

Undertaking to the Australian Competition and Consumer Commission

Given under section 87B of the *Competition and Consumer Act 2010* by Dollar Thrifty Automotive Group, Inc, Hertz Australia Pty Ltd (ACN 004 407 087) and Hertz Global Holdings, Inc

June 2014

1. Persons giving the Undertaking

This Undertaking is given to the Australian Competition and Consumer Commission (ACCC) by:

- (a) Dollar Thrifty Automotive Group, Inc (**DTAG**); and
- (b) Hertz Australia Pty Ltd (ACN 004 407 087) (**Hertz Australia**); and
- (c) Hertz Global Holdings, Inc (**Hertz Global**).

2. Background

The Acquisition

- 2.1 On 19 November 2012, Hertz Global Holdings Inc (**Hertz Global**), a company incorporated in Delaware, United States, acquired all the issued shares in DTAG, a company incorporated in Delaware, United States (**Acquisition**).

The parties to the Acquisition

- 2.2 Hertz Australia carries on, and operates a car rental business under the 'Hertz' brand in Australia, together with various licensees. Hertz Global is the ultimate holding company of Hertz Australia.
- 2.3 The 'Thrifty' business in Australia (**Thrifty Australia**) is operated by Kingmill Pty Ltd, trading as Thrifty Car Rental (ACN 003 966 649) (**Kingmill**), a wholly owned subsidiary of the National Roads and Motorists' Association Limited (ACN 090 839 197).
- 2.4 Kingmill is the 'Master Licensee' (**Master Licensee**), and Dollar Rent A Car, Inc and Thrifty Rent-A-Car System, Inc are, together, the 'Licensor' (**Licensor**), under a licence agreement (the **License Agreement**), which sets out the terms of the licence arrangement in respect of the Thrifty Australia business operated by the Master Licensee.
- 2.5 Dollar Rent A Car, Inc and Thrifty Rent-A-Car System, Inc are subsidiaries of DTAG.

The ACCC's review

- 2.6 The ACCC commenced a public review of the Acquisition on 14 September 2012.
- 2.7 The ACCC has conducted market inquiries and considered information provided by Hertz, a range of industry participants and others. The

purpose of the ACCC's market inquiries was to assess whether or not the Proposed Acquisition would have the effect, or be likely to have the effect, of substantially lessening competition in any market in contravention of section 50 of the Act.

The ACCC's competition concerns

- 2.8 The ACCC considered that, in the absence of this Undertaking and amendments to the License Agreement, the Acquisition may be likely to have the effect, of substantially lessening competition in the market(s) for on-airport passenger vehicle rentals.
- 2.9 In the absence of this Undertaking, the ACCC was concerned that the Acquisition would enable Hertz Global and/or Hertz Australia to exercise direction or control over the operation of the Thrifty Australia business and provide Hertz Australia with access to commercially and competitively sensitive financial and operational information about the Thrifty Australia business.
- 2.10 The ACCC was concerned that, following the Acquisition, the Thrifty Australia business could cease to compete as a vigorous and effective competitor independently of Hertz Australia and thereby remove or weaken the competitive impact of one of Hertz Australia's three significant competitors for the provision of passenger vehicle rentals from on-airport locations, where barriers to entry and expansion appear to be high. The ACCC was also concerned that the acquisition would weaken competitive constraints on remaining suppliers, which may provide them with an increased incentive or ability to increase prices and/or offer lower levels of service and may also increase barriers to entry for on-airport locations.
- 2.11 The ACCC was also concerned that the Acquisition would increase the potential for coordinated behaviour between Hertz Australia and the Thrifty Australia business and for Hertz Australia to gain a competitive advantage through access to commercially and competitively sensitive information about the operation of the Thrifty brand in Australia, which would also weaken competitive tension in the market(s) for on-airport passenger vehicle rentals.

Objective of this Undertaking

- 2.12 DTAG, Hertz Australia and Hertz Global have, without admission and without accepting the validity of the ACCC's concerns, offered this

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Undertaking under section 87B of the Act to address the ACCC's competition concerns in relation to the Acquisition.

