

# Respondent's Adjudication Response

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

**Nominating Authority (NA):**

Level 6, Reserve Bank Building  
111 Macquarie Street  
Hobart TAS 7000  
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 address:** \_\_\_\_\_

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

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

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

**Respondent 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. 
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<b>Written submissions</b> Refer to sections <b>4a)i and 4a)ii</b> of attached checklist	Tab No. _____
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<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 was provided with 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 21(4) Notice (if applicable)</b> Refer to sections <b>4d)i and 4d)ii</b> of attached checklist	
i. The Section 21(4) notice	Tab No. _____
ii. Written confirmation of the date and method by which the Respondent was given the Section 21(4) notice by the Claimant	Tab No. _____

<b>Any supporting documents</b> Refer to sections <b>4e) 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 may lodge a submission with the Adjudicator (the Adjudication Response) if the Respondent has provided a Payment Schedule to the Claimant within:
  - a) 10 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 given 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 an initial Payment Schedule  
OR
  - c) If the claim relates to a residential structure to be built on land and the respondent is the owner of the land and the respondent is not a building practitioner:  
20 business days allowed by the Act.
  - Please refer to s.18 of the Act for explanation of the term *Payment Schedule*.
2. The Adjudicator may not consider a submission made by the Respondent after the later of:
  - a) 10 business days after the Respondent received a copy of the Adjudication Application; or
  - b) 5 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 the Payment Schedule for refusing to pay or withholding payment of any amount.

ii. **IMPORTANT:** 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 was provided with the Payment Schedule by the Respondent (eg; facsimile transmission report, postal details, etc);

**Payment Claim**

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

**Section 21(4) notice**

- d) i. The Section 21(4) notice (required to be given by the Claimant to the Respondent if no Payment Schedule was served within the relevant time frame specified by the Act - see section 1 above)
- ii. Written confirmation of the date and method by which the Respondent was given the Section 21(4) notice by 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, statutory declarations 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.24(2)(a) 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.

A copy of the *Building and Construction Industry Security of Payment Act 2009 (Tas)* is available at:  
[http://www.adjudicate.com.au/pdf/tas\\_2009\\_act.pdf](http://www.adjudicate.com.au/pdf/tas_2009_act.pdf)

This Adjudication Response may be lodged with:

Adjudicate Today Pty Ltd  
 Level 6, Reserve Bank Building  
 111 Macquarie Street  
 HOBART TAS 7000  
 Ph: 1300 760 297; Fax: 1300 760 220  
 Email: tas@adjudicate.com.au

**Is the Adjudication Response being lodged via fax or email?**

If the Adjudication Response is being lodged via fax or email AND is over 50 pages, then the respondent is also requested to provide a hard copy of the Adjudication Response to Adjudicate Today.

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 the state office that the hard copy will be lodged with \_\_\_\_\_

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<b>NSW</b>	<b>QLD</b>	<b>VIC</b>	<b>ACT</b>	<b>TAS</b>	<b>SA</b>
Suite 2	Level 18	Level 23	Level 1	Level 6	Level 30
Mona Vale Business	333 Ann Street	HWT Tower	The Realm	Reserve Bank Building	Westpac House
90 Mona Vale Road	Brisbane QLD 4000	40 City Road	18 National Circuit	111 Macquarie Street	91 King William Street
Mona Vale NSW 2103		Southgate VIC 3006	Barton ACT 2600	Hobart TAS 7000	Adelaide SA 5000
nsw@adjudicate.com.au	qld@adjudicate.com.au	vic@adjudicate.com.au	act@adjudicate.com.au	tas@adjudicate.com.au	sa@adjudicate.com.au