed and the statutory timetable runs.

WITHIN 5 WORKING DAYS

**CLAIMANT** — s 36

The adjudication claim is served on the respondent and the adjudicator.

WITHIN 5 WORKING DAYS OF RECEIVING THE CLAIM OR THE NOTICE OF ACCEPTANCE, WHICHEVER IS LATER, OR FURTHER TIME AGREED OR ALLOWED

**RESPONDENT** — s 37

The respondent may serve a response on the claimant and the adjudicator.

WITHIN 5 WORKING DAYS

**CLAIMANT** — s 37A(1)

The claimant may serve a reply to the response.

UP TO 2 WORKING DAYS, IF THE ADJUDICATOR ALLOWS

**RESPONDENT** — s 37A(4)

The respondent may serve a rejoinder to the reply.

WITHIN 20 WORKING DAYS AFTER THE RESPONSE PERIOD ENDS, OR 30 IF THE ADJUDICATOR EXTENDS, OR ANY LONGER PERIOD THE PARTIES AGREE

**ADJUDICATOR** — s 46

The adjudicator determines the dispute. Payment of the fees and expenses may be required before the determination is communicated.

**PARTIES AND CAA** — s 57(6)

The fees and expenses are paid, and CAA releases the determination to the parties.

The timeframes are indicative only. The Construction Contracts Act 2002 and the Construction Contracts Regulations 2003 prevail. Working days are as defined in the Act.

# SCHEDULE 5 – TERMS AND CONDITIONS WITH REFERRING PARTY

CONSTRUCTION ADJUDICATION AUTHORITY

# TERMS AND CONDITIONS FOR REFERRING PARTIES

17 September 2026

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## Part 1 — Introduction and how these Terms apply

1.1 These terms and conditions (**Terms**) govern the relationship between Construction Adjudication Authority Limited (**CAA**, **we**, **us**, **our**) and any person who applies to CAA for the nomination of an adjudicator under the Construction Contracts Act 2002 (**Act**), including the referring party (the claimant) and any counsel or agent acting on the claimant's behalf (**you**, the **Referring Party**).

1.2 CAA is a company authorised by the Minister for Building and Construction to act as an authorised nominating authority (**ANA**) under section 65 of the Act, with effect from 25 June 2026. As an ANA, CAA may nominate adjudicators for the purposes of the Act.

1.3 These Terms apply each time you apply to CAA for the nomination of an adjudicator. By submitting an Application to CAA, paying the Application Fee, and accepting these Terms, you enter into a binding agreement with CAA on these Terms.

1.4 These Terms must be read together with the Act, the Construction Contracts Regulations 2003 (**Regulations**), and the CAA Manual published on the Website (**Manual**). The Manual sets out the standards and procedures that govern CAA's adjudicators and CAA's nomination process.

1.5 If you are a lawyer or other agent submitting an Application on behalf of a claimant, you confirm that you are authorised to do so and to bind that claimant to these Terms, and references to you include both you and the claimant as the context requires.

1.6 Nothing in these Terms limits or affects any right or obligation that you, a respondent, or an adjudicator has under the Act or the Regulations.

## Part 2 — Definitions and interpretation

In these Terms, unless the context requires otherwise:

**Act** means the Construction Contracts Act 2002.

**Adjudicator** means a person on the CAA List whom CAA nominates, or may nominate, to determine a dispute under the Act.

**Application** means a request submitted to CAA for the nomination of an adjudicator using CAA's application form, together with all information and documents provided with it.

**Application Fee** means the fee payable to CAA on making an Application, as set out in Part 6 and published on the Website.

**CAA List** means the list of adjudicators approved by CAA and available for nomination.

**CAA-elected Shortlist** means the nomination pathway under which CAA selects the shortlist of Adjudicators on your behalf, as described in Part 5.

**Claimant** means the party that serves a Notice of Adjudication and refers a dispute to adjudication under the Act.

**Determination** means an Adjudicator's determination of a dispute under section 46 of the Act.

**Director** means the director of CAA, or a person performing that role.

**IBA Guidelines** means the IBA Guidelines on Conflicts of Interest in International Arbitration (2024).

**Notice of Adjudication** means a notice of adjudication served under section 28 of the Act.

**Party-elected Shortlist** means the nomination pathway under which you select the shortlist of Adjudicators, as described in Part 5.

**Respondent** means the party against whom a Notice of Adjudication is served.

**Security Deposit** means the amount an Adjudicator requires to be paid as security for their fees and expenses before issuing a notice of acceptance, as described in Part 6.

**Suitability Audit** means the objective review carried out by CAA's Director that is described in Part 5.

**Website** means CAA's website on which CAA publishes the CAA List, its forms, its complaints process, and its terms.

**Working Day** has the meaning given in section 5 of the Act.

**Working Hour** means an hour between 9:00 am and 5:00 pm on a Working Day.

2.1 In these Terms: headings are for convenience only; the singular includes the plural and vice versa; a reference to a statute includes its amendments, replacements and regulations made under it; including and similar words are not words of limitation; a reference to dollars is to New Zealand dollars; and a reference to a Part or clause is to a Part or clause of these Terms.

## Part 3 — CAA's role as authorised nominating authority

3.1 Where the parties to a construction contract have not agreed on an adjudicator or a nominating body, the Claimant may request CAA, as an ANA chosen by the Claimant, to select a person to act as adjudicator under section 33(1)(d) of the Act.

3.2 By accepting these Terms you choose CAA as the ANA to select an adjudicator for your dispute, and CAA agrees to act in that capacity in accordance with the Act, the Regulations, the Manual, and these Terms.

