

ENFORCEABLE UNDERTAKING

This undertaking is given by:

- AHG Newcastle Pty Ltd;
- AHG Services (NSW) Pty Ltd;
- AHG Services (Qld) Pty Ltd;
- AHG Services (VIC) Pty Ltd; and
- AHG Services (WA) Pty Ltd;

and accepted by the Fair Work Ombudsman pursuant to s 715(2) of the *Fair Work Act 2009*

in relation to the contraventions described in clauses 11 to 15 of this undertaking.

ENFORCEABLE UNDERTAKING

PARTIES

1. This enforceable undertaking (**Undertaking**) is given to the Fair Work Ombudsman (**FWO**) pursuant to section 715 of the *Fair Work Act 2009* (Cth) (**FW Act**) by
 - (a) AHG Newcastle Pty Ltd (ACN 600 832 755) (**AHG Newcastle**) of 5 Edmund Street Newstead QLD 4006;
 - (b) AHG Services (NSW) Pty Ltd (ACN 132 055 728) (**AHG NSW**) of 5 Edmund Street Newstead QLD 4006;
 - (c) AHG Services (Qld) Pty Ltd (ACN 132 055 737) (**AHG Qld**) of 5 Edmund Street Newstead QLD 4006;
 - (d) AHG Services (VIC) Pty Ltd (ACN 145 856 328) (**AHG Vic**) of 5 Edmund Street Newstead QLD 4006; and
 - (e) AHG Services (WA) Pty Ltd (ACN 132 055 700) (**AHG WA**) of 5 Edmund Street Newstead QLD 4006(collectively, the **Companies**).

COMMENCEMENT

2. This Undertaking comes into effect when:
 - (a) the Undertaking is executed by each of the Companies; and
 - (b) the FWO accepts the Undertaking so executed,(**Commencement Date**).

BACKGROUND

3. Eagers Automotive Limited (**EAL**), formerly known as A.P. Eagers Limited (**AP Eagers**), is an Australian public company which operates automotive retail dealerships in all Australian states and territories, and in New Zealand. As a holding company, EAL is

now Australia's largest car dealership business. As at year end 31 December 2022, companies within the EAL group employed 7,323 people at locations around Australia.

4. On 4 December 2019, EAL advised the FWO that it had recently completed the acquisition of all the ordinary shares in the Automotive Holdings Group Limited (AHG) via an off-market takeover bid (Transaction). As a consequence of the Transaction, the Companies became subsidiaries of EAL. One or other of the Companies is the direct employer of each of the employees this Undertaking relates to. Prior to the Transaction, EAL was unable to undertake a review of the Companies' compliance with their obligations in respect of employee pay.
5. The following industrial instruments apply or applied to the Companies and their employees during the period 19 June 2013 to 22 June 2021:

(a) AHG Newcastle:

- (i) the *Clerks – Private Sector Award 2010 (Clerks Award 2010)* and subsequently the *Clerks – Private Sector Award 2020 (Clerks Award 2020)* (together, the **Clerks Awards**)
- (ii) the *Vehicle Manufacturing, Repair, Services and Retail Award 2010 (VRSR Award 2010)* and subsequently the *Vehicle Manufacturing, Repair, Services and Retail Award 2020* (renamed the *Vehicle Repair, Services and Retail Award 2020* on 30 April 2020) (**VRSR Award 2020**) (together, the **VRSR Awards**); and
- (iii) the *Mercedes-Benz Australia/Pacific Pty Ltd, Mercedes-Benz Commercial Vehicles New South Wales Enterprise Agreement 2012 (Mercedes NSW EBA 2012)*

(b) AHG NSW:

- (i) the Clerks Awards; and
- (ii) the VRSR Awards

(c) AHG Qld:

- (i) the Clerks Awards
 - (ii) the VRSR Awards
 - (iii) ~~the Mercedes-Benz Australia/Pacific Pty Ltd, Mercedes-Benz Commercial Vehicles Queensland (MBCV Rocklea, MBCV Caboolture) Enterprise Agreement 2010 (Zupps EBA 2010); and~~
 - (iv) the *Zupps Southside Pty Ltd - Trading As Daimler Trucks Brisbane & Caboolture Enterprise Agreement 2018 (Zupps EBA 2018)*
- (d) AHG Vic:
- (i) the Clerks Awards
 - (ii) the VRSR Awards
 - (iii) the *Daimler Trucks Laverton Enterprise Agreement 2019 (Laverton EBA 2019)*; and
 - (iv) the *Mercedes-Benz Australia/Pacific Pty Ltd, Mercedes-Benz Commercial Vehicles Laverton ('MBCV Laverton') Enterprise Agreement 2015 (Mercedes EBA 2015)*
- (e) AHG WA:
- (i) the Clerks Awards; and
 - (ii) the VRSR Awards (collectively, the **Instruments**).

