

**AGREEMENT FOR PRIVATE ADJUDICATION**  
**(Outside the Building & Construction Industry Security of Payment**  
**Act 2002 Vic)**

**Parties**

[Name of 1<sup>st</sup> Disputant] of the first part, whose address is .....

[Name of 2<sup>nd</sup> Disputant] of the second part, whose address is.....

AND

**Adjudicate Today Pty Limited** ('Adjudicate Today') [ABN 39 109 605 021] of the third part, whose address is Level 27, 101 Collins Street, MELBOURNE VIC 3000 and whose fax number is 1300 760 220.

**1. Introduction**

1.1 In this agreement:

- (a) The parties of the first part and of the second part are together called the 'Applicants'.
- (b) Adjudicate Today is the 'Adjudicator' for the purpose of this agreement.
- (c) The Dispute means the disputed claims in Schedule 1.

1.2 The Applicants have requested Adjudicate Today to adjudicate the Dispute.

**2. Appointment of Adjudicator**

- 2.1 The Applicants appoint Adjudicate Today to adjudicate the dispute between them in accordance with the terms of this agreement. Adjudicate Today accepts the appointment.
- 2.2 The Applicants acknowledge that a Delegate of Adjudicate Today will conduct the adjudication. Adjudicate Today will appoint the Delegate after consultation with the Applicants and confirm the appointment.
- 2.3 The Applicants acknowledge that the determination of the Delegate will be the determination of Adjudicate Today on the Dispute. The Applicants have no contract with the Delegate and the Delegate accepts no personal obligation or duty of care to the parties.
- 2.4 The adjudication will be conducted generally in accordance with the procedures outlined in Schedule 4.

### **3. Role of the Adjudicator**

- 3.1 The Adjudicator only undertakes to act honestly, diligently and in good faith. The Adjudicator does not undertake to arrive at a determination according to law, as a court or arbitrator might, or to provide legal advice. The Adjudicator is not an arbitrator and does not have the powers of an arbitrator and the means which an arbitrator has to arrive at a determination according to law. The Adjudicator's determination may contain errors of law or fact, omissions or mistakes, and may be different to the determination which a court or arbitrator might make.
- 3.2 If the Adjudicator provides reasons, the reasons will be brief and will not necessarily cover every issue in the Dispute. Even though the reasons may express an opinion as to the law, it must not be taken as legal advice and it may not, in fact, represent the law on the point.
- 3.3 The agreement between the Applicants as to the binding effect, if any, to be given by them to the determination of the Adjudicator or the reliance that they will place upon the determination of the Adjudicator is entirely a matter for the Applicants. Any such agreement is set out in Schedule 5. Neither Applicant will have any claim against the Adjudicator for any mistake which the Adjudicator may make in determining the dispute or against the Delegate.
- 3.4 Subject to prior payment of the fees and expenses described in Schedule 3 to the Adjudicator, the Adjudicator will, within the time stated in Schedule 2 or such further time as both parties agree in writing, deliver to both parties the written determination on the Dispute.

### **4. Miscellaneous**

- 4.1 Any document may be served on a party by sending it to the fax number of the party.
- 4.2 The Adjudicator will not be liable to the Applicants for any act or omission in the performance of the Adjudicator's and/or Delegate's functions carried out in good faith under this agreement.
- 4.3 Each Applicant indemnifies the Adjudicator and Delegate against any claim made by either or both of them for any act or omission in the performance of the Adjudicator's functions carried out in good faith under this agreement, unless the act or omission is fraudulent.

**Schedule 1**

The Applicants agree to the facts in the attachment marked 'Agreed Facts' hereto.

The Questions to be answered by the Adjudicator are attached hereto and marked "Questions".

**Schedule 2**

The Adjudicator will make a determination on the Dispute within.....business days of the date on which the later of the parties signs this agreement.

**Schedule 3**

Adjudicators Fees and Expenses	\$
The first 6 hours of the adjudication,	
Additional time:	\$ per hour
Room Hire for a Conference (if any)	\$
\$ between the hours of 9:00 am and 5:00 pm	
Additional time:	\$ per hour
Out of Pocket Expenses	\$ at cost
(Disbursements include but are not limited to travel, telephone, photocopying etc)	

Applicants will be liable to Adjudicate Today for the payment of all Adjudication fees and expenses in the following proportions: -

**Schedule 4**

**Adjudication Procedures**

The Adjudicator is to determine the dispute on the basis of the agreed facts and written correspondence and material if any described in Schedule 1. The written correspondence/material is to be delivered to the Adjudicator upon the date of this agreement. The Adjudicator will spend a maximum of ..... hours in determining the dispute and writing a determination, unless both parties advise the Adjudicator in writing of an extension.

The determination is to include brief reasons for the conclusions reached.

**Schedule 5**

The determination of the Adjudicator is binding on the Applicants who hereby agree to give effect to the determination.

THE APPLICANTS AND ADJUDICATE TODAY have executed this agreement as follows:

on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_

for and on behalf of the Party of the first part

[ACN: \_\_\_\_\_]

Name of person signing: \_\_\_\_\_

\_\_\_\_\_

for and on behalf of the Party of the second part [ACN:

[ACN: \_\_\_\_\_]

Name of person signing: \_\_\_\_\_

\_\_\_\_\_

for and on behalf of Adjudicate Today Pty Limited

[ABN: 39 109 605 021]

Dated: