IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL COURT

No. S ECI 2023 01899

B E T W E E N

RAEKEN PTY LTD ATF DOWRICK SUPERANNUATION FUND (ACN 110 057 684)

Plaintiff

-and-

JAMES HARDIE INDUSTRIES PLC (ARBN 097829895)

Defendant

SUBSTITUTED STATEMENT OF CLAIM

Filed pursuant to paragraph 1(a) of the Orders of the Honourable Justice Nicols dated 10 July 2026

Date of Document:	10 July 2026	Solicitors Code:	11747
Filed on behalf of:	The Plaintiff	DX:	N/A
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CHAPTER I – BACKGROUND

A PRELIMINARY

A.1 The Plaintiff and the Group Members

1. This proceeding is commenced as a group proceeding pursuant to Part 4A of the *Supreme Court Act 1986* (Vic) by the Plaintiff on its own behalf and on behalf of all persons who:

   (a) during the period between 7 February 2022 and 7 November 2022 (inclusive) (**Relevant Period**) acquired (whether themselves or by an agent or trustee) through any trading platform:

      (i) an interest in CHESS Units of Foreign Securities in the Defendant (**James Hardie**) as listed on the Australian Securities Exchange (**ASX** and **JHX Shares**);

      (ii) American Depositary Receipts in James Hardie as listed on the New York Stock Exchange (**JHX ADRs**);

      (iii) long exposure to JHX Shares by entering into equity swap confirmations in respect of James Hardie shares (**JHX Equity Swaps**);

   (b) have suffered loss or damage by or resulting from the conduct of James Hardie pleaded in this Statement of Claim; and

   (c) were not during any part of the Relevant Period, and are not as at the date of this Statement of Claim, any of the following:

      (i) a related party (as defined by s 228 of the *Corporations Act 2001* (Cth) (**Corporations Act**) of James Hardie;

      (ii) a related body corporate (as defined by s 50 of the Corporations Act) of James Hardie;

      (iii) an associated entity (as defined by s 50AAA of the Corporations Act) of James Hardie;

      (iv) an officer or a close associate (as defined by s 9 of the Corporations Act) of James Hardie; or

      (v) a Justice or the Chief Justice of the Supreme Court of Victoria or a Justice or the Chief Justice of the High Court of Australia,

   (**Group Members**).

2. The Plaintiff acquired an interest in JHX Shares during the Relevant Period.

PARTICULARS

(i) *Details of the particular acquisitions of JHX Shares by the Plaintiff are set out below*:

Date	**Transaction type**	**Number of JHX Shares**	**Price**
6 April 2022	BUY	240	$41.28
26 October 2022	BUY	601	$33.28
28 October 2022	BUY	449	$33.44

3. As at the commencement of this proceeding, there were more than seven Group Members.

A.2 The Defendant

4. James Hardie is and at all material times was:

(a) a public limited company incorporated and registered in Ireland and is capable of being sued;

(b) a person within the meaning of s 1041H of the Corporations Act;

(c) a person within the meaning of s 12DA of the *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**);

(d) a person within the meaning of s 18 of the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as applicable pursuant to:

(i) s 12 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic);

(ii) s 28 of the *Fair Trading Act 1987* (NSW);

(iii) s 16 of the *Fair Trading Act 1989* (Qld);

(iv) s 6 of the *Australian Consumer Law (Tasmania) Act 2010* (Tas);

(v) s 19 of the *Fair Trading Act 2010* (WA);

(vi) s 14 of the *Fair Trading Act 1987* (SA);

(vii) s 7 of the *Fair Trading (Australian Consumer Law) Act 1992* (ACT); and/or

(viii) s 27 of the *Consumer Affairs and Fair Trading Act* (NT),

(individually, or together, **Australian Consumer Law**).

5. At all material times during the Relevant Period, James Hardie followed a fiscal year commencing 1 April of any given year and ending on 31 March of the following year.

6. At all material times during the Relevant Period:

(a) JHX ADRs were able to be purchased and sold by investors on the New York Stock Exchange using the code or designation "JHX"; and

(b) each JHX ADR represented one JHX Share and the price at which JHX ADRs traded on the NYSE exchange reflected (i) the price of one JHX Share and (ii) the exchange rate between Australian dollars and United States of America dollars.

A.3 Relevant James Hardie personnel

7. Aaron Erter (**Erter**) was, from 2 September 2022 to present, James Hardie's Chief Executive Officer (**CEO**), and a Director of James Hardie.

8. Harold Wiens (**Wiens**) was, from 7 January 2022 to 2 September 2022, James Hardie's interim CEO (**Interim CEO**) and a director of James Hardie. After 2 September 2022 Wiens remained a director of James Hardie.

9. Michael Hammes (**Hammes**) was, from around January 2008 to 3 November 2022, the Chair and a director of James Hardie.

10. Anne Lloyd (**Lloyd**) was, from 3 November 2022, the Chair, previously the Deputy Chair, as well as a director of James Hardie.

11. The following persons were also directors of James Hardie at all times during the Relevant Period (unless otherwise stated):

(a) Persio V Lisboa;

(b) Rada Rodriguez;

(c) Suzanne B Rowland;

(d) Nigel Stein;

(e) Dean Seavers (until 21 March 2022); and

(f) Peter John Davis (from 10 August 2022),

(together with Erter, Wiens, Hammes and Lloyd, the **James Hardie Board**).

12. The following persons were also officers during the Relevant Period:

(a) Jason Miele (**Miele,** Chief Financial Officer (**CFO**));

(b) Sean Gadd (**Gadd**, President, North America);

(c) Ryan Kilcullen (Executive Vice President, Global Operations);

(d) David Hill (Global Financial Controller), (together with the James Hardie Board, **James Hardie Officers**).

13. All persons listed at paragraphs 7 to 12 above were officers of James Hardie within the meaning of s 9 of the Corporations Act and ASX Listing Rule 19.12.

14. By reason of the matters pleaded at paragraphs 7 to 12 above, information of which any members of the James Hardie Board or James Hardie Officers became aware, or which ought reasonably to have come into their possession in the course of the performance of their respective duties as directors or officers of James Hardie was information of which James Hardie was aware (within the meaning of aware in ASX Listing Rule 19.12).

15. During the Relevant Period (unless otherwise stated):

(a) James Brennan-Chong (**Brennan-Chong**):

(i) was Director, Investor Relations;

(ii) reported to Miele;

PARTICULARS

(i) *Brennan-Chong's roles and responsibilities included:*

(A) *tracking and reporting to Miele in relation to:*

1. investor sentiment and analyst commentary in relation to James Hardie's announcements and industry performance;

2. James Hardie's competitors' performance, market position and share;

3. Events and trends in the North American housing market, including interest rates, inflation, and supply/demand trends in the market for James Hardie's products;

(B) *providing assumptions regarding market conditions for inclusion in James Hardie's budgets and forecasts.*

(b) Marc Castillo (**Castillo**):

(i) was Market Intelligence Analyst (until October 2022);

(ii) reported to Brennan-Chong;

PARTICULARS

(ii) *Castillo's roles and responsibilities included:*

(A) *tracking and reporting to Brennan-Chong and Miele in relation to:*

1. *James Hardie's competitors' performance, market position and share;*

2. *Events and trends in the North American housing market, including interest rates, inflation, and supply/demand trends in the market for James Hardie's products;*

(B) *providing assumptions regarding market conditions for inclusion in James Hardie's budgets and forecasts.*

(c) Shirley Criddle (**Criddle**):

(i) was Vice President, Finance;

(ii) reported to Miele;

PARTICULARS

Criddle's roles and responsibilities included overseeing and managing the North America finance division, coordinating the monthly and annual forecasting processes including oversight of the costs, volume and pricing assumptions, and reporting on those matters to Miele.

(d) Elizabeth 'Beth' Geisen (**Geisen**):

(i) was Director, Commercial Finance – Commercial Products and segments;

(ii) reported to Criddle;

PARTICULARS

Geisen's roles and responsibilities included managing the volume forecasting process in the North America division, including preparing volume forecasts with respect to James Hardie's products and segments and reporting on those matters to Criddle and Miele.

(e) Cecelia McDonald (**McDonald**):

(i) was Senior Finance Manager;

(ii) reported to Geisen;

PARTICULARS

McDonald's roles and responsibilities included contributing to the volume forecasting process in the North America division, including preparing volume forecasts with respect to James Hardie's products and segments and reporting on those matters to Geisen, Criddle and Miele.

(f) Sarah Mulhall (**Mulhall**):

(i) was Director, Commercial Finance – Commercial, Sales;

(ii) reported to Criddle;

PARTICULARS

Mulhall's roles and responsibilities included contributing to the forecasting process in the North America division including by tracking commercial sales with major James Hardie customers and reporting on those matters to Criddle and Miele.

(g) David Roberts (**Roberts**):

(i) was Director, Strategic Planning & Business Development;

(ii) reported to Miele;

PARTICULARS

Roberts' roles and responsibilities included tracking James Hardie's competitors and industry trends, identifying new avenues for market and product growth, and developing long term plans to drive growth at James Hardie and reporting on those matters to Miele.

(h) Chad Fredericksen (**Fredericksen**):

(i) was VP, North America Professional Channel;

(ii) reported to Gadd;

PARTICULARS

Fredericksen's roles and responsibilities included generating volume through sales to customers in the North America Professional Channel and tracking and reporting on those matters to Gadd.

(i) John Madson (**Madson**):

(i) was VP, North America Sales;

(ii) reported to Gadd;

PARTICULARS

Madson's roles and responsibilities included generating volume through direct sales to customers in North America and tracking and reporting on those matters to Gadd.

A.4 The Defendant's Obligations

16. At all material times, James Hardie was:

    (a) included in the official list of the financial market operated by the ASX;

    (b) an entity, the securities of which are ED securities for the purposes of s 111AE of the Corporations Act;

    (c) a listed disclosing entity within the meaning of s 111AL(1) of the Corporations Act;

    (d) subject to and bound by the ASX Listing Rules, which are and at all material times were "listing rules" within the meaning of ss 674 and 674A of the Corporations Act; and

    (e) obliged (unless any of the exceptions in ASX Listing Rule 3.1A were applicable) to immediately inform the ASX of any information concerning James Hardie upon becoming aware of that information if the information was not generally available and James Hardie knew, or was reckless or negligent with respect to whether, the information would, if it were generally available, have a material effect on the price or value of JHX Shares,

    (**Continuous Disclosure Obligations**).

17. At all material times, James Hardie was prohibited pursuant to:

    (a) section 1041H of the Corporations Act and s 12DA of the ASIC Act, from engaging in conduct in relation to JHX Shares (being a financial product within the meaning of the Corporations Act and ASIC Act); and

    (b) section 18 of the Australian Consumer Law, from engaging in conduct in trade or commerce,

    that was misleading or deceptive or likely to mislead or deceive.

18. At all material times, James Hardie was obliged to correct or qualify information that it had published to the market which was misleading or deceptive or likely to mislead or deceive in contravention of s 1041H of the Corporations Act, s 12DA of the ASIC Act, or s 18 of the Australian Consumer Law (**Misleading Conduct Disclosure Obligations**).

19. At all material times, James Hardie reported its financial results on the basis of a fiscal year which commenced on 1 April, and concluded on 31 March, such that:

    (a) **FY20** commenced on 1 April 2019 and concluded on 31 March 2020 (with **1Q20** being the period from 1 April 2019 to 30 June 2019, **2Q20** being the period from 1 July 2019 to 30 September 2019, **3Q20** being the period from 1 October 2019 to 31 December 2019, and **4Q20** being the period from 1 January 2020 to 31 March 2020);

(b) **FY21** commenced on 1 April 2020 and concluded on 31 March 2021 (with **1Q21** being the period from 1 April 2020 to 30 June 2020, **2Q21** being the period from 1 July 2020 to 30 September 2020, **3Q21** being the period from 1 October 2020 to 31 December 2020, and **4Q21** being the period from 1 January 2021 to 31 March 2021);

(c) **FY22** commenced on 1 April 2021 and concluded on 31 March 2022 (with **1Q22** being the period from 1 April 2021 to 30 June 2021, **2Q22** being the period from 1 July 2021 to 30 September 2021, **3Q22** being the period from 1 October 2021 to 31 December 2021, and **4Q22** being the period from 1 January 2022 to 31 March 2022);

(d) **FY23** commenced on 1 April 2022 and was to conclude on 31 March 2023 (with **1Q23** being the period from 1 April 2022 to 30 June 2022, **2Q23** being the period from 1 July 2022 to 30 September 2022, **3Q23** being the period from 1 October 2022 to 31 December 2022, and **4Q23** being the period from 1 January 2023 to 31 March 2023).

20. At all material times, James Hardie was obliged:

(a) by ASX Listing Rules 4.3A and 4.3B, to lodge with ASX the information set out in Appendix 4E (preliminary final report) no later than two months after the end of the accounting period applicable to James Hardie (namely by 31 May of each calendar year), which included a commentary on the results for the period which must include any significant information needed by an investor to make an informed assessment of the entity's activities and results, which would include but not be limited to discussion of the matters set out in Appendix 4E, Item 14, including any other factors which are likely to affect results in the future;

(b) by ASX Listing Rule 4.3D, to give ASX an explanation immediately once it is or becomes aware of any circumstances which are likely to materially affect the results or other information contained in Appendix 4E (preliminary final report) given to ASX;

(c) by ASX Listing Rules 4.5, to lodge with ASX its audited accounts no later than 3 months after the end of the accounting period applicable to James Hardie (namely, by 30 June of each calendar year),

(**Periodic Disclosure Obligations**).

B JAMES HARDIE'S BUSINESS

B.1 James Hardie's business

21. At all material times from at least FY20 and during the Relevant Period, James Hardie's principal business activities comprised manufacturing and selling building materials, primarily in the North American market (**NA Market**), European market and the Asia-Pacific market (including Australia).

22. At all material times from at least FY20 and during the Relevant Period, James Hardie operated 19 manufacturing facilities across three regions: North America (**NA**), Asia-Pacific (**APAC**) and Europe (**EU**).

23. At all material times from at least FY20 and during the Relevant Period, James Hardie's principal product line was fibre-cement products (**FC Products**).

PARTICULARS

(i) *James Hardie's primary products included:*

(A) *Exteriors – external siding products (~88% of the JHX NA business in FY22).*

(B) *Interiors – "backer", being cement board installed as backing for tiles (~ 12% of the JHX NA business in FY22).*

(ii) *James Hardie's main exterior products included:*

(A) *Plank – horizontal fibre cement siding.*

(B) *Panel – vertical fibre cement siding.*

(C) *Shingle – smaller rectangle-shaped siding.*

(D) *Trim – fibre cement product for corners, columns, fascia, doors and windows.*

(E) *Soffit – coverage for the underside of roof eaves and exterior porch ceilings [JHX.0032.0012.1054]; [JHX.0005.0029.2411].*

24. At all material times prior to and during the Relevant Period, James Hardie was the number one manufacturer of FC Products for the building and construction industry worldwide.

B.2 James Hardie's NA Business

25. At all material times from at least FY20, the North American division of James Hardie's business (**NA Business**) contributed the majority of its revenue, earnings before interest and tax (**EBIT**), and profit.

PARTICULARS

(i) *For FY20 (financial year ending 31 March 2020), James Hardie Group's total Net Sales was US$2,607 million, Adjusted EBIT US$487 million, Adjusted Net Operating Profit (after tax) was US$353 million: FY20 Annual Report, p 5.*

(ii) *For FY20 the NA Business accounted for approximately 70% of Net Sales of the Group and almost 97% of Adjusted EBIT. Net Sales figure of over US$1,816 million, Adjusted EBIT of US$471 million and Adjusted EBIT Margin expanded to 25.9%: FY20 Annual Report, p 5.*

(iii) *For FY21 (financial year ending 31 March 2021), James Hardie Group's total Net Sales was US$2,909 million, Adjusted EBIT US$629 million, Adjusted Net Income US$458 million: FY21 Annual Report, p 5.*

(iv) *For FY21 the NA Business accounted for 70% of Net Sales of the Group and 77% of Adjusted EBIT. Net Sales figure of over US$2.0 billion, Adjusted EBIT of US$588 million and Adjusted EBIT Margin expanded to 28.8%: FY21 Annual Report, p 13.*

26. At all material times from at least FY20 the bulk of James Hardie's FC Products sold in the NA Market were sold for residential construction purposes.

PARTICULARS

"In US and Canada, the largest application for fibre cement building products is in external siding for the residential building industry," FY21 Annual Report, p 45.

27. At all material times from at least FY20, James Hardie's revenue, EBIT and profit from the NA Business was derived from sales split between the "Repair & Remodel" end market (**R&R Sector**), and the "new construction" end market (**New Construction Sector**) (the **R&R/NC End Market Split**).

28. At all material times, James Hardie held an over 80 percent market share of the FC Product market in the NA Market.

PARTICULARS

(i) *"We are the largest FC producer in North America with ten plants." FY22 Annual Report, p 151.*

(ii) *"James Hardie Industries plc is a world leader in the manufacturing of fibre cement building solutions…" FY21 Annual Report, p 41.*

(iii) *"Our growth above market reflects both market share gains in single family new construction as well as increasing penetration in the repair and remodelling segment." FY22 Annual Report, p 16.*

(iv) *"We expect that North American Fiber Cement growth will continue above market – Although there are some strong competitors, we expect James Hardie will continue to push toward its 35/90 target (35% fibre cement market share with 90% market share of fiber cement) given its high-quality product offering, strong branding, and weaker competitors in the vinyl category." RBC Capital Markets, 'James Hardie Industries plc: Global Investor Day Takeaways', 13 September 2022, p 10.*

(v) *"James Hardie is the leading provider of fiber cement siding in the US housing market and controls more than 90% of that market." RBC Capital Markets 'James Hardie Industries plc: Global Investor Day Takeaways', 13 September 2022, p 11.*

(vi) *Email from Castillo to Brennan-Chong, 13 January 2022 stating "…we are 90% market share" [JHX.0013.0001.7172].*

(vii) *Presentation, 'Market Intelligence: North American Competitive Fiber Cement', March Quarter 2022 – June Review 2022, as at end of the March 2022 quarter, James Hardie's North American share of the fiber cement market (exteriors only) was estimated at 85.9% [JHX.0028.0001.0576].*

29. At all material times, the competitors of James Hardie's NA Business in the NA Market included manufacturers of:

(a) vinyl, engineered and natural wood cladding or panelling (**Competing Products**); and

(b) other FC Product manufacturers.

PARTICULARS

(i) *As to sub-paragraph 29(a) above, see Investor Day 2022 Presentation Day 1, p 47 James Hardie's most serious competitors in Competing Products included engineered wood siding manufacturer Louisiana Pacific (**LP**) and vinyl siding manufacturer Cornerstone Building Brands: See Email from Miele to Brennan-Chong, 3 May 2022 [JHX.0002.0002.2868]; See also Document Authored by Erik Booth, 'Thoughts on LP Strategy' [JHX.0034.0012.2238].*

(ii) *As to sub-paragraph 29(b) above, these included Allura, Nichiha, American Fibre Cement and Cembrit Etex Group.*

CHAPTER II – FEBRUARY CLAIMS (FEBRUARY FY23 GUIDANCE)

C JAMES HARDIE'S FEBRUARY FY23 GUIDANCE (7 FEBRUARY 2022)

C.1 James Hardie's published financials in FY20 to FY22

30. In FY20 (between 1 April 2019 and 31 March 2020), James Hardie published the following quarterly results:

Net Sales	**1Q20**	**2Q20**	**3Q20**	**4Q20**
Group (USD m)	656.8	660.1	616.7	673.2
NA (USD m)	452.3	459.6	430.0	474.5
APAC (AUD m)	154.4	164.2	149.4	146.1
EU (€ m)	85.4	79.0	76.5	93.3
EBIT	**1Q20**	**2Q20**	**3Q20**	**4Q20**
Group (Adj, USD m)	124.4	134.2	107.2	121.0
NA (USD m)	113.5	124.7	112.3	120.0
APAC (AUD m)	35.4	39.5	34.2	29.9
EU (€ m)	9.1	7.8	6.1	4.1
ANOP	**1Q20**	**2Q20**	**3Q20**	**4Q20**
Group (Adj, USD m)	90.2	98.6	77.4	86.6

PARTICULARS

(i) *1Q20 Results Pack, pp 7, 8, 22, 23 and 36.*

(ii) *2Q20 Results Pack, pp 9, 11, 14, 22, 23 and 36.*

(iii) *3Q20 Results Pack, pp 10, 12, 15, 23 and 24.*

(iv) *4Q20 Results Pack, pp 7, 10, 13, 26 and 27.*

31. James Hardie published the following financial results for the Group in FY20:

(a) Total Net Sales of US$2,607 million;

(b) Adjusted EBIT of US$487 million; and

(c) Adjusted Net Operating Profit of US$352.8 million.

PARTICULARS

FY20 Annual Report, p 5.

32. In FY21 prior to the commencement of the Relevant Period (between 1 April 2020 and 31 March 2021), James Hardie published the following quarterly results:

Net Sales	1Q21	2Q21	3Q21	4Q21
Group (USD m)	626.3	736.8	738.6	807.0
NA (USD m)	451.8	515.0	518.1	555.3
APAC (AUD m)	138.7	170.6	163.3	162.6
EU (€ m)	75.4	85.3	85.3	104.6
EBIT	**1Q21**	**2Q21**	**3Q21**	**4Q21**
Group (Adj, USD m)	124.9	163.1	167.9	173.1
NA (USD m)	130.9	148.6	155.6	152.9
APAC (AUD m)	33.6	54.1	45.9	43.7
EU (€ m)	2.0	9.4	8.8	15.7
ANI	**1Q21**	**2Q21**	**3Q21**	**4Q21**
Group (Adj, USD m)	89.3	120.5	123.3	124.9

PARTICULARS

(i) *1Q21 Results Pack, pp 6, 7, 8, 10 and 13.*

(ii) *2Q21 Results Pack, pp 7, 8, 10, 12 and 16.*

(iii) *3Q21 Results Pack, p 4.*

(iv) *4Q21 Results Pack, p 5.*

33. James Hardie published the following financial results for the Group in FY21:

(a) Total Net Sales of US$2,909 million;

(b) Adjusted EBIT of US$629 million; and

(c) Adjusted Net Income (**ANI**) of US$458 million.

PARTICULARS

FY21 Annual Report, p 5.

34. In FY22 prior to but also including the commencement of the Relevant Period (between 1 April 2021 and 31 March 2022), James Hardie published the following quarterly results:

Net Sales	1Q22	2Q22	3Q22	4Q22
Group (USD m)	843.3	903.2	900.0	968.2
NA (USD m)	577.1	635.3	644.9	694.0
APAC (AUD m)	184.1	196.6	196.5	200.5
EU (€ m)	103.3	104.6	97.6	115.0
EBIT	**1Q22**	**2Q22**	**3Q22**	**4Q22**
Group (Adj, USD m)	180.5	205.7	204.1	225.3

NA (USD m)	169.3	182.5	183.3	206.1
APAC (AUD m)	50.4	60.6	53.6	52.8
EU (€ m)	13.5	14.2	10.4	16.1
ANI	**1Q22**	**2Q22**	**3Q22**	**4Q22**
Group (Adj, USD m)	134.2	154.9	154.1	177.5

PARTICULARS

(i) *1Q22 Results Pack, p 5.*

(ii) *2Q22 Results Pack, p 6.*

(iii) *3Q22 Results Pack, p 5.*

(iv) *4Q22 Results Pack, p 6.*

35. James Hardie published the following financial results for the Group in FY22:

(a) Total Net Sales of US$3,614.7 million;

(b) Adjusted EBIT of US$815.6 million; and

(c) ANI of US$620.7 million.

PARTICULARS

FY22 Annual Report, p 2.

C.2 James Hardie's 7 February 2022 Guidance

36. On 7 January 2022, James Hardie published and released to the ASX an announcement titled "James Hardie Industries Appoints Harold Wiens as Interim CEO" (the **7 January Announcement**).

37. In the 7 January Announcement, James Hardie made the following statements:

(a) Wiens had been appointed Interim CEO;

(b) Previous CEO Jack Truong's employment had been terminated, effective immediately, for breaches of the James Hardie Code of Conduct;

(c) In addition:

(i) Hammes had been appointed to the role of Executive Chairman while the CEO succession was undertaken;

(ii) Gadd had been promoted to President, North America;

(d) As to FY22 guidance:

(i) Based on the continued, strong execution of the global strategy across all three regions and the expectation for continued residential and market growth in the USA, James Hardie's management was raising its guidance for fiscal year 2022, ending 31 March 2022;

(ii) Management raised fiscal year 2022 ANI guidance range to US$605 million to US$625 million, raised from the prior guidance range of US$580 million to US$600 million; and

(iii) The comparable prior year ANI for fiscal year 2021 was US$458 million.

PARTICULARS

7 January Announcement, pp 1 and 2.

38. On 7 January 2022, a call with market analysts was held in conjunction with the 7 January Announcement (the **January Special Call**). At the January Special Call, James Hardie made the following statements:

(a) James Hardie was "*currently finalizing our annual planning process and expect continued momentum into fiscal year 2023*";

(b) James Hardie planned to provide guidance for FY23 at the third quarter earnings release call on 8 February 2022;

(c) the guidance for FY23 will "*reflect the continued momentum that we've built this year*";

(d) "*there's not going to be any backing away from any of the targets we've set out. The team is well positioned to deliver on them.*"

PARTICULARS

The statements at sub-paragraphs 38(a) to 38(d) above were express, and made by Miele in the January Special Call.

39. The proposal that guidance for the coming financial year would be presented at the same time as third quarter earnings represented a departure from usual practice for James Hardie, which had not done so for at least the previous decade.

PARTICULARS

(i) *3Q12 Results Pack, p 7.*

(ii) *3Q13 Results Pack, pp 6 and 7.*

(iii) *3Q14 Results Pack, pp 7 and 8.*

(iv) *3Q15 Results Pack, p 3.*

(v) *3Q16 Results Pack, p 3.*

(vi) *3Q17 Results Pack, p 3.*

(vii) *3Q18 Results Pack, p 3.*

(viii) *3Q19 Results Pack, p 3.*

(ix) *3Q20 Results Pack, p 4.*

(x) *3Q21 Results Pack, p 4.*

40. On 7 February 2022, James Hardie published and released to the ASX the 3Q22 Results Pack (the **7 February Announcement**).

41. In the 7 February Announcement, James Hardie made the following statements:

(a) as to FY22 guidance:

(i) Based on the continued, strong execution of the global strategy across all three regions and the expectation for continued residential and market growth in the USA, James Hardie's management was raising its guidance for fiscal year 2022, ending 31 March 2022;

(ii) Management raised fiscal year 2022 ANI guidance range to US$620 million to US$630 million, raised from the prior guidance range of US$605 million to US$625 million announced on 7 January 2022; and

(iii) The comparable prior year ANI for fiscal year 2021 was US$458 million,

(together the **FY22 Guidance**).

(b) as to FY23 guidance:

(i) James Hardie's management announced a fiscal year 2023 ANI guidance range of US$740 million to US$820 million, an 18% to 31% increase from FY22 Guidance midpoint; and

(ii) For the North America division:

(A) Net Sales Growth of 16% to 20% from FY22 was expected; and

(B) an EBIT Margin of 30% to 33% was expected,

(together, the **February FY23 Guidance**).

PARTICULARS

(i) *The FY22 Guidance statements were express, and made in writing in the 3Q22 Results Pack, pp 5 and 47.*

(ii) *The February FY23 Guidance statements were express, and made in writing in the 3Q22 Results pack, pp 5 and 48.*

42. On 7 February 2022, an earnings call with analysts was held in conjunction with the 7 February Announcement (the **February Earnings Call**). At the February Earnings Call, James Hardie also made the following statements:

(a) With respect to the R&R Sector:

(i) US homeowner wealth had never been higher, with home equity averaging US$302,000 per property;

(ii) even if interest rates rose 100 basis points, that would only cost homeowners an extra US$25 a month on average, based on those taking out a US$50,000, 10-year home equity loan to complete renovations;

(iii) James Hardie did not believe this potential for interest rates to rise was a deterrent to homeowners deciding to remodel their homes; and

(iv) James Hardie saw the R&R Sector as "*pretty robust, at least for the next 24 months*";

(b) "*there's a lot of backlogs within the new construction space as well, a lot of uncompleted homes*";

(c) James Hardie expected to increase market share in North America during FY23; and

(d) in the context of visibility on customer orders in the North American business, James Hardie had "*fairly strong commitments*" from customers and was "*very very confident that the numbers are right*",

(together, the **7 February Statements**).

PARTICULARS

(i) *The 7 February Statements at sub-paragraphs 42(a), 42(c) and 42(d) above were express, and made by Gadd in the February Earnings Call.*

(ii) *The 7 February Statements at sub-paragraph 42(b) above was express and made by Miele in the February Earnings Call.*

43. On 7 February 2022, by reason of the matters pleaded in paragraphs 41 and 42, James Hardie made the following representations to the market of investors and potential investors in JHX Shares (**Affected Market**):

(a) James Hardie would deliver a range of US$740 million to US$820 million for ANI for FY23 (**February FY23 Group Guidance Representation**);

(b) James Hardie's NA Business would achieve:

(i) Net Sales Growth of 16% to 20%; and

(ii) an EBIT Margin of 30% to 33%,

(**February FY23 NA Guidance Representations**),

(each of sub-paragraphs 43(a) and 43(b) being the **February FY23 Guidance Representations**).

PARTICULARS

The February FY23 Guidance Representations in sub-paragraphs 43(a) and 43(b) were express, and the Plaintiff refers to the February FY23 Guidance pleaded in sub-paragraph 41(b).

44. On 7 February 2022, by reason of the matters pleaded in paragraphs 40 to 43, James Hardie represented to the Affected Market that James Hardie had reasonable grounds for making each of the February FY23 Guidance Representations (**February FY23 Implied Representation**).

PARTICULARS

The February FY23 Implied Representation is to be implied from the giving by James Hardie of the February FY23 Guidance, the making by James Hardie of the 7 February Statements and the making by James Hardie of the February FY23 Guidance Representations.

D HOW THE FEBRUARY FY23 GUIDANCE WAS PREPARED

D.1 Net Sales, EBIT and EBIT Margin

45. At all material times, James Hardie prepared forecasts for each of its NA, APAC and EU divisions on a monthly basis and used a convention whereby each forecast incorporated the latest year to date actuals plus a forecast for the remaining months.

PARTICULARS

Presentation, 'NA Demand Planning Process', 19 May 2022 [JHX.0027.0061.8257].

46. In November 2021, James Hardie began to incorporate FY23 forecasts into its monthly forecasting cycle and prepared the first iteration of the FY23 NA forecast (the FY23 7+5 NA forecast):

USD(m)	**FY23 7+5**
Volume (mmstf)	3,467.5
Net sales	$3,146.6
Cash cost	$1,344.8
Freight cost	$273.9
Unallocated	-
EBIT	$1,046.4
EBIT margin	33.3%

PARTICULARS

Excel Spreadsheet, '7+5 HFM Upload Template – FY22-FY25 – NA', 15 November 2021 [JHX.0031.0029.8810]; Excel Spreadsheet, 'FY23 8+4 NA Forecast Draft, [JHX.0050.0002.6775].

47. In December 2021, James Hardie prepared the FY23 8+4 NA Forecast:

USD(m)	**FY23 8+4**
Volume (mmstf)	3,443.5
Net sales	$3,111.3
Cash cost	$1,307.3
Freight cost	$271.8
Unallocated	$87.7
EBIT	$1,004.2
EBIT margin	32.3%

PARTICULARS

(i) *The FY23 8+4 NA Forecast contained an 'unallocated' costs line of $87.7 million that forced an EBIT margin of 32% for Q1 – Q3, and 33% for Q4.*

(ii) *Excel Spreadsheet, 'FY23 8+4 NA Forecast Draft', [JHX.0050.0002.6775].*

48. In January 2022, James Hardie prepared the FY23 9+3 NA Forecast:

USD(m)	**FY23 9+3**
Volume (mmstf)	3,414.8
Net sales	$3,085.1
Cash cost	$1,296.9
Freight cost	$292.0
Unallocated	$46.0
EBIT	$995.6
EBIT margin	32.3%

PARTICULARS

(i) *Excel Spreadsheet, 'Copy of FY22-FY25 9+3 Mgmt Reported PL v1 – NA', 17 January 2022, [JHX.0031.0003.2484].*

(ii) *The FY23 9+3 NA Forecast contained an 'unallocated' costs line of $46 million that forced an EBIT margin of 32.3% for FY23.*

49. On 16 January 2022, Miele emailed the APAC, EU, NA and finance leadership teams about a "Forecast Blitz" requesting that each division resubmit the FY23 9+3 Forecast and remove all "hedges".

