

# Respondent's Adjudication Response

**Adjudicator:** \_\_\_\_\_

**Authorised Nominating Authority (ANA):**

Adjudicate Today Pty Ltd  
Level 30, Westpac House  
91 King William Street  
ADELAIDE SA 5000  
Ph: 1300 760 297; Fax: 1300 760 220

**Adjudication Application Number:** \_\_\_\_\_

**Description of Project:** \_\_\_\_\_

**Date of Claimant's service of Payment Claim on Respondent:** \_\_\_\_\_

**Claimed amount:** \$ \_\_\_\_\_

**Date of Respondent's service of Payment Schedule on Claimant:** \_\_\_\_\_

**Scheduled amount:** \$ \_\_\_\_\_

**Name of Claimant:** \_\_\_\_\_

**Claimant ABN:** \_\_\_\_\_

**Claimant ACN:** \_\_\_\_\_

**Claimant's address:** \_\_\_\_\_

**Name of Respondent:** \_\_\_\_\_

**Respondent ABN:** \_\_\_\_\_

**Respondent ACN:** \_\_\_\_\_

**Respondent's address:** \_\_\_\_\_

**Date of Claimant's service of Adjudication Application on Respondent:** \_\_\_\_\_

**Date on which the Respondent received notification of the Adjudicator's acceptance of the Adjudication Application:** \_\_\_\_\_

The scheduled amount is less than the claimed amount for the reasons set out in the Respondent's Payment Schedule. In support of those reasons, the Respondent provides further information set out in the attachments below and makes the following submissions:

**Submissions:** Note: Provide submissions to support the reasons set out in the Payment Schedule. If lengthy, list and attach submissions as a referenced document.

**List of attachments:** Note: List and attach all the referenced documents

Signed (Respondent): \_\_\_\_\_ Date \_\_\_\_\_

# Adjudication Response Index

The Adjudication Response is arranged as follows, with key documents found behind the indicated tabs 📄.

DOCUMENT	TAB No. 📄
<b>Written submissions</b> Refer to sections <b>4a)i and 4a)ii</b> of attached checklist	Tab No. _____
<b>Payment Schedule</b> Refer to sections <b>4b)i &amp; 4b)ii</b> of attached checklist	
i. The Payment Schedule	Tab No. _____
ii. Written confirmation of the date and method by which the Claimant received the Payment Schedule from the Respondent	Tab No. _____
<b>Payment Claim</b> Refer to sections <b>4c)i &amp; 4c)ii</b> of attached checklist	
i. The Payment Claim	Tab No. _____
ii. Written confirmation of the date and method by which the Claimant served the Payment Claim on the Respondent	Tab No. _____
<b>Section 17(2) Notice (if applicable)</b> Refer to sections <b>4d)i and 4d)ii</b> of attached checklist	
i. The Section 17(2) notice	Tab No. _____
ii. Written confirmation of the date and method by which the Respondent received the Section 17(2) notice from the Claimant	Tab No. _____
<b>Any supporting documents</b> Refer to sections <b>4d) and 4f)</b> of attached checklist	
i. The Construction Contract / details of oral agreement made	Tab No. _____
ii. Other supporting documents	Tab No. _____

Use of this index template is not mandatory, but may assist both the compilation and processing of an Adjudication Response. The Respondent may prefer to refer to page numbers instead of inserting tabs.

# Adjudication Response Checklist

## Notes for guidance of the Respondent

1. The Respondent can only lodge a submission with the Adjudicator (the Adjudication Response) if the Respondent has provided a Payment Schedule to the Claimant within:
  - a) 15 business days allowed by the Act (or such shorter period as may be provided in the contract after being served with the Payment Claim) or
  - b) 5 business days allowed by the Act after being served with a notice from the Claimant of the intention to apply for Adjudication as a result of the Claimant not being paid by the due date for payment and not being provided with a Payment Schedule under s.14 of the Act.
  - Please refer to s.14 of the Act for explanation of the term *Payment Schedule*.
2. The Adjudicator cannot consider a submission made by the Respondent after the later of:
  - a) 5 business days after the Respondent received a copy of the Adjudication Application; or
  - b) 2 business days after the Respondent received notice of the Adjudicator's acceptance of the application.
3. The Respondent's Adjudication Response must:
  - a) be in writing
  - b) be addressed to the Adjudicator and be received by the Adjudicator within time
  - c) at the same time be served on the Claimant
  - d) identify the Adjudication Application to which it relates
  - e) must not include any reasons for withholding payment unless those reasons have been included in the Payment Schedule
4. The Respondent's Adjudication Response may contain:

### Written submissions

- a)
  - i. A written submission by the Respondent relevant to the response, providing full details of reasons given in support of the Payment Schedule for withholding payment of any amount of the Payment Claim.
  - Important:**
  - ii. Submissions are essentially arguments in support of the Respondent's case. The Adjudicator cannot be expected to assume that something said by the Respondent in a letter or minutes of a meeting or other supporting document, is true. As supporting documents usually don't speak for themselves, in the written submissions the Respondent should state what each supporting document is and how the Respondent contends that the supporting document supports the Respondent's case. The written submissions may include legal arguments, arguments on the interpretation of the contract or other arguments. If the Respondent wants to contend that something in a supporting document is true, the Respondent should say so in the written submissions. If the Respondent fails to do so the Adjudicator might draw the inference that the Respondent is not prepared to argue that the statement is true.

### Payment Schedule

- b)
  - i. The Payment Schedule
  - ii. Written confirmation of the date and method by which the Claimant received the Payment Schedule from the Respondent (eg; facsimile transmission report, postal details including postal address, etc);

### Payment Claim

- c)
  - i. The Payment Claim;
  - ii. Written confirmation of the date and method by which the Respondent received the Payment Claim from the Claimant (eg; facsimile, postal details, etc);

### Section 17(2) notice

- d) i. The Section 17(2) notice (required to be served by the Claimant on the Respondent if no Payment Schedule was served within the initial 15 days of receipt of the Payment Claim or shorter period as provided for under the relevant construction contract) and the Respondent failed to pay the whole or part of the claimed amount by the due date for payment;
- ii. Written confirmation of the date and method by which the Respondent received the Section 17(2) notice from the Claimant (eg; facsimile, postal details, etc);

### Supporting documents

- e) A copy of the construction contract or details of an oral agreement made between the parties;
- f) Supporting documents necessary to evidence or support the reasons in (a)i above may be attached. These may include, for example, expert reports and photographs evidencing defective work, statements from witnesses, letters and minutes from meetings;

### General:

This information is necessarily very brief. The Respondent should not rely upon it but should study the Act and perhaps obtain expert advice. Unless invited by the Adjudicator [see s.21(4) of the Act], the Respondent has no right to make further submissions after lodging its Adjudication Response. Consequently it is most important that the initial submissions are complete.

*Building and Construction Industry Security of Payment Act 2009 (SA)*  
is available at:  
[http://www.adjudicate.com.au/pdf/sa\\_2009\\_Act.pdf](http://www.adjudicate.com.au/pdf/sa_2009_Act.pdf)

### Is the Adjudication Response being lodged electronically?

You acknowledge and agree to provide to Adjudicate Today one (1) hard copy of any electronic files uploaded to Adjudicate Today within two (2) business days. If a hard copy is not provided and Adjudicate Today determines in its absolute discretion to print the files, we will take reasonable care to ensure accurate printing of electronic files. However, we make no warranty or representation, express or implied that the printing will be accurate or complete. Therefore Adjudicate Today shall not be liable in any manner whatsoever for direct, indirect, incidental, consequential or punitive damage resulting from errors in the printing of the electronic files. Adjudicate Today shall not be liable in any way for possible errors or omissions in the contents of the printing. The cost of the printing will be charged to you at commercial printing rates plus staff time at fifty-five (\$55) dollars per hour (including GST) for all time necessary and incidental to the printing.

The hard copy of the Adjudication Response may be lodged at any of the state offices listed below.

Please confirm whether a hard copy will be provided:  Yes  No

If Yes, please indicate which state office the hard copy will be lodged with \_\_\_\_\_

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Suite 2	Level 18	Level 27	Level 1	Level 6	Level 30	
Mona Vale Business	324 Queen Street	101 Collins Street	The Realm	Reserve Bank Building	Westpac House	
90 Mona Vale Road	Brisbane City QLD 4000	Melbourne VIC 3000	18 National Circuit	111 Macquarie Street	91 King William Street	
Mona Vale NSW 2103			Barton ACT 2600	Hobart TAS 7000	Adelaide SA 5000	
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