



# Enforceable Undertaking

## Chapter 10.1A

Heavy Vehicle National Law

The commitments in this enforceable undertaking are offered  
to the ~~NHVR~~ National Heavy Vehicle Regulator

By

Katoomba Trading Pty Ltd

ABN: 86087989366

## **Part 1 Executive summary**

### **Section 1 Agreed actions**

1. Katoomba Trading is committed to enforcing the HVNL in all aspects of its operations. We have engaged suitably qualified consultants to assist us in achieving this. With their assistance we have identified several areas where we can improve our operations and are committed to achieving this through simplified documentation of procedures, and the training and education of our workforce.
2. Katoomba Trading's employees are committed to the company's ongoing success and are therefore committed to the success of this Enforceable Undertaking and what it requires of each of them as part of the Chain of Responsibility.

### **Section 2 Total cost of actions**

3. Rectifications made the 1st part \$15,485
4. Activities 2<sup>nd</sup> part \$54,300

## **Part 2 General information**

### **Section 1 Purpose**

5. The purpose of this enforceable undertaking is to document the undertakings offered to the National Heavy Vehicle Regulator (NHVR) pursuant to Chapter 10.1A of the Heavy Vehicle National Law (HVNL) in connection with a matter relating to an alleged contravention of the HVNL.

### **Section 2 Details**

6. The commitments in this enforceable undertaking are offered to the NHVR by Katoomba Trading Pty Ltd (Katoomba Trading).
7. This enforceable undertaking is given on the day and date that it is accepted and signed by the NHVR. The undertaking and its enforceable terms will operate as a legally binding commitment on the part of the person from

the date it is given.

### Details of the person proposing the undertaking:

Registered address:	[REDACTED]
Postal address:	[REDACTED]
Telephone:	[REDACTED]
Email address:	[REDACTED]
Legal structure:	Proprietary Limited Company
Type of business:	Wholesale Food business
Commencement of entity:	1999
Number of workers:	25
Products and/or services:	Katoomba Trading is a wholesale distributor of groceries into the ethnic and mainstream food market. [REDACTED] operations across Australia.

### Details of the alleged contravention

- It is alleged by the NHVR that on 16 November 2020 at Laverton, Katoomba Trading permitted another person to drive a heavy vehicle, namely a white 2011 Mercedes Benz Van registration number [REDACTED] on a road without ensuring that the vehicle, its components and load, complied with the applicable mass requirements, namely that the vehicle exceeded the prescribed mass limit of 4.40 ton, contrary to section 96(1) of the HVNL, carrying a maximum penalty of \$92,450

### Details of the events surrounding the alleged contravention

- Katoomba Trading is considered as "Essential Services" and during this period the VIC state was under Covid restrictions. Our drivers were also under pressure to deliver essential food products to customers.

On 16 November 2020, authorized officers of the NHVR observed a heavy vehicle, namely a 2011 Mercedes Benz Van with the registration number [REDACTED] was travelling south on Little Boundary Road Laverton with the front of vehicle sitting very low to the ground.

An authorized officer intercepted the vehicle and spoke to the driver. The driver was directed to drive following the authorized officers to the weighbridge located at BP petrol station

The vehicle's mass was measured, and the load was inspected.

The 2011 Mercedes Benz Van with the registration number [REDACTED] was registered to Katoomba Trading.

The mass detected at front was 6.2 tons while the rear was below the mass limit. Taking into account the applicable mass adjustment, the alleged front mass was 5.9 ton, which is 134% of the prescribed mass limit and a serious risk breach pursuant to the Heavy Vehicle (Mass, Dimension and Loading) National Regulations.

### The details of any injury or financial loss that arose from the alleged contravention

- There were no injuries or financial loss that arose from the alleged contravention.