6. On 23 June 2021, EAL, as holding company of the Companies, notified the FWO that it had completed a comprehensive review of pay roll for 19 AHG subsidiary companies it had acquired, including the Companies, which had identified, within the overall period of 19 June 2013 to 22 June 2021:

- (a) \$781,941.98 in underpayments by AHG Newcastle to employees of AHG Newcastle;
- (b) \$1,367,061.87 in underpayments by AHG NSW to employees of AHG NSW;
- (c) \$863,767.20 in underpayments by AHG Qld to employees of AHG Qld;

(d) \$1,056,735.05 in underpayments by AHG Vic to employees of AHG Vic; and

(e) \$8,038,232.84 in underpayments by AHG WA to employees of AHG WA,

for total underpayments across the Companies of \$12,107,738.94 (the **Underpayments**). The total amount of underpayments including superannuation and interest is \$16,213,840.96 (the **Total Underpayments**).

7. EAL also advised the FWO that, with the assistance of third party auditors, it would take the following approach to rectification of the Underpayments:

(a) recalculating the value of each in-scope element in the pay slip using the applicable rate under the Instruments;

(b) calculating the difference between the recalculated pay slip amount and the original pay slip amount for each in-scope element, performed by multiplying the hourly rate with the hours applicable to the pay element (e.g., overtime);

(c) calculating any difference in accrued leave entitlements, leave loading and superannuation;

(d) aggregating underpayments at the pay slip level; and

(e) converting any overpayments to zero (so as to not offset any underpayments).

8. Prior to the execution of this Undertaking, EAL provided to the FWO the spreadsheet forming Schedule A to this Undertaking, detailing the underpayments to each employee. As set out in Schedule A, each Company, or EAL on their behalf, had:

(a) calculated the total Underpayment owing to each employee identified in Schedule A (**Affected Employees**) to be the amounts referred to in Column B of Schedule A;

(b) rectified the Underpayments by paying each of the Affected Employees the amounts referred to in Column B of Schedule A;

(c) calculated any associated superannuation to be the amounts referred to in Column C of Schedule A;

- (d) made the superannuation contributions to each of the Affected Employees, by paying the amount to the chosen superannuation fund of the employee;
- (e) calculated interest owed to each Affected employee on the amount referred to in Column B of Schedule A, using an interest rate of 5.5% per annum, to be the amounts referred to in Column D of Schedule A; and
- (f) paid the calculated interest to each of the Affected Employees

(Total Underpayment Rectification).

9. EAL also informed the FWO that some payments made in the Underpayment Rectification had been returned and that it continues efforts to contact former Affected Employees who have had their payments returned. The Companies continue to contact former employees who have yet to be back paid the amounts that remain outstanding (the **Outstanding Underpayments**).
10. EAL has further informed the FWO that it has invested significant time and resources into updating systems for the Companies to ensure future compliance, including:
 - (a) implementing electronic time and attendance systems;
 - (b) investing in the acquisition and development of a tier one HR information system and payroll solution across its businesses;
 - (c) centralising payroll functions in its Brisbane offices; and
 - (d) adding a team within payroll to undertake regular reviews and compliance checks, (**Rectification of Time and Attendance Systems**).

ADMISSIONS

AHG Newcastle

11. The FWO has a reasonable belief, and AHG Newcastle admits, that AHG Newcastle contravened:
 - (a) Sections 44 and 45 of the FW Act between 24 June 2013 and 20 June 2021 by failing to pay the relevant Affected Employees in Part 1 of Schedule A (**AHG**

Newcastle Employees) the amount or amounts (as set out in Schedule A) to which that employee was entitled under the Clerks Awards or the VRSR Awards due to the operation of one or more of the provisions set out in Schedule B to this Undertaking; and

- (b) Sections 44 and 50 of the FW Act between 19 June 2013 and 21 June 2021 by failing to pay each of the relevant AHG Newcastle Employees the amount or amounts to which that employee was entitled under the Mercedes NSW EBA 2012 due to the operation of one or more of the provisions set out in Schedule B to this Undertaking.

AHG NSW

12. The FWO has a reasonable belief, and AHG NSW admits, that AHG NSW contravened:

- (a) sections 44 and 45 of the FW Act between 19 June 2013 and 22 June 2021 by failing to pay the relevant Affected Employees in Part 2 of Schedule A (**AHG NSW Employees**) the amount or amounts to which that employee was entitled under the Clerks Awards or the VRSR Awards due to the operation of one or more of the provisions set out in Schedule B to this Undertaking; and
- (b) section 323(1) of the FW Act between 19 June 2013 and 22 June 2021 by making deductions from amounts payable to each of the relevant AHG NSW Employees not falling within the permitted deductions specified in section 324 of the FW Act.