PARTICULARS

(i) *Email from Miele to Gadd and Kilcullen, 15 January 2022, before the Forecast Blitz is communicated to the APAC, EU, NA and finance leadership teams, stating that "...I believe we need to perform a quick refresh / deep review of the 9+3... We need to flush out all hedges, etc. I don't plan on sharing this version of the forecast with the Board, or use it to set bonuses, but we need 100% clarity on what our best estimate is. I want us to manage any hedge on one UNALLOCATED line so we have full understanding to deliver every single quarter" [JHX.0002.0003.8672].*

(ii) *Email from Miele to John Arneil, Kilcullen, Gadd, Daniel James, Brian Jungwirth, Geisen, Khamille De Lara and Sayan Duttachoudhury, 16 January 2022 [JHX.0002.0001.3133].*

50. In late January 2022, James Hardie updated the FY23 9+3 NA Forecast (the **Final FY23 9+3 NA Forecast**):

USD(m)	**FY23 9+3**
Volume (mmstf)	3,414.8
Net sales	$3,085.1
Cash cost	$1,296.9
Freight cost	$291.8
Unallocated	$39.5
EBIT	$989.4
EBIT margin	32.1%

PARTICULARS

(i) *Excel Spreadsheet, 'Copy of FY22-FY25 9+3v2 Mgmt Reported PL v1 – NA', 28 January 2022 [JHX.0032.0009.0146].*

(ii) *The Final FY23 9+3 NA Forecast contained an 'unallocated' costs line of $39.5 million (reduced from $87.5 million in the FY23 8+4 NA Forecast and $46 million in the FY23 9+3 NA Forecast) that forced an EBIT margin of 32.1% for FY23.*

51. The Final FY23 9+3 NA Forecast was presented to the Board at the 3 February 2022 Board meeting and was not changed at the time James Hardie provided the February FY23 Guidance.

PARTICULARS

Board Presentation 'JH Integrated Strategic Plan FY23-FY24', 3 February 2022, [JHX.0011.0001.2053_0059] at _0108 to _0111.

52. At the time of providing the February FY23 Guidance, James Hardie had not finalised its fixed FY23 financial commitment (the **FY23 Plan**), or its FY23 – FY25 Strategic Plan (the **3 Year Plan**).

PARTICULARS

(i) *Email from Miele to Hammes, 21 February 2022, regarding the proposal for the 3 Year Plan at the May Board meeting, where Miele states "Our recommendation is that we complete the 3 year planning process internally – that is, complete the financials for FY24 & FY25 and make any necessary revisions to FY23 based on new information obtained between now and May." [JHX.0002.0003.3123].*

(ii) *Email from Brian Jungwirth to Hill, Jill Gellatly and Michael Volk, 11 March 2022, stating that "The three year plan was not presented to the BOD in the Feb Board meeting like last year. They [sic] was only a high level slide for next year presented and that is true for all regions…" [JHX.0027.0001.1311].*

53. At the 3 February 2022 Board meeting, Miele put forward to the James Hardie Board a draft media release containing the February FY23 Guidance range for net sales growth (16-20%) and EBIT Margin (30-33%) in the NA Business, which was prepared having regard to:

(a) the Final FY23 9+3 NA Forecast, and was based on the volumes, net sales, EBIT and EBIT Margin projections for the NA Business for FY23 contained in the Final FY23 9+3 NA Forecast;

(b) analyst expectations of what guidance James Hardie would give for sales growth and EBIT Margin in the NA Business,

and which the James Hardie Board adopted.

PARTICULARS

(i) *Miele uploaded the proposed FY23 NA net sales growth and EBIT Margin guidance ranges to James Hardie's Diligent system following the Board meeting on 3 February 2022, and it was approved but not discussed at the Board meeting [JHX.0005.0010.6870], [JHX.0002.0003.3470]*

(ii) *Miele sent an email to Hammes and Lloyd on 5 February 2022 which contained the proposed FY23 NA net sales growth and EBIT margin guidance ranges, compared against "Analyst Range" and "Analyst Average" [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

(iii) *The FY23 net sales guidance growth range of 16%-20% from FY22 proposed by Miele implied net sales of US$2,959 million to US$3,061 million, which was:*

(A) *a range around the US$3,085.1 million contained in the Final FY23 9+3 NA Forecast; and*

(B) *above the analyst average of 16% identified by Miele [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

(iv) *The FY23 EBIT Margin guidance range of 30 to 33% proposed by Miele was:*

(A) *a range around the 32.1% contained in the Final FY23 9+3 NA Forecast; and*

(B) *above the analyst average of 30% identified by Miele [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

D.2 ANI

54. ANI was a metric used by James Hardie which:

(a) was based on James Hardie's net income which in turn was based on James Hardie's EBIT (being the sum of EBIT derived from the NA Business, and the APAC and EU businesses), and which adjusted James Hardie's net income upwards by excluding certain expenses related to asbestos and certain tax adjustments;

(b) by its nature would:

(i) decrease if there was a reduction in net sales and EBIT margin derived from James Hardie's NA Business, because this would reduce EBIT, which would in turn reduce net income and ANI;

(ii) increase if there was an increase in net sales and EBIT margin derived from James Hardie's NA Business, because this would increase EBIT, which would in turn increase net income and ANI.

55. At the 3 February 2022 Board meeting, Miele put forward to the James Hardie Board a draft media release containing the February FY23 Guidance range for ANI (US$740 million to US$820 million), which was prepared having regard to:

(a) the Final FY23 9+3 NA Forecast, and based on the volume, net sales, EBIT and EBIT Margin projections for the NA Business for FY23 contained in the Final FY23 9+3 NA Forecast;

(b) analyst expectations of what guidance James Hardie would give for ANI,

and which the James Hardie Board adopted.

PARTICULARS

(i) *Miele uploaded the proposed FY23 ANI guidance range to James Hardie's Diligent system following the Board meeting on 3 February 2022, and it was approved but not discussed at the Board meeting [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

(ii) *Miele sent an email to Hammes and Lloyd on 5 February 2022 which contained the proposed FY23 ANI guidance range, compared against "Analyst Range" and "Analyst Average" [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

(iii) *The FY23 ANI guidance range:*

(A) *was derived from the EBIT projections for the NA Business contained in the Final FY23 9+3 NA Forecast, which in turn was derived from the volume, net sales and EBIT Margin projections for the NA Business (together with projections for the APAC and EU businesses);*

(B) *had a midpoint (US$780 million) which was above the analyst average of US$751M identified by Miele; and*

(C) *was within the analyst range of US$727 million to US$780 million identified by Miele [JHX.0005.0010.6870], [JHX.0002.0003.3470].*

E FEBRUARY 2022 FACTS AND KNOWLEDGE

E.1 Summary

56. As at 7 February 2022, when James Hardie gave the February FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known) that:

(a) James Hardie's NA Business:

(i) had experienced temporary demand elevation for FC Products since early 2021, which was not likely to continue throughout FY23;

(ii) was likely to be adversely impacted by sustained high inflation and increasing interest rates in the US throughout FY23;

(b) James Hardie's NA Business had adopted a Demand Forecasting Method which adopted unreasonable assumptions, namely using FY22 volume as a base and utilising historical market growth rates (without adequately adjusting for the likely market conditions in sub-paragraph 56(a)) and other unreasonable assumptions pleaded in Section E.4.2 below.

PARTICULARS

(i) *As to sub-paragraph 56(a)(i) – see Section E.2 below, which is repeated.*

(ii) *As to sub-paragraph 56(a)(ii) – see Section E.3 below, which is repeated.*

(iii) *As to sub-paragraph 56(b) – see Section E.4 below, which is repeated.*

57. As at 7 February 2022 when James Hardie gave the February FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) it was unlikely that James Hardie's NA Business would achieve FY23 net sales growth of 16% to 20% from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 30 to 33%;

(b) it was unlikely that James Hardie would achieve FY23 ANI of US$740 million to US$820 million.

PARTICULARS

(i) *See Sections E.5 and E.6 below, which are repeated.*

58. As at 7 February 2022, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) a reasonable estimate was that James Hardie's NA Business would achieve FY23 net sales growth of approximately 6%, and an EBIT Margin of 28%;

(b) a reasonable estimate was that James Hardie would achieve FY23 ANI of US$593 million to US$797 million, or US$610 million to US$680 million.

PARTICULARS

(i) *See Sections E.5 and E.6 below, which are repeated.*

E.2 Demand for FC Products and Competing Products in the NA Market in FY21, and as at 7 February 2022

E.2.1 Temporary demand elevation

59. As at 7 February 2022, there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 (**February Demand Impacts**).

PARTICULARS

(i) *The conditions which led to the demand being elevated are all or any combination of the matters pleaded in Section E.2.2 (paragraphs 60 to 63) below.*

(ii) *The elevated demand was temporary because the conditions that resulted in its elevation were easing by early 2022, or were likely to ease during FY23.*

E.2.2 Conditions giving rise to temporary demand elevation

60. Between early 2021 and early 2022, the suppliers of Competing Products to FC Products, namely vinyl, engineered and natural wood, were exposed to short-term supply chain issues, including:

    (a) significant material shortages;

    (b) significant labour shortages;

    (c) global supply chain constraints, in respect of products that were manufactured outside of the US; and

    (d) wait time on manufacturing capacity expansion projects.

PARTICULARS

(i) *Cornerstone Building Brands, Inc. Q3 2021 Earnings Call, 10 November 2021, p 6 which reported that Cornerstone and "many others in our industry" had been "impacted by constraints in raw materials and labor, slowing the pace of recovery" [RAE.0001.0001.3322].*

(ii) *The global supply chain constraints referred to in sub-paragraph 60(c) conferred a structural advantage on James Hardie, which manufactured fibre cement in the US, as compared to competitors who were reliant on imports of fibre cement or PV resin manufactured outside of the US.*

(iii) *The supply-chain issues were short-term because:*

  (A) *Allura's supply constraints in late 2021 in respect of vinyl were not likely to continue throughout FY23;*

  (B) *LP's supply constraints were expected to resolve by March 2022;*

  (C) *Nichia was expected to increase production capacity by 20% from 2021.*

61. Between early 2021 and early 2022, US lumber prices fluctuated significantly, spiking twice at over 300% of the long-term average of approximately US$400 per 1000 board feet, but this was not likely to continue throughout FY23.

PARTICULARS

(i) *Current and historical lumber commodity prices available online at https://www.macrotrends.net/2637/lumber-prices-historical-chart-data.*

(ii) *That the increase in price was a short-term 'spike' was evident from its severity (which could not be sustained across more than a few months) and well understood within the construction industry, including in a 12 January 2022 Jefferies 'Building Products' report which noted "Framing Lumber Prices Have*

Spiked Again, Adding to Affordability Concerns with Rising Rates" [JHX.0005.0002.9392] at 9398.

(iii) *The lumber price peaked at approximately US$1,300 per thousand feet on or around 16 February 2022, before falling to approximately:*

(A) *US$1,000 per thousand feet on 28 March 2022;*

(B) *US$800 per thousand feet on 10 May 2022; and*

(C) *US$600 per thousand feet on 6 June 2022.*

62. By reason of the matters in paragraphs 60 and 61 above, between early 2021 and early 2022, there was a substantial reduction in supply, and/or significant increases in price, for Competing Products in the NA Market (and therefore a decrease in quantity of demand for Competing Products to James Hardie's FC Products in the NA Market).

63. In late 2021, there was an increase in volume of new construction in the US residential housing construction market (both in total, and for single unit residential construction), but as at January 2022 this was not continuing.

PARTICULARS

US Census Bureau Monthly New Residential Construction data – New housing starts:

Month	**Total**	**Single Unit**
Jan 2021	1,602	1,117
Feb 2021	1,430	1,053
Mar 2021	1,711	1,243
Apr 2021	1,505	1,061
May 2021	1,605	1,110
Jun 2021	1,664	1,165
Jul 2021	1,573	1,124
Aug 2021	1,576	1,095
Sep 2021	1,559	1,094
Oct 2021	1,563	1,079
Nov 2021	1,706	1,220
Dec 2021	1,768	1,212
Jan 2022	1,666	1,157

E.2.3 Knowledge of temporary demand elevation

64. As at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie knew or ought to have known the February Demand Impacts (that is,

there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23).

PARTICULARS

As at 7 February 2022, James Hardie Officers identified in these particulars knew or ought to have known that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 by reason of the following matters:

(i) ***the suppliers of Competing Products were exposed to short-term supply chain issues (paragraph 60 above);***

(A) ***Gadd*** *knew that a key competitor of James Hardie and vinyl product producers were experiencing significant supply constraints in 2021, as evidenced by his receipt of a presentation entitled 'NA Price Increase Recommendation', dated 10 October 2021, which reported that "Allura [a fibre cement manufacturer] continues to experience significant supply constraints" and "Vinyl producers were experiencing "[d]elays in shipments and service out 6 weeks": [JHX.0009.0042.7446 at .7748].*

(B) *It is to be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that a key competitor was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor was expected to increase its production capacity by 20%, as evidenced by the fact that:*

1. Brennan-Chong and Castillo knew that a key competitor of James Hardie, LP, was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor, Nichiha, was expected to increase its production capacity by 20% by reason of their authorship and receipt of emails regarding these matters dated 12 October 2021 [JHX.0013.0019.6946] and 10 December 2021 [JHX.0013.0017.3716]; and,

2. Brennan-Chong and Castillo ought reasonably to have informed Miele of the information in sub-particular (B) immediately above by reason of:

i. *their roles, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in sub-particular (B) immediately above including the likely impact on the competitive position of James Hardie and demand for James Hardie's FC Products in FY23.*

(ii) ***the spiking in US lumber prices (paragraph 61 above);***

(A) ***Gadd*** *knew of the spiking in US lumber prices by reason of receiving emails with industry news as evidenced by an email from 'Door and Window Business' dated 5 January 2022 that noted "Following a few months of moderating prices last spring and summer, U.S. lumber prices are soaring once again, disrupting the housing market and harming housing affordability" [JHX.0009.0023.7599]. The plaintiff infers that Gadd, as the President of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the President of a North American building materials company ought to have known, with there being no structural reason for the prices to remain elevated.*

(B) ***Miele*** *knew that US lumber prices had spiked at over 300% of the long-term average between early 2021 and early 2022, as evidenced by his receipt of an email from Brennan-Chong dated 11 January 2022 containing a graph tracking the price of US lumber between January 2018 to January 2022, and in which Brennan-Chong stated "US lumber prices have collapsed" [JHX.0013.0015.6924]. Miele, as the CFO of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the CFO of a North American building materials company ought to have known, with there being no structural reason for the prices to remain elevated.*

(iii) ***as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (paragraph 62 above);***

(A) ***Gadd*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's*

FC Products in the NA Market as evidenced by reason of Gadd's email to Castillo dated 1 February 2022 noting "I have seen these" [JHX.0005.0003.0737] which was in response to an email from Castillo dated 31 January 2022 attaching competitor decks [JHX.0005.0004.0499] including:

1. *Fiber Cement Competition Update FY2022 which showed Allura was "Increasing price for the year by about 20% to offset inflation and labor costs" [JHX.0005.0004.0529].*

2. *LPX Q3 2021 Earnings Call Transcript which noted that LP had experienced "ongoing inflation and supply chain challenges" and EBITDA had "been affected by "lower production capacity" [JHX.0005.0004.0512].*

(B) ***Miele*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market as evidenced by his receipt of the same email from Castillo dated 31 January 2022 as Gadd referred to at (A) immediately above.*

(iv) ***in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (paragraph 63 above);***

(A) ***Gadd*** *knew that:*

1. *housing starts in new residential construction increased +12% to 1.679m units in November 2021, which was the highest level since March 2021, as evidenced by his receipt of an email from Roberts dated 16 December 2021, attaching the US Census Bureau November 2021 Report on New Residential Construction [JHX.0013.0021.1689];*

2. *housing starts in new residential construction increased +2% YoY to 1.7m units in December 2021, as evidenced by his receipt of an email from Castillo dated 19 January 2022, attaching the US Census Bureau December 2021 Report on New Residential Construction [JHX.0005.0011.4734];*

3. *housing starts in new residential construction decreased -4.1% in January 2021 compared to December 2021, as evidenced by his receipt of an email from Roberts dated 17 February 2022, attaching the US Census Bureau January 2022 Report on New Residential Construction [JHX.0013.0001.7541].*

(B) ***Miele*** *knew the information in (A) immediately above, as evidenced by his receipt of the same emails and US Census Bureau reports as Gadd referred to at (A) immediately above.*

(v) *it can be inferred that* ***Gadd*** *and* ***Miele*** *knew, or alternatively Gadd and Miele ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23*** *(paragraph 59 above) by reason of their knowledge as particularised in particulars (i), (ii), (iii) and (iv) immediately above of the following matters:*

(A) *the short-term supply issues the suppliers of Competing Products were exposed to;*

(B) *the spiking in US lumber prices;*

(C) *the substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market; and/or*

(D) *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing.*

(vi) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23*** *(paragraph 59 above), by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (v) immediately above, in their roles as President, North America and CFO and because of the nature and significance of the information including the impact on James Hardie's financial performance in FY23;*

(B) *the information in particular (v) immediately above was material to the preparation and release of James Hardie's February FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(vii) *Further or alternatively,* ***Gadd***, ***Miele*** *and* ***Wiens*** *ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and***

early 2022, but these were not likely to be repeated in FY23 *(paragraph 59 above) because:*

(A) *they were responsible in their roles as President, North America, CFO and Interim CEO for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the February FY23 Guidance;*

(B) *the position of James Hardie's competitors and the implications for demand for James Hardie's FC Products was a factor relevant to the delivery of the February FY23 Guidance;*

(C) *the likely demand for James Hardie's FC Products having regard to the rate of new residential construction was a factor relevant to the delivery of the February FY23 Guidance; and*

(D) *it would be expected that Gadd, Miele and Wiens took those factors into account in assessing the current and future demand for James Hardie's FC Products.*

E.3 Inflationary pressures and increased interest rates in the US, as at 7 February 2022

E.3.1 Inflation and Increased Interest Rates

65. As at 7 February 2022, there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (**February Inflation/Interest Rate Impacts**).

PARTICULARS

(i) *The conditions which led to sustained high inflation in the US being likely, and their impact on sales growth and EBIT Margin in James Hardie's NA Business are the matters pleaded in Section E.3.2 (paragraphs 66 to 69).*

(ii) *The conditions which led to increasing interest rates in the US being likely, and their impact on sales growth and EBIT Margin in James Hardie's NA Business are the matters pleaded in Section E.3.3 (paragraphs 70 to 71).*

E.3.2 Inflation

66. As at 7 February 2022:

(a) From in or around October 2021 to January 2022, the inflation rate in the United States had increased significantly;

PARTICULARS

US Bureau of Labor Statistics January 2020 to January 2023 data – 12 month inflation rate:

Month	**Total**
Mar 2021	2.6%
Apr 2021	4.2%
May 2021	5.0%
Jun 2021	5.4%
Jul 2021	5.4%
Aug 2021	5.3%
Sep 2021	5.4%
Oct 2021	6.2%
Nov 2021	6.8%
Dec 2021	7.0%
Jan 2022	7.5%

(b) US inflation, commonly measured by the Consumer Price Index (**CPI**), was well above two percent and further inflationary pressures for 2022 were likely.

67. As at 7 February 2022, high inflation in the US was likely to increase the cost of building and construction materials in the US (**Inflation Conditions**).

68. As at 7 February 2022, an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional Cost of Goods Sold (**COGS**), which would not be recouped from customers (**COGS Increase Conditions**).

PARTICULARS

(i) *The additional COGS were pulp, energy, labour, cement and freight costs.*

69. As at and from 7 February 2022, a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed (**Inflation Demand Conditions**).

PARTICULARS

(i) *It was likely from around January 2022, as a consequence of high inflation in the US, that interest rates were set to increase: section E.3.3 below is repeated.*

(ii) *By reason of matters above, it was likely as at February 2022, that expected housing construction levels in FY23 would be* *adversely affected by increases in interest rates, including because increases in interest rates raised borrowing costs and dampened demand for James Hardie's products.*

(iii) *Any drop in the housing construction market resulted in a decrease in demand for James Hardie's FC Products in North America.*

(iv) *By reason of the matters above, it was likely that the decrease in demand for James Hardie's products would not be offset by any increase in prices due to the increased inflation.*

(v) *By reason of the matters above, sustained high inflation in the US was likely to have an adverse impact on the Net Sales growth experienced by James Hardie's NA Business.*

E.3.3 Interest rate rises

70. As at 7 February 2022, it was likely that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation in the US (**Interest Rate Conditions**).

PARTICULARS

(i) *On or around 26 January 2022, the US Federal Reserve published and released a statement that inflation was well above two percent and with a strong labour market and the Committee expected it would soon be appropriate to raise the target range for the federal funds rate.*

(ii) *This statement was express and contained in the US Federal Reserve, 'Federal Reserve press release', 26 January 2022, p 1.*

71. As at 7 February 2022, increases in interest rates by the US Federal Reserve and the Interest Rate Conditions were likely to adversely impact the demand for James Hardie's FC Products in the NA Market in FY23, in that they:

(a) were likely to increase the cost of debt-funded building and construction materials; and

(b) were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market,

(**Interest Rate Demand Conditions**).

E.3.4 Knowledge of Inflationary Conditions and Rising Interest Rates

72. As at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie knew or ought to have known the February Inflation/Interest Rate Impacts (that is, that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23).

PARTICULARS

As at 7 February 2022, James Hardie Officers identified in these particulars knew or ought to have known that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 by reason of the following matters:

(i) ***as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely (paragraph 66 above)****;*

(A) ***Gadd*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of an email from Miele dated 29 January 2022 forwarding an email from CRC with a macroeconomic update that stated CPI had increased 7% year on year in December 2021 [JHX.0002.0003.2237]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(B) ***Miele*** *knew that the 12 month CPI rate at the end of calendar year 2021 had increased 7.12% compared to 2020, as evidenced by his request for and receipt of inflation metrics and data in an email dated 14 January 2022 [JHX.0005.0006.6460]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of periodic Market Intelligence updates from Castillo, including an email dated 14 February 2022 which stated "consumer inflation had posted the biggest increase since 1982, as CPI jumped 7.5% year/year in January" [JHX.0005.0006.8363]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(ii) ***high inflation in the US was likely to increase the cost of building and construction materials in the US (paragraph 67 above), which was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (paragraph 68 above)***;

(A) ***Gadd*** *knew that high inflation in the US had already caused James Hardie's NA business to incur additional costs, as evidenced by his receipt of an email from Kilcullen dated 31*

December 2021 where Kilcullen noted that for the current FY23 forecast for NA, "Cost estimates look optimistic in an inflationary period with higher value product mix increasing" and "freight [costs] look way too low" [JHX.0005.0024.4916].

(B) ***Miele** knew that high inflation in the US had already caused James Hardie's NA business to incur additional costs, as evidenced by his receipt of an email from Duttachoudhury dated 4 February 2022 which showed expected cost increases to all commodity categories for FY23 except pulp [JHX.0002.0004.3302].*

(iii) ***a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products as consumer spending in the residential housing market slowed (paragraph 69 above), and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation (paragraph 70 above), which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23 (paragraph 71 above)**;*

(A) ***Gadd** knew that a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products as consumer spending in the residential housing market slowed, including because interest rates were set to increase in response to inflation as evidenced by his receipt of an email from Jennifer Bressler (VP Retail Market Development) dated 29 January 2022 that stated CPI had increased 7.1% year on year in December 2021, outstripping wage growth and 'straining consumer confidence' [JHX.0002.0003.9329].*

(B) ***Miele** knew that a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products as consumer spending in the residential housing market slowed, including because interest rates were set to increase in response to inflation as evidenced by his receipt of the same email sent by Jennifer Bressler as Gadd referred to at (A) immediately above.*

*(iv) it can be inferred that **Gadd** and **Miele** knew, or alternatively ought to have known that **there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA in FY23 (paragraph 65 above)** by reason of their*

knowledge as particularised in particulars (i), (ii) and (iii) immediately above of the following matters:

(A) *as at 7 February 2022, the inflation rate in the US increased significantly from in or around October 2021 to January 2022, and was well above two percent, and further inflationary pressures for 2022 were likely;*

(B) *high inflation in the US was likely to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business to incur additional COGS; and/or*

(C) *a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed, and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation, which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23.*

(v) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known that there was* ***likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 65 above)*** *by reason of the following matters:*

(A) *Wiens knew that as at 7 February 2022, the inflation rate in the United States increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely;*

(B) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (iv) immediately above, in their roles as President, North America and CFO and the because of the nature and significance of the information including the impact on James Hardie's financial performance in FY23;*

(C) *the information in particular (iv) immediately above was material to the preparation and release of James Hardie's February FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(D) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(vi) Further or alternatively, ***Gadd, Miele*** *and* ***Wiens*** *ought to have known that* ***there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 65 above)****, because:*

(A) *they were responsible in their roles as President, North America, CFO and Interim CEO, for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the February FY23 Guidance;*

(B) *the inflation rate and interest rates in the US were factors relevant to the demand for James Hardie's products, James Hardie's COGS and the delivery of the February FY23 Guidance;*

(C) *it would be expected that Gadd, Miele and Wiens assessed the impact of the inflation rate and interest rates in the US on the Net Sales Growth, ANI growth and EBIT Margin achieved by James Hardie's NA Business and the James Hardie Group in FY23.*

E.4 Demand Forecasting Method and Volume Forecasts as at February 2022

E.4.1 Unreasonable volume forecasting method

73. As at 7 February 2022, James Hardie adopted an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (**February Volume/Demand Modelling Inadequacy**).

PARTICULARS

(i) *The inadequacies in James Hardie's demand forecasting method are all or any combination of the matters pleaded in Section E.4.2 (paragraphs 74 to 77) below.*

E.4.2 Features of James Hardie's volume forecasting method

74. As at 7 February 2022, James Hardie's FY23 demand forecasts, upon which volume expectations in the February FY23 Guidance, the 7 February Statements and the February FY23 Guidance Representations were based, were generated by applying historical market growth rates for the R&R Sector and the New Construction Sector as growth rates to FY22 volumes (the **Demand Forecasting Method**).

PARTICULARS

(i) *The **Demand Roadmap Model** was used to create the volume assumption in the FY23 7+5 Forecast (which was the first iteration of the FY23 Forecast prepared in November 2021), and contained an NA volume forecast of 3,468 mmsf (excluding export), Excel spreadsheet entitled "FY23-27 Demand Roadmap Model_10.29.21, dated 15 November 2021", sheets 'final region' and 'final product' [JHX.0014.0007.3222].*

(ii) *The volume assumption in the FY23 7+5 volume forecast was revised to 3,443 mmsft (excluding export) in the FY23 8+4 volume forecast (December 2021) [JHX.0031.0032.1084] and to 3,415 mmstf in the FY23 9+3 volume forecast (January 2022) [JHX.0032.0009.0146].*

(iii) *The methodology employed by the Demand Roadmap Model was demonstrated in a presentation titled "FY23-27 Demand Roadmap", dated 14 September 2021, where it was noted that the 5+7 (September 2021) volume forecast was used as a baseline, with a blended market growth rate applied (from the "Market Intelligence team's standard calculation of consensus"), and primary demand growth then applied on a regional basis [JHX.0051.0001.2225].*

(iv) *The methodology employed by the Demand Roadmap Model was not used by James Hardie to forecast volume for its high-margin 'NEO' or innovation products, which were instead based on "top down growth goals", presentation titled "FY23-27 Demand Roadmap" [JHX.0051.0001.2225], with innovation in the FY23 9+3 volume forecast (January 2022) forecast as 30 mmstf, being a 1583% increase from the 2mmstf of innovation products forecast for FY22 [JHX.0005.0003.3940].*

75. The use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes, as at 7 February 2022 or at any time thereafter in which the Demand Forecasting Method was used.

PARTICULARS

(i) *The position as at 7 February 2022 and thereafter is shown by the email from Geisen to Sean Patel (Senior Director, Commercial Operations), Joseph Mills (Director of Products & Segments – reported to Fredericksen), Mulhall and Matt Logan (Senior Product Manager), 27 January 2022 which identified considerable process gaps in the forecasting process resulting in unconstrained order forecasts that are "pretty far off" with Geisen expressing the "need [for resources] for a cleaner, more accurate forecast" [JHX.0014.0010.1350].*

(ii) *The position as at 7 February 2022 and thereafter is shown by the email from Clay Gruenstein (Multi-Family/Commercial Segment Manager) to Mulhall, Madson, Geisen and others, 19 April 2022, where Gruenstein issues a warning about the accuracy of the Demand Forecasting Method "This is a growth model that estimates our expected fair share volume by applying calculated market growth to prior year shipments. That methodology has worked extremely well in the past, but as you know, in addition to all sorts of unprecedented external factors throwing off our models, we've also made many adjustments in the segment over the past couple years that have caused shipments to significantly deviate from what we would have normally expected true demand levels to be." [JHX.0032.0020.5830].*

(iii) *The position as at 7 February 2022 and thereafter is shown by the email from Clay Gruenstein to Fredericksen, 18 May 2022, where, in response to the year-on-year drop in Multi-Family sales evident by mid-May, Gruenstein states "…it dawned on me last night that this still an issue of deliberate actions we took in the segment to shape volume that caused abnormally skewed comps in April / May. We've done so much in the segment over the past couple years to intentionally influence volume that our models and the base volumes they depend on are hardly valid anymore and need some time of normalcy to reset." [JHX.0034.0005.3765].*

76. Further, or alternatively, as at 7 February 2022, the Demand Forecasting Method did not factor in the February Demand Impacts adequately, or at all.

PARTICULARS

(i) *The Demand Forecasting Method used FY21 and FY22 market growth rates to forecast FY23 demand growth, and by doing so did not adjust for the fact that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23.*

(ii) *The Demand Forecasting Method was based on historical trends from FY21 and FY22 which were peak results periods for James Hardie.*

77. Further, or alternatively, as at 7 February 2022, the Demand Forecasting Method did not factor in the impact of the February Inflation/Interest Rate Impacts adequately, or at all.

PARTICULARS

The Demand Forecasting Method used FY21 and FY22 market growth rates to forecast FY23 demand growth, and by doing so did not adjust for the February Inflation/Interest Rate Impacts.

78. Further, or alternatively, as at 7 February 2022, the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity.

PARTICULARS

(i) *Email from Geisen to Sean Patal, Joseph Mills, Mulhall and Matt Logan, 27 January 2022, where Geisen states "…we have not resourced unconstrained modeling/orders forecasting over the last year given supply constraints (forecast = shipment capability)." [JHX.0014.0010.1350].*

(ii) *Presentation from an independent auditor engaged by James Hardie dated January 2022 that stated James Hardie's "current processes for supply planning, demand planning and production scheduling are immature and disconnected" [JHX.0027.0037.4059].*

(iii) *The volume forecasts were generated by the supply chain team, and not by the manufacturing team, as evidenced by an email from Miele to Gadd, 7 April 2022, where Miele states "highlight that the volume number was determined by the supply chain team" [JHX.0002.0004.3506].*

79. Further, or alternatively, as at 7 February 2022, the Demand Forecasting Method incorporated an assumption that the R&R/NC End Market Split was weighted towards the R&R Sector on about a 65%/35% basis (the **End Market Split Assumption**), which:

(a) had not been verified by James Hardie;

(b) was not accurate;

(c) meant that the Demand Forecasting Method was not able to correctly take into account changes in New Construction Sector growth rates;

(d) underestimated the impact that a downturn in the New Construction Sector would have on James Hardie's sales in FY23.

PARTICULARS

(i) *Email from Castillo to Brennan-Chong, 16 January 2022, noted that "There was no apparent way to breakout our volume by NC and R&R, which in hindsight makes sense" and that based off the John Burns data, James Hardie's sales split was 40% NC and 60% R&R [JHX.0013.0003.1863].*

(ii) *Email from Erik Booth to Brennan-Chong, 23 January 2022, raised concerns about the accuracy of the 44 million homes figure (being total houses more than 40 years old) that was used by James Hardie to estimate the size of the repair and remodel market and stated "I felt it was embarrassing to wave one's hand around and imply the available market for re-sides if 44MM* *homes" and that the real number of houses was closer to 15 million (including homes 30 to 40 years old) [JHX.0013.0005.1418].*

(iii) *Email from Mulhall to Pam Chang, 2 February 2022, that stated "we do not have a true view of R&R vs New Construction but I can tell you what we estimate!" [JHX.0014.0009.3957].*

(iv) *Email from Brennan-Chong to Erik Booth, 16 February 2022, estimating that on an annual basis, "the total siding market is 3,675m [standard feet]" which "Feels so low…" (noting that at this point in time, James Hardie was forecasting FY23 NA volume of 3,340mmst) [JHX.0013.0007.7890].*

(v) *Email from Brennan-Chong to Erik Booth and Mulhall, 22 February 2022, where number of reside projects is discussed, noting that "re-sides are probably only half of R&R cladding." [JHX.0013.0009.1078].*

(vi) *Email from Erik Booth to Roberts, 14 March 2021, forwarded to Brennan-Chong on 16 February 2022, stating "Personally I think that giving Jack anything very different from a 50/50 NC/R&R split for Hardie volume is dangerous—I would hate to give him something that later seems very wrong. Giving him something that says we have a much higher share in R&R than we do in NC seems very wrong." [JHX.0013.0007.2853].*

(vii) *The uncertainty around the New Construction Sector and the R&R Sector channel split meant that James Hardie's models (including the Demand Road Map) underestimated the impact that a downturn in the New Construction Sector would have had on the company's sales in FY23.*

80. Further, or alternatively, as at 7 February 2022, the Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately six months, and that, once the backlog had been cleared, there would be a drop in addressable demand.