3.3 To be eligible to use CAA's nomination service you must:

(a) have a right to refer the dispute to adjudication under the Act;

(b) have served a Notice of Adjudication on the Respondent (and on any owner, where section 28 requires) under section 28 of the Act; and

(c) make your Application within 2 to 5 Working Days after service of the Notice of Adjudication, as required by section 33(1)(d) of the Act.

3.4 CAA's role is limited to nominating an Adjudicator and providing case-management and administrative services for the adjudication. CAA does not adjudicate the dispute, makes no decision on the merits, and is not a party to the adjudication.

3.5 CAA selects Adjudicators in a manner that is free from bias and conflict of interest. No director or shareholder of CAA is included on the CAA List or may be nominated as an Adjudicator.

3.6 CAA operates in accordance with the requirements of the Act and the Regulations that apply to authorised nominating authorities, and the procedures described in the Manual.

## Part 4 — Applying for a nomination

4.1 To apply for the nomination of an Adjudicator, you must:

(a) accept these Terms;

(b) complete and submit CAA's application form to CAA, by email or as otherwise directed on the Website;

(c) pay the Application Fee;

(d) provide a copy of the Notice of Adjudication and proof of its service on the Respondent (and any owner, where applicable); and

(e) select one of the two nomination pathways described in Part 5.

4.2 CAA is entitled to rely on the information and documents you provide.

4.3 On receiving your Application, CAA will review the documents you provide to confirm that the Application is complete and that the adjudication appears to have been validly initiated under the Act. If your Application is accepted, CAA will open a matter and confirm this to you. If your Application is incomplete, or the adjudication does not appear to have been validly initiated, CAA will notify you of the deficiency by email.

4.4 CAA's acceptance of an Application is not advice that the adjudication has been validly commenced. It remains your responsibility to ensure that you have complied with the Act.

4.5 CAA may decline or suspend the processing of an Application, or suspend its service, where the Application is incomplete or is not accompanied by the Application Fee, where necessary to comply with the law or to deal with a conflict of interest (including where CAA is unable to act), or because of non-payment or misuse.

## Part 5 — Shortlisting, the Suitability Audit and random selection

### Choosing a pathway

5.1 When you apply you must choose either:

(a) a **Party-elected Shortlist** — you select your own shortlist of at least five Adjudicators from the CAA List; or

(b) a **CAA-elected Shortlist** — you ask CAA to select a suitable shortlist of five Adjudicators on your behalf.

5.2 The CAA List published on the Website shows each available Adjudicator's required Security Deposit and, for each Adjudicator, either their hourly rate, a range within which their hourly rate falls, or "Price on Inquiry" (in which case CAA will, on request, advise you of the Adjudicator's hourly rate), so that you can take cost into account when choosing a Party-elected Shortlist.

5.3 If you choose the Party-elected Shortlist you must select at least five Adjudicators. If you select fewer than five, you will be treated as having failed to make a valid selection and as having chosen the CAA-elected Shortlist, and CAA will proceed under clause 5.6.

## The Suitability Audit and random selection

5.4 For a Party-elected Shortlist, CAA's Director will review the Notice of Adjudication and conduct a Suitability Audit of each Adjudicator on your shortlist. The Suitability Audit is an objective check that removes any Adjudicator who demonstrably lacks the core jurisdiction, qualifications, skills, or expertise required for the particular dispute. It is not a review of your preferences as to cost or general experience. Each Adjudicator who passes is placed on the valid selection shortlist.

5.5 If two or more Adjudicators are on the valid selection shortlist, CAA will select one of them at random and will record the selection, including the date and time, on the matter file. This removes human bias from the final appointment. CAA will then invite the selected Adjudicator to accept the nomination.

5.6 CAA will instead select a valid selection shortlist of five suitable Adjudicators and proceed to random selection where:

(a) you choose the CAA-elected Shortlist;

(b) you are treated as having done so under clause 5.3; or

(c) your Party-elected Shortlist is exhausted because fewer than two Adjudicators pass the Suitability Audit or remain available.

5.7 Where a fallback occurs under clause 5.6(c), CAA will notify you. The CAA-elected Shortlist process is designed to ensure that a suitable Adjudicator is appointed.

5.8 A selected Adjudicator has eight Working Hours to accept a nomination and to confirm they are free of conflict. If the Adjudicator declines, does not respond within that time, or cannot confirm they are free of conflict, CAA will remove that Adjudicator and select the next, repeating the process until an Adjudicator accepts.

5.9 You acknowledge that you do not make, and have no right to make, the final selection of the Adjudicator. Your role is limited to creating (or asking CAA to create) the shortlist. CAA retains responsibility for vetting the CAA List and for the final random nomination.

## Part 6 — Fees, security deposits and payment

### Application Fee

6.1 You must pay CAA an Application Fee of $100 (inclusive of GST) when you make an Application. The Application Fee is CAA's fee for processing your Application and nominating an Adjudicator. Except as stated in clause 8.3, the Application Fee is not refundable.

### The Adjudicator's fees

6.2 The Adjudicator's time is charged at the Adjudicator's hourly rate notified to CAA and current at the time of your Application, consistent with the rate, range, or "Price on Inquiry" shown for that Adjudicator under clause 5.2, which rate includes CAA's charge under clause 6.3, together with any other expenses reasonably incurred and any other amounts an adjudicator may charge under the Act.

6.3 The Adjudicator's hourly rate is all-inclusive. It includes CAA's charge for administering and case-managing the adjudication, which is 10% of the charge for the Adjudicator's time, is an expense of the Adjudicator met from the rate and retained by CAA, and is shown as an item within the rate on the request for payment and the taxable supply information under clauses 6.8 and 6.9.

### Security Deposit

6.4 An Adjudicator may require a Security Deposit to be paid before they issue a notice of acceptance under section 35A of the Act. The amount of the Security Deposit is set by each Adjudicator and is published on the Website.