AHG Qld

13. The FWO has a reasonable belief, and AHG Qld admits, that AHG Qld contravened:

- (a) Sections 44 and 45 of the FW Act between 19 June 2013 and 22 June 2021 by failing to pay the relevant Affected Employees in Part 3 of Schedule A (**AHG Qld Employees**) the amount or amounts to which that employee was entitled under the Clerks Awards or the VRSR Awards due to the operation of one or more of the provisions set out in Schedule B to this Undertaking;
- (b) Sections 44 and 50 of the FW Act between 19 June 2013 and 27 April 2021 by failing to pay each of the relevant AHG Qld Employees the amount or amounts

to which that employee was entitled under the Zupps EBA 2010 or the Zupps EBA 2018 due to the operation of one or more of the provisions set out in Schedule B to this Undertaking; and

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- (c) section 323(1) of the FW Act between 19 June 2013 and 31 March 2020 by making deductions from amounts payable to each of the relevant AHG Qld Employees not falling within the permitted deductions specified in section 324 of the FW Act.

AHG Vic

14. The FWO has a reasonable belief, and AHG Vic admits, that AHG Vic contravened:

- (a) Sections 44 and 45 of the FW Act between 19 June 2013 and 22 June 2021 by failing to pay the relevant Affected Employees in Part 4 of Schedule A (**AHG Vic Employees**) the amount or amounts to which that employee was entitled under the Clerks Awards or the VRSR Awards due to the operation of one or more of the provisions set out in Schedule B to this Undertaking;
- (b) Sections 44 and 50 of the FW Act between 24 August 2016 and 27 April 2021 by failing to pay each of the relevant AHG Vic Employees the amount or amounts to which that employee was entitled under the Laverton EBA 2019 or the Mercedes EBA 2015 due to the operation of one or more of the provisions set out in Schedule B to this Undertaking; and
- (c) section 323(1) of the FW Act between 27 June 2013 and 25 June 2019 by making deductions from amounts payable to each of the relevant AHG Vic Employees not falling within the permitted deductions specified in section 324 of the FW Act.

AHG WA

15. The FWO has a reasonable belief, and AHG WA admits, that AHG WA contravened:

- (a) sections 44 and 45 of the FW Act between 19 June 2013 and 22 June 2021 by failing to pay the relevant Affected Employees in Part 5 of Schedule A (**AHG WA Employees**) the amount or amounts to which that employee was entitled under the Clerks Awards or the VRSR Awards due to the operation of one or more of the

provisions set out in Schedule B to this Undertaking; and

- (b) section 323(1) of the FW Act between 19 June 2013 and 9 June 2020 by making deductions from amounts payable to each of the relevant AHG WA Employees not falling within the permitted deductions specified in section 324 of the FW Act.

EXCLUDED MATTERS

16. The contraventions identified in clauses 11 to 15 of this Undertaking do not include:

- (a) any contraventions which relate to or arise as a consequence of the Companies failing to correctly apply the Instruments to any employee not listed in Schedule A to this Undertaking (**Non-schedule Employees**). For the avoidance of doubt, this Undertaking is not given in respect of any Non-schedule Employees who were underpaid as a result of the Companies failing to correctly apply the Instruments and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any contravention because of any such underpayment; or
- (b) any contraventions which have not yet occurred at the date that this Undertaking is offered by the Companies (whether or not those contraventions are identified in the Independent Audits described at clause 28 below). For the avoidance of doubt this Undertaking is not given in respect of any contravention which has not occurred on the date which it is offered by the Companies and the FWO's acceptance of this Undertaking is not based on any reasonable belief about the existence of any such contravention.

UNDERTAKINGS

17. The Companies will take the actions set out at clauses 19 to 54 below.

18. Where a clause refers to the Companies or a single Company, EAL or a single Company may complete an undertaking on behalf of another single Company where they have the express or implied authority of that other Company to do so. However, each Company remains responsible for each undertaking it provides.

Rectification of Total Underpayments

19. By no later than 60 days after the Commencement Date:

- (a) AHG Newcastle will pay to the AHG Newcastle Employees (or their nominated superannuation fund) any outstanding Underpayments, superannuation and interest, as identified in Schedule A; and
- (b) AHG NSW will pay to the AHG NSW Employees (or their nominated superannuation fund) any outstanding Underpayments, superannuation and interest, as identified in Schedule A; and
- (c) AHG Qld will pay to the AHG Qld Employees (or their nominated superannuation fund) any outstanding Underpayments, superannuation and interest, as identified in Schedule A; and
- (d) AHG Vic will pay to the AHG Vic Employees (or their nominated superannuation fund) any outstanding Underpayments, superannuation and interest, as identified in Schedule A; and
- (e) AHG WA will pay to the AHG WA Employees (or their nominated superannuation fund) any outstanding Underpayments, superannuation and interest, as identified in Schedule A.