PARTICULARS

(i) *Email from Nick Langhammer to Geisen, Stephanie Lunt_and Mark Wallace, 20 October 2021, noting that "As Gadd brought up yesterday, our order file is decreasing because we are clearing out our backlog" [JHX.0032.0064.7879].*

(ii) *Email from Geisen to Sean Patel, Joseph Mills, Mulhall and Matt Logan, 27 January 2022 stating "Backlog has shrunk to 57mmstf (by 21mmstf from 12/31) despite extended lead times maintaining around 200mstf given the order weakness to open the year" [JHX.0014.0010.1350].*

(iii) *Email from Miele to Gadd, 24 June 2022 enclosing a graph that demonstrates a decline in siding backlog since August 2021 [JHX.0002.0002.8714].*

E.4.3 Knowledge of unreasonable volume forecasting method

81. As at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie knew or ought to have known:

(a) that James Hardie was using the Demand Forecasting Method (namely, that James Hardie's demand forecasts, upon which volume expectations in the February FY23 Guidance, the 7 February Statements and the February FY23 Guidance Representations were based, were generated by applying historical market growth rates for the R&R Sector and the New Construction Sector as growth rates to FY22 volumes); and

(b) the February Volume/Demand Modelling Inadequacy (namely, that the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23).

PARTICULARS

*As at 7 February 2022, James Hardie Officers identified in these particulars knew or ought to have known that **James Hardie was using the Demand Forecasting Method (paragraph 74 above)** by reason of the following matters:*

*(i) **Gadd** knew that James Hardie's FY23 demand forecasts were generated by applying historical market growth rates for the R&R Sector and the New Construction Sector as growth rates to FY22 volumes, as evidenced by his receipt of an email from Geisen dated 11 January 2022 attaching a presentation entitled "9+3 Topline Review" which was based on the Demand Roadmap Model and which set out:*

1. the final NA volume forecast of 3,415mmstf (excluding export); and

2. the assumption of total year on year volume growth of 10%, (of which 5% was 'blended market growth' and 5% was 'primary demand growth') [JHX.0005.0003.3939] and [JHX.0005.0003.3940];

*(ii) **Miele** knew that James Hardie's FY23 demand forecasts were generated by applying historical market growth rates for the R&R Sector and the New Construction Sector as growth rates to FY22 volumes, as a result of receiving the same email from Geisen dated 11 January 2022 as Gadd referred to at (A) immediately above;*

*(iii) **Wiens** and the **James Hardie Board** ought to have known of the use of the Demand Forecasting Method as Gadd and Miele ought reasonably to have informed them by reason of:*

3. their roles and responsibilities as President, North America and CFO; and

4. *the nature and significance of the information in particular (iii) immediately above including the likely impact on the accuracy of James Hardie's February FY23 Guidance of using the Demand Forecasting Method.*

*As at 7 February 2022, James Hardie Officers identified in these particulars knew or ought to have known that **the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (paragraph 73 above)** by reason of the following matters:*

(iv) ***the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes (paragraph 75 above);***

(A) *it is to be inferred that **Gadd** knew, or alternatively Gadd ought to have known that use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes, as evidenced by the fact that:*

1. *Madson, Geisen and Clay Gruenstein knew that James Hardie had undertaken promotions and other volume-shaping activity in FY23 and FY22, which meant that it was increasingly difficult to ascertain base demand, and that the validity of the Demand Forecasting Method was eroding as a consequence, as evidenced by their receipt and authorship of an email detailing their existing knowledge of this information dated 14 April 2022 [JHX.0032.0020.5830];*

2. *Fredericksen knew James Hardie's volume forecasting models and the base volumes they depended on were not valid and needed a period of 'normalcy' to reset, as a consequence of deliberate actions which had been taken in the segment to shape volume (including incentivising higher levels of purchasing in 1Q21), as evidenced by his receipt of an email from Gruenstein dated 18 May 2022 [JHX.0034.0005.3765];*

3. *Madson, Geisen, Clay Gruenstein and Fredericksen ought reasonably to have informed Gadd of this information in particular (A) immediately above by reason of:*

i. *their roles, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in particular (A) immediately above including the likely impact on the accuracy of James Hardie's February FY23 Guidance of the use of FY22 volume as a base for the FY23 volume.*

(B) *it is to be inferred that **Miele** knew, or alternatively Miele ought to have known that use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes, because of the reasons set out with respect to Gadd at (A) immediately above (including that Madson, Geisen, Clay Gruenstein and Fredericksen ought reasonably to have informed Miele of the information at (A.1) and (A.2) immediately above).*

(v) the Demand Forecasting Method did not factor in the February Demand Impacts (paragraph 76 above), or the February Inflation/Interest Rate Impacts (paragraph 77 above);

(A) ***Gadd** knew that the Demand Forecasting Model used FY21 and FY22 market growth rates, which were peak results periods for James Hardie, to forecast FY23 demand growth, and by doing so did not adjust for the February Demand Impacts or the February Inflation/Interest Rate Impacts, as evidenced by his receipt of the "9+3 Topline Review" which contained the assumption of year on year volume growth of 10%.*

(B) ***Miele** knew that the Demand Forecasting Model used FY21 and FY22 market growth rates, which were peak results periods for James Hardie, to forecast FY23 demand growth, and by doing so did not adjust for the February Demand Impacts or the or the February Inflation/Interest Rate Impacts, as evidenced by his receipt of the "9+3 Topline Review" which contained the assumption of year on year volume growth of 10%.*

(vi) the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (paragraph 78 above);

(A) ***Gadd** knew that the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity by reason of his receipt of the "9+3 Topline Review" which noted that FY23 quarterly volume growth had been "constrained to shipment capability".*

(B) ***Miele*** *knew that the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity by reason of his receipt of the "9+3 Topline Review" which noted that FY23 quarterly volume growth had been "constrained to shipment capability".*

(vii) the Demand Forecasting Method incorporated an assumption that the R&R/NC End Market Split was weighted towards the R&R Sector on about a 65%/35% basis and that this information had not been verified by James Hardie and was not accurate (paragraph 79 above);

(A) *It is to be inferred that* ***Gadd*** *knew, or alternatively Gadd ought to have known that the End Market Split Assumption was not accurate, as evidenced by the fact that:*

1. *Castillo and Brennan-Chong knew that the End Market Split Assumption was not accurate as evidenced by their authorship and receipt of an email dated 16 January 2022 which stated "There was no apparent way to breakout our volume by NC and R&R, which in hindsight makes sense" and that based off the John Burns data, James Hardie's sales split was 40% NC and 60% R&R [JHX.0013.0003.1863];*

2. *Erik Booth, Roberts, Castillo and Brennan-Chong knew that the End Market Split Assumption was not accurate by reason of their authorship and receipt of an email dated 14 March 2021 which was forwarded to Brennan-Chong on 16 February 2022 which stated "Personally I think that giving Jack anything very different from a 50/50 NC/R&R split for Hardie volume is dangerous—I would hate to give him something that later seems very wrong. Giving him something that says we have a much higher share in R&R than we do in NC seems very wrong." [JHX.0013.0007.2853];*

3. *Castillo, Brennan-Chong, Erik Booth and Roberts ought reasonably to have informed Gadd of the information at particular (A) immediately above by reason of:*

    i. *their roles, responsibilities and reporting lines; and*

    ii. *the nature and significance of the information at particular (A) immediately above including the likely impact on the accuracy of James Hardie's February FY23 Guidance of the End Market Split Assumption and the inaccuracy of same.*

(B) *It is to be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that the End Market Split Assumption was not accurate, because of the reasons set out with respect to Gadd at (A) immediately above (including that Castillo, Brennan-Chong, Erik Booth and Roberts ought reasonably to have informed Miele of the information at (A.1) and (A.2) immediately above);*

(C) *It is to be inferred that **Miele** knew, or alternatively Miele ought to have known the End Market Split Assumption and that it had not been verified by James Hardie, as evidenced by the fact that:*

1. *Criddle, Mulhall and Geisen knew that James Hardie did not have a true view of the split between R&R vs. New Construction, but that James Hardie estimated a weighting of ~62%-67% for R&R, as evidenced by their receipt and authorship of an email detailing this information dated 2 February 2022 [JHX.0014.0009.3957].*

2. *Criddle, Mulhall and Geisen ought reasonably to have informed Miele of this information by reason of:*

   i. *their roles, responsibilities and reporting lines; and*

   ii. *the nature and significance of the information including the likely impact on the accuracy of James Hardie's February FY23 Guidance of the End Market Split Assumption and James Hardie's failure to verify same.*

(viii) the Demand Forecasting Method did not take into account, adequately or at all, that James Hardie had been clearing its backlog for approximately six months, and that, once the backlog had been cleared, there would be a drop in addressable demand (paragraph 80 above);

(A) ***Gadd** knew that James Hardie's backlog had been clearing since October 2021, as evidenced by:*

1. *his receipt of the "9+3 Topline Review" which contained the assumption of year on year volume growth of 10% and which did not take into account any impact from the backlog clearance;*

2. *a comment he made which was documented in an email from Nick Langhammer (Supply Chain Manager, S&OP), to Geisen, Stephanie Lunt (Supply Chain Deputy Manager G&A Supply Strategy – reported to Jeff Wrobel) and Mark Wallace (Senior Sales Director – reported to Madson) dated 20 October 2021 which stated "As Gadd brought up yesterday, our order file is decreasing because we are clearing out our backlog" [JHX.0032.0064.7879].*

(B) *It can be inferred that **Miele** knew, or alternatively Miele ought to have known that James Hardie had been clearing its backlog for approximately six months and that this was not taken into account in the Demand Forecasting Method, as evidenced by:*

1. *his receipt of the "9+3 Topline Review" which contained the assumption of year on year volume growth of 10% and which did not take into account any impact from the backlog clearance;*

2. *Geisen, Sean Patel, Joseph Mills, Mulhall and Matt Logan knew that James Hardie's backlog was declining as evidenced by their authorship or receipt of an email dated 27 January 2022 which stated "Backlog has shrunk to 57mmstf (by 21mmstf from 12/31) despite extended lead times maintaining around 200mstf given the order weakness to open the year" [JHX.0014.0010.1350];*

3. *Geisen, Sean Patel, Joseph Mills, Mulhall and Matt Logan ought reasonably to have informed Miele of this information by reason of:*

   i. *their roles, responsibilities and reporting lines; and*

   ii. *the nature and significance of the information including the likely impact on the accuracy of James Hardie's February FY23 Guidance of the failure of the Demand Forecasting Method to take the backlog clearance into account.*

(ix) *it can be inferred that **Gadd** and **Miele** knew, or alternatively ought to have known that **the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (paragraph 73 above)** by reason of their knowledge as particularised in particulars (iv), (v), (vi), (vii) and (viii) immediately above of the following matters:*

(A) *the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand;*

(B) *the Demand Forecasting Method did not factor in the February Demand Impacts or the February Inflation/Interest Rate Impacts;*

(C) *the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity;*

(D) *the End Market Split Assumption in the Demand Forecasting Method, and that it had not been verified by James Hardie and was not accurate; and/or*

(E) *the backlog clearance, and that this has not been accounted for in the Demand Forecasting Method.*

(x) ***Wiens** and the **James Hardie Board** ought to have known that **the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (paragraph 73 above)** by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (ix), in their roles as President, North America and CFO and because of the nature and significance of the information;*

(B) *the information in particular (ix) was material to the preparation and release of James Hardie's February FY23 Guidance, as it impacted the accuracy of the model used to forecast volume growth in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(xi) Further or alternatively, ***Gadd, Miele*** *and* ***Wiens*** *ought to have known that* ***the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (paragraph 73 above)****, because:*

(A) *they were responsible in their roles as President, North America, CFO and Interim CEO for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the February FY23 Guidance;*

(B) *the volume growth assumptions which underpinned the February FY23 Guidance were factors relevant to the delivery of the February FY23 Guidance;*

(C) *the deficiencies in the volume growth assumptions adopted in the Demand Forecasting Method were factors relevant to the delivery of the February FY23 Guidance; and*

(D) *it would be expected that Wiens, Miele and Gadd took those factors into account in assessing James Hardie's likely financial performance in FY23.*

E.5 The Achievability of the February FY23 Guidance for James Hardie's FY23 NA Business

E.5.1 The February FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

82. As at and from 7 February 2022:

(a) James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the February FY23 Guidance (namely, FY23 net sales growth of 16% to 20% from FY22) or the volume growth necessary to achieve such growth rates;

(b) James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the February FY23 Guidance (namely, 30% to 33%);

(each of (a) and (b) being **February Unlikely NA Guidance Information**).

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(i) *The reasons why James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business were as set out in Section E.5.2 below.*

E.5.2 The reasons why the February FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

83. As at and from 7 February 2022, James Hardie was unlikely to achieve the February FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business by reason of:

(a) the February Demand Impacts (namely, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23);

(b) the February Inflation/Interest Rate Impacts (namely, that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23);

(c) the February Volume/Demand Modelling Inadequacy (namely, that the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23).

84. Further, or alternatively to paragraph 83, as at and from 7 February 2022, James Hardie was unlikely to achieve the February FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was likely to experience in FY23 was lower than that conveyed by the February FY23 Guidance.

85. Further, or alternatively to paragraphs 83 and 84, as at and from 7 February 2022, James Hardie was unlikely to achieve the February FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (**February Counterfactual NA Sales Growth Guidance Information**);

(b) EBIT Margin in North America: approximately 28% (**February Counterfactual NA EBIT Margin Guidance Information**).

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(i) *As to sub-paragraph 85(a) (the February Counterfactual NA Sales Growth Guidance Information):*

(A) *Annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);*

(B) *Net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given* *the February Demand Impacts and February Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 6%.*

(ii) *As to 85(b) (the February Counterfactual NA EBIT Margin Guidance Information):*

(A) *Given the February Demand Impacts and February Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be moderately lower;*

(B) *an FY23 EBIT Margin of approximately 28% would represent only a modest decline on the FY22 YTD performance experienced by James Hardie's NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated an FY23 EBIT Margin of approximately 28%.*

E.5.3 Knowledge that the February FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

86. As at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business (namely, that it would achieve FY23 net sales growth of 16% to 20% from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 30% to 33%).

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As at 7 February 2022, James Hardie Officers identified in these particulars knew or ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business by reason of the following matters:

(i) ***Gadd*** *is inferred to have known or alternatively ought to have known this information because he:*

(A) *knew the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 64);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 64);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022,* *there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 64);*

(D) *knew that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 64);*

(E) *is inferred to have known, or ought to have known that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 (particulars (v) and (vii) to paragraph 64);*

(F) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 72);*

(G) *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (ii) to paragraph 72);*

(H) *knew that a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products as consumer spending in the residential housing market slowed, and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation, which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23 (particular (iii) to paragraph 72);*

(I) *is inferred to have known, or alternatively ought to have known that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (iv) and (vi) to paragraph 72);*

(J) *knew that James Hardie was using the Demand Forecasting Method (particular (i) to paragraph 81);*

(K) *is inferred to have known, or alternatively ought to have known that the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes (particular (iv) to paragraph 81);*

(L) *knew that the Demand Forecasting Method did not factor in the February Demand Impacts or the February Inflation/Interest Rate Impacts (particular (v) to paragraph 81);*

(M) *knew that the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (vi) to paragraph 81);*

(N) *is inferred to have known, or alternatively ought to have known that the Demand Forecasting Method incorporated an assumption that the R&R/NC End Market Split was weighted towards the R&R Sector on about a 65%/35% basis and that this information was not accurate (particular (vii) to paragraph 81);*

(O) *knew the Demand Forecasting Method did not take into account, adequately or at all, that James Hardie had been clearing its backlog for approximately six months, and that, once the backlog had been cleared, there would be a drop in addressable demand (particular (viii) to paragraph 81);*

(P) *is inferred to have known, or ought to have known that the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (particulars (ix) and (xi) to paragraph 81);*

(Q) *each item of information in (A) to (P) immediately above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business.*

(ii) ***Miele** is inferred to have known or alternatively ought to have known information because he:*

(A) *is inferred to have known, or ought to have known the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 64);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 64);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 64);*

(D) *knew that in late 2021, there was a short-term increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 64);*

(E) *is inferred to have known, or alternatively ought to have known that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early*

2021 and early 2022, but these were not likely to be repeated in FY23 (particulars (v) and (vii) to paragraph 64);

(F) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 72);*

(G) *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (ii) to paragraph 72);*

(H) *knew that a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products as consumer spending in the residential housing market slowed, and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation, which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23 (particular (iii) to paragraph 72);*

(I) *is inferred to have known, or alternatively ought to have known that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (iv) and (vi) to paragraph 72);*

(J) *knew that James Hardie was using the Demand Forecasting Method (particular (i) to paragraph 81);*

(K) *is inferred to have known, or alternatively ought to have known that the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 (prior to 7 February 2022) which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes (particular (iv) to paragraph 81);*

(L) *knew that the Demand Forecasting Method did not factor in the February Demand Impacts or the February Inflation/Interest Rate Impacts (particular (v) to paragraph 81);*

(M) *knew that the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (vi) to paragraph 81);*

(N) *is inferred to have known, or alternatively ought to have known that the Demand Forecasting Method incorporated an assumption that the R&R/NC End Market Split was weighted towards the R&R Sector on about a 65%/35% basis and that this* *information had not been verified and was not accurate (particular (vii) to paragraph 81);*

(O) *is inferred to have known, or alternatively ought to have known that the Demand Forecasting Method did not take into account, adequately or at all, that James Hardie had been clearing its backlog for approximately six months, and that, once the backlog had been cleared, there would be a drop in addressable demand (particular (viii) to paragraph 81);*

(P) *is inferred to have known, or alternatively ought to have known that the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (particulars (ix) and (xi) to paragraph 81);*

(Q) *each item of information in (A) to (P) immediately above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business.*

(iii) ***Wiens*** *ought to have known this information because he:*

(A) *knew:*

1. *as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely (particular (i) to paragraph 72);*

(B) *ought to have known:*

1. *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (vi) to paragraph 64);*
2. *the spiking in US lumber prices (particular (vi) to paragraph 64);*
3. *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (vi) to paragraph 64);*
4. *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing*

construction market, but as at January 2022 this was not continuing (particular (vi) to paragraph 64);

5. *that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 (particulars (vi) and (vii) to paragraph 64);*

6. *that high inflation in the US was likely to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business to incur additional COGS (particular (v) to paragraph 72);*

7. *that a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed, and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation, which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23 (particular (v) to paragraph 72);*

8. *there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (v) and (vi) to paragraph 72);*

9. *that James Hardie was using the Demand Forecasting Method (particular (x) to paragraph 81);*

10. *that the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand (particular (x) to paragraph 81);*

11. *that the Demand Forecasting Method did not factor in the February Demand Impacts or the February Inflation/Interest Rate Impacts (particular (x) to paragraph 81);*

12. *that the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (x) to paragraph 81);*

13. *the End Market Split Assumption in the Demand Forecasting Method, and that it had not been verified by James Hardie and was not accurate (particular (x) to paragraph 81);*

14. *the backlog clearance, and that this has not been accounted for in the Demand Forecasting Method (particular (x) to paragraph 81);*

15. *the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (particulars (x) and (xi) to paragraph 81);*

16. *each item of information in (A) to (B) immediately above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business.*

(iv) *the* ***James Hardie Board*** *ought to have known this information because the Board ought to have known:*

(A) *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (vi) to paragraph 64);*

(B) *the spiking in US lumber prices (particular (vi) to paragraph 64);*

(C) *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (vi) to paragraph 64);*

(D) *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (vi) to paragraph 64);*

(E) *that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 (particular (vi) to paragraph 64);*

(F) *as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely (particular (v) to paragraph 72);*

(G) *high inflation in the US was likely to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business to incur additional COGS (particular (v) to paragraph 72);*

(H) *a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed, and it was likely that that the US Federal Reserve would increase interest rates through FY23 in order to combat inflation, which was likely to adversely impact demand for James Hardie's FC Products in the NA Market in FY23 (particular (v) to paragraph 72);*

(I) *there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particular (v) to paragraph 72);*

(J) *that James Hardie was using the Demand Forecasting Method (particular (x) to paragraph 81);*

(K) *that the use of FY22 volume in the Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand (particular (x) to paragraph 81);*

(L) *that the Demand Forecasting Method did not factor in the February Demand Impacts or the February Inflation/Interest Rate Impacts (particular (x) to paragraph 81);*

(M) *the Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (x) to paragraph 81);*

(N) *the End Market Split Assumption in the Demand Forecasting Method, and that it had not been verified by James Hardie and was not accurate (particular (x) to paragraph 81);*

(O) *the backlog clearance, and that this has not been accounted for in the Demand Forecasting Method (particular (x) to paragraph 81);*

(P) *the Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23 (particular (x) to paragraph 81);*

(Q) *each item of information in (A) to (P) immediately above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the February FY23 Guidance for James Hardie's NA Business.*

87. Further, or alternatively, as at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie ought to have known that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information).

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A reasonable estimate of James Hardie's net sales growth in NA was approximately 6% because:

(i) annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

(ii) net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given the February Demand Impacts and February Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;

(iii) The Plaintiff refers to and repeats paragraph 86 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts and the February Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation) and paragraph 72 (knowledge of inflationary conditions and rising interest rates);

(iv) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method;

(v) The Plaintiff refers to and repeats paragraph 86 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the Demand Forecasting Method and its inadequacies (the Plaintiff also refers to the particulars to paragraph 81 (knowledge of unreasonable volume forecasting method);

(vi) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts and the Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72 and 81 above, which were all factors relevant to the net sales performance of James Hardie's NA Business, Gadd, Wiens and Miele ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 6%.

A reasonable estimate of James Hardie's EBIT Margin in NA was approximately 28% because:

(i) Given the February Demand Impacts and February/Inflation Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23

EBIT Margin was not higher than the EBIT Margin in fact achieved by James Hardie in FY22, and was likely to be moderately lower;

(ii) The Plaintiff refers to and repeats paragraph 86 and the particulars thereto above, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts and the February Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation) and paragraph 72 (knowledge of inflationary conditions and rising interest rates));

(iii) an FY23 Margin of approximately 28% would represent only a modest decline on the FY22 YTD performance experienced by James Hardie's NA Business;

(iv) Based on their knowledge of the February Demand Impacts and the February Inflation/Interest Rate Impacts as pleaded and particularised in paragraphs 64 and 72 above, which were all factors relevant to the EBIT Margin of James Hardie's NA Business, Gadd, Miele and Wiens ought to have known that a reasonable estimate of the EBIT Margin in James Hardie's NA Business was approximately 28%.

E.6 The Achievability of the February FY23 Guidance for ANI

E.6.1 The February FY23 Guidance for ANI was unlikely to be achieved

88. As at and from 7 February 2022, James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the February FY23 Guidance (**February Unlikely ANI Guidance Information**) (namely, US$740 million to US$820 million).

PARTICULARS

(i) *The reasons why James Hardie was unlikely to achieve February FY23 Guidance for ANI, were as set out in Section E.6.2 below.*

E.6.2 The reasons why the February FY23 Guidance for ANI was unlikely to be achieved

89. As at and from 7 February 2022, James Hardie was unlikely to achieve its February FY23 Guidance for ANI of US$740 million to US$820 million because it was set by reference to the sales growth, EBIT Margin and EBIT in James Hardie's NA Business, and James Hardie was unlikely to achieve the February FY23 Guidance for sales growth and/or EBIT Margin in James Hardie's NA Business.

PARTICULARS

(i) *James Hardie's FY23 ANI forecast (US$837) million was based upon its FY23 estimate for EBIT in the NA Business (US$995.6 million).*

(ii) *If James Hardie's NA Business did not in FY23 achieve net sales growth of 16% to 20% from FY22 and EBIT Margin of 30% to 33%, ANI would be reduced.*

(iii) *Further or alternatively, if James Hardie's NA Business did not in FY23 achieve net sales growth of 16% to 20% from FY22, but only achieved net sales growth of approximately 6%, this would result in forecast FY23 net sales of approximately US$2,706 million for James Hardie's NA Business, which in combination with (iv) below would reduce ANI (because ANI would decrease if there was a reduction in net sales and EBIT as set out in paragraph 54(b)).*

(iv) *If James Hardie's NA Business did not in FY23 achieve an EBIT Margin of 30% to 33%, but only achieved an EBIT Margin of approximately 28%, when applied to forecast FY23 net sales of approximately US$2,706 million, this would result in FY23 EBIT of approximately US$758 million, which in combination with (iii) above would reduce ANI (because ANI would decrease if there was a reduction in net sales and EBIT as set out in paragraph 54(b)).*

(v) *The negative US$238 million EBIT impact (US$995.6 million less US$758 million) represents an ANI impact of approximately US$183 million to James Hardie's forecast FY23 ANI of US$837 million (i.e. US$654 million).*

90. Further, or alternatively to paragraph 89, as at and from 7 February 2022, James Hardie was unlikely to achieve its February FY23 Guidance for ANI of US$740 million to US$820 million because that guidance had been set partly by reference to analyst expectations of ANI guidance which was irrelevant to the actual likely performance of James Hardie's business.

PARTICULARS

(i) *Paragraph 55 is repeated.*

91. Further, or alternatively to paragraphs 89 and 90 as at and from 7 February 2022, James Hardie was unlikely to achieve the February FY23 Guidance for ANI because:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (**February A Counterfactual ANI Guidance Information**);

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (**February B Counterfactual ANI Guidance Information**).

PARTICULARS

(i) *As to (a) (the February A Counterfactual ANI Guidance Information):*

(A) ***Net sales***:

   (I) Annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

   (II) Net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given the February Demand Impacts and February Inflation Interest Rate Impacts, which represented challenging market conditions for the NA Business;

   (III) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 6%;

   (IV) net sales growth of approximately 6% on the FY22 forecast as at 7 February 2022 of US$2,553 million would result in forecast FY23 net sales of approximately US$2,706 million for James Hardie's NA Business

(B) ***EBIT Margin***:

   (I) Given the February Demand Impacts and February Inflation Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be moderately lower.

   (II) an FY23 EBIT Margin of approximately 28% would represent only a modest decline on the FY22 YTD performance experienced by James Hardie's NA Business

   (III) a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated FY23 EBIT Margin of approximately 28%.

(C) ***EBIT***

   (I) an EBIT margin of approximately 28% on net sales of US$2,706 million would result in forecast EBIT for FY23 of approximately US$758 million for James Hardie's NA Business;

   (II) James Hardie's forecast EBIT for the NA Business in FY23 as at 7 February 2022 was US$995.6 million, approximately US$238 million more than the amount calculated at (I) above.

(D) ***ANI***

   (I) a reduction in forecast EBIT of approximately US$238 million (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) would have

an impact of approximately US$183 million in James Hardie's ANI;

(II) *deducting approximately US$183 million from James Hardie's forecast US$837 million ANI as at 7 February 2022 to reflect reasonable estimates of net sales growth and EBIT Margin in North America would result in a pinpoint ANI estimate of approximately US$654 million;*

(III) *a reasonable range around approximately US$654 million would be +-8% around a slightly lower midpoint of US$645 million, being approximately US$593 million to US$697 million. A +-8% range would be reasonably selected given the challenging economic conditions presented by the February Demand Impacts and February Inflation Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance.*

(ii) *As to (b) (the February B Counterfactual ANI Guidance Information):*

(A) ***Net sales**: approximately US$2,706 million as per (i)(A) above;*

(B) ***EBIT Margin**: approximately 28% as per (i)(B) above;*

(C) ***EBIT**: approximately US$758 million as per (i)(C) above;*

(D) ***ANI**: as per (i)(D)(I)-(II) above, the ANI impact was approximately US$183 million producing a pinpoint ANI estimate of approximately US$654 million, and adopting an alternative narrower reasonable range of +-5% around a slightly lower midpoint of $645 million produces an ANI range of approximately US$610 million to US$680 million. In the event that a +-8% range was not reasonably selected, a +-5% range would reasonably have been selected, given that James Hardie itself adopted an approximately +-5% range around a midpoint of about US$779 million to US$780 million.*

E.6.3 Knowledge that the February FY23 Guidance for ANI was unlikely to be achieved

92. Further, or alternatively, as at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for ANI of US$740 million to US$820 million.

PARTICULARS

(i) ***Gadd, Miele, Wiens** and the **James Hardie Board** ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for ANI of US$740 million to US$820 million because they knew or ought to have known that the February FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business (which contributed the majority of James*

Hardie's revenue, EBIT and profit as pleaded in paragraph 25) was unlikely to be achieved: paragraph 86 is repeated.

(ii) *Further:*

(A) ***Miele** ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for ANI of US$740 million to US$820 million because he knew that he had put the February FY23 Guidance for ANI before the James Hardie Board partly by reference to analyst expectations of the ANI guidance James Hardie would provide, which was irrelevant to the actual likely performance of James Hardie's business. This is to be inferred from his identification of analyst expectations and justification of the proposed guidance ranges by reference to those expectations in his email to Hammes and Lloyd dated 5 February 2022 [JHX.0005.0010.6870], [JHX.0002.0003.3470];*

(B) ***Hammes** and **Lloyd** ought to have known that James Hardie was unlikely to achieve the February FY23 Guidance for ANI because they knew that Miele had put the February FY23 Guidance for ANI before the James Hardie Board partly by reference to analyst expectations of the ANI guidance James Hardie would provide, which was irrelevant to the actual likely performance of James Hardie's business. This is to be inferred from their receipt of the email sent by Miele on 5 February 2022 in which he identified analyst expectations and justified the proposed guidance ranges by reference to those expectations.*

93. Further, or alternatively, as at 7 February 2022, at the time James Hardie gave the February FY23 Guidance, James Hardie ought to have known that:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million(that is, the February A Counterfactual ANI Guidance Information);

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information).

PARTICULARS

(i) The Plaintiff refers to and repeats paragraph 87 above and the particulars thereto, which pleads that James Hardie ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 6% and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 28%.

(ii) James Hardie's FY23 ANI forecast of US$837 million was based on its FY23 estimate for EBIT in the NA Business of US$995.6 million.

(iii) If James Hardie achieved net sales growth of approximately 6%, this would result in forecast FY23 net sales of approximately US$2,706 million for James Hardie's NA Business.

(iv) If James Hardie achieved an EBIT Margin of approximately 28%, when applied to forecast FY23 net sales of approximately US$2,706 million, this would result in FY23 EBIT of approximately US$758 million.

(v) A reduction in forecast EBIT for James Hardie's NA Business (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) of US$238 million, would have an impact of approximately US$183 million on James Hardie's FY23 ANI forecast.

(vi) James Hardie's FY23 ANI forecast of US$837 million minus US$183 million would have produced a pinpoint ANI estimate of US$654 million.

(vii) A reasonable range around approximately US$654 million would be +-8% or alternatively +/-5% around a slightly lower midpoint of US$645 million, being approximately US$593 million to US$697 million or alternatively US$610 million to US$680 million. A +-8% range would be reasonably selected given the challenging economic conditions presented by the February Demand Impacts and February Inflation Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance, alternatively a +/-5% range reflects that actually adopted by James Hardie.

(viii) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts and the Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72 and 81 above, Gadd, Miele and Wiens ought to have known that a reasonable estimate of the sales growth in James Hardie's NA Business was approximately 6% net sales growth and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 28%, and therefore ought to have known that a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million or alternatively US$610 million to US$680 million.

F MISLEADING CONDUCT IN FEBRUARY 2022

F.1 Misleading Conduct Contraventions

94. The making of each of the February FY23 Guidance Representations and the February FY23 Implied Representation was conduct engaged in by James Hardie:

    (a) in trade or commerce; and

    (b) in relation to JHX Shares.