6.5 The Act contemplates that the parties will meet the Adjudicator's fees and expenses in equal proportions unless section 57(4) of the Act applies. CAA requests payment of the whole of the Security Deposit from the Claimant, as the party seeking the appointment. That does not affect either party's liability for the Adjudicator's fees and expenses. Any party may pay all or part of the Security Deposit, and payment in full by any party secures the Adjudicator's appointment.

6.6 You must pay the Security Deposit to CAA's nominated bank account, using the claim reference and payer reference specified, before the Adjudicator issues a notice of acceptance. Payment must be made in accordance with clause 6.15. The adjudication commences when the Adjudicator serves the notice of acceptance under section 35A of the Act.

6.7 The Security Deposit is security for, and will be applied towards, the Adjudicator's fees and expenses. It is not an estimate or a cap of the cost of the adjudication, which is determined by the time the Adjudicator spends and the expenses incurred.

### Payment before release of the Determination

6.8 Under section 57(6) of the Act, the Adjudicator may require payment of their fees and expenses in full before the Determination is communicated to the parties. When the Adjudicator's fees

and expenses have been ascertained, CAA will notify the Claimant and the Respondent of the total amount and of the balance required, after allowing for the Security Deposit and any other funds held, to obtain release of the Determination. Either party may pay all or part of the balance at any time, in accordance with clause 6.15, without prejudice to any apportionment of the Adjudicator's fees and expenses in the Determination or to recovery between the parties. The notification is a request for payment, not taxable supply information, will not reflect any such apportionment, and will:

(a) record the parties' joint and several liability under section 57(2) of the Act;

(b) request payment in equal shares in accordance with section 57(3)(a);

(c) state the permitted payment sources under clause 6.15;

(d) state that CAA receives each payment as stakeholder in accordance with clause 6.14; and

(e) itemise the Adjudicator's fee for their time and, as an expense of the Adjudicator, CAA's charge under clause 6.3.

6.9 When CAA holds cleared funds equal to the Adjudicator's fees and expenses in full, CAA will, at the same time: issue CAA's taxable supply information to each party for the amounts that party has paid towards the Adjudicator's fees and expenses, itemised as clause 6.8(e) provides, dated the date of the notification under clause 6.8 and giving credit for the funds held; apply the funds held in payment; release the Determination; and refund any surplus in accordance with clause 7.4. For GST purposes, the Adjudicator and CAA treat the adjudication services as supplied by the Adjudicator to CAA and by CAA to the parties under section 60(1B) of the Goods and Services Tax Act 1985, and the taxable supply information you receive is CAA's.

6.10 If the balance notified under clause 6.8 is not paid in full within ten Working Days of the notification, CAA may issue the taxable supply information under clause 6.9 and apply the funds it holds towards payment of it. In that case the Determination will not be released until the Adjudicator's fees and expenses are paid in full, unless the Adjudicator directs release earlier.

6.11 If the Adjudicator's fees and expenses are not paid in full within ten Working Days of the notification under clause 6.8, then, without affecting any other right of the Adjudicator or of CAA: (a) interest accrues for the Adjudicator's benefit on the amount unpaid at the rate of 5% per annum, calculated daily from the end of that period until payment in full; and (b) you must pay the Adjudicator's actual and reasonable costs of recovering any unpaid amount, including legal costs and disbursements. This clause confers a benefit on the Adjudicator, and the Adjudicator may enforce it against you. Nothing in this clause limits any interest or costs a court or tribunal may award.

6.12 All amounts are in New Zealand dollars. Except for the Application Fee, GST is payable in addition where applicable.

6.13 Payment of any amount to CAA's nominated bank account in accordance with these Terms discharges your obligation to pay that amount to the Adjudicator.

6.14 CAA holds each Security Deposit, and any payment of the Adjudicator's fees and expenses it receives, on trust for the person or persons entitled to the funds until they are disbursed in accordance with these Terms. CAA holds those funds in a bank account that CAA uses only for funds it holds for others and that is separate from CAA's operating account. CAA receives each payment of a Security Deposit, and each payment towards the Adjudicator's fees and expenses, as stakeholder for the person making that payment and for the Adjudicator, and not for the Adjudicator's benefit. CAA holds those funds in that character until the Adjudicator's fee is ascertained and CAA applies the funds held in payment of it under clause 6.9 or clause 7.2, from which time CAA holds so much of the funds as equals that fee for the Adjudicator, and any balance for the person or persons who paid it, pro rata to their contributions. By paying any amount to CAA's nominated bank account, the payer agrees that CAA receives and holds the payment as stakeholder on the terms of this clause.

6.15 Payment to CAA must be made by direct credit. CAA does not accept payment in cash. Payment must come from one of the following sources, and CAA may decline to accept, or may return, a payment received from any other source:

(a) an account in the name of the Claimant, the Respondent or an owner who is a party to the adjudication, held with a bank registered in New Zealand;

(b) the trust account of a law firm practising in New Zealand that CAA has recorded as acting for the Claimant, the Respondent or such an owner; or

(c) any other source that the Director approves in writing before the funds are applied.

6.16 CAA may require evidence of the identity of a payer and of the source of the funds, and may decline to accept or may return a payment, where CAA considers it necessary in order to comply with the law. CAA may make any report required of it by law, and is not obliged to give reasons for a decision under this clause or clause 6.15. Where CAA declines a payment it will return the funds to the account from which they were received.

## Part 7 — Refunds and statutory fee protections

7.1 In accordance with section 57(5) of the Act, if the Adjudicator fails to determine the dispute within the time allowed by section 46(2), the Adjudicator is not entitled to any fees or expenses. In that case, or where no notice of acceptance is received within five Working Days of the Adjudicator receiving the request to act (refer clause 8.2), CAA will refund the Security Deposit in full to the party or parties who paid it (pro rata to their contributions) within five Working Days.

