

**STANDARD TERMS OF ENGAGEMENT OF KEVIN P HAYES, FRICS, FCI Arb
FOR ACTING AS ADJUDICATOR**

1. The Referring Party is of('the Referring Party').
2. The Responding Party is of ('the Responding Party').
3. The Adjudicator is Kevin Paul Hayes of Berryfield, Glenfarg, Perth PH2 9QJ ('the Adjudicator').
4. A dispute has arisen between the Parties under a contract between them. The dispute has been referred to adjudication pursuant to the Housing Grants, Construction and Regeneration Act 1996 (as amended by Local Democracy, Economic Development and Construction Act 2009 (Part 8)).
5. The Adjudicator, having been agreed between the Parties or nominated by an adjudicator nominating body or named in the contract between the Parties under which the dispute has arisen, has accepted the appointment to act.
6. The Adjudicator shall be entitled to payment of his fees and expenses as set out in the Schedule of Adjudicator's Charges below and in accordance with these terms of engagement.
7. The Parties shall be jointly and severally liable for payment of the fees and expenses of the Adjudicator. The following provisions of these terms of engagement are without prejudice to the joint and several liability of the Parties.
8. Within 7 days of the Parties receiving the Adjudicator's Decision the fees of the Adjudicator shall be paid by one or other of the Parties or by both of the Parties in such proportions as stated in the Adjudicator's Decision.
9. Irrespective of whatever apportionment the Adjudicator's decides in respect of liability between the Parties for the cost of the Adjudicator's fees and expenses, the Adjudicator may at his sole discretion include in his Adjudicator's Decision a direction requiring the Referring Party to pay the whole of his fees and expenses. In that event the Adjudicator's Decision will also include a direction requiring any amount paid by the Referring Party that exceeds his liability (as decided in the Adjudicator's Decision) to be reimbursed by the Responding Party within 7 days of the Parties receiving the Adjudicator's Decision.
10. If the timetable in the adjudication is extended beyond 28 days, the Adjudicator shall be entitled to payments-on-account of his fees and expenses by the Referring Party within 3 days of the date of any application.
11. If terms for a settlement of the dispute are agreed between the Parties before a Decision is made, the fees and expenses of the Adjudicator properly payable shall be paid by the Party or Parties responsible for so doing under the terms of the settlement within 7 days of notification of the amount due.
12. If before a Decision is made the adjudication is discontinued because the Adjudicator considers that he lacks jurisdiction or because the Referring Party withdraws from the reference, the fees and expenses of the Adjudicator properly payable shall be paid by the Parties in whatever proportion the Adjudicator may at his sole discretion decide. Payment shall be made within 7 days of notification of the amount due.
13. If before the adjudication is concluded one of the Parties becomes bankrupt or goes into administrative receivership, administration or liquidation and the adjudication as a result is discontinued before the Adjudicator has reached a Decision, the other Party shall pay the whole of the Adjudicator's fees and expenses within 7 days of notification of the amount due.
14. The Adjudicator shall be entitled to recover at his normal hourly rate any time spent pursuing payment of his fees and expenses.

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15. Subject to first notifying the Parties of his intention to use assistants and the hourly rates applicable, and providing the Adjudicator shall not delegate the making of his Decision or the making of any part of his Decision, the Adjudicator may use assistants to assist him in discharging any of the duties required by his appointment as the Adjudicator. If either Party objects to the use of assistants, the Adjudicator is to be advised in writing by 1630 on the day following receipt of notification from the Adjudicator.
 16. A decision of a court that the Adjudicator's decision on the dispute, or on any part of the dispute, is not enforceable, shall not have the effect of annulling, reducing or otherwise affecting the joint and several liability of the Parties for payment of the fees and expenses of the Adjudicator.
 17. Where the Parties are professionally represented, the representative or advocate shall owe like duties to the Adjudicator as he or she would when conducting a case before a court in the jurisdiction of England and Wales or Scotland, as the case may be.
 18. The Adjudicator reserves the right to direct that any meeting or hearing of the Parties before him is conducted virtually by way of a video conference to be arranged by whichever of the Parties the Adjudicator directs.
 19. The Adjudicator and the Parties shall keep the adjudication confidential, except so far as is necessary to enable a Party to implement or enforce the Adjudicator's Decision. This confidentiality shall not apply in any subsequent arbitration or litigation concerning or in connection with the substantive dispute or the Adjudicator's appointment.
 20. The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as the Adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith, and any assistant, employee or agent of the Adjudicator shall be similarly protected from liability. The Parties shall jointly and severally indemnify the Adjudicator (including any assistant, employee or agent of the Adjudicator) against any third party claims arising from or in connection with the discharge or purported discharge of his functions as the Adjudicator (whether in negligence or otherwise) unless the act or omission is in bad faith.
 21. Following conclusion of the adjudication, the Adjudicator may destroy or return any documentation provided by the Parties.
 22. These terms of engagement shall be interpreted in accordance with the law of England or Scotland, whichever is applicable.

Schedule of Adjudicator's Charges

1. The Adjudicator shall be paid £285.00 per hour in respect of all time spent on the adjudication, including travelling time subject to a limit of 1 hour in each direction.
2. The hourly rates for any assistants, as notified by the Adjudicator, shall be commensurate with the qualifications and experience of the persons concerned having regard for the hourly rate of the Adjudicator.
3. The Adjudicator shall be reimbursed his reasonable expenses and disbursements, in respect of travelling, hotel and similar expenses, room charges, the cost of legal or technical advice obtained by prior agreement of the Parties and any other expenses necessarily incurred. Travel by car shall be charged at 60 pence per mile.
4. The fees and expenses of the Adjudicator are not subject to Value Added Tax.