F.1.1 February FY23 NA Guidance Representations

95. As at and from 7 February 2022, James Hardie did not have reasonable grounds for making the February FY23 NA Guidance Representations, by reason of:

    (a) the facts and circumstances set out in paragraphs 59, 65, 73 and/or 82;

    (b) alternatively:

        (i) the facts and circumstances set out in paragraphs 59, 65, 73 and/or 82; and

        (ii) its actual or constructive knowledge of those facts and circumstances set out in paragraphs 64, 72, 81 and/or 86.

PARTICULARS

(i) *Each of the February FY23 NA Guidance Representations was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

96. As at and from 7 February 2022, by making and/or failing to correct each of the February FY23 NA Guidance Representations, in the circumstances set out in paragraph 95, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the February FY23 NA Guidance Representations by informing the market of:*

(A) *the February Unlikely NA Guidance Information;*

(B) *alternatively, the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information.*

F.1.2 February FY23 Group Guidance Representation

97. As at and from 7 February 2022, James Hardie did not have reasonable grounds for making the February FY23 Group Guidance Representation, by reason of:

(a) the facts and circumstances set out in paragraphs 59, 65, 73, 82 and/or 88;

(b) alternatively:

(i) the facts and circumstances set out in paragraphs 59, 65, 73, 82 and/or 88; and

(ii) its actual or constructive knowledge of those facts and circumstances set out in 64, 72, 81, 86 and/or 92.

PARTICULARS

(i) *The February FY23 Group Guidance Representation was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

98. As at and from 7 February 2022, by making and/or failing to correct the February FY23 Group Guidance Representation, in the circumstances set out in paragraphs 95 and/or 97, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the February FY23 Group Guidance Representation by informing the market of:*

(A) *the February Unlikely ANI Guidance Information;*

(B) *alternatively, the February A Counterfactual ANI Guidance Information and/or the February B Counterfactual ANI Guidance Information.*

F.1.3 February FY23 Implied Representation

99. As at and from 7 February 2022, James Hardie did not have reasonable grounds for making and maintaining the February FY23 Implied Representation, by reason of the matters pleaded in paragraphs 95 and/or 97.

100. By making and/or failing to correct or qualify the February FY23 Implied Representation, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the February FY23 Implied Representation (so far as the February FY23 NA Guidance Representations are concerned) by informing the market of:*

(A) *the February Unlikely NA Guidance Information;*

(B) *further, or alternatively, the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information;*

(ii) *James Hardie failed to correct or qualify the February FY23 Implied Representation (so far as the February FY23 Group Guidance Representation is concerned) by informing the market of:*

(A) *the February Unlikely NA Guidance Information and/or the February Unlikely ANI Guidance Information;*

(B) *further, or alternatively:*

1. the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information; and/or

2. the February A Counterfactual ANI Guidance Information, or alternatively the February B Counterfactual ANI Guidance Information.

F.1.4 Contravening conduct

101. By reason of the matters pleaded in:

(a) paragraph 96, in relation to the February FY23 NA Guidance Representations;

(b) paragraph 98, in relation to the February FY23 Group Guidance Representation;

(c) paragraph 100, in relation to the February FY23 Implied Representation,

James Hardie contravened section 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law (each a **February Misleading Conduct Contravention**).

F.2 Continuing Conduct

102. Between 7 February 2022 and 17 May 2022, James Hardie did not say anything to modify, qualify or contradict any of the February FY23 Guidance Representations.

103. By reason of the matters pleaded in paragraph 102 from 7 February 2022 to 17 May 2022 inclusive, James Hardie continued to:

(c) make each of the February FY23 Guidance Representations (and the Implied Representation associated with the February FY23 Guidance Representations); and

(d) engage in each of the February Misleading Conduct Contraventions.

F.3 Causation, loss and damage

F.3.1 The market for JHX Shares

104. The Plaintiff and the Group Members acquired their interests in JHX Shares in a market of investors or potential investors in JHX Shares:

    (a) listed on the ASX;

    (b) regulated by, inter alia, the ASX Listing Rules and ss 674(2) and 674A(2) of the Corporations Act;

    (c) where James Hardie had the obligations pleaded in paragraphs 16 to 20, namely the:

        (i) Misleading Conduct Disclosure Obligations;

        (ii) Continuous Disclosure Obligations;

        (iii) Periodic Disclosure Obligations;

    (d) where the price or value of JHX Shares would reasonably be expected to have been informed or affected by information disclosed in accordance with the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act, or otherwise disclosed by James Hardie pursuant to its:

        (i) Misleading Conduct Disclosure Obligations;

        (ii) Continuous Disclosure Obligations;

        (iii) Periodic Disclosure Obligations.

105. During the Relevant Period, Group Members who acquired interests in JHX ADRs acquired such interests in a market for JHX ADRs:

    (a) that traded on the basis that the market for JHX Shares had the features pleaded in paragraph 104 above;

    (b) where the price or value of JHX ADRs would reasonably be expected to have been informed or affected by information disclosed to the market for JHX Shares in accordance with the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act, or otherwise disclosed by James Hardie pursuant to its:

        (i) Misleading Conduct Disclosure Obligations;

        (ii) Continuous Disclosure Obligations;

        (iii) Periodic Disclosure Obligations.

106. During the Relevant Period the market for JHX Equity Swaps:

(a) was a market that traded on the basis that the market for JHX Shares had the features pleaded in paragraph 104 above; and

(b) was a market where the price or value of JHX Equity Swaps and/or the future cashflows to be received by the equity amount receiver pursuant to the JHX Equity Swaps would reasonably be expected to have been informed or affected by information disclosed to the market for JHX Shares in accordance with the ASX Listing Rules and sections 674(2) and 674A(2) of the Corporations Act, or otherwise disclosed by James Hardie pursuant to its:

(i) Misleading Conduct Disclosure Obligations;

(ii) Continuous Disclosure Obligations;

(iii) Periodic Disclosure Obligations.

F.3.2 Corrective disclosure and price declines

107. On 8 November 2022, James Hardie:

(a) published and released to the ASX an announcement entitled "James Hardie Industries Announces Second Quarter Fiscal Year 2023 Results" (the **8 November Publication**); and

(b) convened an earnings call (the **November Earnings Call**), in a manner likely to bring things said during it to the attention of the market of investors and potential investors in JHX Shares,

(together, the **November Announcements**).

PARTICULARS

(i) *The November Earnings Call was convened at 8:30am Australian Eastern Daylight Time.*
(ii) *The participants on the November Earnings Call included Erter and Miele.*

108. On 8 November 2022, by the November Announcements, James Hardie stated that:

(a) Adjusted FY2023 ANI Guidance Range had been revised downwards to a range of US$650 million to $US710 million (changed from the prior range of US$730 million to US$780 million);

(b) for the North America division, Net Sales Growth was revised down to 13%+ (from 18%+) growth and the expected EBIT margin was revised down to 28% to 30% (previously 28% to 32%),

(**Revised November FY23 Guidance**).

PARTICULARS

(i) Statement (a) was expressly made in the 2Q23 Results Pack, pp.2 & 4.
(ii) Statement (b) was expressly made in the 2Q23 Results Pack, p 41.

109. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially.

PARTICULARS

(i) *The price of JHX Shares fell on the ASX from a closing price of $33.39 on 7 November 2022 to a closing price of $28.16 on 10 November 2022, on a traded volume of over 10 million JHX Shares (being a decline of approximately 13.7% on 8 November 2022 and a further 2% over the subsequent two days);*

(ii) *The price of JHX ADRs fell in a manner correlating to the falls in the price of JHX Shares.*

F.3.3 February FY23 NA Guidance Representations

Market Based Inflation

110. During the Relevant Period, the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 NA Guidance Representations (and/or the February FY23 Implied Representation in respect of the February FY23 NA Guidance Representations) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

111. Further to paragraph 110 if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 to US$680 million (that is, the February B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$640 million.

and this would have corrected or qualified the February FY23 NA Guidance Representations (and/or the February FY23 Implied Representation in respect of the February FY23 NA Guidance Representations), and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 111.

(ii) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022, the magnitude of the decline would have been approximately 21.1%.

(iii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 21.7%.

(iv) US$640 million is the approximate midpoint of the February A Counterfactual ANI Guidance Information and the February B Counterfactual ANI Guidance Information. If the Affected Market became aware that a reasonable estimate was that midpoint, the magnitude of the decline would have been approximately 22.9%.

(v) If not disclosed by James Hardie, these ranges or estimates could have been otherwise inferred because:

(A) based upon 23 January 2022 consensus expectations of FY22 net sales in James Hardie's NA Business of US$2,547 million (see [JHX.0005.0007.5205]), 6% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,700 million;

(B) an EBIT Margin in North America of 28% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of approximately US$756 million (being 28% of $2,700 million);

(C) as 23 January 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$899 million (see [JHX.0005.0007.5205]), the February Counterfactual NA Sales Growth Guidance Information and the February Counterfactual NA EBIT Margin Guidance Information, taken together, would result in an approximately US$143 million reduction in forecast EBIT (US$756 million less US$899 million);

(D) a reduction in forecast EBIT of approximately US$143 million would have an impact of approximately US$110 million on James Hardie's ANI (US$143 million less 23% average effective tax rate);

(E) *as a consequence, FY23 ANI expectations of US$751 million (see [JHX.0002.0003.3470]) would have reduced to approximately US$640 million;*

(F) *The ranges comprising the February A Counterfactual ANI Guidance Information and the February B Counterfactual ANI Guidance Information represent margins around a midpoint that would have been adopted by the market, noting that the range given by James Hardie around the midpoint of the FY23 Guidance was approximately +/-5%, and the market would have selected that or a higher range of +/-8% to account for the uncertainty in business conditions.*

112. If the price of JHX Shares declined between 7 February 2022 and 17 May 2022 as pleaded in paragraph 111, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period between 7 February 2022 and 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they decided to acquire JHX Shares, JHX ADRs, or JHX Equity Swaps) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022 (111(i)), the magnitude of the decline would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *If the Affected Market became aware of the February B Counterfactual ANI Guidance Information (111(ii)), the magnitude of the decline would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.*

(iii) *If the Affected Market became aware of an FY23 ANI estimate of US$640 million (111(iii)), the magnitude of the decline would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28*

October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.9% lower than it in fact paid, as pleaded in paragraph 2 above.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

113. Further, or alternatively to paragraphs 111 and 112:

(a) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the February FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the February FY23 Guidance (that is, the February Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$640 million, and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraphs (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the February Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the February Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone this would have been approximately 21.1%.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 21.7%.

(C) if ANI guidance of approximately US$640 million was disclosed, this would have been approximately 22.9%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

114. If the price of JHX Shares declined between 7 February 2022 and 16 May 2022 as pleaded in paragraph 113, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs, or JHX Equity Swaps in the Relevant Period after 17 May 2022 would (if they

decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) The magnitude of the decline from disclosure of the February Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (113(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) The magnitude of the decline from disclosure of the February Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance (113(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, this would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.

(C) If the ANI Guidance of US$640 million were disclosed alone this would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.9% lower than it in fact paid, as pleaded in paragraph 2 above.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues

at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.

115. By reason of the matters pleaded in paragraphs 110 and 111 to 112 and/or 113 to 114, the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $9,478.76 (the price declines referred to in paragraph 112 (particular (i)) and paragraph 114 (particular (ii)(A))).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,748.30 (the price declines referred to in paragraph 112 (particular (ii)) and paragraph 114 (particular (ii)(B))).*

(iii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $10,287.38 (the price declines referred to in 112 (particular (iii)) and paragraph 114 (particular (ii)(C))).*

(iv) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $5,750.15 (the price declines referred to in paragraph 114 (particular (i))).*

(v) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.*

Fair market and specific reliance

116. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of JHX Shares represented the market price in a market in which the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 NA Guidance Representations (and/or the February FY23 Implied Representation in respect of the February FY23 NA Guidance Representations) had not occurred.

PARTICULARS

(i) *Investors and potential investors in shares on the ASX, including JHX Shares, are generally aware that there is a complex and comprehensive regulatory regime including the ASX Listing Rules and ss 674(2) and 1041H of the Corporations Act, one purpose of* *which is to ensure that the market is promptly informed of all information which is relevant to the price at which securities are traded and that representations made to the market are not misleading or deceptive. The Plaintiff so relied.*

(ii) *Particulars of the Group Members' reliance will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

117. In the alternative, if James Hardie had not engaged in the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 NA Guidance Representations (and/or the February FY23 Implied Representation in respect of the February FY23 NA Guidance Representations), the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

118. By reason of the matters pleaded at paragraphs 116 and/or 117, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) *The particulars to paragraph 115 are repeated.*

F.3.4 February FY23 Group Guidance Representation

Market Based Inflation

119. During the Relevant Period, the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 Group Guidance Representation (and/or the February FY23 Implied Representation in respect of the February FY23 Group Guidance Representation) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for those contraventions.

120. Further to paragraph 119:

(a) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information), or

(b) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

then this would have corrected or qualified the February FY23 Group Guidance Representation (and/or the February FY23 Implied Representation in respect of the February FY23 Group Guidance Representation), and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) or (b).

(ii) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022, the magnitude of the decline would have been approximately 21.1%.

(iii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 21.7.

121. If the price of JHX Shares declined between 7 February 2022 and 17 May 2022 as pleaded in paragraph 120, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they

decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022 (111(a)), the magnitude of the decline would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information (111(b)), the magnitude of the decline would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

122. Further, or alternatively, to paragraph 120:

(a) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the February FY23 Guidance (that is, the February Unlikely ANI Guidance Information),

then this would have corrected or qualified the February FY23 Group Guidance Representation, and:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being either:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b) or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, namely approximately 21.1%.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 21.7%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

123. If the price of JHX Shares declined in the Relevant Period prior to 17 May 2022 as pleaded in paragraph 122, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 8 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) The magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (122(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) The magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (122(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, namely approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.

124. By reason of the matters pleaded in paragraphs 119 and 120 to 121, and/or 122 to 123 the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $9,478.76 (the price declines referred to in paragraph 121 (particular (i)) and paragraph 123 (particular (ii)(A))).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,748.30 (the price declines referred to in paragraph 121 (particular (ii)) and paragraph 123 (particular (ii)(B))).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $5,750.15 (the price declines referred to in paragraph 121 (particular (i))).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.

Fair market and specific reliance

125. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs, or JHX Equity Swaps they acquired represented the market price in a market in which the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 Group Guidance Representation (and/or the February FY23 Implied Representation in respect of the February FY23 Group Guidance Representation) had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

126. In the alternative, if James Hardie had not engaged in the February Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the February FY23 Group Guidance Representation (and/or the February FY23 Implied Representation in respect of the February FY23 Group Guidance Representation), the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period prior to 17 May 2022.

127. By reason of the matters pleaded at paragraphs 125 or 126, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 124 are repeated.

G DISCLOSURE BREACHES FROM FEBRUARY 2022

G.1 Continuous Disclosure Contraventions

G.1.1 February Counterfactual NA Guidance

128. Each of:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information;

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 64, 72, 81 86, and/or 87 and the particulars thereto.

129. Each of:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information;

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

130. Each of:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information;

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

131. James Hardie was negligent with respect to whether:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information,

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section C.2 above, including the February FY23 Guidance and February FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information, but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX

Shares, so concluding and then causing a corrective disclosure to be made.

132. By reason of the matters pleaded in paragraphs 128 to 131, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information,

on and from the date that James Hardie had, or ought to have obtained that information.

133. James Hardie did not communicate any of:

(a) the February Counterfactual NA Sales Growth Guidance Information; and/or

(b) the February Counterfactual NA EBIT Margin Guidance Information,

to the ASX before 8 November 2022.

G.1.2 February Unlikely NA Guidance Information

134. The February Unlikely NA Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraphs 64, 72, 81 and/or 86 and the particulars thereto.*

135. The February Unlikely NA Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

136. The February Unlikely NA Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

137. James Hardie was negligent with respect to whether the February Unlikely NA Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section C.2 above, including the February FY23 Guidance and February FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the February Unlikely NA Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the February Unlikely NA Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

138. By reason of the matters pleaded in paragraphs 134 to 137 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the February Unlikely NA Guidance Information on and from the date that James Hardie had, or ought to have obtained, that information.

139. James Hardie did not communicate any of the February Unlikely NA Guidance Information to the ASX before 8 November 2022.

G.1.3 February Counterfactual Group Guidance

140. Each of:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information,

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 64, 72, 81, 86 92 and/or 93 and the particulars thereto;

141. Each of:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information,

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

142. Each of:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information,

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

143. James Hardie was negligent with respect to whether:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information,

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section C.2 above, including the February FY23 Guidance and February FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) *By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.*

(iv) *During the Relevant Period, the true position was as reflected by the February A Counterfactual ANI Guidance Information, or alternatively the February B Counterfactual ANI Guidance Information but was not known to the Affected Market.*

(v) *Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.*

(vi) *James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.*

(vii) *Having regard to (vi) above, one or more of James Hardie's Officers was aware of the February A Counterfactual ANI Guidance Information, or alternatively the February B Counterfactual ANI Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*

(viii) *Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*

144. By reason of the matters pleaded in paragraphs 140 to 143, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information, on and from the date that James Hardie had, or ought to have obtained that information.

145. James Hardie did not communicate any of:

(a) the February A Counterfactual ANI Guidance Information, or

(b) alternatively the February B Counterfactual ANI Guidance Information,

to the ASX before 8 November 2022.

G.1.4 February Unlikely ANI Guidance Information

146. The February Unlikely ANI Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 64, 72, 81, 86 and 92 and the particulars thereto.

147. The February Unlikely ANI Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

148. The February Unlikely ANI Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

149. James Hardie was negligent with respect to whether the February Unlikely ANI Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section C.2 above, including the February FY23 Guidance and February FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the February Unlikely ANI Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted

some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the February Unlikely ANI Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

150. By reason of the matters pleaded in paragraphs 146 to 149 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the February Unlikely ANI Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

151. James Hardie did not communicate any of the February Unlikely ANI Guidance Information to the ASX before 8 November 2022.

G.1.5 Contravening conduct

152. By reason of the matters pleaded in:

(a) paragraphs 128 to 133 in relation to the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information;

(b) paragraphs 134 to 139 in relation to the February Unlikely NA Guidance Information;

(c) paragraphs 140 to 145 to in relation to the February A Counterfactual ANI Guidance Information, or alternatively the February B Counterfactual ANI Guidance Information;

(d) paragraphs 146 to 151 in relation to the February Unlikely ANI Guidance Information;

James Hardie contravened subsections 674(2) and 674A(2) of the Corporations Act (**February Continuous Disclosure Contraventions**).

G.2 Continuing conduct

153. Between 7 February 2022 and 17 May 2022, James Hardie did not disclose to the Affected Market:

(a) the February Counterfactual NA Sales Growth Guidance Information and/or the February Counterfactual NA EBIT Margin Guidance Information;

(b) the February Unlikely NA Guidance Information;

(c) the February A Counterfactual ANI Guidance Information, or alternatively the February B Counterfactual ANI Guidance Information;

(d) the February Unlikely ANI Guidance Information.

154. By reason of the matters pleaded in paragraph 153 from 7 February 2022 to 17 May 2022 inclusive, James Hardie continued to engage in each of the February Continuous Disclosure Contraventions.

G.3 Causation, loss and damage

G.3.1 The market for JHX Shares

155. The Plaintiff and the Group Members acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps in a market of investors or potential investors in JHX Shares with the features pleaded in paragraphs 104 to 106.

G.3.2 Corrective disclosure and price declines

156. On 8 November 2022, James Hardie published the November Announcements, as pleaded in paragraphs 107 and 108.

157. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially, as pleaded in paragraph 109.

G.3.3 February Counterfactual NA Guidance

Market Based Inflation

158. During the Relevant Period, the February Continuous Disclosure Contraventions arising from the failure to disclose to the market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

159. Further to paragraph 158, if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

then James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$640 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 159.

(ii) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022, the magnitude of the decline would have been approximately 21.1%.

(iii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 21.7%.

(iv) US$640 million is the approximate midpoint of the February A Counterfactual ANI Guidance Information and the February B Counterfactual ANI Guidance Information. If the Affected Market became aware that a reasonable estimate was that midpoint, the magnitude of the decline would have been approximately 22.9%.

(v) If not disclosed by James Hardie, these ranges or estimates could have been otherwise inferred because:

(A) based upon 23 January 2022 consensus expectations of FY22 net sales in James Hardie's NA Business of US$2,547 million (see [JHX.0005.0007.5205]), 6% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,700 million;

(B) an EBIT Margin in North America of 28% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of approximately US$756 million (being 28% of US$2,700 million);

(C) as 23 January 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$899 million (see [JHX.0005.0007.5205]), the February Counterfactual NA Sales Growth Guidance Information and the February Counterfactual NA EBIT Margin Guidance Information, taken together, would result in an approximately US$143 million reduction in forecast EBIT (US$756 million less US$899 million);

(D) a reduction in forecast EBIT of approximately US$143 million would have an impact of approximately US$110 million on James Hardie's ANI (US$143 million less 23% average effective tax rate);

(E) as a consequence, FY23 ANI expectations of US$751 million (see [JHX.0002.0003.3470]) would have reduced to approximately US$640 million;

(F) The approximate ranges of US$593 to US$697 million and US$610 million to US$680 million represent margins around a midpoint that would have been adopted by the market, noting that the range given by James Hardie around the midpoint of the FY23 Guidance was approximately +/-5%, and the market would have selected that or a higher range of +/-8% to account for the uncertainty in business conditions.

160. If the price of JHX Shares declined between 7 February 2022 and 17 May 2022 as pleaded in paragraph 159, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022 (159(i)), the magnitude of the decline would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information (159(ii)), the magnitude of the decline would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) If the Affected Market became aware of an FY23 ANI estimate of US$640 million (160(iii)), the magnitude of the decline would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.9% lower than it in fact paid, as pleaded in paragraph 2 above.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

161. By reason of the matters pleaded in paragraphs 158 to 160, the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $9,478.76 (the price declines referred to in paragraph 159 (particular (ii))).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,748.30 (the price declines referred to in paragraph 159 (particular (iii))).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $10,287.38 (the price declines referred to in paragraph 159 (particular (iii))).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair Market and Specific Reliance

162. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares represented the market price in a market in which the February Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information,

had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

163. In the alternative, if James Hardie had not engaged in the February Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

164. By reason of the matters pleaded at paragraph 163, the plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 161 are repeated.

G.3.4 February Unlikely NA Guidance Information

Market Based Inflation

165. During the Relevant Period, the February Continuous Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the February FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the February FY23 Guidance (that is, the February Unlikely NA Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

166. Further, or alternatively to paragraph 165:

(a) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the February FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the February FY23 Guidance (that is, the February Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information),

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$640 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the February Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the February Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, this would have been approximately 21.1%.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 21.7%.

(C) if the ANI Guidance of US$640 million were disclosed alone, this would have been approximately 22.9%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

167. If the price of JHX Shares declined between 7 February 2022 and 16 May 2022 as pleaded in paragraph 166, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *The magnitude of the decline from disclosure of the February Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (159 (b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *The magnitude of the decline from disclosure of the February Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance (159(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:*

(A) *if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, this would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.*

(B) *if the February B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.*

(C) *if the ANI Guidance of US$640 million were disclosed alone this would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.9% lower than it in fact paid, as pleaded in paragraph 2 above*

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price* *impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.*

168. By reason of the matters pleaded at paragraphs 166 and 167, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $9,478.76 (the price declines referred to in paragraph* 167 *(particular (ii)(A)).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,748.30 (the price declines referred to in paragraph 166 (particular (iii)(B)).*

(iii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $10,287.38 (the price declines referred to in paragraph 166 (particular (iii)(C)).*

(iv) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Fair market and specific reliance

169. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares they acquired represented the market price in a market in which the February Continuous Disclosure Contraventions arising from the failure to disclose the February Unlikely NA Guidance Information had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

170. In the alternative, if James Hardie had not engaged in the February Continuous Disclosure Contraventions arising from the failure to disclose the February Unlikely NA Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

171. By reason of the matters pleaded at paragraphs 169 and/or 170 the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(ii) The particulars to paragraph 168 are repeated.

G.3.5 February Counterfactual Group Guidance

Market Based Inflation

172. During the Relevant Period, the February Continuous Disclosure Contraventions arising from the failure to disclose to the market that:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information),

caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

173. Further to paragraph 172:

(a) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022 stated to the Affected Market that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information), or

(b) if James Hardie had on or any time after 7 February 2022 and prior to 17 May 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph 173.

(ii) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022, the magnitude of the decline would have been approximately 21.1%.

(iii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 21.7%.

174. If the price of JHX Shares declined between 7 February 2022 and 17 May 2022 as pleaded in paragraph 173, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the February A Counterfactual ANI Guidance Information on or after 7 February 2022 (111(i)), the magnitude of the decline would have been approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the February B Counterfactual ANI Guidance Information (111(ii)), the magnitude of the decline would have been approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired

JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

175. By reason of the matters pleaded at paragraphs 172, 173 and 174, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $9,478.76 (the price declines referred to in paragraph 173 (particular (ii))).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,748.30 (the price declines referred to in paragraph 173 (particular (iii))).*

(iii) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Fair market and specific reliance

176. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs, or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs, or JHX Equity Swaps they acquired represented the market price in a market in which the February Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the February A Counterfactual ANI Guidance Information; or

(b) the February B Counterfactual ANI Guidance Information,

had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

177. In the alternative, if James Hardie had not engaged in the February Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the February A Counterfactual ANI Guidance Information; or

(b) the February B Counterfactual ANI Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs, or JHX Equity Swaps during the Relevant Period.

178. By reason of the matters pleaded at paragraphs 176 or 177, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 175 are repeated.

G.3.6 February Unlikely ANI Guidance Information

Market Based Inflation

179. During the Relevant Period, the February Continuous Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the February FY23 Guidance (that is, the February Unlikely ANI Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

180. Further, or alternatively to paragraph 179:

(a) if James Hardie had on or any time after 7 February 2022 stated to the Affected Market that it was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the February FY23 Guidance (that is, the February Unlikely ANI Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$593 million to US$697 million (that is, the February A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$610 million to US$680 million (that is, the February B Counterfactual ANI Guidance Information),

and concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 6% (that is, the February Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 28% (that is, the February Counterfactual NA EBIT Margin Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the abnormal decline from disclosure of the February Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the February Unlikely NA Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, namely approximately 21.1%.

(B) if the February B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 21.7%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

181. If the price of JHX Shares declined between 7 February 2022 and 17 May 2022 as pleaded in paragraph 180, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 17 May 2022 would (if they

decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *The magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (122(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *The magnitude of the decline from disclosure of the February Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (122(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:*

  (A) *if the February A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, namely approximately 21.1%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.1% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.*

  (B) *if the February B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 21.7%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.7% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.*

  While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

(iii) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.*

182. By reason of the matters pleaded at paragraphs 179 and 180 to 181, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $5,750.15 (the price declines referred to in paragraph 180 (particular (ii))).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $9,478.76 or $9,748.30 (the price declines referred to in paragraph 180 (particular (iii))).

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair market and specific reliance

183. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs, or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs, or JHX Equity Swaps they acquired represented the market price in a market in which the February Continuous Disclosure Contraventions arising from the failure to disclose the February Unlikely ANI Guidance Information had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

184. In the alternative, if James Hardie had not engaged in the February Continuous Disclosure Contraventions arising from the failure to disclose the February Unlikely ANI Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs, or JHX Equity Swaps during the Relevant Period.

185. By reason of the matters pleaded at paragraphs 183 to 184, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 182 are repeated.

CHAPTER III – MAY CLAIMS (MAY REAFFIRMED FY23 GUIDANCE)

H JAMES HARDIE'S MAINTENANCE AND REAFFIRMATION OF THE FEBRUARY FY23 GUIDANCE

186. On 17 May 2022, James Hardie published and released to the ASX the 4Q22 Results Pack (the **17 May Announcement**), which included its Appendix 4E (preliminary final report) for FY22.

187. In the 17 May Announcement, James Hardie stated:

(a) ANI for the James Hardie Group had increased 36% to US$620.7 million for FY22;

(b) There was a 20% increase in 4Q22 Group Net Sales; and

(c) For the North America division, FY23 guidance of:

(i) Net Sales Growth of 18% to 22% (an increase of 2% points from February); and

(ii) an EBIT Margin of 30% to 33% (no change from February).

PARTICULARS

These statements were express and contained in the 4Q22 Results Pack, pp 2, 5, 39 and 47.

188. Further, in the 17 May Announcement, James Hardie reaffirmed the February FY23 Guidance (save for the Net Sales Growth for the North America division, which was increased from 16% to 20%, to 18% to 22%) of US$740 million to US$820 million and NA Business EBIT Margin of 30% to 33% (the **May Reaffirmed FY23 Guidance**).

PARTICULARS

The May Reaffirmed FY23 Guidance was express and contained in the 4Q22 Results Pack, pp 2 and 47.

189. The May Reaffirmed FY23 Guidance was information provided by James Hardie under, and in accordance with, ASX Listing Rule 4.3A.

190. On 17 May 2022, an earnings call with analysts was held in conjunction with the 17 May Announcement (the **May Earnings Call**). At the May Earnings Call, James Hardie also made the following statements:

(a) about 65% of the company's business was centred on the R&R Sector, which was showing robust growth;

(b) R&R sector backlogs were running at more than double the normal levels;

(c) rising interest rates were having little effect on R&R Sector demand; and

(d) James Hardie was "*taking* [market] *share and we believe we'll continue to do that*".

(together, the **17 May Statements**).

PARTICULARS

(i) *The statement at 190(a) above was expressly made by Miele in the May Earnings Call.*

(ii) *The statements at 190(b) to 190(d) above were expressly made by Gadd in the May Earnings Call.*

191. On 17 May 2022, by reason of the matters pleaded in paragraphs 186 to 190, James Hardie represented to the market of investors and potential investors in JHX Shares that, notwithstanding the US interest rate rises experienced since 7 February 2022:

(a) James Hardie would achieve sufficient growth over FY23 to deliver a range of US$740 million to US$820 million for ANI for FY23 (**May Reaffirmed FY23 Group Guidance Representation**);

(b) the North American division would achieve:

(i) Net Sales Growth of 18% to 22% (an increase from 16% to 20%); and

(ii) EBIT Margin of 30% to 33%,

(**May Increased FY23 NA Guidance Representations**);

(each being **May Reaffirmed FY23 Guidance Representations**).

PARTICULARS

(i) *The May Reaffirmed FY23 Guidance Representations were both express and implied, and the Plaintiff refers to the May Statements pleaded in paragraphs 186 to 190 and the particulars referred to therein.*

(ii) *To the extent they were implied, the Plaintiff refers to the express statements pleaded in paragraphs 186 to 190, and says that the absence of any modification, qualification or contradiction to the February FY23 Guidance Representations, either in the May Announcements, or prior to them, gave rise to the May Reaffirmed FY23 Guidance Representations.*

192. Further, by reason of the matters pleaded in paragraph 191, James Hardie repeated each of the February FY23 Guidance Representations.

PARTICULARS

(i) *The May Reaffirmed FY23 Group Guidance Representation was in substance a repetition of the February FY23 Group Guidance Representation.*

(ii) *The May Increased FY23 NA Guidance Representations were in substance a repetition of the February FY23 NA Guidance Representations. The increase in the net sales growth estimate conveyed that the bottom end of the original estimate was likely to be achieved, and the EBIT margin estimate was identical.*

193. Further, on 17 May 2022, by reason of the matters pleaded in paragraphs 186 to 192, James Hardie represented to the market of investors and potential investors in JHX Shares that James Hardie had reasonable grounds for

(a) making each of the May Reaffirmed FY23 Guidance Representations; and/or

(b) repeating, as at 17 May 2022, each of the February FY23 Guidance Representations,

(each being **May FY23 Implied Representations**).

PARTICULARS

Each of the May FY23 Implied Representations is to be implied from the making by James Hardie of the May Reaffirmed FY23 Guidance Representations, and the repetition by James Hardie of the February FY23 Guidance Representations.

I MAY 2022 FACTS AND KNOWLEDGE

I.1 Summary

194. As at 17 May 2022, when James Hardie gave the May Reaffirmed FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known) that:

(a) James Hardie's NA Business:

(i) had experienced temporary demand elevation for FC Products since early 2021, which was not likely to continue throughout FY23 – as had been the case as at 7 February 2022 (as pleaded at paragraphs 59 to 63 above);

(ii) was likely to be adversely impacted by sustained high inflation and increasing interest rates in the US throughout FY23 – as had been the case since 7 February 2022 (as pleaded at paragraphs 65 to 71 above);

(b) James Hardie had:

(i) implemented a number of one-off initiatives in 4Q22 which were likely to have a negative impact on James Hardie's sales in NA in 1Q23;

(ii) achieved April 2022 financial results which were materially below what it had estimated (in the FY23 0+12 NA Forecast);

(c) James Hardie's NA Business had:

(i) prior to giving the February FY23 Guidance, adopted a Demand Forecasting Method which adopted unreasonable assumptions, namely using FY22 volume as a base and utilising historical market growth rates (without adequately adjusting for the likely market conditions in (a)) and other unreasonable assumptions pleaded in Section E.4.2 above;

(ii) prior to giving the May Reaffirmed FY23 Guidance, adopted a Revised Demand Forecasting Method which adopted unreasonable assumptions, namely using FY22 volume as a base and utilising 10-month growth rates (without adequately adjusting for the likely market conditions in (a)) and other unreasonable assumptions pleaded in Section I.5.2 below.