7.2 If the adjudication ends early, for example because the claim is withdrawn under section 39, the dispute is settled, or the adjudication is otherwise terminated, and the Adjudicator remains entitled under section 57(7) to fees for the work done to that point, CAA will calculate the Adjudicator's fees for the work actually performed, issue its taxable supply information for

them, itemised as clause 6.8(e) provides, and refund any surplus of the Security Deposit to the party or parties who paid it (pro rata) within five Working Days of doing so.

7.3 Refunds will be made to the account from which payment was received, and to no other account, unless that account has been closed and the Director approves an alternative account in writing. If CAA receives a payment that exceeds the amount requested, CAA will return the excess to the account from which it was received.

7.4 Where an adjudication is completed and the Adjudicator's fees and expenses are less than the Security Deposit held, CAA will refund the difference to the party or parties who paid it (pro rata to their contributions) within five Working Days of CAA releasing the Determination.

## Part 8 — Intervening events

8.1 The adjudication may be affected by intervening events, including the Adjudicator's resignation, illness or unavailability; the Adjudicator's failure to serve a notice of acceptance within five Working Days of receiving the request to act; the Adjudicator's failure to determine the dispute within the time allowed; a settlement between the parties; or the Claimant's withdrawal of the claim under section 39.

8.2 Where the adjudication is not completed because the Adjudicator fails to determine the dispute in time (and so loses entitlement to fees under section 57(5)), or because you have not received a notice of acceptance from an adjudicator within five Working Days of the Adjudicator receiving the request to act, CAA will:

(a) notify the parties of the Claimant's right under section 66 of the Act to seek a fresh adjudication by serving a new Notice of Adjudication under section 28; and

(b) refund the Security Deposit in accordance with clause 7.1.

8.3 If the Claimant seeks a fresh adjudication after an event in clause 8.2 and asks CAA to nominate an adjudicator, the nomination process will begin again, but no further Application Fee will be payable.

8.4 Where the adjudication ends because of settlement, withdrawal or termination and the Adjudicator remains entitled to fees under section 57(7), clause 7.2 applies.

## Part 9 — Impartiality, independence and conflicts of interest

9.1 CAA requires a high standard of impartiality and independence from its Adjudicators. CAA adopts the IBA Guidelines as the standard for assessing, disclosing and managing conflicts of interest, and an Adjudicator will not accept a nomination if any circumstance on the IBA Non-Waivable Red List, Waivable Red List, or Orange List applies.

9.2 Before accepting a nomination, the Adjudicator must review the parties' details and the Notice of Adjudication and confirm that they are independent and free of conflict. The duty to disclose

any matter that may give rise to justifiable doubts as to impartiality or independence continues until the adjudication concludes.

9.3 CAA operates internal conflict protocols. If CAA's Director or case manager has an actual or perceived conflict in relation to the parties or a nominee, that person will not carry out the Suitability Audit or selection, which will be carried out instead by another suitably qualified person in accordance with the Manual.

## Part 10 — Confidentiality, privacy and data security

10.1 The adjudication is private. Information disclosed for the purposes of the adjudication is confidential under section 68 of the Act, and CAA, the Adjudicator and the parties must keep it confidential except as permitted by the Act or these Terms.

10.2 CAA will collect, use, store and disclose personal information in accordance with the Privacy Act 2020. You consent to CAA using the information you provide to process your Application, nominate an Adjudicator, administer the adjudication, and meet CAA's obligations as an ANA.

10.3 CAA holds documents and information securely, and exchanges them by email or by other means CAA directs, with confidentiality appropriate to the material.

10.4 CAA's Adjudicators are bound by the Manual's policy on the use of artificial intelligence.

## Part 11 — Communications and documents

11.1 Applications, documents and communications are submitted to CAA in writing, using CAA's forms and the contact details published on the Website. You must ensure that anything you send to CAA is complete and legible and is provided for the proper conduct of the adjudication.

11.2 You are responsible for the documents you provide, including ensuring that you are entitled to provide them and that they are free of malicious software. CAA may refuse or return material that is unlawful or inappropriate.

11.3 CAA is not responsible for delays or failures in transmission caused by email or postal systems, or by other matters beyond CAA's reasonable control, but will take reasonable steps to address any material disruption to its service.

11.4 You must copy each document that you serve in the adjudication to CAA at the same time as you serve it, quoting the claim reference. CAA holds copies for its records only. CAA does not administer, monitor, or communicate the timetable of the adjudication, does not confirm or verify service or receipt, and directions about the timetable, including any variation of a period under the Act, are for the Adjudicator alone.

## Part 12 — Your obligations and warranties

12.1 You warrant that:

(a) the information and documents you provide are true, complete and not misleading;

(b) you have validly served the Notice of Adjudication in accordance with the Act;

(c) you have the right to refer the dispute to adjudication; and

(d) if you act as agent, you are authorised to bind the Claimant; and

(e) the funds you pay to CAA are not the proceeds of an offence, and neither you nor any person on whose behalf you pay is a designated terrorist entity or a person designated under any sanctions regime that applies in New Zealand.

12.2 You must pay the Application Fee, the Security Deposit, and the Adjudicator's fees and expenses when due, and otherwise co-operate in good faith with CAA and the Adjudicator in the conduct of the adjudication.

12.3 You must not contact a shortlisted or nominated Adjudicator directly to influence the nomination, and must not attempt to interfere with the random selection process.

## Part 13 — Complaints about an adjudicator

13.1 CAA maintains a formal, independent complaints process, overseen by CAA's Advisory Board, to deal with concerns about an Adjudicator's conduct or performance of their functions and duties under the Act.

13.2 The complaints process is not an appeal. It cannot be used to challenge the substance of a Determination or to have a Determination overturned. A party who wishes to challenge a Determination may pursue its rights under the Act or at law.