- 2.13 In addition to DTAG, Hertz Australia and Hertz Global giving this Undertaking, the Licensor and the Master Licensee have amended the License Agreement in accordance with Schedule 2 of this Undertaking in order to address the ACCC's concerns.
- 2.14 Together, the Undertaking and amendments to the License Agreement are intended to address the ACCC's competition concerns and ensure that the Thrifty Australia business continues to compete at arm's length with Hertz Australia and any Australian Hertz Business by:
- (a) ring-fencing the management of, and involvement in, the Thrifty Australia business by DTAG and the Licensor from Hertz Australia and any Australian Hertz Business;
 - (b) limiting the type and degree of specificity of financial and operational information required to be provided by the Thrifty Australia business to DTAG and the Licensor;
 - (c) preventing Hertz Australia from accessing confidential information and DTAG reservation systems relating to the Thrifty Australia business; and
 - (d) the Licensor relinquishing certain rights it would otherwise have had under the License Agreement in respect of the Thrifty Australia business.

3. Commencement of the Undertaking

- 3.1 The Undertaking commences when:
- (a) the Undertaking is executed by each of Hertz Global, DTAG and Hertz Australia; and
 - (b) the Undertaking so executed is accepted by the ACCC.

4. Cessation of ongoing obligations

Termination

- 4.1 This Undertaking terminates on the earliest of:
- (a) the date on which the License Agreement expires or is terminated;

- (b) the date on which the Licensor, DTAG, Hertz Global or any of their Related Bodies Corporate cease to be the 'Licensor' under the License Agreement;
- (c) the date on which DTAG (or the Licensor) and Hertz Australia cease to be Related Bodies Corporate; or
- (d) upon DTAG or the Licensor or any of their Related Bodies Corporate completing a Subsequent Transaction.

Notification

4.2 DTAG and Hertz Australia must notify the ACCC in writing within three Business Days of termination of this Undertaking.

Withdrawal

4.3 This Undertaking is taken to be withdrawn on the date on which the ACCC consents in writing to the withdrawal of the Undertaking in accordance with section 87B of the Act.

Revocation

4.4 The ACCC may, at any time, revoke in writing its acceptance of the Undertaking if the ACCC becomes aware that any information provided to it by DTAG, Hertz Global or Hertz Australia was incorrect, inaccurate or misleading.

Waiver

4.5 The ACCC may, at any time, expressly waive in writing any of the obligations contained in this Undertaking or amend the date by which any such obligation is to be satisfied.

Completion

4.6 Clauses 1 to 4 inclusive, clauses 8 to 14 inclusive and Schedule 1 survive completion of the obligations in clauses 5, 6 and 7 of this Undertaking.

5. Ring-fencing obligations

No involvement in management of Thrifty Australia

- 5.1 Hertz Australia must not:
- (a) be involved in the management or operations of the Thrifty Australia business;
 - (b) exercise, or purport to exercise, any right of the Licensor under the License Agreement in respect of the Master Licensee.

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- 5.2 Hertz Global undertakes that no Australian Hertz Business will:
- (a) be involved in the management or operations of the Thrifty Australia business;
 - (b) exercise, or purport to exercise, any right of the Licensor under the License Agreement in respect of the Master Licensee.
- 5.3 DTAG must not be involved in the management or operations of the Thrifty Australia business otherwise than in accordance with the License Agreement.

Ring-fencing of financial and operational reports

- 5.4 DTAG, Hertz Global and their Related Bodies Corporate must ensure that confidential information relating to the Thrifty Australia business:
- (a) obtained by the Licensor in its capacity as the Licensor under the License Agreement; or
 - (b) provided by the Master Licensee to a representative of the Licensor or an independent party in compliance with its obligations under the License Agreement, including:
 - (i) any financial or operational report the Master Licensee is required to provide under Article 204.K.1 of the License Agreement;
 - (ii) any annual financial statement the Master Licensee is required to provide under Article 204.K.2 of the License Agreement; or
 - (iii) records kept by the Master Licensee to which access is provided to a nominated independent party under Articles 204.K.4 of the License Agreement,

is not disclosed to, provided to or accessed by Hertz Australia or any Australian Hertz Business or any other company within the Hertz Group that has direct operational or strategic responsibility in relation to any Australian Hertz Business (which, for the avoidance of doubt, does not include the provision of summary reports or audit findings to a company within the Hertz Group with overall management or portfolio responsibilities in relation to the Thrifty Australia business).