(d) James Hardie's NA Business was depleting its customer backlog.

PARTICULARS

(i) *As to sub-paragraph 194(a)(i) – see Section I.2 below, which is repeated.*

(ii) *As to sub-paragraph 194(a)(ii) – see section I.3 below, which is repeated.*

(iii) *As to sub-paragraph 194(b) – see section I.4 below, which is repeated.*

(iv) *As to sub-paragraph 194(c) - see section I.5 below, which is repeated.*

(v) *As to sub-paragraph 194(d) - see section I.6 below, which is repeated.*

195. As at 17 May 2022 when James Hardie gave the May Reaffirmed FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) it was unlikely that James Hardie's NA Business would achieve FY23 net sales growth of 18% to 20% from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 30 to 33%;

(b) it was unlikely that James Hardie would achieve FY23 ANI of US$740 million to US$820 million (being 19% to32% growth from the FY22 result of US$620.7 million).

PARTICULARS

See Sections I.7 and I.8 below, which are repeated.

196. As at 17 May 2022, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) a reasonable estimate was that James Hardie's NA Business would achieve FY23 net sales growth of approximately 6%, and an EBIT Margin of 27%;

(b) a reasonable estimate was that James Hardie would achieve FY23 ANI of US$570 million to US$670 million, or US$590 million to US$650 million.

PARTICULARS

(i) *See Sections I.7 and I.8 below, which are repeated.*

I.2 Demand for FC Products and Competing Products in the NA Market as at 17 May 2022

I.2.1 Demand impacts

197. As at 17 May 2022:

(a) there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23; and

(b) demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22,

(the **May Demand Impacts**).

PARTICULARS

(i) *The May Demand Impacts were a continuation of the February Demand Impacts.*

(ii) *The conditions which led to the demand being elevated are all or any combination of the matters pleaded in Section I.2.2 (paragraphs 198 to 201 below).*

(iii) *The elevated demand was temporary because the conditions that resulted in its elevation were easing by early 2022, or were likely to during FY23 (see Section I.2.3 (paragraphs 202 to 207 below)).*

I.2.2 Conditions as at February 2022 when the FY23 Guidance was given

198. Between early 2021 and early 2022, the suppliers of Competing Products to FC Products, namely vinyl, engineered and natural wood, were exposed to short-term supply chain issues, including:

(a) significant material shortages;

(b) significant labour shortages;

(c) global supply chain constraints, in respect of products that were manufactured outside of the US; and

(d) wait time on manufacturing capacity expansion projects.

PARTICULARS

(i) *Cornerstone Building Brands, Inc. Q3 2021 Earnings Call, 10 November 2021, p 6 which reported that Cornerstone and "many others in our industry" had been "impacted by constraints in raw materials and labor, slowing the pace of recovery" [RAE.0001.0001.3322].*

(ii) *The global supply chain constraints referred to in (c) conferred a structural advantage on James Hardie, which manufactured fibre cement in the US, as compared to competitors who were reliant on imports of fibre cement or PV resin manufactured outside of the US.*

(iii) *The supply-chain issues were short-term because:*

(A) *Allura's supply constraints in late 2021 in respect of vinyl were not likely to continue throughout FY23;*

(B) *LP's supply constraints were expected to resolve by March 2022;*

(C) *Nichiha was expected to increase production capacity by 20% from 2021.*

199. Between early 2021 and early 2022, US lumber prices fluctuated significantly, spiking twice at over 300% of the long-term average of approximately US$400 per 1000 board feet, but this was not likely to continue throughout FY23.

PARTICULARS

(i) *Current and historical lumber commodity prices available online at https://www.macrotrends.net/2637/lumber-prices-historical-chart-data.*

(ii) *That the increase in price was a short-term 'spike' was evident from its severity (which could not be sustained across more than a few months) and well understood within the construction industry, including in a 12 January 2022 Jefferies 'Building Products' report which noted "Framing Lumber Prices Have Spiked Again, Adding to Affordability Concerns with Rising Rates" [JHX.0005.0002.9392] at 9398.*

(iii) *The lumber price peaked at approximately $US1,300 per thousand feet on or around 16 February 2022, before falling to approximately:*

(A) *$US1,000 per thousand feet on 28 March 2022;*

(B) *$US800 per thousand feet on 10 May 2022; and*

(C) *$US600 per thousand feet on 6 June 2022.*

200. By reason of the matters in paragraphs 198 and 199 above, between early 2021 and early 2022, there was a substantial reduction in supply, and/or significant increases in price, for Competing Products in the NA Market (and therefore a decrease in demand for Competing Products to James Hardie's FC Products in the NA Market).

201. In late 2021, there was an increase in volume of new construction in the US residential housing construction market (both in total, and for single unit residential construction), but as at January 2022 this was not continuing.

PARTICULARS

US Census Bureau Monthly New Residential Construction data – New housing starts:

Month	Total	Single Unit
Jan 2021	1,602	1,117
Feb 2021	1,430	1,053
Mar 2021	1,711	1,243
Apr 2021	1,505	1,061
May 2021	1,605	1,110
Jun 2021	1,664	1,165
Jul 2021	1,573	1,124
Aug 2021	1,576	1,095
Sep 2021	1,559	1,094
Oct 2021	1,563	1,079
Nov 2021	1,706	1,220
Dec 2021	1,768	1,212
Jan 2022	1,666	1,157

I.2.3 Demand conditions were no better as at 17 May 2022

202. As at 17 May 2022, lumber prices in the NA Market had stabilised, or were stabilising.

PARTICULARS

(i) *Current and historical lumber commodity prices available online at https://www.macrotrends.net/2637/lumber-prices-historical-chart-data.*

(ii) *The lumber price peaked at approximately $US1,300 per thousand feet on or around 16 February 2022, before falling to approximately:*

(a) $US1,000 per thousand feet on 28 March 2022;

(b) $US800 per thousand feet on 10 May 2022; and

(c) $US600 per thousand feet on 6 June 2022.

203. As at 17 May 2022, competitor LP had commenced operation of a new factory producing engineered wood siding.

204. As at 17 May 2022, the supply of Competing Products made from natural and engineered wood, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (**Competing Product Supply Improvement Conditions**).

PARTICULARS

(i) *The stabilisation in lumber prices led to a reduced cost of producing the timber-based siding, given the lower cost overall of the inputs required for production of the Competing Products; and*

(ii) *This led to the cost of the Competing Product reducing overall, and becoming more price competitive vis-à-vis James Hardie's FC Products, which would result in an improvement in the supply of Competing Products relative to James Hardie's FC Products.*

(iii) *A Market Pulse summary authored by McDonald and sent by email to Mulhall and Madson, 18 April 2022 in relation to the FY23 1+11 Forecast identified key competitive factors including:*

- *"Vinyl returning to supply health and normal lead times,*
- *Southeast is growing like gangbusters…LP opened up a new plant in Maine,*
- *Horton threatening to move away if we don't give them Cemplank" [JHX.0032.0020.5871].*

205. By 17 May 2022, supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, increasing the supply (or lowering the price) of Competing Products (**Further Competing Product Supply Improvement Conditions**).

PARTICULARS

(i) Cornerstone Building Brands Q3FY21 Earnings Call, 10 November 2021, p 12 reported that PVC supply (a core material required in the manufacturing of vinyl siding) 'is slowly getting better' [RAE.0001.0001.3322].

(ii) Email from ICR to Miele, 31 March 2022, attaching a Barclay's report '[W]e started to see normalization in PVC prices in early 2022: [JHX.0005.0001.4396] and [JHX.0005.0001.44184442].

(iii) Word Document authored by McDonald, 'Market Pulse Summary', emailed to Madson and Mulhall stating that 'Vinyl is returning to supply health and normal lead times' 18 April 2022, [JHX.0032.0020.5871].

206. By reason of matters raised above at paragraph 204 to 205, on or after 7 February 2022 and by 17 May 2022, customers became less likely to substitute James

Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (**Competing Product Demand Conditions**).

PARTICULARS

(i) The increased supply of Competing Products, as alleged at 204 to 205 made it unnecessary for customers to substitute towards James Hardie FC Products given the price competitiveness of Competing Products increasing the demand of those products vis-à-vis James Hardie's FC Products; and

(ii) This was likely to lead, and led, to reduced demand for James Hardie's FC Products.

207. Between February 2022 and 17 May 2022, there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, including single unit construction (**US Construction Market Softening**), which would result in a decrease in demand for James Hardie's FC Products.

PARTICULARS

(i) US Census Bureau Monthly New Residential Construction data – New Starts:

Month	**Total**	**Single Unit**
Feb 2022	1,777	1,213
Mar 2022	1,716	1,191
Apr 2022	1,805	1,173
May 2022	1,562	1,073

(ii) Email from Brennan-Chong to Roberts and Castillo, 17 February 2022, noting that "SF Starts down 2% and completions down 8%?!?! Wow." [JHX.0013.0001.7541].

(iii) Email from Gadd to Miele, 30 March 2022, that notes "[a]bsolute volumes of permits appear to be slowing" [JHX.0005.0008.0297].

(iv) Email from Brennan-Chong to Castillo, 14 April 2022, following a meeting with Zelman where Brennan-Chong stated that "they expect R&R to decline -3-5% later this year" and "they expect starts to go negative later this year, but completions to remain positive" [JHX.0013.0006.7135].

(v) Email from Castillo to Brennan-Chong, 19 April 2022, forwarding an update from Dodge Construction Network noting there was a "Widespread pullback in construction activity following a strong February" and that "Total construction starts fell 12% in March", with residential starts falling 3%" [JHX.0013.0003.2484].

I.2.4 Knowledge of reduced demand for FC Products

208. As at 17 May 2022 (or alternatively, as at from each day after 17 May 2022), James Hardie knew or ought to have known the May Demand Impacts, namely that:

(a) there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23; and

(b) demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22.

PARTICULARS

As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 by reason of the following matters:

(i) ***the suppliers of Competing Products were exposed to short-term supply chain issues (paragraph 198 above);***

(A) ***Gadd*** *knew that a key competitor of James Hardie and vinyl product producers were experiencing significant supply constraints in 2021, as evidenced by his receipt of a presentation entitled 'NA Price Increase Recommendation', dated 10 October 2021, which reported that "Allura [a fibre cement manufacturer] continues to experience significant supply constraints" and "Vinyl producers were experiencing "delays in shipments and service out 6 weeks": [JHX.0009.0042.7446 at .7448].*

(B) *It is to be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that a key competitor was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor was expected to increase its production capacity by 20%, as evidenced by the fact that:*

1. Brennan-Chong and Castillo knew that a key competitor of James Hardie, LP, was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor, Nichiha, was expected to increase its production capacity by 20% by reason of their authorship and receipt of emails regarding these matters dated 12 October 2021 [JHX.0013.0019.6946] and 10 December 2021 [JHX.0013.0017.3716]; and,

2. *Brennan-Chong and Castillo ought reasonably to have informed Miele of the information in particular (B) immediately above by reason of:*

    i. *their roles, responsibilities and reporting lines; and*

    ii. *the nature and significance of the information in particular (B) immediately above including the likely impact on the competitive position of James Hardie and demand for James Hardie's FC Products in FY23.*

(ii) ***the spiking in US lumber prices (paragraph 199 above);***

(A) ***Gadd*** *knew of the spiking in US lumber prices by reason of receiving emails with industry news as evidenced by an email from 'Door and Window Business' dated 5 January 2022 that noted "Following a few months of moderating prices last spring and summer, U.S. lumber prices are soaring once again, disrupting the housing market and harming housing affordability" [JHX.0009.0023.7599]. The plaintiff infers that Gadd, as the President of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the President of a North American building materials company ought to have known, with there being no structural reason for it to remain elevated.*

(B) ***Miele*** *knew that US lumber prices had spiked at over 300% of the long-term average between early 2021 and early 2022, as evidenced by his receipt of an email from Brennan-Chong dated 11 January 2022 containing a graph tracking the price of US lumber between January 2018 to January 2022, and in which Brennan-Chong stated "US lumber prices have collapsed" [JHX.0013.0015.6924]. The plaintiff infers that Miele, as the CFO of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the CFO of a North American building materials company ought to have known, with there being no structural reason for it to remain elevated.*

(iii) ***as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing***

Products to James Hardie's FC Products in the NA Market (paragraph 200 above);

(A) ***Gadd*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market as evidenced by Gadd's email to Castillo dated 1 February 2022 noting "I have seen these" [JHX.0005.0003.0737] which was in response to an email from Castillo dated 31 January 2022 attaching competitor decks [JHX.0005.0004.0499] including:*

1. *Fiber Cement Competition Update FY2022 which showed Allura was "Increasing price for the year by about 20% to offset inflation and labor costs" [JHX.0005.0004.0529].*
2. *LPX Q3 2021 Earnings Call Transcript which noted that LP had experienced "ongoing inflation and supply chain challenges" and EBITDA had been affected by "lower production capacity" [JHX.0005.0004.0512].*

(B) ***Miele*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market as evidenced by his receipt of the same email from Castillo dated 31 January 2022 as Gadd referred to at (A) immediately above.*

(iv) ***in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (paragraph 201 above);***

(A) ***Gadd*** *knew that:*

1. *housing starts in new residential construction increased +12% to 1.679m units in November 2021, which was the highest level since March 2021, as evidenced by his receipt of an email from Roberts dated 16 December 2021, attaching the US Census Bureau November 2021 Report on New Residential Construction [JHX.0013.0021.1689];*
2. *housing starts in new residential construction increased +2% YoY to 1.7m units in December 2021, as evidenced by his receipt of an email from Castillo dated 19 January 2022, attaching the US Census Bureau December 2021 Report on New Residential Construction [JHX.0005.0011.4734];*
3. *housing starts in new residential construction decreased -4.1% in January 2021 compared to December 2021, as*

evidenced by his receipt of an email from Roberts dated 17 February 2022, attaching the US Census Bureau January 2022 Report on New Residential Construction [JHX.0013.0001.7541].

(B) ***Miele*** *knew the information in (A) immediately above, as evidenced by his receipt of the same emails and US Census Bureau reports as Gadd referred to at (A) immediately above.*

As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known, that demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22 by reason of the following matters:

(v) ***lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022 (paragraph 202 above);***

(A) ***Gadd*** *knew that lumber prices in the NA Market had stabilised or were stabilising as evidenced by his receipt of an email from Castillo on 6 May 2022 which noted "Lumber is down ~46% YoY as of May" [JHX.0005.0001.2012].*

(B) ***Miele*** *knew the information in (A) immediately above, as evidenced by his receipt of the same email as Gadd referred to at (A) immediately above.*

(vi) ***competitor LP had commenced operation of a new factory producing engineered wood siding (paragraph 203 above);***

(A) ***Gadd*** *knew that competitor LP had commenced operation of a new factory producing engineered wood siding, and the implications of same for demand for James Hardie's FC Products in FY23 as evidenced by his authorship of:*

1. an email to Madson and others dated 4 May 2022 which stated in relation to the start of the new factory "This should have us concerned for sure. This plane [plant] while not ideally situated will have LP outing [sic] on another 220mmsft in the Northeast. This will allow them to flex there [sic] network and generally get more sales out. This plane [plant] can make, plank, panel and trim." [JHX.0009.0027.4974];

2. an email to James Hardie Sales Managers circulating LP's Q1 Results dated 5 May 2022 which stated "what is clear is that LP will continue to put on capacity as we do. For me the one in Houlten, ME is going to ramp to 220mmsf, which *is less tha[n] us, however we cannot take it for granted. Also they are converting Sagola MI after that which is a larger mill and that to ne [sic] is the concern. They are driving both ExpertFinish, their version of Color and Builder series, their version of Cemplank (5/16", 12' long) … We want them not to take our lunch in the Northeast so positioning against wood (low maintenance/long lasting beauty) and vinyl ([Beautiful] authentic design) is important" [JHX.0009.0012.5733].*

(B) ***Miele** knew that competitor LP had commenced operation of a new factory producing engineered wood siding as evidenced by his receipt of a report circulated by analyst MST Marquee which identified an additional 220mmsf of siding capacity associated with the Houlton, Maine project. Miele forwarded the report (in separate emails) to Gadd [JHX.0002.0002.4950] and Brennan-Chong [JHX.0002.0002.2868].*

(vii) ***supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, (paragraph 205 above), and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (and paragraph 204 above);***

(A) *in addition to his knowledge of the items at particulars (v) and (vi) immediately above, **Gadd** knew that PVC prices had started to normalise in early 2022 as evidenced by his receipt of an email from ICR Daily Research Brief dated 31 March 2022 which attached a Barclay's Homebuilders report detailing this matter [JHX.0005.0001.4396] and [JHX.0005.0001.4418].*

(B) *in addition to his knowledge of the items at particulars (v) and (vi) immediately above, it is to be inferred that **Miele** knew, or alternatively Miele ought to have known that that the supply-chain issues that had impacted the supply of Competing Products had resolved as evidenced by the fact that:*

1. McDonald, Mulhall and Madson knew that the supply-chain issues that had impacted the supply of Competing Products had resolved, as evidenced by their authorship or receipt of an email dated 18 April 2022 in relation to the FY23 1+11 Forecast which identified key competitive factors including:

i. *"Vinyl returning to supply health and normal lead times,*

ii. *Southeast is growing like gangbusters…LP opened up a new plant in Maine,*

iii. *Horton threatening to move away if we don't give them Cemplank" [JHX.0032.0020.5871]; and*

2. McDonald, Mulhall and Madson ought reasonably to have informed Miele of the information in particular (B) immediately above by reason of:

i. *their roles, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in particular (B) immediately above including the likely impact on the competitive position of James Hardie and demand for James Hardie's FC Products in FY23.*

(viii) ***customers became less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (paragraph 206 above);***

(A) *in addition to his knowledge of the items at particulars (v), (vi) and (vii) immediately above, it is to be inferred that* ***Gadd*** *knew that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products as evidenced by his email to Madson, Fredericksen and others dated 15 June 2022 which noted that James Hardie was under pressure from competitor Allura in the Texas and Pacific North West regions [JHX.0009.0025.4983].*

(B) *It can be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products by reason of his knowledge of the stabilisation in lumber prices and LP's new factory commencing operations.*

(ix) ***there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, which would result in a decrease in demand for James Hardie's FC Products (paragraph 207 above);***

(A) ***Gadd*** *knew that the absolute volumes of permits for new construction in the NA Market appeared to be slowing, as evidenced by his authorship and receipt of an email dated 30 March 2022 regarding this matter [JHX.0005.0008.0297];*

(B) ***Miele*** *knew that the absolute volumes of permits for new construction in the NA Market appeared to be slowing, as evidenced by the fact that:*

1. he was also party to the 30 March 2022 email regarding this matter set out at (A) above;

2. Brennan-Chong and Castillo knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction by reason of their authorship or receipt of:

i. *an email dated 17 February 2022 which stated "SF Starts down 2% and completions down 8%?!?! Wow." [JHX.0013.0001.7541];*

ii. *an email dated 14 April 2022 following a meeting with Zelman where Brennan-Chong stated that "they expect R&R to decline -3-5% later this year" and "they expect starts to go negative later this year, but completions to remain positive" [JHX.0013.0006.7135];*

iii. *an email dated 19 April 2022, forwarding an update from Dodge Construction Network noting there was a "Widespread pullback in construction activity following a strong February" and that "Total construction starts fell 12% in March", with residential starts falling 3%" [JHX.0013.0003.2484].*

3. Brennan-Chong and Castillo ought reasonably to have informed Miele of the information in particular (B) immediately above by reason of:

i. *their roles, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in particular (B) immediately above including the likely impact on demand for James Hardie's FC Products and financial performance in FY23;*

(x) *it can be inferred that* ***Gadd*** *or* ***Miele*** *knew, or alternatively Gadd and Miele ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22*** *by reason of their knowledge as particularised in particulars (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix) immediately above of the following matters:*

(A) *the short-term supply issues the suppliers of Competing Products were exposed to;*

(B) *the spiking in US lumber prices;*

(C) *the substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market;*

(D) *the short-term increase in the volume of new constructions in the US residential housing construction market;*

(E) *lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022;*

(F) *competitor LP had commenced operation of a new factory producing engineered wood siding;*

(G) *supply-chain issues that had impacted the supply of Competing Products resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23;*

(H) *customers had become less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products;*

(I) *the continuing decrease in the volume of new starts in the NA Market for US residential construction, including single unit construction.*

(xi) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22*** *by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (x) immediately above, in their roles as President, North America and CFO, and the nature and significance of the information;*

(B) *the information in particular (x) immediately above was material to the preparation and release of James Hardie's May Reaffirmed FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(xii) Further or alternatively, ***Gadd, Miele*** *and* ***Wiens*** *ought to have known that* ***there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22****, because:*

(A) *they were responsible in their roles as President, North America, CFO and Interim CEO, for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the May Reaffirmed FY23 Guidance;*

(B) *the position of James Hardie's competitors and the implications for demand for James Hardie's FC Products was a factor relevant to the delivery of the May Reaffirmed FY23 Guidance;*

(C) *the likely demand for James Hardie's FC Products having regard to the rate of new residential construction was a factor relevant to the delivery of the May Reaffirmed FY23 Guidance; and*

(D) *it would be expected that Wiens, Miele and Gadd took those factors into account in assessing the current and future demand for James Hardie's FC Products.*

I.3 Continuing inflationary pressures and increased interest rates in the US

I.3.1 Inflation and Increased Interest Rates

209. As at 17 May 2022, there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (**May Inflation/Interest Rate Impacts**).

PARTICULARS

(i) *The conditions which led to sustained high inflation in the US being likely, and their impact on sales growth and EBIT Margin in James Hardie's NA Business are the matters pleaded in Section I.3.2 (paragraphs 210 to 214 below).*

(ii) *The conditions which led to increasing interest rates in the US being likely, and their impact on sales growth and EBIT Margin in James Hardie's NA Business are the matters pleaded in Section I.3.3 (paragraphs 215 to 216 below).*

I.3.2 Inflation

210. As at 7 February 2022:

(a) From in or around October 2021 to January 2022, the inflation rate in the United States had increased significantly.

PARTICULARS

US Bureau of Labor Statistics January 2020 to January 2023 data – 12 month inflation rate:

Month	**Total**
Mar 2021	2.6%
Apr 2021	4.2%
May 2021	5.0%
Jun 2021	5.4%
Jul 2021	5.4%
Aug 2021	5.3%
Sep 2021	5.4%
Oct 2021	6.2%
Nov 2021	6.8%
Dec 2021	7.0%
Jan 2022	7.5%

(b) US inflation, commonly measured by the CPI was well above two percent and further inflationary pressures for 2022 were likely.

211. Between 7 February 2022 and 17 May 2022, the inflation rate in the United States continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely.

PARTICULARS

(i) *US Bureau of Labor Statistics January 2020 to January 2023 data*:

Month	**Total**
Feb 2022	7.9%
Mar 2022	8.5%
Apr 2022	8.3%

212. As at 17 May 2022 high inflation in the US was likely to continue to increase the cost of building and construction materials in the US during FY23, (that is, the Inflation Conditions continued to exist).

213. As at 17 May 2022, a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products during FY23, as consumer spending in the residential housing market slowed (that is, the Inflation Demand Conditions continued to exist).

PARTICULARS

The particulars to paragraph 68 are repeated.

214. As at 17 May 2022, an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers during FY23, (that is, the COGS Increase Conditions continued to exist), and:

(a) James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million, a significant increase on the US$40 million to US$60 million expectation provided in February 2022.

PARTICULARS

(i) James Hardie 17 May 2022 Earnings Call. Express comments made by Miele [RAE.0001.0001.3099]. The estimate provided in February 2022 was US$40million to US$60 million.

(ii) The Purchase Price Variance (PPV) within the FY23 1+11 NA Forecast shows that costs increased by more than US$35 million from the FY23 0+12 NA PPV forecast prepared in April 2022 to the FY23 1+11 NA PPV Forecast prepared in May 2022: See Email from Rahul Patel (Senior Cost Accountant) to Criddle and Robert Koch (Finance Director, Operations Finance – reported to Criddle), 6 May 2022 [JHX.0027.0061.4770].

(b) James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business.

PARTICULARS

(i) *On 18 April 2022, James Hardie announced an out-of-cycle price increase of 4% would take effect from 20 June 2022.*

(ii) *The proposed increase was insufficient to offset all of the additional input and freight costs incurred.*

(A) *Email from Dave Kessner to manufacturing team, 18 May 2022. "The impact of inflation has pushed past our ability to offset through increased pricing and RTY/net hour performance": [JHX.0027.0067.9074].*

(B) *The price increase was estimated to provide a US$70 million contribution to FY23 EBIT: See Board Paper, 'Enterprise Readiness for Uncertain Markets', 10 August 2022, [JHX JHX.0011.0001.1508_0047] at .0124*

(C) *The FY23 1+11 NA Forecast, prepared in May 2022, estimated that EBIT would be down US$12.3 million against the previous FY23 0+12 NA Forecast, despite the incorporation of the out of cycle price increase: See Presentation, 'ELT Meeting', 24 May 2022, [JHX.0005.0001.0163] at .0170.*

(iii) *The proposed increase would not be felt until later in FY23 and any positive impact on James Hardie's immediate performance was limited*

(A) *Whilst the price increase taken by JH will offset raw material headwinds as currently forecast, the impact would not be felt until Q2: See Email from Criddle to Gadd and Miele, 13 May 2022, [JHX.0031.0003.6371]*

(B) *On 9 June 2022 Criddle emails Bob Stefansic commenting that James Hardie needs to "exercise cost control in the first half of the year to offset inflation" since the impact of their most recent price increase will not be felt until later in the FY, [JHX.0027.0060.1383].*

(C) *Benefits were not immediately realised due to shipping down backlog/open orders (i.e. product sold at the older (and lower) price), an increase in gross credit note accruals and other factors: See Email from Aleksander Mrugala (Pricing Lead, NA) to Frances Akalusi, 8 September 2022, [JHX.0031.0018.8112] And Email from Khamille De Lara to Ankush Agrawal (Senior Manager, NA Finance – reported to Criddle) to Criddle, 25 May 2022, [JHX.0027.0066.7971].*

(iv) *The proposed increase was "a fairly large departure from James Hardie's commercial approach" and was poorly received by some of James Hardie's customers:*

(A) Out-of-cycle price increase could negatively impact retail channel: See Email from Jennifer Bressler to Gadd, 7 April 2022 [JHX.0009.0013.4272].

(B) Three days after James Hardie implemented its out-of-cycle price increase, one US homebuilder noted that the shift in macroeconomic conditions meant that "price increases must be eliminated" and that there was "not anymore room in the market to push pricing". Steve Jones (Sales) (Senior National Strategic Account Manager – reported to Johnny Cope) distributed this update to senior sales staff on 23 June 2022 noting "pricing push back is here" [JHX.0032.0030.2715]

(C) Gadd's comment in James Hardie's 16 May 2022 earnings call that James Hardie's customers "were the ones that actually recommended to us to take the price increase" was inaccurate – the customers he was referring to were contractors who faced a choice of price increases or surcharges imposed by James Hardie, and contractors preferred the former: see Earnings Call Transcript, 16 May 2022, [RAE.0001.0001.3099] at .3113 and Email from Gadd to Miele, 18 March 2022, stating "We have spoken with a number of customers and all are reluctant to work with a surcharge. Their concern is they do not believe they will be able to pass it on to their customers. The market/industry is not used to this type of charge." [JHX.0002.0004.0286].

(D) Market Intelligence circulated third-party data to ELT that noted remodeling customers were becoming more budget constrained and "pushing back on constant price increases": Email from Brennan-Chong to Miele and Gadd, 13 August 2022 [JHX.0005.0030.1228].

(v) The proposed increase did not apply to existing backlog and any backlog that was shipped down following the 20 June 2022 price increase would be shipped at a cheaper price (pre the 4% increase).

I.3.3 Interest rate rises

215. By 17 May 2022, the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (that is, the Interest Rate Conditions continued to exist).

PARTICULARS

(i) On or around 26 January 2022, the US Federal Reserve published and released a statement that inflation was well above two percent and with a strong labour market and the Committee expected it would soon be appropriate to raise the target range for the federal funds rate. This statement was express and

contained in the US Federal Reserve, 'Federal Reserve press release', 26 January 2022, p 1.

(ii) *On 16 March 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.25% to 0.5% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 16 March 2022, p 1.*

(iii) *Further, on 4 May 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.75% to 1.0% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 4 May 2022, p 1.*

216. As at and from 17 May 2022, increases in interest rates by the US Federal Reserve and the ongoing Interest Rate Conditions were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23, in that they:

(a) were likely to increase the cost of debt-funded building and construction materials; and

(b) were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market.

(that is, the Interest Rate Demand Conditions continued to exist).

I.3.4 Knowledge of Inflationary Conditions and Rising Interest Rates

217. As at 17 May 2022 and at the time of giving the May Reaffirmed FY23 Guidance (or alternatively, on each day after 17 May 2022), James Hardie knew or ought to have known the May Inflation/Interest Rate Impacts (that is, there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23).

PARTICULARS

As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 by reason of the following matters:

(i) ***as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well***

above two percent and further inflationary pressures for 2022 were likely (paragraph 210 above)*;*

(A) ***Gadd*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of an email from Miele dated 29 January 2022 forwarding an email from CRC with a macroeconomic update that stated CPI had increased 7% year on year in December 2021 [JHX.0002.0003.2237]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(B) ***Miele*** *knew that the 12-month CPI rate at the end of calendar year 2021 had increased 7.12% compared to 2020, as evidenced by his request for and receipt of inflation metrics and data in an email dated 14 January 2022 [JHX.0005.0006.6460]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of periodic Market Intelligence updates from Castillo, including an email dated 14 February 2022 which stated "consumer inflation had posted the biggest increase since 1982, as CPI jumped 7.5% year/year in January" [JHX.0005.0006.8363]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(ii) between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (paragraph 211 above);

(A) ***Gadd*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his receipt of documents including an email from Miele to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(B) ***Miele*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his authorship of an email to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his receipt of an email from*

Miele to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.