13.3 A complaint must be made in writing to CAA's Director and include your name and contact details, the name of the Adjudicator, clear details of the alleged failure or misconduct, and any supporting documents. Complaints may be emailed to complaints@nzcaa.co.nz. The full process is published on the Website.

13.4 A complaint about an Adjudicator's general professional conduct outside their role as a CAA Adjudicator may be referred to the New Zealand Law Society or AMINZ.

## Part 14 — Liability

14.1 CAA's role is limited as described in clause 3.4. CAA is not responsible for the conduct of the Adjudicator, the conduct or outcome of the adjudication, or any Determination. Any concern about an Adjudicator's conduct or performance should be raised through the complaints process.

14.2 To the maximum extent permitted by law, you release and discharge CAA and its directors, officers, employees, Advisory Board, and agents from all liability of any kind (whether in negligence, breach of contract, breach of fiduciary duty, breach of statutory duty or otherwise) arising in connection with, resulting from, or in any way relating to the exercise of CAA's

functions, duties or powers as an authorised nominating authority, unless the relevant act or omission is fraudulent.

14.3 To the maximum extent permitted by law, CAA is not liable for any indirect or consequential loss, and CAA's total aggregate liability in connection with an Application or adjudication (if liability is established despite clause 14.2) is limited to the amount of the Application Fee paid for that Application.

14.4 Nothing in these Terms limits any liability that cannot be limited or excluded by law. Where you apply in trade, you agree that the Consumer Guarantees Act 1993 and sections 9, 12A and 13 of the Fair Trading Act 1986 do not apply.

## Part 15 — Variation and term

15.1 CAA may amend these Terms from time to time by publishing updated Terms on the Website. The Terms that apply to an Application are those in force when the Application is made.

15.2 These Terms apply to each Application and continue, in respect of an adjudication, until the adjudication and all related payments and refunds are completed. The clauses relating to confidentiality, liability and general matters survive completion.

## Part 16 — General

16.1 These Terms and each Application are governed by New Zealand law, and you submit to the non-exclusive jurisdiction of the New Zealand courts.

16.2 Notices under these Terms may be given by email to the addresses notified by the parties. CAA's address for notices is published on its Website.

16.3 If there is any inconsistency, the Act and the Regulations prevail, then these Terms, then the Manual.

16.4 A failure or delay by CAA in exercising a right is not a waiver of that right.

16.5 You may not assign your rights under these Terms without CAA's written consent. CAA may assign or transfer its rights and obligations on reasonable notice.

16.6 If any provision of these Terms is held to be invalid or unenforceable, it is severed and the remaining provisions continue in force.

16.7 These Terms, together with the documents they refer to, record the entire agreement between you and CAA in relation to the nomination service and supersede any prior understanding.

16.8 Each Adjudicator authorises CAA to act as their agent for the limited purposes of serving the notice of willingness to act, the notice of acceptance, and the Determination, and of receiving payment of the Adjudicator's fees and expenses once CAA applies funds held under clause 6.14. CAA issues taxable supply information as clause 6.9 provides. CAA receives each Security Deposit and each payment towards the Adjudicator's fees and expenses as stakeholder under

clause 6.14, and not as the Adjudicator's agent. Nothing in these Terms makes CAA a party to the adjudication or to the construction contract.

16.9 Clause 6.11, and each other provision of these Terms that confers or purports to confer a benefit on the Adjudicator, is intended to create an obligation enforceable by the Adjudicator under section 12 of the Contract and Commercial Law Act 2017. Clause 14.2 is intended in the same way to be enforceable by each person referred to in it who is not a party to these Terms. This clause does not limit any right that any other person has under these Terms or at law.

**Acceptance.** By submitting an Application to CAA and paying the Application Fee, you confirm that you have read and agree to these Terms and, where you act as agent, that you are authorised to bind the Claimant.

# SCHEDULE 6 – NOTICE OF WILLINGNESS TO ACT AND REQUEST FOR SECURITY DEPOSIT

CONSTRUCTION ADJUDICATION AUTHORITY

# NOTICE OF WILLINGNESS TO ACT AS ADJUDICATOR AND REQUEST FOR SECURITY DEPOSIT

SECTION 35(1), CONSTRUCTION CONTRACTS ACT 2002

| | |
|---|---|
| DATE | {{NoticeDate}} |
| FROM | {{AdjudicatorName}}, Adjudicator \| {{AdjudicatorEmail}} \| {{AdjudicatorPhone}} |
| TO | {{ClaimantName}}, Claimant \| {{ClaimantEmail}} |
| REPRESENTATIVE | {{ClaimantRepName}}, for the claimant \| {{ClaimantRepEmail}} |
| AND TO | {{RespondentName}}, Respondent \| {{RespondentEmail}} |
| REPRESENTATIVE | {{RespondentRepName}}, for the respondent \| {{RespondentRepEmail}} |
| AND TO | {{OwnerName}}, Owner (a party under section 32) \| {{OwnerEmail}} |
| REPRESENTATIVE | {{OwnerRepName}}, for the owner \| {{OwnerRepEmail}} |
| SERVED BY | Construction Adjudication Authority Limited (CAA), the authorised nominating authority, as my agent |
| CLAIM REFERENCE | {{ClaimRef}} |

## 1. Willingness to act

1.1 I am willing and able to act as adjudicator in this matter, subject to the conditions set out below, and I meet the criteria for appointment in section 34 of the Act.

1.2 CAA nominated me at the claimant's request under section 33(1)(d) of the Act and serves this notice on my behalf.

## 2. Impartiality and independence

2.1 I am independent of each of the parties and intend to remain so. To the best of my knowledge there are no circumstances, past or present, likely to give rise to justifiable doubts as to my impartiality or independence.