- 5.5 Hertz Australia must not receive, access or seek to access any information, report, statement or record referred to in clause 5.4 of this Undertaking.

Ring-fencing of DTAG reservation systems

- 5.6 Subject to clause 5.8, Hertz Global and DTAG must implement all necessary measures to prevent Hertz Australia or any Australian Hertz Business from receiving or accessing information relating to Thrifty Australia rates and other information relating to Thrifty Australia operations through the global reservation system operated by DTAG or any other reservation system operated by the Master Licensee.
- 5.7 Subject to clause 5.8, Hertz Australia must not receive, access or attempt to access any information referred to in clause 5.6 through the DTAG global reservation system or any other reservation system operated by the Master Licensee.
- 5.8 Clauses 5.6 and 5.7 do not prevent Hertz Australia from accessing or using information which has been obtained or ascertained solely from public sources or materials, including from any part of a reservation system that is publicly accessible.

6. Required notifications

Transfers of assets and shares

- 6.1 DTAG must provide the ACCC with at least 10 Business Days' notice prior to the occurrence or anticipated occurrence of any circumstance or event (including, without limitation, any proposed Subsequent Transaction), or any proposed termination or expiration of the Licence Agreement, that would or may result in any assets of or shares in the Master Licensee, including without limitation any assets used by the Master Licensee to operate Thrifty Australia, being transferred to DTAG or the Licensor or a Related Body Corporate of either of them, including without limitation pursuant to Articles 502 and 603 of the License Agreement.

Consents, waivers and notices

- 6.2 DTAG must provide the ACCC as soon as is reasonably practicable with notice, in writing, of a consent, waiver or notice given by the Licensor under the License Agreement in accordance with Article 605.D of the License Agreement where that consent, waiver or notice:
- (a) would adversely impact the intended effect of the amendments made by the License Agreement on 2nd June 2014 as set out in Schedule 2 to this Undertaking; or

- (b) is otherwise inconsistent, or may reasonably be considered to be inconsistent, with the objective of this Undertaking (as set out in clauses 2.12 to 2.14 above) and/or with DTAG's, Hertz Global's or Hertz Australia's obligations under this Undertaking.

7. Amendments to the License Agreement

- 7.1 The Licensor, DTAG or any Related Body Corporate of DTAG must not, without the prior written consent of the ACCC:
- (a) amend those clauses of the License Agreement which were amended on 2nd June 2014 as set out in Schedule 2 to this Undertaking, or make any other amendment to the License Agreement, in either case in a way which would adversely impact the intended effect of the amendments to those clauses; or
 - (b) otherwise amend the License Agreement where that amendment is or may reasonably be considered to be inconsistent with the objective of this Undertaking (as set out in clauses 2.12 to 2.14 above) and/or with DTAG's, Hertz Global's or Hertz Australia's obligations under this Undertaking.

8. Information

- 8.1 The ACCC may direct Hertz Global, DTAG and/or Hertz Australia, in respect of their compliance with this Undertaking, to:
- (a) furnish information to the ACCC in the time and in the form requested by the ACCC;
 - (b) produce documents and materials to the ACCC within the custody, power or control of Hertz Global, DTAG or Hertz Australia (as applicable) in the time and in the form requested by the ACCC; and/or
 - (c) attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (its Commissioners, its staff or its agents) may have.
- 8.2 Hertz Global, DTAG and Hertz Australia (as applicable) must comply with an ACCC direction under clause 8.1.
- 8.3 Any direction made by the ACCC under clause 8.1 will be notified to Hertz Global, DTAG or Hertz Australia (as applicable) in accordance with the requirements of clause 13.

- 8.4 Information furnished, documents and material produced or information given in response to any request or direction from the ACCC under this clause 8 may be used by the ACCC for any purpose consistent with the exercise of its statutory duties.
- 8.5 Nothing in this clause 8 requires the provision of information or documents in respect of which Hertz Global, DTAG or Hertz Australia (as applicable) has a claim of legal professional or other privilege.