(iii) as at 17 May 2022, high inflation in the US was likely to continue to increase the cost of building and construction materials in the US (paragraph 212 above);

(A) ***Gadd*** *knew high inflation in the US was likely to continue to increase the cost of building and construction materials in the US, and therefore cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers, including as evidenced by his receipt of documents including an email from Miele to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION", in which Miele stated "we are in a period of record inflation and high costs. Our cost to produce product is increasing daily and weekly putting pressure on our margins" [JHX.0005.0012.9830].*

(B) ***Miele*** *knew high inflation in the US was likely to continue to increase the cost of building and construction materials in the US, and therefore cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers, as evidenced by his authorship of an email to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830] in which he stated "we are in a period of record inflation and high costs. Our cost to produce product is increasing daily and weekly putting pressure on our margins".*

(C) ***Wiens*** *knew that high inflation in the US was likely to continue to increase the cost of building and construction materials in the US, and therefore cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers, as evidenced by his receipt of the email from Miele referred to in (A) and (B) immediately above.*

(iv) as at 17 May 2022, high inflation in the US (paragraph 213 above) and increases in interest rates (paragraph 216 above) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23;

(A) *it can be inferred that* ***Gadd*** *knew, or alternatively Gadd ought to have known, that high inflation and further increases in interest rates were likely to adversely impact (or increasingly adversely* *impact) the demand for James Hardie's FC Products in the NA Market in FY23 by reason of his role and responsibilities as President, North America, as it would be expected that an executive in that position would understand the impact of critical macroeconomic conditions on the performance of their business.*

(B) *it can be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known, that high inflation and further increases in interest rates were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 by reason of his role and responsibilities as CFO, as it would be expected that an executive in that position would understand the impact of critical macroeconomic conditions on the performance of their business.*

(C) *it can be inferred that* ***Wiens*** *knew, or alternatively Wiens ought to have known, that high inflation and further increases in interest rates were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 by reason of his role and responsibilities as Interim CEO, as it would be expected that an executive in that position would understand the impact of critical macroeconomic conditions on the performance of their business.*

(v) James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million, a significant increase on the US$40 million to US$60 million expectation provided in February 2022 (paragraph 214(a) above);

(A) ***Gadd*** *knew that James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million including by reason of his presence at the 17 May 2022 Earnings Call where Miele confirmed it.*

(B) ***Miele*** *knew that James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million, as he confirmed it in the 17 May 2022 Earnings Call [RAE.0001.0001.3099].*

(C) ***Wiens*** *knew that James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million including by reason of his presence at the at the 17 May 2022 Earnings Call where Miele confirmed it.*

(vi) James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business (paragraph 214(b));

(A) ***Gadd*** *knew that James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business, as evidenced by:*

1. *an email he sent on 12 May 2022 in which he said "yesterday we looked at the forecast and saw that with the inflationary costs that are coming into the business it puts our EBIT range at risk for the full year" [JHX.0032.0028.0945 at .0946];*
2. *an email he received from Criddle on 13 May 2022 which indicated that James Hardie had implemented a "price increase that based on current forecasting will cover our raw material headwinds, however we will not start to see the impact of that increase until Q2" [JHX.0005.0004.2492].*

(B) ***Miele*** *knew that James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business, including as evidenced by his receipt of the email from Criddle as Gadd referred to at (A.2) immediately above.*

(vii) by no later than 17 May 2022, the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (paragraph 215 above);

(A) ***Gadd*** *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by his receipt of periodic Market Intelligence updates from Castillo, including an email dated 25 April 2022 which stated "The market is now anticipating aggressive rate hikes in the next three FOMC meetings (50bps hike in May, another 75bps in June, and another 50bps in July), and is expecting the target rate to reach 2.75-3.00% by the end of the year (vs 0.25-0.5% today)" [JHX.0005.0004.3719].*

(B) ***Miele*** *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by his receipt of the same periodic Market Intelligence update from Castillo received by Gadd referred to at (A) immediately above.*

(C) ***Wiens*** *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by his receipt of the same periodic Market Intelligence update from Castillo received by Gadd referred to at (A) immediately above.*

(viii) *it can be inferred that **Gadd** and **Miele** knew, or alternatively Gadd and Miele ought to have known that **there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 209 above)** by reason of their knowledge as particularised in particulars (i), (ii), (iii), (iv), (v), (vi) and (vii) immediately above of the following matters:*

(A) *as at 7 February 2022, the inflation rate in the US had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely;*

(B) *between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels;*

(C) *as at 17 May 2022, high inflation in the US was likely to continue to increase the cost of building and construction materials in the US;*

(D) *as at 17 May 2022, high inflation in the US and increases in interest rates were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23;*

(E) *James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million, a significant increase on the US$40 million to US$60 million expectation provided in February 2022;*

(F) *James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business;*

(G) *by no later than 17 May 2022, the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US;*

(ix) ***Wiens** and the **James Hardie Board** ought to have known that **there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 209 above)** by reason of the following matters:*

(A) *Wiens knew that:*

1. *as at 7 February 2022, the inflation rate in the US increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was*

well above two percent and further inflationary pressures for 2022 were likely;

2. *high inflation in the US was likely to continue to increase the cost of building and construction materials in the US;*

3. *James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million;*

4. *the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US;*

(B) *Gadd and Miele ought reasonably to have informed the Board of the information in particular (viii) immediately above, in their roles as President, North America and CFO and because of the nature and significance of the information including the impact on James Hardie's financial performance in FY23;*

(C) *the information in particular (viii) immediately above was material to the preparation and release of James Hardie's May Reaffirmed FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(D) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(x) *Further or alternatively, **Gadd**, **Miele** and **Wiens** ought to have known that **there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 209 above)** because:*

(A) *they were responsible in their roles as President, North America and CFO and Interim CEO for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the May Reaffirmed FY23 Guidance;*

(B) *the inflation rate and interest rates in the US were factors relevant to the demand for James Hardie's products, James Hardie's COGS and the delivery of the May Reaffirmed FY23 Guidance; and*

(C) *it would be expected that Gadd, Miele and Wiens assessed the impact of the inflation rate and interest rates in the US on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23.*

I.4 Actual performance between 7 February 2022 and 17 May 2022 and Preparation of the May Reaffirmed FY23 Guidance

I.4.1 Actual Performance between 7 February 2022 and 17 May 2022

218. In February 2022 and March 2022, James Hardie implemented a number of one-off initiatives in 4Q22 in order to boost volumes in NA in 4Q22, which:

(a) caused James Hardie's sales in NA for 4Q22 to be higher compared to earlier quarters in FY22; and

PARTICULARS

(i) As at 27 January 2022, James Hardie's 4Q22 performance was off track and NA volume was trending below target [JHX.0005.0010.9324].

(ii) In February 2022 and March 2022, James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, which included:

A. *shipping inventory of NT3 Trim from a region experiencing low demand to the South, which was experiencing relatively higher demand for that product;*

B. *altering freight plans to send rail shipments South; and*

C. *driving demand in the multi-family segment in the South and West [JHX.0005.0006.9446; JHX.0032.0007.5589].*

(iii) The impact of these one-off initiatives was later quantified as 40mmstf [JHX.0040.0001.3251].

(b) were likely to have a negative impact on James Hardie's sales in NA in 1Q23,

(together, the **4Q22 One-Offs and Impacts**).

PARTICULARS

(i) The 4Q22 volume levers created a pull through of volume into 4Q22 which negatively impacted 1Q23 volume, including that:

A. *James Hardie did not achieve forecast volume for South Central which was "likely driven by pull forward into FY22 Q4" [JHX.0031.0005.1679]; and*

B. *James Hardie did not achieve forecast NA exteriors order rates which was "largely driven by PR Planks given Q4 load-in and Q1 production to service" [JHX.0005.0013.2281].*

219. On 10 May 2022, James Hardie finalised its NA results for April 2022, the first month of FY23. The April 2022 results were materially below the FY23 0+12 NA Forecast, and included:

(a) EBIT of US$52.0 million:

(i) approximately 18% lower than the forecast for April 2022 in the FY23 0+12 NA Forecast; and

(ii) approximately 11% higher than the corresponding prior year result in April 2021;

(b) EBIT margin of 24%:

(i) approximately 320 bps lower than the forecast for April 2022 in the FY23 0+12 NA Forecast;

(ii) approximately 350 bps lower than the corresponding prior year result in April 2021;

(c) Net sales of US$216.6 million:

(i) approximately 7% lower than the forecast for April 2022 in the FY23 0+12 NA Forecast; and

(ii) approximately 27.1% higher than the corresponding prior year result in April 2021;

(d) Cash cost of US$102.5 million:

(i) approximately 4% worse than the forecast for April 2022 in the FY23 0+12 NA Forecast; and

(ii) approximately 30% worse than the corresponding prior year result in April 2021;

(e) Freight costs of US$23.8 million:

(i) approximately 4% worse than the forecast for April 2022 in the FY23 0+12 NA Forecast; and

(ii) approximately 34% worse than the corresponding prior year result in April 2021;

(f) Volume of 234.4 mmstf:

(i) approximately 7% lower than the forecast for April 2022 in the FY23 0+12 NA Forecast; and

(ii) approximately 7.8% higher than the corresponding prior year result in April 2021.

PARTICULARS

Frances Akalusi circulated via email on 10 May 2022 the NA Business Results for April 2022 to Wiens, Miele, Gadd and others, attaching a presentation, 'April FY23 – JHBP Business Results', 10 May 2022: [JHX.0005.0013.1036]; [JHX.0005.0013.1038].

220. The biggest drivers of the miss to forecast in the April 2022 results pleaded in paragraph 219 above were:

(a) volume, contributing US$(7.3) million to EBIT; and

(b) increased cash cost, contributing US$(3.1) million to EBIT,

(the matters in paragraphs 219 and 220 above are together the **April 2022 Results**).

I.4.2 Knowledge of Actual Performance

221. As at 17 May 2022 and at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie knew or ought to have known the 4Q22 One-Offs and Impacts and the April 2022 Results.

PARTICULARS

As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known the ***4Q22 One-Offs and Impacts*** *by reason of the following matters:*

(i) ***Gadd*** *knew that:*

A. James Hardie's 4Q22 performance was off track as at 27 January 2022 and that NA volume was trending below target, as evidenced by his receipt of a presentation dated 27 January 2022 which contained this information [JHX.0005.0010.9324];

B. In February 2022 and March 2022, James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, which included:

1. shipping inventory of NT3 Trim from a region experiencing low demand to the South, which was experiencing relatively higher demand for that product;

2. altering freight plans to send rail shipments to the South; and

3. driving demand in the multi-family segment in the South and West,

as evidenced by his receipt of presentations dated 24 February 2022 and 10 March 2022 which contained this information [JHX.0005.0006.9446 and JHX.0032.0007.5589 respectively].

C. The 4Q22 One-Offs were likely to have, and had, a negative impact on James Hardie's sales in NA in 1Q23 by reason of his receipt of presentations dated 3 March 2022 and 14 April 2022 which contained this information [JHX.0031.0005.1679 and JHX.0005.0013.2281 respectively].

(ii) ***Miele*** *knew the 4Q22 One-Offs and Impacts as evidenced by his receipt of the same documents as Gadd particularised at (i) immediately above.*

(iii) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known the 4Q22 One Offs and Impacts by reason of:*

A. *Gadd and Miele ought reasonably to have informed Wiens and the James Hardie Board of this information referred to in particular (iii) immediately above in their roles as President, North America and CFO and the nature and significance of the information;*

B. *the information referred to in particular (iii) immediately above was material to the preparation and release of James Hardie's May Reaffirmed FY23 Guidance, as it impacted the likely future financial performance James Hardie in FY23; and/or*

C. *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

*As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known the **April 2022 Results** by reason of the following matters:*

(iv) ***Gadd** knew the April 2022 Results as evidenced by his receipt of a presentation dated 10 May 2022 which contained this information: [JHX.0005.0013.1036]; [JHX.0005.0013.1038].*

(v) ***Miele** knew the April 2022 Results as evidenced by his receipt of the same document as Gadd particularised at (i) immediately above.*

(vi) ***Wiens** knew the April 2022 Results as evidenced by his receipt of the same document as Gadd particularised at (i) immediately above*

(vii) *the **James Hardie Board** ought to have known the April 2022 Results by reason of:*

A. *Gadd, Miele and Wiens ought reasonably to have informed the James Hardie Board of the April 2022 Results in their roles as President, North America and CFO and the nature and significance of the April 2022 Results;*

B. *the April 2022 Results was material to the preparation and release of James Hardie's May Reaffirmed FY23 Guidance, as it impacted the likely future financial performance James Hardie in FY23; and/or*

C. *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

I.4.3 Preparation of the May Reaffirmed FY23 Guidance

222. The May Reaffirmed FY23 Guidance was based on:

(a) the FY23 Plan and 3 Year Plan presented to the James Hardie Board on 12 May 2022; and

(b) the FY23 1+11 NA Forecast prepared on 12 May 2022.

The FY23 Plan and the 3 Year Plan

223. The FY23 Plan, and the 3 Year Plan were loaded into James Hardie's Hyperion Financial Management (**HFM**) system on 19 April 2022.

PARTICULARS

Email from Kevin Brannan to Bruce Pinkley, Frances Akalusi and Sayan Duttachoudhury, 19 Apr 2022, [JHX.0032.0016.3680].

224. On 12 May 2022, the Board convened for the first time since 3 February 2022, and the FY23 Plan and 3 Year Plan were presented, including the following financial commitments:

(a) The FY23 NA Plan:

NORTH AMERICA			
USD$	FY23 Plan	FY22 Actual	FY23 VPY %
Volume (mmstf)	3,347.0	3,112.2	7.5%
Net Sales	$3,055.8	$2,551.3	19.8%
Cash Cost	$1,352.2	$1,140.9	18.5%
Freight	$306.8	$269.3	13.9%
SG&A	$279.0	$212.6	31.3%
EBIT	$928.4	$741.2	25.3%
EBIT %	30.4%	29.1%	130bps

(b) The FY23 Global Plan:

GLOBAL			
USD$	FY23 Plan	FY22 Actual	FY23 VPY %
Volume (mmstf)	4,995	4,698	6%
Net sales	$4,240	$3,615	17%
Cash cost	$1,934	$1,704	13%
Freight	$428	$377	14%
SG&A	$554	$460	21%
Adjusted EBIT	$1,034	$816	27%

Adjusted Net Income	$779	$621	25%

(c) The FY23-FY25 Three Year Plan (Global):

FY23 – FY25 THREE YEAR PLAN			
USD$	FY23	FY24	FY25
Volume (mmstf)	4,995	5,375	5,628
Net sales	$4,240	$4,832	$5,344
Cash cost	$1,934	$2,129	$2,284
Freight	$428	$453	$477
SG&A	$554	$602	$668
Adjusted EBIT	$1,034	$1,320	$1,525
Adjusted Net Income	$779	$1,022	$1,191

PARTICULARS

(i) James Hardie's Board convened only on a quarterly basis and in Calendar Year 2022, convened on the following dates:

(A) *3 February 2022;*

(B) *12 May 2022;*

(C) *10 – 11 August 2022; and*

(D) *4 November 2022.*

(ii) The FY23 Plan was not presented at the 3 February 2022 Board Meeting and instead, the basis for the FY23 Financial Outlook was the FY23 9+3 final Forecast (which forecast higher growth than the FY23 Plan): See Board presentation, 'JH Integrated Strategic Plan FY23-FY24', 3 February 2022, [JHX.0011.0001.2053_0059] at _0108 to _0111 and Email from Miele to Gadd and Ryan Kilcullen, 19 April 2022 containing 'NA Financials – May Board v Feb Board' [JHX.0002.0003.4370].

(iii) The FY23 Plan and 3 Year Plan were contained in the Quarterly Business Update, 12 May 2022 Board Meeting, [JHX.0011.0001.1802_0120].

225. The FY23 Plan and the 3 Year Plan were aggressive in terms of the revenue and EBIT growth targeted for FY23 from the NA Business.

PARTICULARS

(i) *Emails from Miele to Hammes between 19-20 April 2022 where Miele made the following statement in respect of the FY23 Plan "Some of the plans are aggressive…in a year of not only market uncertainty but CEO uncertainty." [JHX.0005.0002.4426];*

(ii) *Email from Gadd to Miele dated 25 April 2022, stating that "I still think the EBIT % [of 30.4%] is very aggressive… Actually so is the growth but overall EBIT % worries me the most." [JHX.0005.0013.4316];*

(iii) *Presentation, FY2023 Short-Term Incentive Plan, 11 May 2022. The presentation accompanying the proposed increase noted that "Based upon the aggressive nature of the Plans laid out by Management (e.g. NA Revenue growth of 20% and EBIT growth of 25%), Management has recommended that the Plan figures be used as the 1.5x multiple level of each of the regions' STI plans…Management believes the targets are more aggressive than prior years" [JHX.0032.0034.4752].*

FY23 1+11 Forecast

226. Between 7 February 2022 and 16 May 2022, in respect of preparing its monthly FY23 NA forecast, James Hardie:

(a) did not prepare a FY23 10+2 NA Forecast in February 2022.

PARTICULARS

(i) *Presentation, 'ELT Meeting – SGA', 23 May 2022 [JHX.0028.0002.8285].*

(ii) *Excel Spreadsheet, 'FY23 11+1 NA Forecast Draft', 16 March 2022 [JHX.0050.0002.6751].*

(b) prepared:

(i) a FY23 11+1 NA Forecast in March 2022;

(ii) a FY23 0+12 NA Forecast in April 2022; and

(iii) an initial version of a FY23 1+11 NA Forecast on 12 May 2022,

which included the following forecast metrics for NA:

USD (m)	FY23 11+1	FY23 0+12	FY23 1+11	*FY23 1+11 (rev)*
Volume (mmstf)	3,414.8	3,460.5	3,464.9	*3,474.9*
Net sales	\$3,085.1	\$3,200.5	\$3,206.4	*\$3,217.4*

Cash cost	$1,296.9	$1,398.5	$1,434.9	*$1,438.5*
Freight cost	$291.8	$306.8	$305.8	*$314.6*
Unallocated	$13.0	-	-	-
SG&A	$299.8	$294.1	$292.4	*$272.7*
EBIT	$986.9	$1,008.2	$978.9	*$995.9*
EBIT margin	32.0%	31.5%	30.5%	*31.0%*

PARTICULARS

(i) Column 1: The FY23 11+1 NA Forecast was finalised around 15 March 2022 and was documented in [JHX.0031.0001.1147]; [JHX.0031.0001.1149]; [JHX.0050.0002.6751].

(ii) Column 2: The FY23 0+12 NA Forecast was finalised around 18 April 2022 and was documented in [JHX.0032.0033.3183]; [JHX.0031.0005.4270]; [JHX.0031.0001.7702].

(iii) Column 3: The FY23 1+11 NA Forecast was finalised around 12 May 2022 and was documented in [JHX.0031.0001.4598]; [JHX.0031.0001.5656].

*(iv) Column 4: The FY23 1+11 NA Forecast was later revised on around 20 May 2022, where EBIT was increased to US$995.9 million and EBIT margin increased to 31% after Selling, General & Administrative costs **(SG&A)** was revised down by approximately US$20 million, and volume was increased by 10mmstf, as documented in [JHX.0031.0001.5656].*

227. As at 17 May 2022, James Hardie had identified that the FY23 1+11 Forecast contained the following risks and issues:

(a) NA 1Q23 EBIT margin of only 24.5% was projected;

(b) increasing the NA 1Q23 EBIT margin to even 27% required all volume interventions to occur as well as more restrictions in SG&A; and

(c) the FY23 EBIT range was likely to be negatively impacted by inflationary pressures; and

(d) there was no identified pathway to achieving a 33% EBIT margin in FY23.

PARTICULARS

(i) As to sub-paragraph (a), the Plaintiff refers to Excel Spreadsheet, 'FY23 1+11 NA Forecast Draft v2', 12 May 2022, [JHX.0050.0002.4972].

(ii) As to sub-paragraph (b), the Plaintiff refers to an email from Criddle to Gadd and Miele, 13 May 2022, [JHX.0027.0068.2633].

(iii) As to sub-paragraph (c), the Plaintiff refers to an email from Marc Setty to Rick Wion and Atousa Ghoreichi, 12 May 2022, forwarding an email from Gadd entitled 'Adjustments to hit the year' [JHX.0032.0028.0945].

(iv) As to sub-paragraph (d), the Plaintiff refers to an email from Miele to Gadd, 12 May 2022, in which Miele stated that "I don't see a path to 33%" [JHX.0002.0004.5117].

I.5 Demand Forecasting Method and Volume Forecasts as at 17 May 2022

I.5.1 Revised unreasonable forecasting method

228. As at 17 May 2022, James Hardie:

(a) ceased to use the Demand Forecasting Method it had used to generate the demand forecasts in the FY23 Guidance, which was unreasonable for the reasons given in Section E.4.2 above;

(b) adopted a different but nonetheless inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23,

(together, the **May Volume/Demand Modelling Inadequacy**).

I.5.2 Features of revised unreasonable forecasting method

229. As at 17 May 2022 James Hardie's FY23 demand forecasts, upon which volume expectations underlying the May Reaffirmed FY23 Guidance, the 17 May Statements and the May Reaffirmed FY23 Guidance Representations were based, were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (the **Revised Demand Forecasting Method**).

PARTICULARS

(i) The Revised Demand Forecasting Method was first used by James Hardie to forecast NA volume in the FY23 0+12 forecast (the April 2022 forecast) and continued to be used until at least the FY23 7+5 forecast (the November 2022 forecast) [JHX.0016.0001.0317] and [JHX.0016.0001.0318].

230. The Revised Demand Forecasting Method used as at 17 May 2022:

(a) adopted a 10-month period (initially May 2021 to February 2022) of historical James Hardie volume growth rates (the **10-month growth rate**), which were not likely to be representative of underlying base volumes on and from 17 May 2022, or in FY23;

(b) assumed in the 10-month growth rate the absence of supply chain constraints (i.e. that James Hardie would be able to produce sufficient stock to supply all customer demand);

(c) applied the 10-month growth rate for the majority of FC Products to generate the FY23 demand forecast, at all times from the April 2022 forecast onwards;

(d) applied exceptions to the 10-month growth rates to certain FC Products, but in many instances these exceptions had the impact of further increases in the volume forecast, most notably in 'Neo' or 'Innovation' products;

(e) had the effect that declining volume growth rates (including negative growth) realised in late FY22 and FY23 were insufficiently accounted for in James Hardie's forecasting method at all times during the Relevant Period.

PARTICULARS

(i) April 2022: The FY23 0+12 volume forecast was based on the 10-month period from May 2021 to February 2022 as shown in the document entitled '220411 Forecast Model – Final v2' sheet 'Updated Forecast', dated 11 April 2022 [JHX.0059.0001.0884];

(ii) May 2022: The FY23 1+11 volume forecast was based on the 10-month period from June 2021 to March 2022 as shown in the document entitled '220511 1+11 Forecast Model_cleaned' sheet 'Updated Forecast', dated 2 June 2022 [JHX.0059.0001.1168], although, a "YOY Growth Override" was subsequently applied to the majority of products in the 1+11 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 0+12 Forecast Model.

231. The use of FY22 volume in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes, as at 17 May 2022 and at all times thereafter.

PARTICULARS

(i) Email exchange between Criddle and Miele, 22 March 2022, where in response to Criddle's comments that "The issue is the lack of system data on the order side", Miele states, "[w]hat I want you to focus on is how we leverage the order file data to identify trends, help drive the business and help with forecasting" adding "[w]e are not leveraging the inbound orders enough" [JHX.0027.0060.3265].

(ii) Subsequent documents also are relied on, namely:

(A) *Email exchange between Miele and Brennan-Chong, 3 June 2022, regarding trends in customer data where Miele states, "We need to focus on the dealers and distributors. We have plenty of info on NC. R&R is what we need to figure out. We need the trends in the Boise, BFS, Lansing data." [JHX.0002.0002.2429];*

(B) *Email exchange between Brennan-Chong and Miele, 17 July 2022, where Brennan-Chong responds to Miele's request for customer data to forecast trends noting, "It was the collective view that Inventory and Pick tickets are our most forward leading indicators. The holy grail would be our customers' incoming purchase orders, but we don't have that." [JHX.0005.0035.4038].*

232. Further, or alternatively, as at 17 May 2022, the Revised Demand Forecasting Method, did not factor in the May Demand Impacts or May Inflation/Interest Rate Impacts on customer demand adequately, or at all.

PARTICULARS

(i) The Revised Demand Forecasting Method used the 10-month growth rate to forecast FY23 demand growth, and by doing so did not adjust for the May Demand Impacts or May Inflation/Interest Rate Impacts.

(ii) The 10-month growth rate reflected peak result periods for James Hardie.

(iii) There had been two interest rate rises since the February FY23 Guidance, yet James Hardie increased its volume forecast expectations in both the 0+12 forecast (April 2022) and the 1+11 forecast (May 2022) when compared to the 9+3 forecast (January 2022).

233. Further, or alternatively, as at 17 May 2022, the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity.

PARTICULARS

(i) *Email from McDonald to Geisen and Mike Williams (Senior Financial Analyst NA), 24 May 2022, stating that: "In months where you see negative constraints, that means that our unconstrained invoices are higher than what we can supply" and "in months where you see positive constraints, that means that we are shipping down backlog" [JHX.0032.0019.6744].*

234. Further, or alternatively, as at 17 May 2022, the Revised Demand Forecasting Method, did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand.

PARTICULARS

(i) *Email from Nick Langhammer (Supply Chain Manager, S&OP), to Geisen, Stephanie Lunt (Supply Chain Deputy Manager G&A Supply Strategy – reported to Jeff Wrobel) and Mark Wallace (Senior Sales Director – reported to Madson), 20 October 2021 noting that "As Gadd brought up yesterday, our order file is decreasing because we are clearing out our backlog" [JHX.0032.0064.7879].*

(ii) *Email from Geisen to Sean Patel, Joseph Mills, Mulhall and Matt Logan, 27 January 2022 stating "Backlog has shrunk to 57mmstf (by 21mmstf from 12/31) despite extended lead times maintaining around 200mstf given the order weakness to open the year" [JHX.0014.0010.1350].*

(iii) *Email from Geisen to Gadd, Madson and Matt Logan 3 June 2022 that indicates James Hardie was beginning to clear its backlog as early as September 2021 [JHX.0038.0006.6628].*

(iv) *Email from Miele to Gadd, 24 June 2022 enclosing a graph that demonstrates a decline in siding backlog since August 2021, and a sudden drop in siding backlog between May and June 2022 [JHX.0002.0002.8714].*

I.5.3 Knowledge of revised unreasonable volume forecasting method

235. As at 17 May 2022, at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie knew or ought to have known:

(a) that James Hardie was using the Revised Demand Forecasting Method (namely, that James Hardie's FY23 demand forecasts, upon which volume expectations underlying the May Reaffirmed FY23 Guidance, the 17 May Statements and the May Reaffirmed FY23 Guidance Representations were based, were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes); and

(b) the May Volume/Demand Modelling Inadequacy (namely, that James Hardie had adopted a different but nonetheless inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23).

PARTICULARS

As at 17 May 2022, James Hardie Officers identified in these particulars knew or ought to have known that ***James Hardie was using the Revised Demand Forecasting Method (paragraph 229 above)*** *by reason of the following matters:*

(i) ***Gadd*** *knew that James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (paragraph 229 above), as evidenced by his receipt of:*

(A) *April 2022: a Presentation entitled 'FY23 0+12 Volume' from Geisen dated 18 March 2022 which stated that "orders use 10-month rolling growth trend at the region/finish/product group level, with historical seasonality applied*" [JHX.0016.0001.0318].

(B) *May 2022: a Presentation entitled 'FY23 1+11 Volume' from McDonald dated 20 April 2022 which stated that "orders use 10-month rolling growth trend at the region/finish/product group level, with historical seasonality applied" [JHX.0032.0022.0764].*

(C) *May 2022: a presentation entitled 'NA Demand Planning Process_May 2022' dated 19 May 2022 which stated that after the unconstrained orders forecast was prepared, the supply chain team "provide production and shipment capability constraints by region and product" [JHX.0016.0001.0172].*

(ii) ***Miele*** *knew that James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes, as evidenced by his receipt of the same presentations as Gadd referred to at (A) immediately above.*

(iii) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known of the use of the Revised Demand Forecasting Method as Gadd and Miele ought reasonably to have informed them by reason of:*

1. their roles and responsibilities as President, North America and CFO; and

2. the nature and significance of the information referred to in particular (iii) immediately above including the likely impact on the accuracy of James Hardie's May Reaffirmed FY23 Guidance of using the Revised Demand Forecasting Method.

As at 17 May 2022, James Hardie Officers identified in these particulars knew or ought to have known ***that the Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (paragraph 228 above)*** *by reason of the following matters:*

(iv) ***the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 which meant that FY22 volumes***

were not, or were not likely to be, representative of underlying base volumes as at 17 May 2022 and at all times thereafter (paragraph 231 above);

(A) ***Gadd*** *knew that the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes as at 17 May 2022 and at all times thereafter, as evidenced by his receipt of:*

1. *A presentation entitled 'Integrated S&OP L4 Update' dated 14 April 2022, which stated that that the miss to order rate in South Central was "likely driven by pull forward into FY22 Q4" [JHX.0031.0005.1679];*

2. *A presentation entitled 'Integrated S&OP L4 Update' dated 28 April 2022, which stated that the miss in NA exteriors order rates was "largely driven by PR Plank given Q4 load-in and Q1 production to service" [JHX.0005.0013.2281].*

(B) ***Miele*** *knew that the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes as at 17 May 2022 and at all times thereafter, for the same reasons as Gadd at (A) immediately above.*

(v) ***the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts on customer demand adequately, or at all (paragraph 232 above);***

(A) ***Gadd*** *knew that the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts, as evidenced by the fact that the FY23 0+12 volume forecast (April 2022) and the FY23 1+11 volume forecasts did not factor in the 16 March 2022 and 4 May 2022 interest rate rises:*

1. *The FY23 0+12 volume forecast (April 2022) was based on the 10-month period from May 2021 to February 2022 as shown in the document entitled '220411 Forecast Model – Final v2' sheet "Updated Forecast" dated 11 April 2022 [JHX.0059.0001.0884];*

2. *The FY23 1+11 volume forecast (May 2022) was based on the 10-month period from June 2021 to March 2022 as shown in the document entitled '220511 1+11 Forecast Model_cleaned' sheet 'Updated Forecast' [JHX.0059.0001.1168], although, a "YOY Growth Override" was subsequently applied to the majority of products in the 1+11 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 0+12 Forecast Model; and*

3. *James Hadie increased its volume forecast expectations from the FY23 9+3 volume forecast (January 2022) in the FY23 0+12 volume forecast (April 2022) and the FY23 1+11 volume forecast (May 2022) despite two interest rate rises since the preparation of the FY23 9+3 volume Forecast.*

(B) ***Miele*** *knew that the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts, the May Inflation/Interest Rate Impacts, for the same reasons as Gadd at (A) immediately above.*

(vi) ***the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (paragraph 233 above);***

(A) ***Gadd*** *knew that the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity as evidenced by his receipt of:*

1. *a presentation entitled 'NA Demand Planning Process_May 2022' dated 19 May 2022 which stated that after the unconstrained orders forecast was prepared, the supply chain team "provide production and shipment capability constraints by region and product" [JHX.0016.0001.0172];*

2. *an email from Geisen which confirmed the constraining process for the volume forecast noting that "this is before orders are lagged to shipments and before regional &*

product mix supply constraints are applied to get to Constrained Invoice volume (aka the volume forecast)" [JHX.0009.0027.3093].

(B) *It can be inferred that **Miele** knew, or alternatively Miele ought to have known that the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity as evidenced by the fact that:*

1. Geisen and McDonald knew that the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity as evidenced by their authorship and receipt of an email dated 24 May 2022 which noted that in months where demand for James Hardie's products was below its ability to supply, they were "shipping down backlog" to plug the gap to forecast [JHX.0032.0019.6744]; and

2. Geisen and McDonald ought reasonably to have informed Miele of the information in particular (B) immediately above by reason of:

i. their roles, responsibilities and reporting lines; and

ii. the nature and significance of the information in particular (B) immediately above including the likely impact on James Hardie's financial performance in FY23.

(vii) ***the Revised Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand (paragraph 234 above);***

(A) ***Gadd** knew that the Revised Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand, as evidenced by his receipt of an email from Miele, dated 24 June 2022 enclosing a graph that demonstrates a decline in siding backlog since August 2021, and a sudden drop in siding backlog between May and June 2022 [JHX.0002.0002.8714].*

(B) ***Miele*** *knew that the Revised Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand, as evidenced by his receipt of an email from Mulhall dated 23 June 2022 that noted "Please see below a file I sent to Shirley earlier- you will see April-June average backlog is down 24% YOY." [JHX.0005.0006.5961].*

(viii) it can be inferred that ***Gadd*** *and* ***Miele*** *knew, or alternatively Gadd and Miele ought to have known that the* ***Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (paragraph 228 above)*** *by reason of their knowledge as particularised in particulars (iv), (v), (vi) and (vii) immediately above of the following matters:*

(A) *the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand;*

(B) *the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts;*

(C) *the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity;*

(D) *the backlog clearance had not been accounted for in the Revised Demand Forecasting Method.*

(ix) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known that the* ***Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23*** *by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (viii) immediately above, in their roles as President, North America and CFO and the nature and significance of the information;*

(B) *the information in particular (viii) immediately above was material to the preparation and release of James Hardie's May*

Reaffirmed FY23 Guidance, as it impacted the accuracy of the model used to forecast volume growth in FY23; and/or

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

(x) Further or alternatively, ***Wiens****,* ***Miele*** *and* ***Gadd*** *ought to have known that* ***the Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23****, because:*

(A) *they were responsible in their roles as Interim CEO, CFO and President, North America for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the May Reaffirmed FY23 Guidance;*

(B) *the volume growth assumptions which underpinned the May Reaffirmed FY23 Guidance was a factor relevant to the delivery of the May Reaffirmed FY23 Guidance;*

(C) *the deficiencies in the volume growth assumptions adopted in the Revised Demand Forecasting Method were factors relevant to the delivery of the May Reaffirmed FY23 Guidance; and*

(D) *it would be expected that Wiens, Miele and Gadd took those factors into account in assessing James Hardie's likely financial performance in FY23.*

I.6 Customer Backlog as at 17 May 2022

I.6.1 Backlog depletion

236. As at 17 May 2022, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (the **May Backlog Depletion**).

I.6.2 Conditions giving rise to the May Backlog Depletion

237. The likely adverse impact of the May Backlog Depletion was due to the following matters:

(a) during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US;

(b) as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders;

(c) as at 17 May 2022, the May Demand Impacts, May Inflation/ Interest Rate Impacts were likely to result in:

(i) the cancellation of existing orders for James Hardie's FC Products;

(ii) a decline in the rate of new orders for James Hardie's FC Products; and

(iii) the further depletion of James Hardie's customer order backlog;

(d) residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel;

(e) as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog;

(f) as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand;

(g) as a consequence of the matters set out in sub-paragraphs (a) – (f) above, James Hardie's customer order backlog would be consumed part way through FY23, and no longer contribute to volume growth in FY23.