### The details of any notices issued that relate to the alleged contravention

- Katoomba Trading has received a Summons dated 13<sup>th</sup> Oct 2021 in respect of the alleged contravention that occurred on 16<sup>th</sup> Nov 2020 in relation to a hearing before the Magistrates Court of Victoria at Melbourne



Magistrates Court on 2<sup>nd</sup> Feb 2022, however the court has adjourned the hearing by consent.

### **The details of any existing transport safety management systems at the workplace including the level of auditing currently undertaken**

12. Katoomba Trading has an established comprehensive safety management system in place which encompasses Chain of Responsibility compliance that clearly define responsibilities for all employees.
13. Katoomba Trading has a Health and Safety management policy that comprises of all safety processes the company provides to the staff to follow. We have now engaged into further improving this process by adding a strong element of mass management both in warehouse and trucks. The company receives information and advice from third parties.

### **Any consultation undertaken within the company regarding the proposal of an EU**

14. Katoomba Trading has taken the matter seriously and have not only engaged with consultants for Mass management and Chain of Responsibility but also investing into re-training our warehouse staff and drivers with forklift courses and Mass Management. The company have also engaged into a permanent consultant to oversee all the safety and mass management protocol and constantly audit our processes to ensure compliance with the Enforceable Undertaking.

Katoomba Trading has engaged with the below consultants for corrective action process:

- a. Mass Management – We have engaged with Mass Management consultant to provide training for key personnel in the operations team, to train and educated team on HVNL requirements including vehicle mass limits and weight distribution, vehicle dimensions, load restraint, fatigue management, speed management and vehicle standards along with a course on Chain of Responsibility (CoR)
- b. Main and Associates – To further improve our safety standards we now have appointed Main and Associates to conduct a safety audit along with implementing a safety software that will help better track and train staff in key area, with a focus on Mass management on loading of vehicles.
- c. Victorian Forklift Assessments – To refresh and upgrade the skills of the staff we have engaged with Victorian Forklift Assessment to re-train and train new staff on the importance of forklift safety with a focus on mass management. Course includes pre-operational checks of forklift and working area, negotiating hazards, shifting loads, placing loads in and out of racking, weight management, loading & unloading trucks and shut down procedures.

## **Section 3 Statements**

### **Statement of assurance**

15. Katoomba Trading confirms that it is committed to complying with its obligations under the HVNL and ensuring so far as is reasonably practicable, the health and safety of all workers and other persons that have the potential to be impacted by its business or undertakings.

### **Statement of regret**

16. Katoomba Trading regrets that the incidents on 16 Nov 2020 occurred.

### **Statement of ability to comply**

17. Katoomba Trading confirms that it has the financial and operational capacity to comply with the terms of this enforceable undertaking.

### **Statement granting permission to use**

18. Katoomba Trading grants the NHVR a permanent, irrevocable, royalty-free, worldwide non-exclusive licence to use, reproduce, distribute, electronically transmit, electronically distribute, adapt, and modify any materials developed as a result of this enforceable undertaking



## Statement of prior undertakings

19. Katoomba Trading has had no prior undertakings.

## Section 4 Acknowledgement

20. Katoomba Trading acknowledges that the NHVR alleges that it has contravened section 96(1) of the HVNL
21. The alleged contravention is taken very seriously by Katoomba Trading, its director and management team, who are committed to providing a safe and healthy workplace to conduct its business in a way that helps protect the environment and the communities in which it operates.
22. Katoomba Trading also acknowledges another incident that the NHVR alleges that it has contravened section 96(1) of the HVNL on 05 Jan 2022 and 06 Jan 2022. Katoomba trading will ensure that such events will not occur again after implementation of rectification made and planned activities.

## Section 5 Details of Injury or Illness

### Types of workers compensation provided (if the injured person is a worker of the person)

23. Not applicable. No injuries were sustained to workers or members of the public because of the alleged contravention.

### Support provided, and proposed to be provided, to the injured person to overcome injury/illness

24. Not applicable. No injuries were sustained to workers or members of the public as a result of the alleged contravention.

## Section 6 Rectifications made

25. Katoomba Trading is committed to ensuring it has developed systems that identify, assess and control risks and are designed to promote continual improvement and as a result of the alleged contravention, the following opportunities for enhancement of processes have been undertaken:

Description	\$ Amount
<u>Engagement with Victoria Forklift Assessment</u>	\$1,485

To get the team abreast with the latest guidelines on safety and better manage mass of goods. Improving and training the team to better manage safe loads and better understand the role they play in keeping the team people safe.

Course includes:

1. Pre-Operational checks of forklift and working area, negotiating hazards, shifting loads, placing loads in and out of racking, weight management, loading & unloading trucks and shut down procedures
2. Victorian Work safe Authority Assessment

Outcome: A copy of Certificates of Completion will be submitted to the NHVR as evidence within 3 months of signing the Enforcement undertaking.

Description	\$ Amount
<p><b><u>Installation of 2 Weight Gauges</u></b></p> <p>Installing of Weigh Gauges onto 2 forklifts for loading</p> <p>The installation of weigh gauges on the forklifts allows all pallets to be weighed before loading and also capture all weights which will be recorded onto the drivers' run sheets</p> <p>The installation occurred as a corrective action in January after the incident occurred and was done immediately.</p> <p>All pallets are now being weighed, recorded onto the driver's run sheets. The acknowledgement of what is being loaded is signed off by the person loading along with the driver setting a chain of responsibility. Accountability and chain of responsibility have now been established. 100% accurate weights being recorded.</p> <p>Outcome: A copy of Installation Certificate will be provided to the NHVR as evidence within 3 months of signing the Enforcement undertaking.</p>	\$4,000
<p><b><u>Load preparation &amp; load out procedure policy</u></b></p> <p>Company has updated the policy for load preparation and load out as per below:</p> <ol style="list-style-type: none"> <li>1. Consolidate freight to pallet</li> <li>2. Secure freight to pallet</li> <li>3. Use forklift scales to capture weight of pallet</li> <li>4. Write pallet weight on top left corner in marker</li> <li>5. Work out runs based on delivery zone</li> <li>6. Move freight into the run lane calculating weight</li> <li>7. Establish with driver what their weight capacity is of their vehicle and match the run to establish if we fall under their capacity, if not remove freight until we do.</li> <li>8. Modify driver run sheet to capture changes made and capture correct weight of the load.</li> <li>9. Once the run sheet has been consolidated to fall under the desired tare weight of the vehicle. Liaise with the driver as to how he would like the vehicle loaded and proceed to do so.</li> <li>10. Once the vehicle is loaded ensure that the freight is secure straps, gates etc before departure</li> </ol> <p><b><u>Future developments:</u></b></p> <ol style="list-style-type: none"> <li>1. We are currently measuring and weighing each SKU we have and then entering these details into our WMS which will then also advise the pickers the weight of which the order they are picking is to ensure we are consistently keeping pallet weights at a manageable level.</li> <li>2. Furthermore, we are also beginning implementation of a brokered Transport management system that with the above information will be able to establish what route the order needs to go on, what transport company is to be used also then outlining systematically</li> </ol>	\$5,000

Description	\$ Amount
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weight and volume and also providing manifest for each truck / van etc.

Outcome: A copy of the policy and procedure manual will be submitted to the NHVR as evidence within 3 months of signing the Enforcement undertaking.

<b>Chain of Responsibility</b>	<b>\$5,000</b>
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Staff trained and compliant in Chain of Responsibility of Load procedures as prepared per below:

1. Office Admin staff – Generate orders from the system and generate pick tickets
2. Pick / Pack team – Pick orders to the quantities of the pick ticket
3. Office Admin staff – Generate labels for quantities documented as picked by the picking team
4. Pick / Pack team – Label stock according to descriptions on the labels
5. Pick / Pack team – Consolidate freight to pallets
6. Forklift / Loading – Pick up pallets wrap the stock using the machine to make sure the load is secure
7. Forklift / Loading – Using the scales on the forklift establish how much the freight weighs and write the weight in BOLD writing on the TOP left hand corner. Also making sure the pallet does not exceed 1000kg.
8. Office Admin staff – Collect the data of pallet weights and destinations to work out best delivery route to assign.
9. Transport drivers – Upon arrival head to office advising Tare load of vehicle
10. Office Admin staff – Establish if all predetermined deliveries fall under trucks TARE weight
11. Office Admin staff – Generate the driver run sheet outlining what the weight of each delivery is also advising the total TARE load on the vehicle
12. Forklift / Loading – Give the run sheet to the forklift operator to verify handwritten weights match with run sheet weights for corresponding deliveries
13. Office Admin staff – Make amendments to the run sheet to reflect actual load
14. Forklift / Loading / Transport Drivers team – Liaise with truck driver to establish how they would like the load loaded
15. Forklift / Loading – Get copy of run sheet signed by driver
16. Office Admin staff – File run sheet with signed invoices from customers

Outcome: A copy of the training certificate will be submitted to the NHVR as evidence within 3 months of signing the Enforcement undertaking.

<b>Total cost</b>	<b>\$15,485</b>
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## Section 7 Acknowledgement of publication

26. Katoomba Trading acknowledges that the enforceable undertaking will be published on the NHVR's internet site and may be referenced in the NHVR's publications.

## Part 3 Enforceable terms

### Section 1 Commitments

#### Commitment that the behavior that led to the alleged contravention has ceased and will not recur

27. Katoomba Trading is committed to ensuring that the behavior that led to the alleged contravention has ceased and that it will take all reasonably practicable steps to prevent recurrence.

#### Commitment to the ongoing effective management of public risk associated with transport activities

28. Katoomba Trading is committed to the ongoing effective management of public risks associated with transport activities within its business operations.
29. Katoomba Trading has a commitment to ongoing continuous improvement in how it manages risks associated with its business operations, including the review of new technology when made available.

#### Commitment to disseminate information about the EU to workers and other relevant parties in the chain of responsibility

30. Katoomba Trading is committed to disseminating information about the enforceable undertaking to workers and other relevant parties within the chain of responsibility, including senior and operational management, health and safety management team, Health and Safety Committees and Health and Safety Representatives, workers, and all relevant contractors and subcontractors working for Katoomba Trading. This information will be disseminated through:
  - a. Katoomba Trading's website which is accessible to all employees, clients, and partners within two months from the date of acceptance of the enforceable undertaking.
  - b. Morning toolbox meetings – to maintain constant dialog around our focus for the day ensuring that we follow process and ensure we are adhering to all facets of our distribution process, this also provides time to discuss any issues / concerns to get total buy-in from all staff members.
  - c. For employees, clients, and partners, External contractors and sub-contractors: communication provided by Department Heads.
  - d. All email correspondence is captured through document management system.
  - e. Social media post
  - f. Katoomba Trading would conduct a Toolbox Talk/seminar with the wider industry community to emphasize, and educate the attendees on, the importance of heavy vehicle dimension requirements. Invitations would be extended to the members of the wider local business community.

#### Commitment to participating constructively in all compliance monitoring activities of the EU

31. Katoomba Trading is committed to participating constructively in all compliance monitoring activities of the EU.
32. Katoomba Trading acknowledges that responsibility for demonstrating compliance with the undertaking rests with Katoomba Trading and evidence to demonstrate compliance with the terms will be provided to the NHVR by the due date of each term.
33. It is acknowledged that the NHVR may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to the NHVR including providing details of workshops and training conducted for industry and community benefit.