9. Disclosure of the Undertaking

- 9.1 DTAG, Hertz Global, Hertz Australia and the ACCC agree that Schedule 2 to this Undertaking [Annexure containing amendments to Licence Agreement and other confidential terms] will remain confidential.
- 9.2 DTAG, Hertz Global and Hertz Australia acknowledge that the ACCC may:
- (a) make this Undertaking (other than Schedule 2) publicly available; and
 - (b) publish this Undertaking (other than Schedule 2) on its public section 87B undertakings register; and
 - (c) from time to time publicly refer to this Undertaking (other than Schedule 2).
- 9.3 Nothing in this clause 9 prevents the ACCC from disclosing such information as:
- (a) is required by law;
 - (b) is permitted by s 155AAA of the Act;
 - (c) is necessary for the purpose of enforcement action under section 87B of the Act; or
 - (d) is necessary for the purpose of making such market inquiries as the ACCC considers necessary to assess the impact on competition arising in connection with the Undertaking.
- 9.4 Nothing in clause 9 prevents the ACCC from using the information contained in the Undertaking for any purpose consistent with its statutory functions and powers.

10. Obligation to procure

Where the performance of an obligation under the Undertaking requires a Related Body Corporate of DTAG, Hertz Global or Hertz Australia to take or refrain from taking some action, Hertz Global, DTAG or Hertz Australia (as applicable) will procure that Related Body Corporate to take or refrain from taking that action, as the case may be.

11. No Derogation

- 11.1 The Undertaking does not prevent the ACCC from taking enforcement action at any time, whether during or after the period of the Undertaking, in respect of any breach by Hertz Global, DTAG or Hertz Australia of any term of the Undertaking.
- 11.2 Nothing in the Undertaking is intended to restrict the right of the ACCC to take action under the Act for penalties or other remedies in the event that Hertz Global, DTAG or Hertz Australia does not fully comply with, implement and/or perform its obligations under the Undertaking, or in any other event where the ACCC decides to take action under the Act for penalties or other remedies.

12. Costs

Each of Hertz Global, DTAG and Hertz Australia will pay all of its own costs incurred in relation to the Undertaking.

13. Notices

Giving Notices

- 13.1 Any notice or communication to the ACCC pursuant to the Undertaking must be sent to:

Email address: mergers@acc.gov.au

Attention: Executive General Manager
Mergers and Adjudication Group

With an email copy sent to:

mergersucu@acc.gov.au

Director, Undertaking Compliance Unit
Coordination and Strategy Branch

Mergers and Adjudication Group

- 13.2 Any notice or communication to Hertz Global pursuant to this Undertaking must be sent to:

Name: Jeffrey Zimmerman
SR VP General Counsel & Secretary
The Hertz Corporation
Address: 225 Brae Boulevard
Park Ridge, NJ, 07656
U.S.A

- 13.3 Any notice or communication to DTAG pursuant to this Undertaking must be sent to:

Name: Dollar Thrifty Automotive Group Inc
Address: 5330 East 31st Street
PO Box 35985
Tulsa, OK, 74153 – 0985
U.S.A

- 13.4 Any notice or communication to Hertz Australia pursuant to this Undertaking must be sent to:

Name: Hertz Australia Pty Ltd
Address: 10 Dorcas Street
South Melbourne, Victoria, 3186
Australia

- 13.5 A notice sent by post is taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

- 13.6 A notice sent by email is taken to be received at the time shown in the email as the time the email was sent.

Change of contact details

- 13.7 Hertz Global, DTAG, Hertz Australia and the ACCC must give the other parties notice of a change to its contact details for notices within three Business Days.

- 13.8 A notice or communication is only taken to be received under this clause 13 (subject to clauses 13.4 and 13.5) if it is delivered, posted or faxed to the most recently advised address or number of the relevant party.

