

Respondent's Adjudication Response

Adjudicator: _____

Authorised Nominating Authority (ANA): Adjudicate Today Pty Ltd
Level 23, HWT Tower, 40 City Road
SOUTHGATE VIC 3006
Ph: 1300 760 297; Fax: 1300 760 220

Adjudication Application Number: _____

Name and address of any relevant principal of respondent and any other person who the Respondent knows has a financial or contractual interest in the Adjudication Application: _____

Description of Project: _____

Date of Claimant's service of Payment Claim on Respondent: _____

Claimed amount: \$ _____

Alleged excluded amount(s, if any): \$ _____

Date of Respondent's service of Payment Schedule on Claimant: _____

Scheduled amount: \$ _____

Does the respondent rely upon any additional reasons for withholding payment that were not included in the Payment Schedule? Please list: _____

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 and the additional reasons, if any, listed above. In support of those reasons, the Respondent provides further information set out in the attachments below and makes the following submissions:


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

List of attachments: 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. 
Written submissions Refer to sections 4a)i and 4a)ii of attached checklist	Tab No. _____
Payment Schedule Refer to sections 4b)i & 4b)ii 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. _____
Payment Claim Refer to sections 4c)i & 4c)ii 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. _____
Section 18(2) Notice (if applicable) Refer to sections 4d)i and 4d)ii of attached checklist	
i. The Section 18(2) notice	Tab No. _____
ii. Written confirmation of the date and method by which the Respondent received the Section 18(2) notice from the Claimant	Tab No. _____
Any supporting documents Refer to sections 4e) and 4f) 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) 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) 2 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 an initial Payment Schedule.
 - Please refer to s.15 of the Act for clarification 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:
 - a) must be in writing; and
 - b) must identify the Adjudication Application to which it relates; and
 - c) must include the names and addresses of any relevant principal of Respondent and any other person who the Respondent knows has a financial or contractual interest in the matters that are the subject of the Adjudication Application; and
 - d) must be addressed to the Adjudicator and be received by the Adjudicator within time; and
 - e) must identify any amount of the Payment Claim that the Respondent alleges is an excluded amount; and
 - f) may include any submissions relevant to the response that the respondent chooses to include; and
 - g) may include reasons for withholding payment that were not included in the Payment Schedule; and
 - h) must at the same time be served on the Claimant.
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 for refusing to pay for withholding payment of any amount
- 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, 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 18(2) notice

- d) i. The Section 18(2) notice (required to be served by the Claimant on the Respondent if no Payment Schedule was served within the initial 10 days of receipt of the Payment Claim)
- ii. Written confirmation of the date and method by which the Respondent received the Section 18(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 4a)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.22(5)(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 2002 (Vic)* is available at:
http://www.adjudicate.com.au/pdf/vic_act_20070330.pdf

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, the respondent is also requested to provide a hard copy of the Adjudication Response. If the application is over 50 pages and a hard copy is not provided, the cost of printing will be charged to the respondent at commercial printing rates. 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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Adjudicate Today Pty Ltd		Phone: 1300 760 227	Fax: 1300 760 220	ABN 39 109 605 021	www.adjudicate.com.au	
NSW	QLD	VIC	ACT	TAS	SA	
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	