20. By no later than 60 days after the Commencement Date:

- (a) AHG Newcastle will provide the FWO with evidence of the Total Underpayment Rectification, and any payments under clause 19(a) above; and
- (b) AHG NSW will provide the FWO with evidence of the Total Underpayment Rectification, and any payments under clause 19(b) above; and
- (c) AHG Qld will provide the FWO with evidence of the Total Underpayment Rectification, and any payments under clause 19(c) above; and
- (d) AHG Vic will provide the FWO with evidence of the Total Underpayment Rectification, and any payments under clause 19(d) above; and

(e) AHG WA will provide the FWO with evidence of the Total Underpayment Rectification, and any payments under clause 19(e) above.

21. If any of the former Affected Employees to whom Underpayments are owed cannot be located within 120 days after the Commencement Date, the relevant Company will pay the Underpayment amounts owing to those employees to the Commonwealth of Australia in accordance with section 559 of the FW Act. The relevant Company will complete the required documents supplied by the FWO for this purpose.
22. In the event that the FWO is able to locate and contact any Affected Employees of the Companies to whom Underpayments are owed, the FWO will (in addition to its obligations under s 559 of the FW Act) notify the relevant Company in writing of the name and contact details of the Affected Employee. Within 14 days of receiving any such notice the relevant Company will:
- (a) pay to the former employee interest on the amount already paid by the Company to the Commonwealth of Australia in respect of that employee, calculated at a rate of 5.5% per annum; and
 - (b) pay to the Affected Employee's nominated superannuation fund an amount equal to the amount that would have been required by law, had the Company paid the amount under clause 21 directly to the former employee.

Monitoring of Systems and Processes

Rectification of Time and Attendance Systems

23. No later than 60 days after the Commencement Date, the Companies shall:
- (a) provide the FWO with evidence of the Rectification of Time and Attendance Systems that it has put in place to ensure compliance with its obligations under the FW Act and the Instruments;
 - (b) The FWO may, within 60 days of receiving the information under clause 23(a), seek reasonable further information regarding the Rectification of Time and Attendance Systems from the Companies by issuing a written notice to the Companies/the relevant Company specifying the additional information

required. The relevant Company must provide the information specified in such a notice within 30 days of receipt;

Training

24. Within 60 days after the Commencement Date, the Companies will provide to the FWO with detailed information about the training that the Companies have each implemented or will implement for payroll and human resources employees about the requirements of the FW Act, the FW Regulations and any applicable Industrial Instruments;

Corporate Governance

25. Within 60 days after the Commencement Date, the Companies will provide the FWO with detailed information of the systems and processes implemented to ensure the appropriate corporate governance and oversight in relation to the Companies' compliance with their obligations under the FW Act, the FW Regulations and any applicable Industrial Instruments. This must include:
- (a) mechanisms for reporting at least quarterly on compliance with workplace obligations to EAL's board of directors; and
 - (b) mechanisms to identify and rectify compliance issues associated with future acquisitions or restructures that result in any Company acquiring a substantial number of new employees or acquiring a subsidiary that has employees.
26. Within 30 days of receiving the information referred to in clause 25, the FWO may seek reasonable further information regarding the matters disclosed from any of the Companies by issuing a written notice to any of the Companies specifying the reasonable additional information required. A Company receiving said notice must provide the information specified within 30 days of receipt.
27. Within 120 days of receiving the information referred to in clause 26, the FWO may give any of the Companies written notices specifying reasonable additional measures or reasonable additional training that the Companies must consider implementing to ensure compliance with and oversight of its obligations under the FW Act, the FW Regulations and any applicable Industrial Instruments. Within 30 days of receiving said

notice, a Company must respond to the FWO:

- (a) confirming that it has implemented, or has set a timeframe to implement, the additional corporate governance measures or training; or
- (b) providing a reasonable explanation as to why the additional measures or training cannot be implemented, and providing a reasonable alternative.