2.2 I have read and understood the IBA Guidelines on Conflicts of Interest in International Arbitration (2024). No circumstance described in the Non-Waivable Red List, the Waivable Red List or the Orange List applies.

2.3 I undertake to disclose to every party any circumstance arising in the future that may give rise to justifiable doubts as to my impartiality or independence, until the adjudication is concluded.

2.4 I disclose the following: {{Disclosure}}

## 3. My fees

3.1 I charge for the time I spend on the adjudication at an hourly rate of {{HourlyRate}} excluding GST, together with any expenses I reasonably incur and any other amount an adjudicator may charge under the Act. My hourly rate includes CAA's case-management charge.

3.2 The Act contemplates that the parties will meet my fees and expenses in equal proportions unless the grounds in section 57(4) are made out.

3.3 When I have completed my determination, CAA will calculate my fee and notify the parties of the balance required to release the determination. CAA will issue its taxable supply information for my fee to each paying party, dated the date of its request for payment, when it holds payment in full.

## 4. Request for security deposit

4.1 I require a security deposit of {{DepositAmount}} ({{DepositBasis}}) to be paid before I serve a notice of acceptance. Payment of the whole amount is requested from the claimant, as the party seeking the appointment. This does not affect the parties' liability for my fees and expenses under section 57 of the Act. Any party may pay, and payment in full secures my appointment.

4.2 This notice is a request for payment, not taxable supply information. CAA receives each payment as stakeholder for the payer and for me, and not for my benefit, until my fee is ascertained and CAA applies the funds in payment of it (refer paragraph 3.3). By paying, each payer agrees that CAA receives and holds the payment on those terms, and agrees to the basis on which my fees and expenses are calculated in paragraph 3.

4.3 The security deposit is neither an estimate of the cost of the adjudication nor a cap on it. My fee is calculated on the time I spend at the rate in paragraph 3.1, together with expenses.

## 5. How to pay

5.1 Payment is by direct credit only, to:

| | |
|---|---|
| ACCOUNT NAME | CONSTRUCTION ADJUDICATION AUTHORITY LTD |
| ACCOUNT NUMBER | 06-0145-0851500-03 |
| PARTICULARS | {{ClaimRef}} |
| REFERENCE | The payer's name (up to 12 characters) |

5.2 Payment must come from one of the following sources, and CAA may decline to accept, or may return, a payment received from any other source:

(a) an account in the name of a party to this adjudication, held with a bank registered in New Zealand;

(b) the trust account of a law firm practising in New Zealand that CAA has recorded as acting for a party to this adjudication; or

(c) any other source that CAA's Director approves in writing before the funds are applied.

5.3 A refund of a security deposit, and the return of any amount paid in excess of the amount requested, is made only to the account from which the payment was received.

5.4 **Important:** these account details will not change during the adjudication. CAA will never notify a change of account details by email. Any message purporting to do so should be treated as fraudulent and reported to CAA by telephone on +64 9 973 0777.

5.5 Please email CAA at registry@nzcaa.co.nz to confirm the transaction, quoting the claim reference.

## 6. What happens next

6.1 I will serve a notice of acceptance under section 35A of the Act immediately on payment of the security deposit in cleared funds. The adjudication commences when that notice is served, and the statutory timetable runs from that point.

{{AdjudicatorName}}
Adjudicator

Served by Construction Adjudication Authority Limited as agent for the adjudicator.

# SCHEDULE 7 – NOTICE OF ACCEPTANCE

CONSTRUCTION ADJUDICATION AUTHORITY

# NOTICE OF ACCEPTANCE OF APPOINTMENT AS ADJUDICATOR

SECTIONS 35(2) AND 35A, CONSTRUCTION CONTRACTS ACT 2002

| | |
|---|---|
| DATE OF SERVICE | {{ServiceDate}} |
| FROM | {{AdjudicatorName}}, Adjudicator \| {{AdjudicatorEmail}} \| {{AdjudicatorPhone}} |
| TO | {{ClaimantName}}, Claimant \| {{ClaimantEmail}} |
| REPRESENTATIVE | {{ClaimantRepName}}, for the claimant \| {{ClaimantRepEmail}} |
| AND TO | {{RespondentName}}, Respondent \| {{RespondentEmail}} |
| REPRESENTATIVE | {{RespondentRepName}}, for the respondent \| {{RespondentRepEmail}} |
| AND TO | {{OwnerName}}, Owner (a party under section 32) \| {{OwnerEmail}} |
| REPRESENTATIVE | {{OwnerRepName}}, for the owner \| {{OwnerRepEmail}} |
| COPY TO | Construction Adjudication Authority Limited, the authorised nominating authority \| registry@nzcaa.co.nz |
| SERVED BY | Construction Adjudication Authority Limited (CAA), the authorised nominating authority, as my agent |
| CLAIM REFERENCE | {{ClaimRef}} |

## Acceptance of appointment as adjudicator

I {{AdjudicatorName}} accept appointment as adjudicator under section 35 of the Construction Contracts Act 2002 to determine a dispute between {{ClaimantName}} and {{RespondentName}}.

I confirm that I meet the eligibility criteria for adjudicators under section 34 of the Construction Contracts Act 2002.

## Contact details of adjudicator

| | |
|---|---|
| ORGANISATION NAME (IF APPLICABLE) | {{AdjudicatorOrganisation}} |
| ADDRESS FOR SERVICE | {{AdjudicatorServiceAddress}} |
| TELEPHONE | {{AdjudicatorPhone}} |
| EMAIL | {{AdjudicatorEmail}} |

## I was requested to act as adjudicator by -

Construction Adjudication Authority Limited, an authorised nominating authority chosen by the claimant under section 33(1)(d) of the Construction Contracts Act 2002, because the parties could not or did not agree on an adjudicator or a nominating body.