I.6.3 Knowledge of backlog depletion

238. As at 17 May 2022, and at the time of giving the May Reaffirmed FY23 Guidance (or alternatively, on each day after 17 May 2022), James Hardie knew or ought to have known the May Backlog Depletion.

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As at 17 May 2022, James Hardie Officers identified in these particulars knew, or ought to have known that sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 by reason of the following matters:

(i) ***during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US (paragraph 237(a) above);***

(A) ***Gadd*** *knew that during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for* *products, resulting in a backlog of unfilled customer orders in the US, as evidenced by his ownership (with Miele) of a demand plan that was to be clear as to "how we are handling current allocations and order backlog in future demand" [JHX.0005.0025.1996].*

(B) ***Miele** knew that during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US, as evidenced by his ownership (with Gadd) of a demand plan that was to be clear as to "how we are handling current allocations and order backlog in future demand" [JHX.0005.0025.1996].*

(ii) ***as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders (paragraph 237(b) above);***

(A) ***Gadd** knew that as and from October 2021, James Hardie was clearing out the backlog of unfilled customer order as evidenced by a 19 October 2021 email from Nick Langhammer which said "As Gadd brought up yesterday, our order file is decreasing because we are clearing out our backlog" [JHX.0032.0067.6004].*

(B) *it can be inferred that **Miele** knew that, as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders by reason of his ownership of the demand plan referred to at particular (i) above with Gadd, who knew the information.*

(iii) ***as at 17 May 2022, the May Demand Impacts, May Inflation/Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (paragraph 237(c) above);***

(A) *it can be inferred that **Gadd** knew, or alternatively Gadd ought to have known, that as at 17 May 2022, the May Demand Impacts, May Inflation/ Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog by reason of his role and responsibilities as President, North America, as it would be expected that an industry executive in that position would understand the impact* *of critical macroeconomic conditions on the performance of their business.*

(B) *it can be inferred that **Miele** knew, or alternatively Miele ought to have known, that as at 17 May 2022, the May Demand Impacts, May Inflation/Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog by reason of his role and responsibilities as CFO, as it would be expected that an industry executive in that position would understand the impact of critical macroeconomic conditions on the performance of their business.*

(iv) ***residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel (paragraph 237(d) above)****;*

(A) *It can be inferred that **Gadd** knew, or alternatively ought to have known, that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel, as evidenced by the fact that:*

1. *Madson knew that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel by reason of his receipt of an email from Jamal Saghir regarding demand, in which Saghir noted, with respect to a lack of an increase in projected demand, that "One potential reason why this would be the case is because the houses they are talking about surging could be houses we've already recommended / sent material for. IE if the "surge" is DRH / Lennar clearing out their backlog over the next three months. If that's the case, we should NOT really see a spike in orders, since that material should in theory be in the channel due to builder delays." [JHX.0032.0008.5974]; and*

2. *Madson ought reasonably to have informed Gadd of the information in particular (A) immediately above by reason of:*

i. *his role, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in particular (A) immediately above including the likely impact on James Hardie's financial performance in FY23.*

(B) *It can be inferred that **Miele** knew, or alternatively ought to have known, that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel, as it would be expected that an executive in his position would draw that conclusion by reason of his knowledge of the matters particularised in particulars (i) and (ii) above.*

(v) ***as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog (paragraph 237(e) above);***

(A) *it can be inferred that **Gadd** knew that, as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog, as evidenced by an email he sent on 23 May 2022 where, in response to an email from Geisen proposing a reduction in the demand forecast, he said "I would like to see this with the backlog included.. I think the range will start to look more like we want" [JHX.0032.0025.8894]. If Gadd knew that James Hardie would be relying on backlog on 23 May 2022, it can be inferred that he also knew this on 17 May 2022.*

(B) ***Miele** knew that, as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog, as evidenced by an email he sent on 15 January 2022, with respect to orders data in which he said "we still have a backlog which will be incremental to that. So I am not necessarily concerned about Q3. However, if the order trend continues in this fashion, the year on year comps eventually become poor" [JHX.0005.0023.2726].*

(vi) ***as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand;***

(A) *it can be inferred that **Gadd knew**, or alternatively ought to have known that, as at 17 May 2022, James Hardie's backlog volume* *was ~3 weeks' worth of forecast demand by reason of his ownership of the demand plan referred to at particular (i) above with Miele.*

(B) *it can be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known, that, as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand as evidenced by:*

1. *his knowledge that the total unconstrained demand forecast for 1Q23 was, in his words, "north of 870" mmstf [JHX.0002.0003.7147], which would translate to volume of approximately 67 mmstf per week;*

2. *the constrained forecast as at 1 April 2022 identified total backlog and extended lead time orders of 232 mmstf [JHX.0059.001.0616]. Even if all of that volume was considered backlog, this would only amount to slightly over 3 weeks of forecast volume;*

3. *an inference that he would have reviewed the constrained forecast by reason of his role and responsibilities as CFO.*

(vii) ***James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23 (paragraph 237(g) above);***

(A) *it can be inferred that* ***Gadd*** *knew, or alternatively Gadd ought to have known that, that James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23, demand by reason of his ownership of the demand plan referred to at particular (i) above with Miele.*

(B) ***Miele*** *knew that James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23, as was evident in an email he sent on 15 January 2022, with respect to orders data in which he said "we still have a backlog which will be incremental to that. So I am not necessarily concerned about Q3. However, if the order trend continues in this fashion, the year on year comps eventually become poor" [JHX.0005.0023.2726].*

(viii) it can be inferred that ***Gadd*** *and* ***Miele*** *knew, or alternatively ought to have known that* ***the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23*** *by reason of their knowledge as particularised in particulars*

(i), (ii), (iii), (iv), (v), (vi) and (vii) immediately above of the following matters:

(A) *during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US;*

(B) *as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders;*

(C) *as at 17 May 2022, the May Demand Impacts, May Inflation/ Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog;*

(D) *residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel;*

(E) *as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog;*

(F) *as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand;*

(G) *James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23.*

(ix) ***Wiens** and the **James Hardie Board** ought to have known that **the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23** by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed the Board of the information in particular (viii) above, in their roles as President, North America and CFO and the nature and significance of the information including the impact on James Hardie's financial performance in FY23;*

(B) *the information in particular (viii) above was material to the preparation and release of James Hardie's May Reaffirmed FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

I.7 The Achievability of the May Reaffirmed FY23 Guidance for James Hardie's NA Business

I.7.1 The May Reaffirmed FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

239. As at and from 17 May 2022:

(a) James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance (namely, FY23 net sales growth of 18% to 22% from FY22) or the volume growth necessary to achieve such growth rates;

(b) James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance (namely, 30% to 33%);

(each of (a) and (b) being **May Unlikely NA Guidance Information**).

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(i) *The reasons why James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business were as set out in Section I.7.2 below.*

I.7.2 The reasons why the May Reaffirmed FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

240. As at and from 17 May 2022, James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business by reason of:

(a) the May Demand Impacts (namely, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22);

(b) the May Inflation/Interest Rate Impacts (namely, that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23);

(c) the May Volume/Demand Forecasting Inadequacy (namely, that the Revised Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23).

241. Further, or alternatively to paragraph 240, as at and from 17 May 2022, James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was likely to experience in FY23 was lower than that conveyed by the May Reaffirmed FY23 Guidance.

242. Further, or alternatively to paragraphs 240 and 241, as at and from 17 May 2022, James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (**May Counterfactual NA Sales Growth Guidance Information**);

(b) EBIT Margin in North America: approximately 27% (**May Counterfactual NA EBIT Margin Guidance Information**).

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(i) *As to (a) (the May Counterfactual NA Sales Growth Guidance Information):*

(A) *Annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);*

(B) *Net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given the May Demand Impacts and May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 6%.*

(ii) *As to (b) (the May Counterfactual NA EBIT Margin Guidance Information):*

(A) *Given the May Demand Impacts and May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be lower.*

(B) *an FY23 EBIT Margin of approximately 27% would represent an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated FY23 EBIT Margin of approximately 27%.*

I.7.3 Knowledge that the May Reaffirmed FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

243. As at 17 May 2022, at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business (namely, that it would achieve FY23 net sales growth of 18% to 20% from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 30% to 33%).

PARTICULARS

As at 17 May 2022, James Hardie Officers identified in these particulars knew or ought to have known that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business by reason of the following matters:

(i) ***Gadd*** *is inferred to have known or ought to have known this information because he:*

(A) *knew the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 208);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 208);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022 there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 208);*

(D) *knew that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 208);*

(E) *knew that lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022 (particular (v) to paragraph 208);*

(F) *knew that competitor LP had commenced operation of a new factory producing engineered wood siding (particular (vi) to paragraph 208);*

(G) *knew that the supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (particular (vii) to paragraph 208);*

(H) *knew that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand* *for James Hardie's FC Products (particular (viii) to paragraph 208);*

(I) *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction which would result in a decrease in demand for James Hardie's FC Products (particular (ix) to paragraph 208);*

(J) *is inferred to have known, or alternatively ought to have known, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (x) and (xii) to paragraph 208);*

(K) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 217);*

(L) *knew that between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 217);*

(M) *knew that high inflation in the US was likely to continue to increase the cost of building and construction materials in the US (particular (iii) to paragraph 217);*

(N) *is inferred to have known, or alternatively ought to have known, that high inflation in the US and increases in interest rates were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (iv) to paragraph 217);*

(O) *knew that James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million (particular (v) to paragraph 217);*

(P) *knew that James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business (particular (vi) to paragraph 217);*

(Q) *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (particular (vii) to paragraph 217);*

(R) *is inferred to have known, or ought to have known, that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY2**3** (particulars (viii) and (x) to paragraph 217);*

(S) *knew that James Hardie's 4Q22 performance was off track as at 27 January 2022 and that NA volume was trending below target (particular (i)A to paragraph 221);*

(T) *knew that in February 2022 and March 2022, James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, and that these were likely to have a negative impact on James Hardie's sales in NA in 1Q23 (particulars (i)B and (i)C to paragraph 221);*

(U) *knew the April 2022 Results (which were materially below forecast) (particular (iv) to paragraph 221);*

(V) *knew that James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (particular (i) to paragraph 235);*

(W) *knew that the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes as at 17 May 2022 and at all times thereafter (particular (iv) to paragraph 235);*

(X) *knew that the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts on customer demand adequately, or at all (particular (v) to paragraph 235);*

(Y) *knew that the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (vi) to paragraph 235);*

(Z) *knew that the Revised Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand (particular (vii) to paragraph 235);*

(AA) *is inferred to have known, or ought to have known, that the Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (particulars(viii) and (x) to paragraph 235);*

(BB) *knew that during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US (particular (i)(A) to paragraph 238);*

(CC) *knew that as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders (particular (ii)(A) to paragraph 238);*

(DD) *is inferred to have known, or alternatively ought to have known that as at 17 May 2022, the May Demand Impacts and May Inflation/ Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (iii)(A) to paragraph 238);*

(EE) *is inferred to have known, or alternatively ought to have known that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel (particular (iv)(A) to paragraph 238);*

(FF) *is inferred to have known that as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog (particular (v)(A) to paragraph 238);*

(GG) *is inferred to have known, or alternatively ought to have known that as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand (particular (vi)(A) to paragraph 238);*

(HH) *is inferred to have known, or alternatively ought to have known that James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23 (particular (vii)(A) to paragraph 238);*

(II) *is inferred to have known, or alternatively ought to have known that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (viii)(A) to paragraph 238);*

(JJ) *each item of information in (A) to (II) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business.*

(ii) ***Miele*** *is inferred to have known or ought to have known this information because he:*

(A) *is inferred to have known, or ought to have known the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 208);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 208);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 208);*

(D) *knew that in late 2021, there was a short-term increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 208);*

(E) *knew that lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022 (particular (v) to paragraph 208);*

(F) *knew that competitor LP had commenced operation of a new factory producing engineered wood siding (particular (vi) to paragraph 208);*

(G) *is inferred to have known, or alternatively ought to have known that the supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (particular (vii) to paragraph 208);*

(H) *is inferred to have known, or alternatively ought to have known that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (viii) to paragraph 208);*

(I) *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction which would result in a decrease in demand for James Hardie's FC Products (particular (ix) to paragraph 208);*

(J) *is inferred to have known, or alternatively ought to have known, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (x) and (xii) to paragraph 208);*

(K) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 217);*

(L) *knew that between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 217);*

(M) *knew that high inflation in the US was likely to continue to increase the cost of building and construction materials in the US, which was likely to cause James Hardie's NA Business (particular (iii) to paragraph 217);*

(N) *is inferred to have known, or alternative ought to have known, that high inflation in the US and increases in interest rates were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (iv) to paragraph 217);*

(O) *knew that James Hardie's COGS increase expectation for FY23 had escalated to between $90 million to $130 million (particular (v) to paragraph 217);*

(P) *knew that James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business (particular (vi) to paragraph 217);*

(Q) *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (particular (vii) to paragraph 217);*

(R) *is inferred to have known, or alternatively ought to have known, that there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY2**3** (particulars (viii) and (x) to paragraph 217);*

(S) *knew that James Hardie's 4Q22 performance was off track as at 27 January 2022 and that NA volume was trending below target (particular (ii) to paragraph 221);*

(T) *knew that in February 2022 and March 2022, James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, and that these were likely to have a negative impact on James Hardie's sales in NA in 1Q23 (particular (ii) to paragraph 221);*

(U) *knew the April 2022 Results (which were materially below forecast) (particular (v) to paragraph 221);*

(V) *knew that James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (particular (ii) to paragraph 235);*

(W) *knew that the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying* *customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and FY22 which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes as at 17 May 2022 and at all times thereafter (particular (iv)(B) to paragraph 235);*

(X) *knew that the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts on customer demand adequately, or at all (particular (v)(B) to paragraph 235);*

(Y) *is inferred to have known, or alternatively ought to have known that the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (vi)(B) to paragraph 235);*

(Z) *knew that the Revised Demand Forecasting Method did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately nine months, and that, once the backlog had been cleared, there would be a drop in addressable demand (particular (vii)(B) to paragraph 235);*

(AA) *is inferred to have known, or ought to have known, that Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23(particular (viii)(B) to paragraph 235);*

(BB) *knew that during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US (particular (i)(B) to paragraph 238);*

(CC) *is inferred to have known, or alternatively ought to have known that as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders (particular (ii)(B) to paragraph 238);*

(DD) *is inferred to have known, or alternatively ought to have known that as at 17 May 2022, the May Demand Impacts, May Inflation/Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (iii)(B) to paragraph 238);*

(EE) *is inferred to have known, or alternatively ought to have known that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel (particular (iv)(B) to paragraph 238);*

(FF) *knew that as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog (particular (v)(B) to paragraph 238);*

(GG) *is inferred to have known, or alternatively ought reasonably to have known that as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand (particular (vi)(B) to paragraph 238);*

(HH) *knew that James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23 (particular (vii)(B) to paragraph 238);*

(II) *is inferred to have known, or alternatively ought reasonably to have known that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (viii)(B) to paragraph 238);*

(JJ) *each item of information in (A) to (II) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business.*

(iii) ***Wiens*** *ought to have known this information because he:*

(A) *knew:*

1. *that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 217);*

2. *between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 217);*

3. *high inflation in the US was likely to continue to increase the cost of building and construction materials in the US (particular (iii) to paragraph 217);*

4. *James Hardie's COGS increase expectation for FY23 had escalated to between $90 million to $130 million (particular (v) to paragraph 217);*

5. *the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (particular (vii) to paragraph 217);*

6. *the April 2022 Results (which were materially below forecast) (particular (vi) to paragraph 221);*

(B) *ought to have known:*

1. *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (xi) to paragraph 208);*

2. *the spiking in US lumber prices (particular (xi) to paragraph 208);*

3. *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (xi) to paragraph 208);*

4. *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (xi) to paragraph 208);*

5. *that lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022 (particular (xi) to paragraph 208);*

6. *that competitor LP had commenced operation of a new factory producing engineered wood siding (particular (xi) to paragraph 208);*

7. *that the supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (particular (xi) to paragraph 208);*

8. *that customers had become less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (xi) to paragraph 208);*

9. *that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, which would result in a decrease in demand for James Hardie's FC Products (particular (xi) to paragraph 208);*

10. *that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products*

sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (xi) and (xii) to paragraph 208);

11. *James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business (particular (ix) to paragraph 217);*

12. *there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (ix) and (x) to paragraph 217);*

13. *James Hardie's 4Q22 performance was off track as at 27 January 2022 and that NA volume was trending below target (particular (iii) to paragraph 221);*

14. *James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, and that these were likely to have a negative impact on James Hardie's sales in NA in 1Q23 (particular (iii) to paragraph 221);*

15. *James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (particular (iii) to paragraph 235);*

16. *the Revised Demand Forecasting Method applied the 10-month growth rate and did not sufficiently account for declining volume growth rates in March – October 2022 (particular (ix) to paragraph 235);*

17. *the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand (particular (ix) to paragraph 235);*

18. *the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts (particular (ix) to paragraph 235);*

19. *the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (ix) to paragraph 235);*

20. *the backlog clearance, and that this had not been accounted for in the Revised Demand Forecasting Method (particular (ix) to paragraph 235);*

21. *the Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (particular (ix) to paragraph 235);*

22. *that during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US (particular (ix) to paragraph 238);*

23. *that as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders (particular (ix) to paragraph 238);*

24. *that as at 17 May 2022, the May Demand Impacts, May Inflation/Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (ix) to paragraph 238);*

25. *that residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel (particular (ix) to paragraph 238);*

26. *that as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog (particular (ix) to paragraph 238);*

27. *that as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand (particular (ix) to paragraph 238);*

28. *that James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23 (particular (ix) to paragraph 238);*

29. *that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (ix) to paragraph 238);*

each item of information in (A) to (B) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for James Hardie's NA Business.

(iv) *the **James Hardie Board** ought to have known this information because the Board ought to have known:*

(A) *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (xi) to paragraph 208);*

(B) *the spiking in US lumber prices (particular (xi) to paragraph 208);*

(C) *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (xi) to paragraph 208);*

(D) *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (xi) to paragraph 208);*

(E) *that lumber prices in the NA Market had stabilised or were stabilising by 17 May 2022 (particular (xi) to paragraph 208);*

(F) *that competitor LP had commenced operation of a new factory producing engineered wood siding (particular (xi) to paragraph 208);*

(G) *that supply-chain issues that had impacted the supply of Competing Products had progressively improved and were likely to continue to improve through the first half of FY23, and the supply of Competing Products, relative to James Hardie's FC Products, had improved and was likely to continue to improve in FY23 (particular (xi) to paragraph 208);*

(H) *that customers had become less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (xi) to paragraph 208);*

(I) *that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, which would result in a decrease in demand for James Hardie's FC Products (particular (xi) to paragraph 208);*

(J) *that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23 and demand for FC Products sold by James Hardie's NA Business was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particular (xi) to paragraph 208);*

(K) *as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI,* *was well above two percent, and further inflationary pressures for 2022 were likely (particular (ix) to paragraph 217)*

(L) *between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ix) to paragraph 217);*

(M) *high inflation in the US was likely to continue to increase the cost of building and construction materials in the US (particular (ix) to paragraph 217);*

(N) *James Hardie's COGS increase expectation for FY23 had escalated to between US$90 million to US$130 million (particular (ix) to paragraph 217);*

(O) *James Hardie had limited ability to increase prices in its NA Business to recoup increased COGS, and such steps were unlikely to offset the impact of inflation on COGS in its NA Business (particular (ix) to paragraph 217);*

(P) *the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US (particular (ix) to paragraph 217);*

(Q) *there was likely to be sustained high inflation and increasing interest rates in the US in FY23, which were likely to adversely impact the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particular (ix) to paragraph 217);*

(R) *James Hardie's 4Q22 performance was off track as at 27 January 2022 and that NA volume was trending below target;*

(S) *James Hardie introduced a number of initiatives to boost volume results in the final 6 weeks of FY22, and that these were likely to have a negative impact on James Hardie's sales in NA in 1Q23 (particular (iii) to paragraph 221);*

(T) *the April 2022 Results (which were materially below forecast) (particular (vii) to paragraph 221);*

(U) *James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes (particular (iii) to paragraph 235);*

(V) *the Revised Demand Forecasting Method applied the 10-month growth rate and did not sufficiently account for declining volume growth rates in March – October 2022 (particular (ix) to paragraph 235);*

(W) *the use of the 10-month growth rate in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand (particular (ix) to paragraph 235);*

(X) *the Revised Demand Forecasting Method did not factor in or adjust for the impact of the May Demand Impacts or the May Inflation/Interest Rate Impacts (particular (ix) to paragraph 235);*

(Y) *the Revised Demand Forecasting Method generated volume forecasts for FY23 which exceeded James Hardie's manufacturing capacity (particular (ix) to paragraph 235);*

(Z) *the backlog clearance, and that this had not been accounted for in the Revised Demand Forecasting Method (particular (ix) to paragraph 235);*

(AA) *the Revised Demand Forecasting Method was an inadequate and unreasonable demand forecasting method to predict volume growth in its NA Business in FY23 (particular (ix) to paragraph 235);*

(BB) *during FY21, more orders were accepted by James Hardie for FC Products than James Hardie was, at the time, able to ship to customers within the standard 'lead time' for products, resulting in a backlog of unfilled customer orders in the US (particular (ix) to paragraph 238);*

(CC) *as and from October 2021, James Hardie was clearing out the backlog of unfilled customer orders (particular (ix) to paragraph 238);*

(DD) *as at 17 May 2022, the May Demand Impacts, May Inflation/Interest Rate Impacts were likely to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (ix) to paragraph 238);*

(EE) *residential construction completion activity in FY23 would not meaningfully increase new orders for James Hardie's FC Products, because those products had already been supplied/delivered to the distribution channel (particular (ix) to paragraph 238);*

(FF) *as at 17 May 2022, James Hardie's realised volume growth included sales from the depletion of its customer order backlog (particular (ix) to paragraph 238);*

(GG) *as at 17 May 2022, James Hardie's backlog volume was ~3 weeks' worth of forecast demand (particular (ix) to paragraph 238);*

(HH) *James Hardie's customer order backlog would be consumed in FY23, and no longer contribute to volume growth in FY23;*

(II) *the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (ix) to paragraph 238);*

(JJ) *each item of information in (A) to (II) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the*

May Reaffirmed FY23 Guidance for James Hardie's NA Business.

244. Further, or alternatively, as at 17 May 2022, at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie ought to have known that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information).

PARTICULARS

A reasonable estimate of James Hardie's net sales growth in NA was approximately 6% because:

(i) annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

(ii) net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;

(iii) The Plaintiff refers to and repeats paragraphs 86 and 243 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation), paragraph 208 (knowledge of reduced demand for FC Products) and paragraphs 72 and 208 (knowledge of inflationary conditions and rising interest rates));

(iv) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Revised Demand Forecasting Method;

(v) The Plaintiff refers to and repeats paragraph and 243 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the Revised Demand Forecasting Method and its inadequacies (the Plaintiff also refers to the particulars to paragraph 235 (knowledge of revised unreasonable volume forecasting method).

(vi) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts and the Revised Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72, 208, 217 and 235 above, which were all factors relevant to the net sales performance of James Hardie's NA Business, Gadd, Wiens and Miele ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 6%.

A reasonable estimate of James Hardie's EBIT Margin in NA was approximately 27% because:

(vii) Given the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved by James Hardie in FY22, and was likely to be lower;

(viii) The Plaintiff refers to and repeats paragraphs 86 and 243 and the particulars thereto above, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation), paragraph 208 (knowledge of reduced demand for FC Products) and paragraphs 72 and 208 (knowledge of inflationary conditions and rising interest rates));

(ix) an FY23 Margin of approximately 27% would represent an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business;

(x) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts as pleaded and particularised in paragraphs 64, 72, 208 and 217 above, which were all factors relevant to the EBIT Margin of James Hardie's NA Business, Gadd, Wiens and Miele ought to have known that a reasonable estimate of the EBIT Margin in James Hardie's NA Business was approximately 27%.

I.8 The Achievability of the May Reaffirmed FY23 Guidance for ANI

I.8.1 The May Reaffirmed FY23 Guidance for ANI was unlikely to be achieved

245. As at and from 17 May 2022, James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the May Reaffirmed FY23 Guidance (**May Unlikely ANI Guidance Information**) (namely, US$740 million to US$820 million).

PARTICULARS

(i) *The reasons why James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for ANI, were as set out in Section I.8.2 below.*

I.8.2 The reasons why the May Reaffirmed FY23 Guidance for ANI was unlikely to be achieved

246. As at and from 17 May 2022, James Hardie was unlikely to achieve its May Reaffirmed FY23 Guidance for ANI of US$740 million to US$820 million because to the extent it was set by reference to the sales growth, EBIT Margin and EBIT in James Hardie's NA business, James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for sales growth and/or EBIT Margin in James Hardie's NA Business.

PARTICULARS

(i) *James Hardie's ANI forecast as at 17 May 2022 of US$779 million was based upon its FY23 estimate for EBIT in the NA Business (US$928.4 million)*

(ii) *If James Hardie's NA Business did not in FY23 achieve net sales growth of 18% to 22% from FY22 and EBIT Margin of 30% to 33%, ANI would be reduced.*

(iii) *Further or alternatively, if James Hardie's NA Business did not in FY23 achieve net sales growth of 18% to 22% from FY22, but only achieved net sales growth of approximately 6%, this would result in forecast FY23 net sales of approximately US$2,704 million for James Hardie's NA Business, which in combination with (iv) below would reduce ANI (because ANI would decrease if there was a reduction in net sales and EBIT as set out in paragraph 54(b)).*

(iv) *If James Hardie's NA Business did not in FY23 achieve an EBIT Margin of 30% to 33%, but only achieved an EBIT Margin of approximately 27%, when applied to forecast FY23 net sales of approximately US$2,706 million, this would result in FY23 EBIT of approximately US$730 million, which in combination with (iii) above would reduce ANI (because ANI would decrease if there was a reduction in net sales and EBIT as set out in paragraph 54(b)).*

(v) *The negative US$198 million EBIT impact (US$928.4 million less US$730 million) represents an ANI impact of approximately US$153* *million to James Hardie's forecast FY23 ANI of US$779 million (i.e. US$626 million).*

247. Further, or alternatively to paragraph 246, as at and from 17 May 2022, James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for ANI because:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (**May A Counterfactual ANI Guidance Information**);

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (**May B Counterfactual ANI Guidance Information**).

PARTICULARS

(i) *As to (a) (the May A Counterfactual ANI Guidance Information):*

(A) ***Net sales**:*

(I) Annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

(II) Net sales growth of approximately 6% would represent a good result for James Hardie's NA Business in FY23, given the May Demand Impacts and May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;

(III) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 6%;

(IV) net sales growth of approximately 6% on the FY22 result as at 17 May 2022 of US$2,551 million would result in forecast FY23 net sales of approximately US$2,704 million for James Hardie's NA Business,

(B) ***EBIT Margin**:*

(I) Given the May Demand Impacts and May Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be lower.

(II) an FY23 EBIT Margin of approximately 27% represents an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business.

(III) *a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated FY23 EBIT Margin of approximately 27%,*

(C) ***EBIT***

(I) *an EBIT margin of approximately 27% on net sales of US$2,704 million would result in forecast EBIT for FY23 of approximately US$730 million for James Hardie's NA Business;*

(II) *James Hardie's EBIT for the NA Business in FY23 was US$928.4 million, approximately US$198 million more than the amount calculated at (I) above,*

(D) ***ANI***

(I) *a reduction in forecast EBIT of approximately US$198 million (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) would have an impact of approximately US$153 million in James Hardie's ANI;*

(II) *deducting approximately US$153 million from James Hardie's forecast US$779 million ANI as at 17 May 2022 to reflect reasonable estimates of net sales growth and EBIT Margin in North America would result in a pinpoint ANI estimate of approximately US$626 million;*

(III) *a reasonable range around approximately US$626 million would be +-8% around a slightly lower midpoint of US$620 million, being approximately US$570 million to US$670 million. A +-8% range would be reasonably selected given the challenging economic conditions presented by the May Demand Impacts and May Inflation/Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance.*

(ii) *As to (b) (the May B Counterfactual ANI Guidance Information):*

(A) ***Net sales****: approximately US$2,704 million as per (i)(A) above;*

(B) ***EBIT Margin****: approximately 27% as per (i)((B) above;*

(C) ***EBIT****: approximately US$730 million as per (i)(C) above;*

(D) ***ANI****: as per (i)(D)(I)-(II) above, the ANI impact was approximately US$153 million producing a pinpoint ANI estimate of approximately US$626 million, and adopting an alternative narrower reasonable range of +-5% around a slightly lower midpoint of US$620 million produces an ANI range of approximately US$590 million to US$650 million. In the event that a +-8% range was not reasonably selected, a +-5% range would reasonably have been selected, given that*

James Hardie itself adopted an approximately +-5% range around a midpoint of about $779 million to $780 million.

I.8.3 Knowledge that the May Reaffirmed FY23 Guidance for ANI was unlikely to be achieved

248. Further, or alternatively, as at 17 May 2022, at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for ANI of US$740 million to US$820 million.

PARTICULARS

(i) ***Gadd, Miele, Wiens and the James Hardie Board*** *ought to have known that James Hardie was unlikely to achieve the May Reaffirmed FY23 Guidance for ANI of US$740 million to US$820 million because they knew or ought to have known that the May Reaffirmed FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business (which contributed the majority of James Hardie's revenue, EBIT and profit as pleaded in paragraph 25) was unlikely to be achieved: paragraph 243 is repeated.*

249. Further, or alternatively, as at 17 May 2022, at the time James Hardie gave the May Reaffirmed FY23 Guidance, James Hardie ought to have known that:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information);

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information).

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraph 243 above and the particulars thereto, which pleads that James Hardie ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 6% and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 27%.*

(ii) *James Hardie's FY23 ANI forecast of US$779 million was based on its FY23 estimate for EBIT in the NA Business of US$928.4 million.*

(iii) *If James Hardie achieved net sales growth of approximately 6%, this would result in forecast FY23 net sales of approximately US$2,704 million for James Hardie's NA Business.*

(iv) *If James Hardie achieved an EBIT Margin of approximately 27%, when applied to forecast FY23 net sales of approximately US$2,706 million, this would result in FY23 EBIT of approximately US$730 million.*

(v) *A reduction in forecast EBIT for James Hardie's NA Business (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) of US$198 million, would have an impact of approximately US$153 million on James Hardie's FY23 ANI forecast.*

(vi) *James Hardie's FY23 ANI forecast of US$779 million minus US$153 million would have produced a pinpoint ANI estimate of US$626 million.*

(vii) *A reasonable range around approximately US$626 million would be +/-8% or alternatively +/-5% around a slightly lower midpoint of US$620 million, being approximately US$570 million to US$670 million or alternatively US$590 million to US$650 million. A +/-8% range would be reasonably selected given the challenging economic conditions presented by the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance, alternatively a +/-5% range reflects that actually adopted by James Hardie.*

(viii) *Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts and the Revised Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72, 208, 217 and 235 above, Gadd, Miele and Wiens ought to have known that a reasonable estimate of the sales growth in James Hardie's NA Business was approximately 6% net sales growth and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 27%, and therefore ought to have known that a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million or alternatively US$590 million to US$650 million.*

J MISLEADING CONDUCT IN MAY 2022

J.1 Misleading Conduct Contraventions

250. The making of each of the May Reaffirmed FY23 Guidance Representations and the May FY23 Implied Representations was conduct engaged in by James Hardie:

(a) in trade or commerce; and

(b) in relation to JHX Shares.

J.1.1 May Increased FY23 NA Guidance Representations

251. As at and from 17 May 2022, James Hardie did not have reasonable grounds for making the May Increased FY23 NA Guidance Representations, by reason of:

(a) the facts and circumstances set out in paragraphs 197, 209, 228, 236, 239 and/or 245;

(b) alternatively:

(i) the facts and circumstances set out in paragraphs 197, 209, 228, 236, 239 and/or 245; and

(ii) its actual or constructive knowledge of those facts and circumstances set out in paragraphs 208, 209, 235, 238, 243 and/or 248.