Independent Audits

28. The Companies must, at their cost, engage an appropriately qualified, experienced, external and independent accounting professional or an employment law specialist (**Independent Auditor**) to conduct two audits (the **Audits**) of the Companies' compliance with the FW Act and FW Regulations, in relation to the currently applicable Instruments (at the time of the Audits), and any replacement instruments (**Relevant Instruments**). As at the date of this Undertaking, the Companies are contemplating a potential future consolidation of the employment arrangements for their employees, so they are all employed by one of the Companies or a related entity (which may be an existing or newly established entity). If there is such a transfer of the employees, the Audits will be in respect of compliance with the entitlements of the transferred employees and the references to 'the Companies' in clauses 28 to 45 of this Undertaking will be taken to be references to the new employer.
29. The Companies will notify the FWO of their proposed Independent Auditor by no later than 1 October 2024. The FWO may in its sole discretion approve the Independent Auditor in writing or otherwise require the Companies to propose other Independent Auditors until the FWO has approved in writing an Independent Auditor. The Independent Auditor must be approved by the FWO in writing prior to being engaged by the Companies.
30. The Companies must ensure that each of the Audits conducted by the Independent Auditor includes:
- (a) an assessment of 5% of all employees of the Companies to whom the Relevant Instruments apply (capped at 150 employees), proportionately split between employees of each of the Companies (unless the employees have transferred to

a single employing entity), across a range of classifications, locations and employment types (full time, part time and casual employment), and include a sample of final wages paid to employees on termination, during the relevant audit period (**Sampled Employees**) in respect of their employment by the Companies;

- (b) an assessment of 25% of the Sampled Employees (capped at 37 employees) to determine whether they have been correctly classified by the Companies;
- (c) an assessment of whether the pay and conditions of the Sampled Employees during the relevant audit period is in compliance with the FW Act and the Relevant Instruments;
- (d) direct contact with Sample Employees by way of site visits to five different sites, to ensure accuracy of hours worked;
- (e) the production of a written report on each of the Audits setting out the Independent Auditor's findings, and the facts and circumstances surrounding them, to the FWO; and
- (f) that each of the written reports referred to in (e) above contains the following declarations from the Independent Auditor:
 - (i) the Independent Auditor has no actual, potential or perceived conflict of interest in providing the report to the FWO;
 - (ii) notwithstanding that the Independent Auditor is retained by the Companies, the Independent Auditor undertakes that it has acted independently, impartially, objectively and without influence from the Companies in preparing the report;
 - (iii) the report is provided in accordance with applicable professional standards (which will be listed in the report); and
 - (iv) the report is provided to the FWO for its benefit and the FWO can rely on the report.

31. The Companies must ensure the Independent Auditor commences the first of the Audits by no later than 1 November 2024 (**First Audit**).
32. The relevant audit period for the First Audit must be at least two full pay periods falling within the period 1 September 2024 to 31 October 2024.
33. Subject to the availability of the Independent Auditor, by 15 October 2024, the Companies will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the First Audit.
34. The Companies will use their best endeavours to ensure the Independent Auditor provides a draft written report of the First Audit directly to the FWO by 15 March 2025, setting out the draft First Audit findings, and the facts and circumstances supporting the First Audit findings. The Companies will use their best endeavours to ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to the Companies without the FWO's approval.
35. The Companies will use their best endeavours to ensure the Independent Auditor finalises the First Audit and provides a written report of the First Audit (**First Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. The Companies will ensure the Independent Auditor does not provide the First Audit Report, or a copy of the same, to the Companies without the FWO's approval.

The Second Audit

36. The Companies must use their best endeavours to ensure the Independent Auditor commences the second of the Audits by no later than 1 November 2025 (**Second Audit**).
37. The relevant audit period for the Second Audit must be at least two full pay periods falling within the period 1 September 2025 to 31 October 2025.
38. Subject to the availability of the Independent Auditor, by 15 August 2025, the Companies will provide for the FWO's approval, details of the methodology to be used by the Independent Auditor to conduct the Second Audit.
39. The Companies will use their best endeavours to ensure the Independent Auditor

provides a draft written report of the Second Audit directly to the FWO by 15 March 2026, setting out the draft Second Audit findings, and the facts and circumstances supporting the Second Audit findings. The Companies will use their best endeavours to ensure the Independent Auditor does not provide the draft written report, or a copy of the same, to the Companies without the FWO's approval.

40. The Companies will use their best endeavours to ensure the Independent Auditor finalises the Second Audit and provides a written report of the Second Audit (**First Audit Report**) directly to the FWO within one month of FWO providing any comments on the draft report to the Independent Auditor. The Companies will use their best endeavours to ensure the Independent Auditor does not provide the Second Audit Report, or a copy of the same, to the Companies without the FWO's approval.

Outcome of Audits

41. If any of the Audits identify underpayments to one or more current or former employees of one of the Companies, that Company will conduct a reconciliation of the amounts paid to those employees during the 12 months prior to the relevant audit period and that Company will rectify any underpayments that are identified.
42. That Company will provide to the FWO evidence of such rectification within 28 days of being informed by the FWO of the requirement to undertake the reconciliation.
43. If any employees identified in the Audits as having underpayments owing to them cannot be located within 60 days of the conclusion of the Second Audit, that Company will pay those amounts to the Commonwealth of Australia (through the FWO) in accordance with section 559 of the FW Act. That Company will complete the required documents supplied by the FWO for this purpose.
44. If any of the Audits identify an underpayment of minimum entitlements to one or more employees of one of the Companies, and the FWO reasonably believes that employees not included in the Audits are also likely to have been underpaid, that Company will engage an accounting professional or an employment law specialist approved by the FWO to conduct a further audit of all its employees to whom the Relevant Instruments apply (or a particular cohort of employees within this group), as determined by the FWO (**Additional Audit**). Any Additional Audit must be paid for

by that Company.