**Commitment that any promotion of a benefit arising from the EU will clearly link the benefit to the undertaking and make it clear that the undertaking was entered into as a result of an alleged contravention**

- 34. Katoomba Trading is committed to ensuring that any promotion of a benefit arising from this enforceable undertaking will clearly link the benefit to the undertaking and that the undertaking was entered into as a result of the alleged contravention.

**Section 2 Strategies that will deliver benefits**

**Benefits to drivers and parties within the chain of responsibility**

- 35. As part of this enforceable undertaking, Katoomba Trading aims to deliver strategies that focus on benefits to:
  - a. drivers and parties within the chain of responsibility
  - b. the Wholesale food industry and the broader community.
- 36. Katoomba Trading intends to achieve these outcomes through the implementation of the strategies set out below that aim to educate, train and raise awareness among Katoomba Trading’s workforce and all parties within the chain of responsibility of the importance of complying with Chain of Responsibility laws.

**Activities**

<b>Activity 1 – Engagement with Main and Associates</b>
<b>Scope</b>
<p>Main &amp; Associates have been appointed to do a total overview and assessment of safety protocols for the business along with establishing new processes to better monitor safety in the workplace.</p> <p>Identify and establish strong processes and look at where improvements can be made. Set Training protocols for all elements of the business including safe management of mass and people safety. Constantly management and monitor the safety procedures of the business.</p> <p>To deliver a robust system that gives key senior management on what is happening on the safety front in the operations along with constantly looking at educating staff on safety and improving they knowledge on safety. To deliver a safe working environment for all staff and to ensure that we protect the safety of the public.</p>
<b>Timeframe</b>
We have already appointed the consultant and the work is ongoing.
<b>Outcome</b>
<p>Staff trained on Safety protocols</p> <p>A copy of the safety protocol assessment and directive to the staff will be submitted to the NHVR as evidence within 6 months of EU acceptance.</p>
<b>Costs</b>
\$35,000



**Activity 2 – Controls - Mass, Dimension and Loading**

**Scope**

Relevant staff will be tested for their knowledge of the mass, dimension and loading regulations for different configurations in different States and their understanding of specific permits, loading and restraining points. Additional training to be provided where required.

As part of the induction and internal training, safe operating procedures will be developed for all areas of operation, and these will be completed with the input of key personnel within the company.

This will be part of competency training for each driver and is a small part of a large form. All drivers need written proof of training completed.

Load restraint training and specific lashing diagrams will be developed to ensure all drivers are aware of requirements.

Mass management training for all staff to be more extensive. To ensure all drivers and allocators are aware of specific combinations weight limits, route maps, recording requirements and the importance of compliance in these vehicles.

**Timeframe**

To be completed within 12 months of the signing of the enforceable undertaking.

**Outcome**

Staff trained and compliant in HVNL Mass, Dimension and Loading

A copy of Certificates of Completion will be submitted to the NHVR as evidence within 12 months of the EU acceptance.

**Costs**

\$3,300

**Activity 3 – Contractor management**

**Scope**

A Contractor Management Plan will be developed to ensure all companies contracting to Katoomba Trading comply with the regulations. Where required, contractors will be audited by third party of Katoomba Trading's choice.

**Timeframe**

To be completed within 12 months of the signing of the enforceable undertaking

**Outcome**

Subcontractors will be compliant with regulations

A copy of Contractor Management Plan will be submitted to the NHVR as evidence within 6 months of EU acceptance.