## Next steps and time frames

The time frames for the adjudication process have commenced. These include strict time frames for each party to give the adjudicator and the other party certain information.

*For the claimant*

You, {{ClaimantName}}, must within 5 working days of receiving this notice refer the dispute to the adjudicator by serving a written adjudication claim on the adjudicator. The adjudication claim—

- must set out the nature or the grounds of the dispute; and
- must be accompanied by a copy of the notice of adjudication (to the extent that it is still relevant); and
- may be accompanied by any other documents.

You must also serve a copy of the adjudication claim and any accompanying documents on every other party to the adjudication (either before or immediately after they are served on the adjudicator).

The adjudication claim can be served on the adjudicator and the other parties in the following ways:

- by delivering it to the recipient in person; or
- by leaving it at the recipient's usual or last known place of residence or business in New Zealand; or
- by posting it in a letter addressed to the recipient at the recipient's place of residence or business in New Zealand; or
- by fax; or
- with the consent of the recipient, by email or other means of electronic communication.

**Important: The 5-working-day period for providing the adjudication claim has already commenced. If you do not know how to write an adjudication claim, you should consult a lawyer immediately.**

If the respondent serves a written response to the adjudication claim on the adjudicator, you have 5 working days in which to serve the adjudicator with a written reply to that response.

A copy of the response and any accompanying documents must also be served on you and every other party to the adjudication either before or immediately after they are served on the adjudicator. A copy of the reply to a response and any accompanying documents must also be served on the respondent and every other party to the adjudication either before or immediately after they are served on the adjudicator.

**Note**: If your reply to a respondent's response raises any new material or issues, an adjudicator may refuse to consider the new material or issue.

*For the respondent*

You, *{{RespondentName}}*, can serve a written response to the adjudication claim on the adjudicator within 5 working days after receiving the claim or the adjudicator's notice of acceptance (whichever is later).

The response may be accompanied by any other documents that you consider useful.

You must also serve a copy of the response and any accompanying documents on the claimant and every other party to the adjudication either before or immediately after these documents are served on the adjudicator.

The written response can be served on the adjudicator and the other parties in the following ways:

- by delivering it to the recipient in person; or
- by leaving it at the recipient's usual or last known place of residence or business in New Zealand; or
- by posting it in a letter addressed to the recipient at the recipient's place of residence or business in New Zealand; or
- by fax; or
- with the consent of the recipient, by email or other means of electronic communication.

**Important: If you do not know how to write a response to an adjudication claim, you should consult a lawyer immediately.**

**Note**: If you want to serve a written response but cannot meet the time frame of 5 working days, you can ask the adjudicator or the other parties to the adjudication for further time.

If a request for further time is made to the adjudicator before the end of the 5-working day period, the adjudicator must allow further time to serve a written response if the adjudicator considers it necessary, having regard to the size or complexity of the claim or because, in the adjudicator's opinion, the claim was served with undue haste and you have had insufficient time to prepare a response.

The adjudicator may also allow further time to serve a written response if the adjudicator considers further time is reasonably required for any reason.

The claimant may serve the adjudicator with a written reply to your response. If this happens, the adjudicator may allow you up to 2 working days to serve a rejoinder to the reply.

*Adjudicator's determination*

The adjudicator must make a decision within 20 working days after the end of the period during which the respondent can serve a written response.

The adjudicator can extend this time frame by up to 10 working days if the adjudicator thinks more time is reasonably required. The parties can also agree to extend the time limit for any period.

The adjudicator's decision is called a **determination**. The determination must be in writing and dated. The determination must contain the reasons for the decision, unless the parties agree in writing that reasons do not need to be given. The adjudicator must give a copy of the determination to all parties as soon as practicable after making it.

## Important procedural matters

Prompt decisions are needed to ensure that certain procedural matters are dealt with within the time frame in which the adjudicator must make a determination.

*Representation*

All parties can be represented by legal or other representatives. However, the adjudicator may limit the number of representatives present at any meeting so that the meeting can be conducted efficiently.

*Multiple disputes*

If 2 or more adjudication proceedings are pending and all of the parties give their written consent, it is possible for the adjudicator to determine all of the adjudication proceedings at the same time.

*Confidentiality*

All information that is disclosed during an adjudication for the purposes of the adjudication is confidential (to the extent that it is not already public). Any statement, admission, or document that is created or made for the purposes of an adjudication is also confidential.

Neither the adjudicator nor any party to the dispute may disclose the information except—

- with the consent of the relevant party; or
- to the extent that the disclosure is necessary to the adjudication or for the enforcement of the adjudicator's determination; or
- in statistical or summary form where no particular person can be reasonably identified; or
- where the information is to be used for statistical or research purposes (and will not be published in a way in which any particular person can reasonably be identified).

*Costs and fees*

In most cases, the parties to the adjudication must meet their own costs and expenses.

However, the adjudicator can determine that costs and expenses must be met by one of the parties to the adjudication if that party has caused those costs and expenses to be unnecessarily incurred either by bad faith or by allegations or objections that are without substantial merit.

**Note:** Any agreement made before the dispute arose about how the costs and expenses in adjudication proceedings are to be apportioned is not binding.

The adjudicator is only entitled to be paid fees and expenses from the date of acceptance, subject to section 57(5) of the Act.

The adjudicator is entitled to be paid fees and expenses in connection with the adjudication only if he or she determines the dispute within the required time.

The adjudicator's fees and expenses must usually be met equally by the parties to the adjudication. However, the adjudicator may determine that—

- one party must bear a greater share of the adjudicator's fees and expenses if that party behaved in a contemptuous or improper manner during the adjudication; or
- the claimant must bear a greater share of the adjudicator's fees and expenses because the claim was (substantially) without merit; or
- the respondent must bear a greater share of the adjudicator's fees and expenses because the respondent's response was (substantially) without merit.