45. If requested by the FWO, the Companies will provide the FWO with all records and documents used to conduct any or all of the Audits (including any Additional Audit), within 7 days of such a request.

Media Release

46. Upon acceptance of the Undertaking, the FWO will publish a media release on its website in respect of this Undertaking (the **FWO Media Release**).

Employee Hotline

47. By no later than 7 days from the Commencement Date, at their own expense, the Companies will engage an independent organisation to operate a dedicated telephone number and email address for all current and former employees to whom the Instruments apply, or had applied, to make enquiries in relation to their entitlements, underpayments or related employment concerns (**Employee Hotline**). Employees will have the option of making enquiries on a confidential basis.
48. The independent organisation must be approved by the FWO prior to being engaged by the Companies to operate the Employee Hotline.
49. The Companies will:
 - (a) ensure the Employee Hotline remains operational for a period of 3 months;
 - (b) take steps to respond to each telephone and email enquiry and seek to resolve any issues within 60 days and notify the FWO of any issues that are not resolved within 90 days; and
 - (c) within 60 days from the Employee Hotline ceasing operation, provide the FWO with a report of any concerns raised by employees and how the matters were resolved.

Communication to Employees

50. By no later than 14 days from the date of publication of the FWO Media Release, the Companies will communicate the existence and purpose of the Employee Hotline, and

the telephone number and email address to contact the Employee Hotline, by way of letter to the last known email or postal address of all current and former employees to whom the Instruments apply, or had applied, known as at the Commencement Date and dating back to 19 June 2013. The Companies will:

- (a) ensure the letter is in the form of **Attachment A** to this Undertaking; and
- (b) provide evidence to the FWO that the letter has been sent to all required current and former employees by no later than 28 days from the date of publication of the FWO Media Release.

Contribution Payment

- 51. Within 28 days of the Commencement Date, the Companies will collectively make a total contribution payment of \$450,000 to the Consolidated Revenue Fund.
- 52. The Companies will provide evidence to the FWO of any contribution payment within 14 days of making payment to the Consolidated Revenue Fund.

Extensions to times for completion

- 53. The Companies may submit a request to the FWO for an extension to the time by which they are required to complete any of the actions set out in this Undertaking. The Companies will provide information setting out the basis for such a request. The FWO will not unreasonably withhold its agreement to such a request.

No Inconsistent Statements

- 54. Each Company must not, and must use its best endeavours to ensure that its officers, employees or agents do not, make any statement or otherwise imply, either orally or in writing, anything that is inconsistent with admissions or acknowledgements contained in this Undertaking.

ACKNOWLEDGEMENTS

AHG Newcastle

- 55. AHG Newcastle acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by the AHG Newcastle set out in clause 11 above in respect of decisions taken regarding enforcement action in the event that AHG Newcastle is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by AHG Newcastle to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, AHG Newcastle may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if AHG Newcastle contravenes any of the terms of this Undertaking:
 - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - (ii) this Undertaking may be provided to the Court as evidence of the admissions made by AHG Newcastle in clause 11 above, and also in respect of the question of costs.

56. AHG NSW acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by AHG NSW set out in clause 12 above in respect of decisions taken regarding enforcement action in the event that AHG NSW is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by AHG NSW to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, AHG NSW may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if AHG NSW contravenes any of the terms of this Undertaking:
 - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - (ii) this Undertaking may be provided to the Court as evidence of the admissions made by AHG NSW in clause 12 above, and also in respect of the question of costs.

AHG Qld

57. AHG Qld acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by AHG Qld set out in clause 13 above in respect of decisions taken regarding enforcement action in the event that AHG Qld is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by AHG Qld to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, AHG Qld may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if AHG Qld contravenes any of the terms of this Undertaking:
 - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - (ii) this Undertaking may be provided to the Court as evidence of the admissions

made by AHG Qld in clause 13 above, and also in respect of the question of costs.

AHG Vic

58. AHG Vic acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by AHG Vic set out in clause 14 above in respect of decisions taken regarding enforcement action in the event that AHG Vic is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by AHG Vic to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, AHG Vic may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and
- (d) if AHG Vic contravenes any of the terms of this Undertaking:
 - (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW

Act, for orders under section 715(7) of the FW Act; and

- (ii) this Undertaking may be provided to the Court as evidence of the admissions made by AHG Vic in clauses clause 14 above, and also in respect of the question of costs.