14. Defined terms and interpretation

Definitions in the Dictionary

- 14.1 A term or expression starting with a capital letter:
- (a) which is defined in the Dictionary in clause 1 of Schedule 1 to the Undertaking (**Dictionary**), has the meaning given to it in the Dictionary; or
 - (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act, unless the context requires otherwise.

Terms used in the License Agreement

- 14.2 A term or expression which is defined in the License Agreement, and not otherwise defined in the Dictionary, has the meaning given to it in the License Agreement, unless the context requires otherwise.

Interpretation

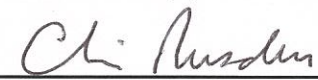
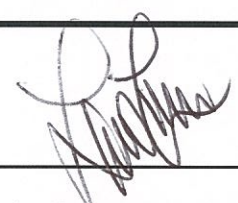
- 14.3 Clause 2 of Schedule 1 to the Undertaking sets out rules of interpretation for the Undertaking.

Executed as an Undertaking

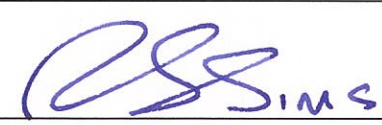
Executed by Dollar Thrifty Automotive Group, Inc
by:

_____ Signature of director	_____ Signature of a director/company secretary
_____ Name of director (print)	_____ Name of director/company secretary (print)
_____ Date	_____ Date

Executed by Hertz Australia Pty Ltd (ACN 004 407 087)
pursuant to section 127(1) of the *Corporations Act 2001* by:

 _____ Signature of director	 _____ Signature of a director/company secretary
CHRIS RUSDEN _____ Name of director (print)	LAWRENCE LIM _____ Name of director/company secretary (print)
Date 6/6/14	Date 6/6/14

Accepted by the Australian Competition and Consumer Commission
pursuant to section 87B of the *Competition and Consumer Act 2010* on:

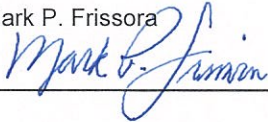
 _____ And signed on behalf of the Commission:	Date 29/7/14
Rod Sims _____ Chairman	_____ Date

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Undertaking given to the Australian Competition and Consumer Commission under
section 87B of the *Competition and Consumer Act 2010* by Dollar Thrifty Automotive
Group Inc, Hertz Australia Pty Ltd (ACN 004 407 087) and Hertz Global Holdings, Inc

Executed as an Undertaking

Executed by Dollar Thrifty Automotive Group, Inc
by:

Mark P. Frissora

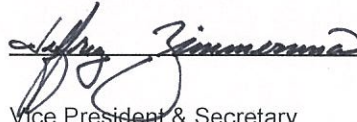


President & Chief Executive Officer

7/10/14

Date

Jeffrey Zimmerman



Vice President & Secretary

7/9/14

Date

Executed by Hertz Australia Pty Ltd (ACN 004 407 087)
pursuant to section 127(1) of the *Corporations Act 2001* by:

Signature of director

Signature of a director/company secretary

Name of director (print)

Name of director/company secretary (print)

Date

Date

Accepted by the Australian Competition and Consumer Commission
pursuant to section 87B of the *Competition and Consumer Act 2010* on:



Date

And signed on behalf of the Commission:

Roo Sims

29/7/14

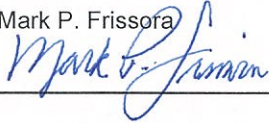
Chairman

Date

12
Undertaking given to the Australian Competition and Consumer Commission under
section 87B of the *Competition and Consumer Act 2010* by Dollar Thrifty Automotive
Group Inc, Hertz Australia Pty Ltd (ACN 004 407 087) and Hertz Global Holdings, Inc

Executed by Hertz Global Holdings, Inc
by:

Mark P. Frissora

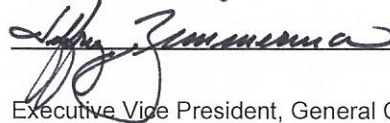


Chief Executive Officer

7/10/14

Date

Jeffrey Zimmerman



Executive Vice President, General Counsel &
Secretary

7/9/14

Date

Executed by Hertz Global Holdings, Inc
by:

_____ Signature of director	_____ Signature of a director/company secretary
_____ Name of director (print)	_____ Name of director/company secretary (print)
_____ Date	_____ Date

Schedule 1

1. Dictionary

ACCC means the Australian Competition and Consumer Commission.

