

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

BETWEEN

JOEL McLEOD

AND

COMMISSIONER FOR CONSUMER PROTECTION

RECITALS

WHEREAS:

A. JOEL McLEOD (McLEOD):

- (i) formerly carried on business as a concreter under the business name '1st Choice Concrete Specialist' providing concreting services to consumers in Western Australia (registration cancelled on 6 December 2010);
- (ii) entered into an Enforceable Undertaking with the Commissioner for Consumer Protection (**Commissioner**) on 12 September 2012;
- (iii) is currently the sole director of Luxury Concreting Pty Ltd (**Company**) that carries on business as a concreter under the registered business name 'C & J Decorative Concrete' providing concreting services to consumers in Western Australia.

- B. McLeod and the Commissioner agree to end the Enforceable Undertaking dated 12 September 2012 (former EU) and enter into this (new) Enforceable Undertaking the terms of which are set out below.**

- C. For the purposes of this Enforceable Undertaking:
- (i) 'consumer' has the same meaning as it does under the *Fair Trading Act 2010 (WA)*;
 - (ii) 'concreting services' includes the provision of labour, advice, skill, and materials in the nature of applying concrete or the like, and includes the preparation of surfaces for the application of concrete or the like;
 - (iii) 'dispute' includes but is not limited to the circumstances in clauses 6 and 7 of this Enforceable Undertaking;
 - (iv) 'supply' includes agreeing, arranging or organising to supply concreting services whether personally or on behalf of another person, firm, body corporate, or other entity.
- D. This Enforceable Undertaking is accepted under section 218 of the *Australian Consumer Law (WA)* by the Commissioner.
- E. Upon the Commissioner being satisfied of a breach, this Enforceable undertaking is enforceable by a court upon the Commissioner's application.
- F. This Enforceable Undertaking is not confidential and may be published by the Commissioner.

UNDERTAKING

I, **JOEL McLEOD**, upon this Enforceable Undertaking being accepted by the **COMMISSIONER, UNDERTAKE**, pursuant to section 218 of the *Australian Consumer Law (WA)*, that:

1. I acknowledge and agree that this Enforceable Undertaking applies to:
 - 1.1. any supply of concreting services to a consumer where I am to be the supplier;
 - 1.2. any supply of concreting services to a consumer that I agree to, arrange, negotiate, or organise on behalf of any other person, firm, body corporate, or other entity.
2. I will not supply any concreting services to a consumer without first providing to a consumer a written quotation of the total cost of the concreting services.
3. I will not supply any concreting services to a consumer without a written agreement setting out:
 - 3.1. The cost of the concreting services;
 - 3.2. The time within which the concreting services will commence;
 - 3.3. The time within which the concreting services will be completed.
4. I will not enter into any written agreement to supply any concreting services to a consumer that entitles me or another person, firm, body corporate, or other entity:
 - 4.1. before supplying concreting services to a consumer, to demand or receive any payment from the consumer that is in excess of 6.5% of the total cost of the concreting services agreed to in the written agreement;
 - 4.2. after supplying concreting services to a consumer, to demand or receive any payment from the consumer, unless the payment is a genuine progress payment for concreting services already supplied.
5. I will provide to consumers, and retain copies of, written receipts for all payments made by consumers for the supply of concreting services.
6. I will supply all concreting services within the time agreed in writing, but if those services cannot be completed within the time agreed in writing that fact will be treated as a 'dispute' and I will take the steps referred to in clause 7.

7. I will, in the event of a dispute about concreting services that I supply, whether raised orally or in writing:
- 7.1. Within fourteen (14) days:
- (a) Notify the Commissioner of a dispute.
 - (b) If applicable, notify the person, firm, body corporate, or other entity on whose behalf I was acting of the dispute.
 - (c) Provide to the consumer a copy of this Enforceable Undertaking.
 - (d) Inform the consumer that the Commissioner has been notified of the dispute.
- 7.2. Within twenty-one (21) days, provide to the Commissioner (via RBSCI@dmirs.wa.gov.au and marked to the attention of 'The Manager, Retail Building and Services') evidence of steps 7.1.(b), 7.1.(c) and 7.1.(d).
8. I will obtain and retain a copy of the *Australian Consumer Law (WA)* from the State Law Publisher.
9. I will inform myself of my legal obligations under the *Australian Consumer Law (WA)*, including in particular the specific protections contained in Chapter 3.
10. I understand that on the Commissioner's acceptance of this Enforceable Undertaking that the terms of the former EU will end and the terms set out in this Enforceable Undertaking will apply.

Signed by:

JOEL McLEOD

DAVID HILLYARD

COMMISSIONER FOR CONSUMER PROTECTION

DATE UNDERTAKING ACCEPTED



David Hillyard 27/7/18

28-6-18