

Date Received:

File No.:

**SA ADJUDICATION RESPONSE FORM**

Building and Construction Industry Security of Payment Act 2009 (SA)

<b>Adjudication Application Number:</b>	
<b>Adjudicator:</b>	
<b>Authorised Nominating Authority (ANA):</b>	Adjudicate Today Pty Ltd Level 30, Westpac House 91 King William Street ADELAIDE SA 5000 Ph: 1300 760 297; Fax: 1300 760 220
<b>Description of Project:</b>	
<b>Date of Claimant's service of Payment Claim on Respondent:</b>	
<b>Claimed amount:</b>	
<b>Date of Respondent's service of Payment Schedule on Claimant:</b>	
<b>Scheduled amount:</b>	
<b>Claimant Company Name: (or sole trader, partnership or trustee name)</b>	
<b>Claimant ABN/ACN:</b>	
<b>Claimant's address:</b>	
<b>Respondent Company Name: (or sole trader, partnership or trustee name)</b>	
<b>Respondent ABN/ACN:</b>	
<b>Respondent's address:</b>	
<b>Date of Claimant's service of Adjudication Application on Respondent:</b>	
<b>Date on which the Respondent received notification of the Adjudicator's acceptance of the Adjudication Application:</b>	

The Respondent is to **provide a hard copy of the Adjudication Response only if requested by Adjudicate Today**. Should the Respondent not provide the requested hard copy, Adjudicate Today may print the adjudication response (including all attachments) as necessary at commercial printing rates and will charge the Respondent those commercial rates.\*

**IMPORTANT: A copy of the adjudication response must be served on the Claimant.**

Date

**Print** name of Respondent  
or Respondent representative

**Signature** of Respondent  
or Respondent representative

Adjudicate Today Pty Ltd Phone: 1300 760 297 Fax: 1300 760 220 ABN 39 109 605 021 www.adjudicate.com.au						
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<b>DOCUMENT</b>	<b>Tab/Page #</b>
<b>Adjudication Response Form</b>	
<b>Written Submissions</b> <i>See 1 in Guidance Notes below.</i>	
<b>Payment Schedule</b> <i>See 2 in Guidance Notes below.</i>	
<b>Payment Schedule evidence of service</b> <i>Confirmation of the date and method by which the Respondent served the Payment Schedule on the Claimant.</i>	
<b>Payment Claim</b> <i>See 3 in Guidance Notes below.</i>	
<b>Payment Claim evidence of service</b> <i>Confirmation of the date and method by which the Claimant served the Payment Claim on the Respondent.</i>	
<b>Section 17(2)</b> <i>See 4 in Guidance Notes below.</i>	
<b>Section 17(2) evidence of service</b> <i>Confirmation of the date and method by which the Claimant served the Section 17(2) Notice on the Respondent.</i>	
<b>Construction Contract</b> <i>See 5 in Guidance Notes below.</i>	
<b>Supporting Documents</b> <i>See 6 in Guidance Notes below.</i>	

*Use of this index template is not mandatory, but may assist both the compilation and processing of an adjudication response.*

This information is necessarily brief. Further details regarding preparation of the adjudication response may be reviewed at [www.adjudicate.com.au/sa/served/respondent-prepares-adjudication-response](http://www.adjudicate.com.au/sa/served/respondent-prepares-adjudication-response).

The Respondent should not rely upon this information, but should study the Act and if necessary, consider seeking expert advice. A copy of the Act is available at [www.adjudicate.com.au/pdf/sa\\_2009\\_Act.pdf](http://www.adjudicate.com.au/pdf/sa_2009_Act.pdf).

The Respondent may lodge with the adjudicator a response to the claimant's adjudication application if the Respondent has provided a payment schedule to the Claimant under section 14(4) or section 17(2)(b) of the Act. Refer to section 14 of the Act for an explanation of the term *Payment Schedule*.

The adjudication response must be served on the adjudicator on or before the later of:

- o five (5) business days of receiving the adjudication application from the claimant; or
- o two (2) business days of receipt of the notice of an adjudicator's acceptance of the application.

Section 21(2) of the Act prohibits the adjudicator from considering an adjudication response if it is lodged outside this period.

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; and
- e) must not include any reasons for withholding payment unless those reasons have been included in the Payment Schedule.

## 1. Written submissions

A written submission by the Respondent, providing full details of reasons given in the Payment Schedule for refusing to pay or for withholding payment of any amount.

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.

## 2. Payment Schedule

A full copy of the Payment Schedule.

Written evidence of the date and method by which the Claimant received the Payment Schedule from the Respondent. For example, copy of email message, postal details including postal address, etc.

## 3. Payment Claim

A full copy of the Payment Claim.

Written evidence of the date and method by which the Respondent received the Payment Claim from the Claimant. For example, copy of email message, postal details including postal address, etc.

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#### 4. Section 17(2) notice

A full copy of the Section 17(2) notice.

Written evidence of the date and method by which the Respondent received the Section 17(2) notice from the Claimant For example, copy of email message, postal details including postal address, etc.

#### 5. Construction Contract

Attach a copy of the Construction Contract. If the Construction Contractor or agreement is wholly or partly oral, set out the precise terms of the oral agreement, when it was made, the named person who entered the contract on behalf of the Respondent and what was said to form the oral agreement. Attach a copy of any emails, correspondence or paid invoices supporting the oral agreement.

#### 6. Supporting documents

Supporting documents necessary to evidence or support the reasons for refusing to pay or for withholding payment may be attached. These may include, for example, technical reports, test results, photographs evidencing defective work, letters and minutes from meetings. Statutory declarations are not necessary, because an Adjudicator cannot test the contents of a statutory declaration, they are given no greater weight than unsworn witness statements.

#### 7. Other important information

##### ***Timeframes provided by the Act***

The times provided in the Act for service of documents are strict. If the times are not observed exactly, the Adjudicator will not be able to consider it. The Act's Definition states that **Business Day** does not include a Saturday, Sunday or public holiday; or 27, 28, 29, 30 or 31 December.

##### ***Common Pitfalls***

Through the experience of managing thousands of Adjudication Applications, Adjudicate Today has been made aware of many common mistakes. For a list of issues that respondents must get right, please visit our website at [www.adjudicate.com.au/sa/start/common-respondent-pitfalls](http://www.adjudicate.com.au/sa/start/common-respondent-pitfalls).

##### ***Documents submitted in soft copy***

If possible, use word searchable PDF format documents for submissions, statutory declarations, etc.

##### ***Documents submitted in hard copy***

The Act does not provide a requirement for Adjudicators to make documents submitted available for return at the close of an adjudication. As it is ultimately at the Adjudicator's discretion whether documents lodged are made available for return, parties should consider submitting copies of documents rather than originals.

##### **\*Disclaimer re printing of hard copy of Adjudication Response**

If a hard copy is requested and not provided by the Respondent, Adjudicate Today may be required to print the Adjudication Response. Adjudicate Today 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 the hourly rate of \$55.00 (incl. GST) for all time necessary and incidental to the printing. The hard copy of this Adjudication Response may be lodged with any Adjudicate Today state office.

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