The adjudicator's fees and expenses will be calculated as follows:

- My fees and expenses are calculated on the time I spend on the adjudication at an hourly rate of {{HourlyRate}} excluding GST, together with any expenses I reasonably incur, as set out in my notice of willingness to act. The rate includes CAA's case-management charge. GST is payable in addition where applicable.

The adjudicator may require the parties to pay the adjudicator's fees and expenses before communicating his or her determination.

*Can other methods be used to resolve the dispute?*

Any party can submit the dispute to another dispute resolution procedure (such as to a court or tribunal or to mediation) at any time, as well as to adjudication. Another dispute resolution procedure can take place concurrently with the adjudication. However, if another dispute resolution procedure resolves the dispute before the adjudicator makes his or her determination, the adjudicator will have to terminate the adjudication proceedings.

Adjudication proceedings may also be withdrawn. The claimant can withdraw an adjudication claim by giving written notice to the adjudicator, unless—

- the respondent objects; and
- the adjudicator accepts that the respondent has a legitimate interest in obtaining a determination.

The parties to the adjudication can also agree to an adjudication claim being withdrawn.

{{AdjudicatorName}}
Adjudicator

Served by Construction Adjudication Authority Limited as agent for the adjudicator.

# SCHEDULE 8 – DETERMINATION TEMPLATE

CONSTRUCTION ADJUDICATION AUTHORITY

# ADJUDICATOR'S DETERMINATION

UNDER THE CONSTRUCTION CONTRACTS ACT 2002

{{ClaimantName}}, Claimant

and

{{RespondentName}}, Respondent

Claim reference {{ClaimRef}}

[DATE OF DETERMINATION]

## DETERMINATION DETAILS

| | |
|---|---|
| NAME OF ADJUDICATOR | {{AdjudicatorName}} |
| DATE OF DETERMINATION | [DATE] |

### Claimant

| | |
|---|---|
| NAME | {{ClaimantName}} |
| ADDRESS | {{ClaimantAddress}} |
| TELEPHONE (HOME / BUSINESS) | {{ClaimantPhone}} |
| EMAIL ADDRESS | {{ClaimantEmail}} |

### Respondent

| | |
|---|---|
| NAME | {{RespondentName}} |
| ADDRESS | {{RespondentAddress}} |
| TELEPHONE (HOME / BUSINESS) | {{RespondentPhone}} |
| EMAIL ADDRESS | {{RespondentEmail}} |

### Other party (if any)

| | |
|---|---|
| NAME | {{OwnerName}} |
| ADDRESS | {{OwnerAddress}} |
| TELEPHONE (HOME / BUSINESS) | {{OwnerPhone}} |
| EMAIL ADDRESS | {{OwnerEmail}} |

### Details of dispute

| | |
|---|---|
| DATE OF CLAIM | [DATE ADJUDICATION CLAIM SERVED] |
| NATURE OF DISPUTE | [NATURE OF DISPUTE] |
| RELIEF SOUGHT | [RELIEF SOUGHT] |

## DETERMINATION

### Content of determination

[A] [CONTENT OF DETERMINATION]

Important: See below the statement of consequences of not complying with this determination.

## REASONS FOR DETERMINATION

[1] [REASONS FOR DETERMINATION]

## CHARGING ORDER

(a) Was a charging order sought over land owned by the respondent? Yes/No

**or**

(b) Was a charging order sought over land owned by a person other than the respondent? Yes/No

### Details of charging order

[2] [GIVE DETAILS OF ANY CHARGING ORDER IF APPLICABLE. OTHERWISE DELETE THIS DETAILS OF CHARGING ORDER SECTION.]

**{{AdjudicatorName}}**
Adjudicator
[DATE]

## CORRECTION

An adjudicator may, on his or her own initiative, correct in the determination any errors in computation or any clerical or typographical errors, or any errors of a similar nature, within 2 working days of the parties being given their copies of the determination. You should read the determination thoroughly as soon as you get it. If you think there are any such errors, you should tell the adjudicator at once, so they can be corrected within the time allowed.

## IMPORTANT

### Statement of consequences for defendant if the defendant takes no steps in relation to an application by a plaintiff to enforce the adjudicator's determination by entry as a judgment

If the adjudicator's determination states that you, as a party to the adjudication, are liable to make a payment and you fail, before the close of the relevant date, to pay the amount determined by the adjudicator, the plaintiff may do all or any of the following:

(a) recover from you, as a debt due, in any court,—

(i) the unpaid portion of the amount; and

(ii) the actual and reasonable costs of recovery awarded against you by that court:

(b) if the plaintiff carries out construction work under a construction contract, serve notice on you of the plaintiff's intention to suspend carrying out construction work under the contract:

(c) apply for the adjudicator's determination to be enforced by entry as a judgment in accordance with subpart 2 of Part 4 of the Construction Contracts Act 2002 (the "fast-track" provisions in the Act).

If the adjudicator makes a determination about rights and obligations and any party fails to comply with the determination, the party who wishes to enforce the determination may apply for the adjudicator's determination to be enforced by entry as a judgment in accordance with subpart 2 of Part 4 of the Construction Contracts Act 2002.

**Defendant** means a party—

(a) against whom an adjudication determination is made; and

(b) [Revoked]

(c) against whom enforcement of the determination is sought.

**Plaintiff** means a party—

(a) in whose favour an adjudication determination is made; and

(b) [Revoked]

(c) who seeks enforcement of the determination.

**Relevant date** means—

(a) the date that occurs 2 working days after the date on which a copy of the relevant determination is given to the parties to the adjudication; or

(b) if the adjudicator determines a later date, that later date.