

ANNEXURE 1

CIV 2472 of 2009,
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CIV 2472 of 2011

PURSUANT TO SECTION 218 OF THE
AUSTRALIAN CONSUMER LAW (WA)

BETWEEN

ALWYN ROBERT HEALY

AND

COMMISSIONER FOR CONSUMER PROTECTION

**ENFORCEABLE UNDERTAKING UNDER THE
*AUSTRALIAN CONSUMER LAW (WA)***

RECITALS

- A. This Undertaking is given to the **COMMISSIONER FOR CONSUMER PROTECTION** ("Commissioner") by **Alwyn Robert HEALY** under section 218 of the *Australian Consumer Law (WA)* ("ACL(WA)").
- B. Pursuant to section 218 of the ACL(WA), the Commissioner may accept a written undertaking given by a person in connection with a matter which the Commissioner has a power or function under the ACL(WA).
- C. It is understood and acknowledged that this Undertaking, if accepted by the Commissioner, is without prejudice to any other actions that may be available to the Commissioner arising from the same facts including any civil penalty or criminal proceedings.
- D. It is understood and acknowledged that this Undertaking, if accepted by the Commissioner, is **ENFORCEABLE** by the Commissioner in the Supreme Court or District Court of Western Australia, under section 218 of the ACL(WA).

UNDERTAKINGS

For the purpose of section 218 of the ACL(WA), I **Alwyn Robert HEALY**, **UNDERTAKE** to the Commissioner that I, whether by my servants, agents or otherwise howsoever:

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25 OCT 2011

CENTRAL OFFICE
SUPREME COURT

Will pay the outstanding sums owed to the consumers set out in Schedule 1 to this Undertaking on or before 31 December 2012 and provide evidence of any payment to the Commissioner within 7 days of that payment.

2. Will complete the installation, service inspection and performance testing of the air conditioning unit at the premises of Phillip and Lydia Watson free of charge and refund to them the sum of \$350.00 within 8 weeks of the date of acceptance by the Commissioner of this Undertaking.
3. Will not make any representation as to the standard, quality, capacity, performance characteristics or benefits of any residential air-conditioning system ("System") that is not supported by testing that has been conducted in accordance with Australian standards by a recognised testing authority or which is otherwise misleading or deceptive.
4. For a period of 7 years from the date of acceptance by the Commissioner of this Undertaking:
 - (a) will not act as a director, acquire a direct or indirect interest in, or otherwise be engaged in the management of, any corporation carrying on the business of the sale, supply or installation of any System;
 - (b) will not carry on, acquire a direct or indirect interest in, or otherwise be engaged in the management of, the business of the sale, supply or installation of Systems;
 - (c) will not negotiate or enter into any agreement for the sale, supply or installation of any System to any person ("Customer"), other than in the capacity of an employee or subcontractor of a corporation or registered business;
 - (d) will allow the Commissioner, upon reasonable notice, to inspect the books and accounts of any business that I carry on in my own name for the purpose of receiving commissions as a subcontractor.
 - (e) within 2 working days will:
 - (i) advise the Commissioner of my entering into any contract of employment or engagement as a subcontractor;
 - (ii) advise the Commissioner if my contract of employment or engagement as a subcontractor is varied or ceases; and

- (iii) provide a copy of any new or varied contract to the Commissioner, and, where that contract is not in writing, inform the Commissioner in writing of the material terms of that contract.

- (f) will not receive any payment whatsoever for the sale, supply or installation of any System other than on account of my employer or, where I am engaged as a subcontractor, my principal, and will not cause or facilitate the making of any payment for or in respect of sale, supply or installation of any System other than to an account controlled solely by my employer or principal, as the case may be;

- (g) will ensure that any payment I receive on behalf of my employer or principal for the sale, supply or installation of any System, is immediately transmitted or deposited to an account held and controlled solely by my employer or principal;

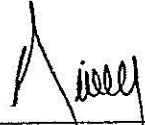
- (h) will respond to all enquiries directed to me from Customers within 48 hours of the enquiry being made;

- (i) within 24 hours of becoming aware of any circumstance that is reasonably expected to prevent my employer or principal from supplying a System to a Customer on the date specified in a contract that I have negotiated on behalf of my employer or principal, will inform the Customer of:
 - (i) the reason the System will not be supplied on the date specified in the contract; and
 - (ii) the date on which the System will be installed.


ALWYN ROBERT HEALY

Date: 13/10/11


WITNESS: KELLY OFFICER


ANNE MARIE DRISCOLL
COMMISSIONER FOR CONSUMER PROTECTION

Date: 14/10/11

PURSUANT TO SECTION 218 OF THE
AUSTRALIAN CONSUMER LAW (WA)

BETWEEN

ALWYN ROBERT HEALY

AND

COMMISSIONER FOR CONSUMER PROTECTION

**VARIATION OF ENFORCEABLE UNDERTAKING
DATED 14 OCTOBER 2011**

RECITALS

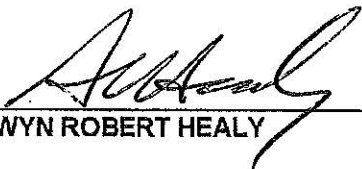
- A. Pursuant to section 218 of the *Australian Consumer Law (WA)* ("ACL(WA)"), the **COMMISSIONER FOR CONSUMER PROTECTION** ("Commissioner") may accept a written undertaking given by a person in connection with a matter which the Commissioner has a power or function under the ACL(WA).
- B. On 14 October 2011, the Commissioner accepted a written undertaking by **Alwyn Robert HEALY** under section 218 of the ACL(WA) ("Undertaking").
- C. It is understood and acknowledged that any variation of the Undertaking, if accepted by the Commissioner, is without prejudice to any other actions that may be available to the Commissioner arising from the same facts including any civil penalty or criminal proceedings.
- D. It is understood and acknowledged that any variation of the Undertaking, if accepted by the Commissioner, is **ENFORCEABLE** by the Commissioner in the Supreme Court or District Court of Western Australia, under section 218 of the ACL(WA).

VARIATION OF UNDERTAKING

1. For the purpose of section 218(2) of the ACL(WA), the Commissioner consents to vary paragraph 1 of the Undertaking as follows:

I **Alwyn Robert HEALY**, **UNDERTAKE** to the Commissioner that I will pay the outstanding sums owed to the consumers set out in Schedule 1 to the Undertaking on or before **30 June 2013** and provide evidence of any payment to the Commissioner within 7 days of that payment.

2. The variation contained in paragraph 1 above does not otherwise vary the Undertaking, which remains enforceable by the Commissioner in the Supreme Court or District Court of Western Australia, under section 218 of the ACL(WA).

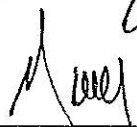


ALWYN ROBERT HEALY

Date: 22/2/2013



WITNESS:



ANNE MARIE DRISCOLL
COMMISSIONER FOR CONSUMER PROTECTION

Date: 5/3/2013