Act means the *Competition and Consumer Act 2010* (Cth).

Australian Hertz Business means any business for the provision of car rental services carried on in Australia by Hertz Australia or any of its Related Bodies Corporate.

Acquisition has the meaning given to that term in clause 2.1.

Business Day means a day other than a Saturday or Sunday on which banks are open for business generally in the Australian Capital Territory.

Corporations Act means the *Corporations Act 2001* (Cth).

DTAG means Dollar Thrifty Automotive Group Inc, a company incorporated in, Delaware, United States.

Hertz Australia means Hertz Australia Pty Ltd (ACN 004 407 087).

Hertz Global means Hertz Global Holdings Inc, a company incorporated in Delaware, United States.

Hertz Group has the meaning given in the License Agreement, as amended by an Amendment Deed dated 2nd June 2014.

Kingmill means Kingmill Pty Ltd, trading as Thrifty Car Rental (ACN 003 966 649).

License Agreement means the International Master License Agreement between Kingmill as 'Master Licensee' and DTAG as 'Licensor', including its schedules, exhibits and 'Operating Manuals', and as amended by a letter agreement dated 19 June 2009 and an Amendment Deed dated 2nd June 2014.

Licensor means the 'Licensor' under the License Agreement.

Master Licensee means the 'Master Licensee' referred to in the License Agreement.

Related Bodies Corporate has the meaning given by section 4A of the Act.

Schedule means a schedule to this Undertaking.

Subsequent Transaction means any transaction under which DTAG, the Licensor or any of their Related Bodies Corporate acquires an interest, whether

directly or through any one or more interposed entities, in 35 per cent or more of the shares in, or 35 per cent or more of the assets comprising the business of, the Master Licensee.

Thrifty Australia has the meaning given to that term in clause 2.3 of this Undertaking.

Undertaking is a reference to all provisions of this document, including its Schedules and as varied from time to time under section 87B of the Act.

2. Interpretation

In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:

- (a) a reference to this Undertaking includes all of the provisions of this document including its Schedules;
- (b) headings are inserted for convenience only and do not affect the interpretation of this Undertaking;
- (c) if the day on which any act, matter or thing is to be done under the Undertaking is not a Business Day, the act, matter or thing must be done on the next Business Day;
- (d) a reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (e) a reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;
- (f) a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- (g) an expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- (h) where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (i) a word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders;

- (j) a reference to the words 'such as', 'including', 'particularly' and similar expressions is to be construed without limitation;
- (k) a construction that would promote the purpose or object underlying the Undertaking (whether expressly stated or not) will be preferred to a construction that would not promote that purpose or object;
- (l) material not forming part of the Undertaking may be considered to:
 - (i) confirm the meaning of a clause is the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the competition concerns intended to be addressed by the Undertaking and the clause in question; or
 - (ii) determine the meaning of the clause when the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the purpose or object underlying the Undertaking, leads to a result that does not promote the purpose or object underlying the Undertaking;
- (m) in determining whether consideration should be given to any material in accordance with paragraph (m), or in considering any weight to be given to any such material, regard must be had, in addition to any other relevant matters, to:
 - (i) the effect that reliance on the ordinary meaning conveyed by the text of the clause would have (taking into account its context in the Undertaking and whether that meaning promotes the purpose or object of the Undertaking); and
 - (ii) the need to ensure that the result of the Undertaking is to completely address any ACCC competition concerns;
- (n) the ACCC may authorise the Mergers Review Committee, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under the Undertaking on its behalf and that authorisation may be subject to any conditions which the ACCC may impose;
- (o) in performing their obligations under the Undertaking, DTAG and Hertz Australia will do everything reasonably within their power to ensure that their performance of those obligations is done in a manner which is consistent with promoting the purpose and object of the Undertaking;
- (p) a reference to:
 - (i) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (ii) a party includes its successors and permitted assigns; and

(ii) a monetary amount is in Australian dollars.

Schedule 2

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