AHG WA

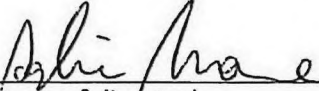
59. AHG WA acknowledges that:

- (a) the FWO may;
 - (i) make this Undertaking (and any of the Attachments hereto) available for public inspection, including by posting it on the FWO internet site at www.fairwork.gov.au;
 - (ii) release a copy of this Undertaking (and any of the Attachments hereto) pursuant to any relevant request under the *Freedom of Information Act 1982* (Cth);
 - (iii) issue a media release in relation to this Undertaking;
 - (iv) from time to time, publicly refer to the Undertaking (and any of the Attachments hereto) and its terms; and
 - (v) rely upon the admissions made by AHG WA set out in clause 15 above in respect of decisions taken regarding enforcement action in the event that AHG WA is found to have failed to comply with its workplace relations obligations in the future, including but not limited to any failure by AHG WA to comply with its obligations under this Undertaking;
- (b) consistent with the Note to section 715(4) of the FW Act, this Undertaking in no way derogates from the rights and remedies available to any other person arising from the conduct set out herein;
- (c) consistent with section 715(3) of the FW Act, AHG WA may withdraw from or vary this Undertaking at any time, but only with the consent of the FWO; and

- (d) if AHG WA contravenes any of the terms of this Undertaking:
- (i) the FWO may apply to any of the Courts set out in section 715(6) of the FW Act, for orders under section 715(7) of the FW Act; and
 - (ii) this Undertaking may be provided to the Court as evidence of the admissions made by AHG WA in clause 15 above, and also in respect of the question of costs.
-

Executed as an undertaking

EXECUTED by AHG Newcastle in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

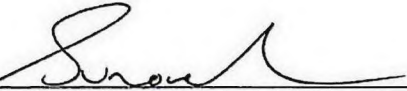
Sophie Alexandra Moore

(Name of director)

14 / 06 / 2024

(Date)

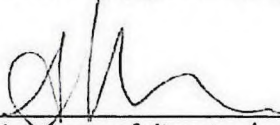
in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)



(Signature of director/company secretary)

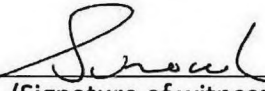
Amanda Leigh Ellison

(Name of director/company secretary)

14 / 06 / 2024

(Date)

in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:

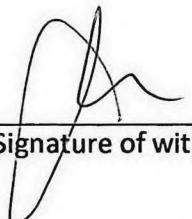


(Signature of Mark Scully)

Mark Scully
Deputy Fair Work Ombudsman
Compliance and Enforcement

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:



(Signature of witness)

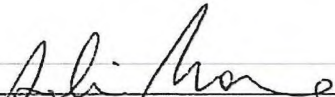
18 June 2024

(Date)

Daina Hopkins-Farvow

(Name of Witness)

EXECUTED by AHG NSW in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

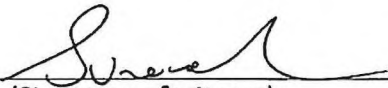
Sophie Alexandra Moore

(Name of director)

14/06/2024

(Date)

in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)



(Signature of director/company secretary)

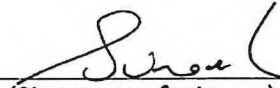
Amanda Leigh Ellison

(Name of director/company secretary)

14/06/2024

(Date)

in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)

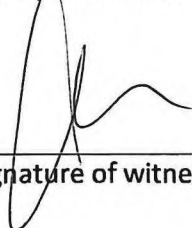
ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:



Mark Scully
Deputy Fair Work Ombudsman
Compliance and Enforcement

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:



(Signature of witness)

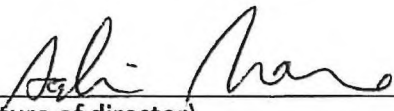
18 June 2024

(Date)

Dana Hopkins-Farrow

(Name of Witness)

EXECUTED by AHG Qld in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

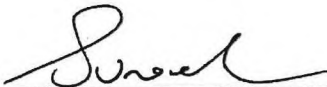
Sophie Alexandra Moore

(Name of director)

14/06/2024

(Date)

in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)



(Signature of director/company secretary)

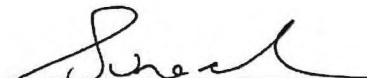
Amanda Leigh Ellison

(Name of director/company secretary)

14/06/2024

(Date)

in the presence of:




(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)

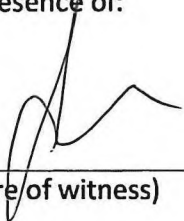
ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:



Mark Scully
Deputy Fair Work Ombudsman
Compliance and Enforcement

Delegate for the FAIR WORK OMBUDSMAN

in the presence of:



(Signature of witness)

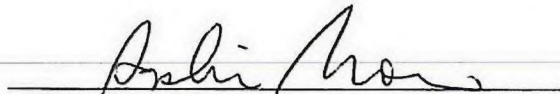
18 June 2024

(Date)

Daina Hopkins - Fair Work

(Name of Witness)

EXECUTED by AHG Vic in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

Sophie Alexandra Moore

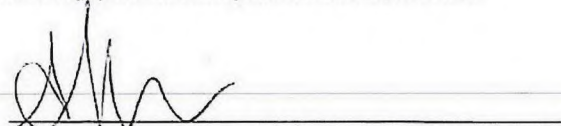
(Name of director)

14/06/2024
(Date)

in the presence of:


(Signature of witness)

SIMONE ELIZABETH WILSON
(Name of witness)



(Signature of director/company secretary)

Amanda Leigh Ellison

(Name of director/company secretary)

14/06/2024
(Date)

in the presence of:


(Signature of witness)

SIMONE ELIZABETH WILSON
(Name of witness)


ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:



Mark Scully
Deputy Fair Work Ombudsman
Compliance and Enforcement

Delegate for the FAIR WORK OMBUDSMAN

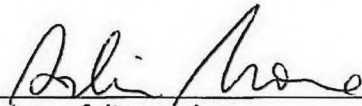
in the presence of:


(Signature of witness)

18 June 2024
(Date)

Dana Hopkins-Fairwork
(Name of Witness)

EXECUTED by AHG WA in accordance with section 127(1) of the *Corporations Act 2001*:



(Signature of director)

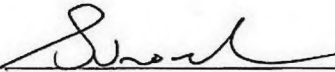
Sophie Alexandra Moore

(Name of director)

14/06/2024

(Date)

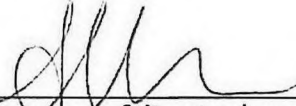
in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)



(Signature of director/company secretary)

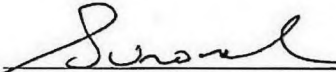
Amanda Leigh Ellison

(Name of director/company secretary)

14/06/2024

(Date)

in the presence of:



(Signature of witness)

SIMONE ELIZABETH WILSON

(Name of witness)

ACCEPTED by the FAIR WORK OMBUDSMAN pursuant to section 715(2) of the *Fair Work Act 2009* on:




Mark Scully
Deputy Fair Work Ombudsman
Compliance and Enforcement

Deputy Fair Work Ombudsman
Compliance and Enforcement

Delegate for the FAIR WORK OMBUDSMAN

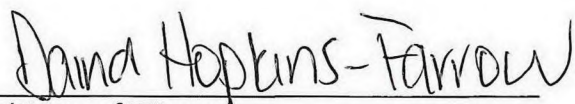
in the presence of:



(Signature of witness)

18 June 2024

(Date)



(Name of Witness)

SCHEDULE A

See attached.

SCHEDULE B

See attached

Attachment A – Letter to employees

Dear <insert name>

Review of entitlements of AHG employees

As previously communicated in our [letter] dated [date], a self-initiated review was undertaken in respect of employment entitlements of some current and former employees in businesses we acquired from Automotive Holdings Group Limited (**AHG**). Further, we have been cooperating with Fair Work Ombudsman (**FWO**) in respect of the review.

Following the review, certain AHG entities have admitted to the FWO that they contravened the *Fair Work Act 2009* (Cth) by in some instances failing to pay the correct base rate of pay, overtime, annual leave loading and other entitlements. A copy of the Enforceable Undertaking entered into between the FWO and the Companies can be accessed at [INSERT LINK ONCE GENERATED].

Payments to employees and former employees

The AHG entities have made a payment to all impacted current employees to make up for any shortfall. Where possible, all impacted former employees have also received a payment.

The only payments that have not been made are where it has not been possible to locate a former employee and their bank rejected the payment.

It has been agreed with the FWO that for any former employee who cannot be located after a further period, the amount owing to the employee will be paid to the Federal Government and held by it. The FWO may be able to locate some of these former employees, in which case they can receive their payment.

Further queries

We understand that you may have questions relating to the review and other employment issues. You can continue to contact our Payment Query Team on myquery@eagersautomotive.com.au or 1300 873 683 for assistance. We will make every attempt to resolve your enquiry within 60 days of receiving it and commit to maintaining open communication with you about the progress of your enquiry.

We have also established an independent hotline for all employees to access, including on a confidential basis if required. The hotline is being operated by <insert entity name>, who can be contacted on <insert contact number> or at <insert email address>.

Alternatively, anyone can contact the FWO via www.fairwork.gov.au or on 13 13 94.

Yours sincerely

<Employer name>