<b>Activity 3 – Contractor management</b>
<b>Costs</b>
\$5,000
<b>Activity 4 – Management System Assurance - Internal Review</b>
<b>Scope</b>
Internal reviews to be completed by the department heads and senior management.
<b>Timeframe</b>
To be completed within 6 and 12 months of the signing of the enforceable undertaking
<b>Outcome</b>
Ongoing compliance
A copy of the audit report will be submitted to the NHVR as evidence within 6 months of EU acceptance.
<b>Costs</b>
\$2,500
<b>Activity 5 – Industry Awareness</b>
<b>Scope</b>
The Enforceable undertaking and our Chain of Responsibility Manual will be published on the Katoomba Trading’s Website and Social Media pages (Website is <a href="https://www.kgfoods.com.au">https://www.kgfoods.com.au</a> and Social media includes Facebook <a href="https://www.facebook.com/katoombafoods/">https://www.facebook.com/katoombafoods/</a> and Instagram <a href="https://www.instagram.com/katoomba_foods/?hl=en">https://www.instagram.com/katoomba_foods/?hl=en</a> pages of the company)
<b>Details</b>
Identify and establish strong processes and look at where improvements can be made. Set Training protocols for all elements of the business including safe management of mass and people safety. Constantly management and monitor the safety procedures of the business.
<b>Timeframe</b>
Within 2 months from the EU being accepted
<b>Outcome</b>
To provide assistance to other Heavy Vehicle operators when determining requirements for axle loads in Victoria.

**Activity 5 – Industry Awareness**

A copy of online publication will be submitted to the NHVR as evidence within 2 months from the EU being accepted

**Costs**

\$1,000

**Activity 6 – Program for monitoring of above activities.**

**Details**

Katoomba Trading to develop and monitor the process and activities to ensure that the process is running as per plan and within time limits.

**Timeframe**

Ongoing periodic monitoring.

A copy of the monitoring report will be submitted within 12 months of EU acceptance, and this will continue even after 12 months.

**Activity 7 – Toolbox Talk with wider Industry participants**

**Scope and Details**

Katoomba Trading will engage an external training provider to host a Toolbox Talk at Katoomba Trading’s Dandenong South office conveniently located for all the local businesses.

The Toolbox Talk will emphasise on the importance of heavy vehicle dimension requirements and how each attendee can play their part in ensuring compliance and safety of all road user / infrastructure. The event will also focus on emphasising important safety messages around fatigue, speed, mass, dimension, shifting loads, placing loads in and out of racking, weight management, loading & unloading trucks, load restraint and vehicle roadworthiness within road transport and the steps that businesses can take to comply with the HVNL. Katoomba Trading will also share their learning insights from this incident.

Katoomba Trading has included a minimum number of people in attendance, being at least 20 people. The participants will include the wider food industry community from grocery stores, drivers, transport companies, contractors, and other similar type of businesses. Katoomba Trading will also promote the workshop on social media to encourage most industry participants to attend. The Toolbox talk would conclude with light refreshment for all attendees.

**Timeframe**

To be held within 12 months of the acceptance of this enforceable undertaking.

**Outcome**

**Activity 7 – Toolbox Talk with wider Industry participants**

The primary purpose of this initiative is to bring greater awareness within the industry stakeholders and how everyone can collectively adopt practices to ensure compliance with the mass requirements. The initiative would not only benefit Katoomba Trading but have a greater impact on the broader food industry community.

**Output**

Katoomba Trading would provide an evidence of external trainer invoice, copy of promotional materials, list of all attendees along with the pictures of this event to the NHVR as evidence of this deliverable.

**Costs**

\$7,500

37. The total estimated value of the undertaking is \$54,300.00.



## Part 4 Offer of undertaking

Executed as an Undertaking

Katoomba Trading Pty Ltd ABN: 86087989366

Executed by Katoomba Trading Pty Ltd ABN: 8608798366 pursuant to section 127(1) of the *Corporations Act 2001* (Cth) by:

	
Signature of Director	Signature of Director/Company Secretary
	
Name of Director (print)	Name of Director/Company Secretary (print)
Date: 16/11/2022	Date:

## Part 5 Acceptance of undertaking

Accepted by the National Heavy Vehicle Regulator pursuant to sections 590A(2) and 661(1)(b) of the Heavy Vehicle National Law by:


Signature of Chief Executive Officer
Sal Petrocchio
Name of Chief Executive Officer (print)
Date: <b>29/11/2022</b> <small>enter a date.</small>