PARTICULARS

(i) *Each of the May Increased FY23 NA Guidance Representations was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

252. As at and from 17 May 2022, by making and/or failing to correct the May Increased FY23 NA Guidance Representations, in the circumstances set out in paragraph 251, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the May Increased FY23 NA Guidance Representations by informing the market of:*

(A) *the May Unlikely NA Guidance Information;*

(B) *alternatively, the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information.*

J.1.2 May Reaffirmed FY23 Group Guidance Representation

253. As at and from 17 May 2022, James Hardie did not have reasonable grounds for making the May Reaffirmed FY23 Group Guidance Representation, by reason of:

(a) the facts and circumstances set out in paragraphs 197, 209, 228, 236, 239 and/or 245;

(b) alternatively:

(i) the facts and circumstances set out in paragraphs 197, 209, 228, 236, 239 and/or 245; and

(ii) its actual or constructive knowledge of those facts and circumstances set out in paragraphs 208, 209, 235, 238, 243 and/or 248.

PARTICULARS

(i) *The May Reaffirmed FY23 Group Guidance Representation was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

254. As at and from 17 May 2022, by making and/or failing to correct or qualify the May Reaffirmed FY23 Group Guidance Representation, in the circumstances set out in paragraphs 251 and/or 253, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the May Reaffirmed FY23 Group Guidance Representation by informing the market of:*

(A) *the May Unlikely ANI Guidance Information;*

(B) *alternatively, the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information.*

J.1.3 May FY23 Implied Representations

255. As at and from 17 May 2022, James Hardie did not have reasonable grounds for making and maintaining the May FY23 Implied Representations, by reason of the matters pleaded in paragraphs 251 and/or 253.

PARTICULARS

(i) *The May FY23 Implied Representations lacked reasonable grounds by reason of the matters in paragraph 251 (so far as the May Increased FY23 NA Guidance Representation is concerned) and paragraphs 95 and/or 253 (so far as the May Reaffirmed FY23 Group Guidance Representation is concerned);*

256. By making and/or failing to correct or qualify each of the May FY23 Implied Representations, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the May FY23 Implied Representations by informing the market of:*

(A) *the May Unlikely NA Guidance Information and/or the May Unlikely ANI Guidance Information*

(B) *alternatively:*

1. *the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information; and/or*

2. *the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information.*

J.1.4 Contravening conduct

257. By reason of the matters pleaded in:

(a) paragraph 251, in relation to the May Increased FY23 NA Guidance Representations;

(b) paragraph 253, in relation to the May Reaffirmed FY23 Group Guidance Representation;

(c) paragraph 255, in relation to the May FY23 Implied Representations,

James Hardie contravened section 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law (each a **May Misleading Conduct Contravention**).

J.2 Continuing Conduct

258. Between 17 May 2022 and 16 August 2022, James Hardie did not say anything to modify, qualify or contradict any of the May Reaffirmed FY23 Guidance Representations.

259. By reason of the matters pleaded in paragraph 258, from 17 May 2022 to 16 August 2022, James Hardie continued to:

(a) make each of the May Reaffirmed FY23 Guidance Representations (and the May FY23 Implied Representations associated with the May Reaffirmed FY23 Guidance Representations); and

(b) engage in each of the May Misleading Conduct Contraventions.

J.3 Causation, loss and damage

J.3.1 The market for JHX Shares

260. The Plaintiff and the Group Members acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps in a market of investors or potential investors in JHX Shares with the features pleaded in paragraph 104 to 106.

J.3.2 Corrective disclosure and price declines

261. On 8 November 2022, James Hardie published the November Announcements, as pleaded in paragraphs 107 and 108.

262. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially, as pleaded in paragraph 109.

J.3.3 May Increased FY23 NA Guidance Representations

Market Based Inflation

263. During the Relevant Period, the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Increased FY23 NA Guidance Representations (and/or the May FY23 Implied Representation in respect of the May Increased FY23 NA Guidance Representations) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

264. Further to paragraph 263 if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$620 million,

and this would have corrected or qualified the May Increased FY23 NA Guidance Representations (and/or the May FY23 Implied Representation in respect of the May Increased FY23 NA Guidance Representations), and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 264.

(ii) *If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022, the magnitude of the decline would have been approximately 22.8%.*

(iii) *If the Affected Market became aware of the May B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 22.5%.*

(iv) *US$620 million is the midpoint of the May A Counterfactual ANI Guidance Information and the May B Counterfactual ANI Guidance Information. If the Affected Market became aware that a reasonable estimate was that midpoint, the magnitude of the decline would have been approximately 22.9%.*

(v) *If not disclosed by James Hardie, these ranges or estimates could have been otherwise inferred because:*

(A) *based upon actual FY22 net sales in James Hardie's NA Business of US$2,551 million, 6% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,704 million;*

(B) *an EBIT Margin in North America of 27% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of US$730 million (being 27% of $2,704 million);*

(C) *as 13 May 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$953 million (see [JHX.0005.0007.5006] at 5017), the May Counterfactual NA Sales Growth Guidance Information and the May Counterfactual NA EBIT Margin Guidance Information, taken together, would result in a US$223 million reduction in forecast EBIT (US$730 million less US$953 million);*

(D) *a reduction in forecast EBIT of approximately US$223 million would have an impact of approximately US$172 million on James Hardie's ANI (US$223 million less 23% average effective tax rate);*

(E) *as a consequence, FY23 ANI consensus expectations of US$779 million (see [JHX.0005.0007.5006] at 5017) would have reduced to approximately US$610 million, and almost certainly no greater than $620 million;*

(F) *the ranges comprising the May A Counterfactual ANI Guidance Information and the May B Counterfactual ANI Guidance Information represent margins around a midpoint that would have been adopted by the market, noting that the range given by James Hardie around the* *midpoint of the FY23 Guidance was approximately +/-5%, and the market would have selected that or a higher range of +/-8% to account for the uncertainty in business conditions.*

265. If the price of JHX Shares declined between 17 May 2022 and 16 August 2022 as pleaded in paragraph 264, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period between 17 May 2022 and 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire JHX Shares, JHX ADRs, or JHX Equity Swaps) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022 (264(a)), the magnitude of the decline would have been approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information (264 (b)), the magnitude of the decline would have been approximately 22.5%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) If the Affected Market became aware of an FY23 ANI estimate of US$620 million (264(iii)), the magnitude of the decline would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.9% lower than it in fact paid, as pleaded in paragraph 2 above.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions

following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

266. Further, or alternatively to paragraphs 264 and 265:

(a) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information),

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$620 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraphs (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone,

(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%.

(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%.

(C) if ANI guidance of approximately US$620 million was disclosed this would have been approximately 21.9%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

267. If the price of JHX Shares declined between 17 May 2022 and 16 August 2022 as pleaded in paragraph 266 then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares in the Relevant Period after 17 May 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) The magnitude of the decline from disclosure of the May Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (266(b)) would have been at least as

much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) The magnitude of the decline from disclosure of the May Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance (266(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, this would have been approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 22.5%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above.

(C) if the ANI Guidance of US$620 million were disclosed alone, this would have been approximately 21.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.9% lower than it in fact paid, as pleaded in paragraph 2 above.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues

at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.

268. By reason of the matters pleaded in paragraphs 264, 265 and 266 to 267, the Plaintiff and Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $7,983.61 (the price declines referred to in paragraph 265 (particular (i)) and paragraph 267 (particular (ii)(A)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,878.56 (the price declines referred to in paragraph 265 (particular (ii)) and paragraph 267 (particular (ii)(B)).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 267 (particular (i)).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who acquired JHX ADRs and JHX Equity Swaps.

Fair market and specific reliance

269. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of JHX Shares represented the market price in a market in which the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Increased FY23 NA Guidance Representations and/or the May FY23 Implied Representation in respect of the May Increased FY23 NA Guidance Representations) had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

270. In the alternative, if James Hardie had not engaged in the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Increased FY23 NA Guidance Representations (and/or the May FY23 Implied Representation in respect of the May Increased FY23 NA

Guidance Representations), the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

271. By reason of the matters pleaded at paragraphs 269 and 270, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 268 are repeated.

J.3.4 May Reaffirmed FY23 Group Guidance Representation

Market Based Inflation

272. During the Relevant Period, the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Reaffirmed FY23 Group Guidance Representation (and/or the May FY23 Implied Representations in respect of the May Reaffirmed FY23 Group Guidance Representation) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for those contraventions.

273. Further to paragraph 272:

(a) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information), or

(b) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

then this would have corrected or qualified the May Reaffirmed FY23 Group Guidance Representation (and/or the May FY23 Implied Representations in respect of the May Reaffirmed FY23 Group Guidance Representation), and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) or (b).

(ii) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022, the magnitude of the decline would have been approximately 22.8%.

(iii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 22.5%.

274. If the price of JHX Shares declined between 17 May 2022 and 16 August 2022 as pleaded in paragraph 273, then:

(a) the Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and prior to 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price;

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022 (264(a)), the magnitude of the decline would have been approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information (264(b)), the magnitude of the decline would have been approximately 22.5%. Accordingly, if disclosed

prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

275. Further, or alternatively, to paragraph 273:

(a) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely ANI Guidance Information),

then this would have corrected or qualified the May Reaffirmed FY23 Group Guidance Representation, and:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being either:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b) or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have

been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) *As to (c), the magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:*

(A) *if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%.*

(B) *if the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%.*

276. If the price of JHX Shares declined in the Relevant Period prior to 16 August 2022 as pleaded in paragraph 275, then:

(a) the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and prior to 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *The magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (275(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *The magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (275(c)) would have been at least as much as the magnitude of the decline that would have been experienced based* *upon disclosure of that counterfactual substituted FY23 guidance alone:*

(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs, or JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs, or JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.

277. By reason of the matters pleaded in paragraphs 272, 273, 274 275 and 276 the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $7,983.61 (the price declines referred to in paragraph 273 (particular (ii)) and paragraph 275 (particular (iii)(A)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,878.56 (the price declines referred to in paragraph 273 (particular (iii)) and paragraph 275 (particular (iii)(B)).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 275 (particular (ii)).

(iv) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.*

Fair market and specific reliance

278. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs, or JHX Equity Swaps they acquired represented the market price in a market in which the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Reaffirmed FY23 Group Guidance Representation (and/or the May FY23 Implied Representations in respect of the May Reaffirmed FY23 Group Guidance Representation) had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

279. In the alternative, if James Hardie had not engaged in the May Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the May Reaffirmed FY23 Group Guidance Representation (and/or the May FY23 Implied Representations in respect of the May Reaffirmed FY23 Group Guidance Representation), some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period prior to 16 August 2022.

280. By reason of the matters pleaded at paragraphs 278 and/or 279, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) *The particulars to paragraph 277 are repeated.*

K DISCLOSURE BREACHES FROM MAY 2022

K.1 Disclosure Contraventions

K.1.1 May Counterfactual NA Guidance

K.1.1.1. Continuous Disclosure

281. Each of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information;

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 208, 209, 235, 238 243 and/or 244 and the particulars thereto.

282. Each of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information;

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

283. Each of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information;

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

284. James Hardie was negligent with respect to whether:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section H above, including the May Reaffirmed FY23 Guidance and May Reaffirmed FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by May Counterfactual NA Sales Growth Guidance Information

and/or the May Counterfactual NA EBIT Margin Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vii) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

285. By reason of the matters pleaded in paragraphs 281 to 284, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

on and from the date that James Hardie had, or ought to have obtained that information.

286. James Hardie did not communicate any of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

to the ASX before 8 November 2022.

K.1.1.2. Periodic disclosure

287. Further, or alternatively:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

comprised significant information needed by investors to make an informed assessment of James Hardie's activities and results, being factors which were likely to affect results in the future.

288. By reason of the matters pleaded in paragraph 287, pursuant to ASX Listing Rule 4.3A, James Hardie became obliged to give the ASX

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information,

in its Appendix 4E (preliminary final report) for FY22 that it published with the 17 May Announcement (as pleaded in paragraph 186), on and from 17 May 2022.

289. James Hardie did not communicate any of:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

to the ASX in its Appendix 4E (preliminary final report).

290. Further or alternatively:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

comprised circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) for FY22 given to ASX by James Hardie, namely the May Reaffirmed FY23 Guidance and/or the May Reaffirmed FY23 Guidance Representations.

291. By reason of the matters pleaded in paragraph 290, pursuant to ASX Listing Rule 4.3D James Hardie became obliged to give the ASX:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information, on and from the date that James Hardie had, or ought to have obtained that information, by way of explanation of circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) given to ASX by James Hardie.

292. James Hardie did not tell the ASX:

(a) the May Counterfactual NA Sales Growth Guidance Information; and/or

(b) the May Counterfactual NA EBIT Margin Guidance Information

on and from the date that James Hardie had, or ought to have obtained that information.

K.1.2 May Unlikely NA Guidance Information

K.1.2.1. Continuous disclosure

293. The May Unlikely NA Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraphs 208, 209, 235, 238 and 243 and the particulars thereto.*

294. The May Unlikely NA Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

295. The May Unlikely NA Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

296. James Hardie was negligent with respect to whether the May Unlikely NA Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section H above, including the May Reaffirmed FY23 Guidance and May Reaffirmed FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the May Unlikely NA Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the May Unlikely NA Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

297. By reason of the matters pleaded in paragraphs 293 to 296 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the May Unlikely NA Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

298. James Hardie did not communicate any of the May Unlikely NA Guidance Information to the ASX before 8 November 2022.

K.1.2.2. Periodic disclosure

299. Further, or alternatively, the May Unlikely NA Guidance Information comprised significant information needed by investors to make an informed assessment of James Hardie's activities and results, being factors which were likely to affect results in the future.

300. By reason of the matters pleaded in paragraph 299, pursuant to ASX Listing Rule 4.3A, James Hardie became obliged to give the ASX, the May Unlikely NA Guidance Information in its Appendix 4E (preliminary final report) for FY22 that it published with the 17 May Announcement (as pleaded in paragraph 186), on and from 17 May 2022.

301. James Hardie did not communicate the May Unlikely NA Guidance Information to the ASX in its Appendix 4E (preliminary final report).

302. Further or alternatively, the May Unlikely NA Guidance Information comprised circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) for FY22 given to ASX by James Hardie, namely the May Reaffirmed FY23 Guidance and/or the May Reaffirmed FY23 Guidance Representations.

303. By reason of the matters pleaded in paragraph 302, pursuant to ASX Listing Rule 4.3D James Hardie became obliged to give the ASX the May Unlikely NA Guidance Information on and from the date that James Hardie had, or ought to have obtained that information, by way of explanation of circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) given to ASX by James Hardie.

304. James Hardie did not tell the ASX the May Unlikely NA Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

K.1.3 May Counterfactual Group Guidance

K.1.3.1. Continuous disclosure

305. Each of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 208, 209, 235, 238, 243 248, and/or 249 and the particulars thereto.

306. Each of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

307. Each of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

308. James Hardie was negligent with respect to whether:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section H above, including the May Reaffirmed FY23 Guidance and May Reaffirmed FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the May A Counterfactual ANI Guidance

Information, or alternatively the May B Counterfactual ANI Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vii) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

309. By reason of the matters pleaded in paragraphs 305 to 308, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

on and from the date that James Hardie had, or ought to have obtained that information.

310. James Hardie did not communicate any of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

to the ASX before 8 November 2022.

K.1.3.2. Periodic disclosure

311. Further, or alternatively:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

comprised significant information needed by investors to make an informed assessment of James Hardie's activities and results, being factors which were likely to affect results in the future.

312. By reason of the matters pleaded in paragraph 311, pursuant to ASX Listing Rule 4.3A, James Hardie became obliged to give the ASX

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

in its Appendix 4E (preliminary final report) for FY22 that it published with the 17 May Announcement (as pleaded in paragraph 186), on and from 17 May 2022.

313. James Hardie did not communicate any of:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

to the ASX in its Appendix 4E (preliminary final report).

314. Further or alternatively:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

comprised circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) for FY22 given to ASX by James Hardie, namely the May Reaffirmed FY23 Guidance and/or the May Reaffirmed FY23 Guidance Representations.

315. By reason of the matters pleaded in paragraph 314, pursuant to ASX Listing Rule 4.3D James Hardie became obliged to give the ASX

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

on and from the date that James Hardie had, or ought to have obtained that information, by way of explanation of circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) given to ASX by James Hardie.

316. James Hardie did not tell the ASX:

(a) the May A Counterfactual ANI Guidance Information, or

(b) alternatively the May B Counterfactual ANI Guidance Information,

on and from the date that James Hardie had, or ought to have obtained that information.

K.1.4 May Unlikely ANI Guidance Information

K.1.4.1. Continuous disclosure

317. The May Unlikely ANI Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 208, 209, 235, 238, 243 and 248 and the particulars thereto.

318. The May Unlikely ANI Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

319. The May Unlikely ANI Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

320. James Hardie was negligent with respect to whether the May Unlikely ANI Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section H above, including the May Reaffirmed FY23 Guidance and May Reaffirmed FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the May Unlikely ANI Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the May Unlikely ANI Guidance

Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) *Alternatively, having regard to (vii) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*

321. By reason of the matters pleaded in paragraphs 317 to 320 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the May Unlikely ANI Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

322. James Hardie did not communicate any of the May Unlikely ANI Guidance Information to the ASX before 8 November 2022.

K.1.4.2. Periodic disclosure

323. Further, or alternatively, the May Unlikely ANI Guidance Information comprised significant information needed by investors to make an informed assessment of James Hardie's activities and results, being factors which were likely to affect results in the future.

324. By reason of the matters pleaded in paragraph 323, pursuant to ASX Listing Rule 4.3A, James Hardie became obliged to give the ASX, the May Unlikely ANI Guidance Information in its Appendix 4E (preliminary final report) for FY22 that it published with the 17 May Announcement, on and from 17 May 2022.

325. James Hardie did not communicate the May Unlikely ANI Guidance Information to the ASX in its Appendix 4E (preliminary final report).

326. Further or alternatively, the May Unlikely ANI Guidance Information comprised circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) for FY22 given to ASX by James Hardie, namely the May Reaffirmed FY23 Guidance and/or the May Reaffirmed FY23 Guidance Representations.

327. By reason of the matters pleaded in paragraph323 to 327, pursuant to ASX Listing Rule 4.3D James Hardie became obliged to give the ASX the May Unlikely ANI Guidance Information on and from the date that James Hardie had, or ought to have obtained that information, by way of explanation of circumstances which were likely to materially affect information contained in the Appendix 4E (preliminary final report) given to ASX by James Hardie.

328. James Hardie did not tell the ASX the May Unlikely ANI Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

K.1.5 Contravening conduct

329. By reason of the matters pleaded in:

   (a) paragraphs 281 to 286 in relation to the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information;

   (b) paragraphs 287 to 298 in relation to the May Unlikely NA Guidance Information;

   (c) paragraphs 299 to 310 to in relation to the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information;

   (d) paragraphs 311 to 322 in relation to the May Unlikely ANI Guidance Information;

   James Hardie contravened subsections 674(2) and 674A(2) of the Corporations Act (**May Continuous Disclosure Contraventions**).

330. By reason of the matters pleaded in:

   (a) paragraphs 287 to 289 and/or 290 to 292 in relation to the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information;

   (b) paragraphs 299 to 301 and/or 302 to 304 in relation to the May Unlikely NA Guidance Information;

   (c) paragraphs 311 to 313 and/or 314 to 316 to in relation to the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information;

   (d) paragraphs 323 to 325 and/or 326 to 328 in relation to the May Unlikely ANI Guidance Information;

   James Hardie contravened subsections 674(2) and 674A(2) of the Corporations Act (**May Periodic Disclosure Contraventions**).

K.2 Continuing conduct

331. Between 17 May 2022 and 16 August 2022, James Hardie did not disclose to the Affected Market:

   (a) the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information;

   (b) the May Unlikely NA Guidance Information;

(c) the May A Counterfactual ANI Guidance Information, or alternatively the May B Counterfactual ANI Guidance Information

(d) the May Unlikely ANI Guidance Information;

332. By reason of the matters pleaded in paragraph 331 from 17 May 2022 to 16 August 2022 inclusive, James Hardie continued to engage in each of the May Continuous Disclosure Contraventions and May Periodic Disclosure Contraventions.

K.3 Causation, loss and damage

K.3.1 The market for JHX Shares

333. The Plaintiff and the Group Members acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps in a market of investors or potential investors in JHX Shares with the features pleaded in paragraph 104.

K.3.2 Corrective disclosure and price declines

334. On 8 November 2022, James Hardie published the November Announcements, as pleaded in paragraphs 107 and 108.

335. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially, as pleaded in paragraph 109.

K.3.3 May Counterfactual NA Guidance

Market Based Inflation

336. During the Relevant Period, the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose to the market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

337. Further to paragraph 336 if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

then James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$620 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 337.

(ii) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022, the magnitude of the decline would have been approximately 22.8%.

(iii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 22.5%.

(iv) US$620 million is the midpoint of the May A Counterfactual ANI Guidance Information and the May B Counterfactual ANI Guidance Information. If the Affected Market became aware that a reasonable estimate was that midpoint, the magnitude of the decline would have been approximately 22.9%.

(v) If not disclosed by James Hardie, these ranges or estimates could have been otherwise inferred because:

(A) based upon actual FY22 net sales in James Hardie's NA Business of US$2,551 million, 6% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,704 million;

(B) an EBIT Margin in North America of 27% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of US$730 million (being 27% of $2,704 million);

(C) *as 13 May 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$953 million (see [JHX.0005.0007.5006] at 5017), the May Counterfactual NA Sales Growth Guidance Information and the May Counterfactual NA EBIT Margin Guidance Information, taken together, would result in a US$223 million reduction in forecast EBIT (US$730 million less US$953 million);*

(D) *a reduction in forecast EBIT of approximately US$223 million would have an impact of approximately US$172 million on James Hardie's ANI (US$223 million less 23% average effective tax rate);*

(E) *as a consequence, FY23 ANI consensus expectations of US$779 million (see [JHX.0005.0007.5006] at 5017) would have reduced to approximately US$610 million, and almost certainly no greater than $620 million;*

(F) *the ranges comprising the May A Counterfactual ANI Guidance Information and the May B Counterfactual ANI Guidance Information represent margins around a midpoint that would have been adopted by the market, noting that the range given by James Hardie around the midpoint of the FY23 Guidance was approximately +/-5%, and the market would have selected that or a higher range of +/-8% to account for the uncertainty in business conditions.*

338. If the price of JHX Shares declined between 17 May 2022 and 16 August 2022 as pleaded in paragraph 337, then:

(a) the Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022 (337(i)), the magnitude of the decline would have been approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *If the Affected Market became aware of the May B Counterfactual ANI Guidance Information (337(ii)), the magnitude of the decline would have been approximately 22.5%. Accordingly, if disclosed prior to* *the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above.*

(iii) If the Affected Market became aware of an FY23 ANI estimate of US$620 million (337(iii)), the magnitude of the decline would have been approximately 22.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.9% lower than it in fact paid, as pleaded in paragraph 2 above.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

339. By reason of the matters pleaded in paragraphs 336 to 338, the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $7,983.61 (the price declines referred to in paragraph 337 (particular (ii)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,878.56 (the price declines referred to in paragraph 337 (particular (iii)).

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair Market and Specific Reliance

340. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs or JHX Equity Swaps they acquired represented the market price in a market in which the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose:

(a) the May Counterfactual NA Sales Growth Guidance Information;

(b) the May Counterfactual NA EBIT Margin Guidance Information,

had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

341. In the alternative, if James Hardie had not engaged in the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose:

(a) the May Counterfactual NA Sales Growth Guidance Information;

(b) the May Counterfactual NA EBIT Margin Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

342. By reason of the matters pleaded at paragraphs 340 and/or 341, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to 339 are repeated.

K.3.4 May Unlikely NA Guidance Information

Market Based Inflation

343. During the Relevant Period, the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely NA Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

344. Further, or alternatively to paragraph 343:

(a) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$620 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%.

(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%.
(C) if the ANI Guidance of US$620 million were disclosed alone, this would have been approximately 21.9%.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

345. If the price of JHX Shares declined between 17 May 2022 and 16 August 2022 as pleaded in paragraph 344, then:

(a) the Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and 16 August 20222022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) The magnitude of the decline from disclosure of the May Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (*344*(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) The magnitude of the decline from disclosure of the May Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance (*344*(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:*
(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, this would have been approximately 22.8%.
(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 22.5%.
(C) if the ANI Guidance of US$620 million were disclosed alone this would have been approximately 21.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX

Shares at a price approximately 21.9% lower than it in fact paid, as pleaded in paragraph 2 above

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.

346. By reason of the matters pleaded at paragraphs 343, 344 and 345, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 345 (particular (ii)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,983.61 or $7,878.56 (the price declines referred to in paragraph 345 (particular (iii)).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,738.50 (the price declines referred to in paragraph 345 (particular (iii)(C)).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair market and specific reliance

347. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose the May Unlikely NA Guidance Information had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

348. In the alternative, if James Hardie had not engaged in the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose the May Unlikely NA Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period.

349. By reason of the matters pleaded at paragraphs 347 and 348, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 346 are repeated.

K.3.5 May Counterfactual Group Guidance

Market Based Inflation

350. During the Relevant Period, the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose to the market that:

   (a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

   (b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information),

   caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

351. Further to paragraph 350:

   (a) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022 stated to the Affected Market that:

      (i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

      (ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information), or

   (b) if James Hardie had on or any time after 17 May 2022 and prior to 16 August 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph 351.

(ii) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022, the magnitude of the decline would have been approximately 22.8%.

(iii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 22.5%.

352. If the price of JHX Shares declined between 17 May 2022 and 15 August 2022 as pleaded in paragraph 351, then:

(a) the Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and prior to 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) If the Affected Market became aware of the May A Counterfactual ANI Guidance Information on or after 17 May 2022 352(a)(i)), the

magnitude of the decline would have been approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) If the Affected Market became aware of the May B Counterfactual ANI Guidance Information (352(a)(ii)), the magnitude of the decline would have been approximately 22.5%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares on the days they in fact acquired JHX Shares will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

353. By reason of the matters pleaded at paragraphs 350, 351 and 352, the Plaintiff and Group Members suffered loss and/or damage.

(i) The loss and/or damage suffered by the Plaintiff was approximately $7,983.61 (the price declines referred to in paragraph 351 *(particular (ii)).*

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,878.56 (the price declines referred to in paragraph 351 *(particular (iii)).*

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair market and specific reliance

354. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares they acquired represented the market price in a market in which the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose:

(a) the May A Counterfactual ANI Guidance Information; or

(b) the May B Counterfactual ANI Guidance Information, had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

355. In the alternative, if James Hardie had not engaged in the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose:

(a) the May A Counterfactual ANI Guidance Information; or

(b) the May B Counterfactual ANI Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares during the Relevant Period.

356. By reason of the matters pleaded at paragraphs 354 and 355, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 353 are repeated.

K.3.6 May Unlikely ANI Guidance Information

Market Based Inflation

357. During the Relevant Period, the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely ANI Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

358. Further, or alternatively to paragraph 357:

(a) if James Hardie had on or any time after 17 May 2022 stated to the Affected Market that it was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the May Reaffirmed FY23 Guidance (that is, the May Unlikely ANI Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$570 million to US$670 million (that is, the May A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$590 million to US$650 million (that is, the May B Counterfactual ANI Guidance Information),

and concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 6% (that is, the May Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 27% (that is, the May Counterfactual NA EBIT Margin Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the May Unlikely NA Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%.

(B) if the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

359. If the price of JHX Shares declined between 17 May 2022 and 15 August 2022 as pleaded in paragraph 358, then:

(a) Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 17 May 2022 and prior to 16 August 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

(b) James Hardie would not have given the May Reaffirmed FY23 Guidance on 17 May 2022 or the August Revised FY23 Guidance on 16 August 2022, and the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period from and after 16 August 2022 would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) The magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (*358*(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 6 April 2022 and 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) The magnitude of the decline from disclosure of the May Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (*358*(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance.*

(A) the May A Counterfactual ANI Guidance Information were disclosed on or after 17 May 2022 alone, namely approximately 22.8%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.8% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

(B) the May B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 22.5%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 22.5% lower than it in fact

paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Share, JHX ADRs and JHX Equity Swaps s will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.*

360. By reason of the matters pleaded at paragraphs 357, 358 and 359, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the abnormal price declines referred to in paragraph* 359 *(particular (i)).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,983.61 or $7,878.56 (the price declines referred to in paragraph* 359 *(particular (ii)).*

(iii) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Fair market and specific reliance

361. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs, or JHX Equity Swaps they acquired represented the market price in a market in which the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose the May Unlikely ANI Guidance Information had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

362. In the alternative, if James Hardie had not engaged in the May Continuous Disclosure Contraventions and/or May Periodic Disclosure Contraventions arising from the failure to disclose the May Unlikely ANI Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an

interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs, or JHX Equity Swaps during the Relevant Period.

363. By reason of the matters pleaded at paragraphs 361 and 362, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 360 are repeated.

CHAPTER IV – AUGUST CLAIMS (AUGUST REVISED FY23 GUIDANCE)

L JAMES HARDIE'S AUGUST REVISED FY23 GUIDANCE

L.1 16 August 2022 Announcement

364. On 16 August 2022, James Hardie:

(a) published and released to the ASX the 1Q23 Results Pack (the **16 August Publication**); and

(b) convened an earnings call (**August Earnings Call**), in a manner likely to bring things said during it to the attention of the market of investors and potential investors in JHX Shares,

(together, the **August Announcements**).

PARTICULARS

(i) *The August Earnings Call was convened at 8:30am Australian Eastern Standard Time.*

(ii) *The participants on the August Earnings Call included Wiens, Miele and Gadd.*

L.2 August Revised FY23 Guidance

365. On 16 August 2022, by the August Announcements, James Hardie stated that:

(a) management adjusts the full year FY23 ANI guidance to a range of US$730 million to US$780 million;

(b) the adjusted full year FY23 ANI guidance represents a 22% increase at the midpoint relative to FY22;

(c) for the North America division:

(i) Net Sales Growth of 18%+ growth versus FY22; and

(ii) an EBIT Margin of 28% to 32%;

(d) the business saw scenarios where Net Sales Growth for the North America Division would exceed 22%, so they no longer believed that the top-end cap was relevant,

(together the **August Revised FY23 Guidance**).

PARTICULARS

(i) *Statements (a) to (c) were expressly made in the 1Q23 Results Pack, p 45;*

(ii) *Statement (d) was expressly made by Miele in the August Earnings Call.*

366. By the August Announcements, James Hardie also stated:

(a) as to reasons for James Hardie's revised guidance, the:

(i) unprecedented levels of inflation;

(ii) global supply chain disruptions; and

(iii) war in Europe,

saw the macroeconomic environment change around James Hardie significantly, creating uncertainty for the housing markets in all three regions that the company does business in and was putting pressure on the FY23 financial results due to increased input and freight costs;

(b) the primary reasons for adjusting guidance downward were said to be: "*continued inflationary pressures globally, lowered expectations regarding Europe segment EBIT, the impact of a strengthening US dollar on the translation of our APAC and Europe earnings and housing market uncertainty*";

(c) in 1Q23, the North American team delivered outstanding net sales growth of 28% to US$740.1 million and strong volume growth of 11%. They also delivered a robust bottom line outcome with EBIT increasing 13% to US$191.8 million at a margin of 25.9%;

(d) the margin delivered by the North American business in 1Q23 was below the previously communicated expected range for the full year, driven by significant and accelerating cost inflation across raw material inputs and freight. Margins would sequentially improved throughout FY23 as James Hardie had successfully executed a second price increase effective on 20 June 2022;

(e) the adjustments made by James Hardie in 1Q22 to adapt to changing market conditions (including the second price increase effective 20 June 2022) had had no impact on 1Q23 in terms of EBIT margin, but James Hardie was very pleased with its financial results and where it was positioned, including delivery of the 25.9% EBIT margin while experiencing unprecedented inflationary pressures and continuing to increase investment in growth;

(f) James Hardie expected North American EBIT margin to improve sequentially throughout FY23, even if there was no improvement in input costs, but James Hardie was starting to see some improvements in freight (in July 2022). James Hardie had lowered its full year FY23 range from 30% to 33% to a range of 28% to 32%. The continued inflationary pressures created an environment where James Hardie did not see a path to 33% for the full year, and the midpoint of 30% is more reflective of a most likely scenario than the prior midpoint of 31.5%;

(g) the North American team was prepared to thrive in any housing market and James Hardie had positioned itself to be nimble to adapt to changing markets and to continue to deliver growth above the market and strong returns.

(h) James Hardie was prepared for a variety of US housing markets and was positioned to continue to deliver growth above market and strong returns; ~~and~~

(i) James Hardie had a significant backlog of work in the US housing construction market and Management were reasonably confident that the strong backlogs would carry through to January 2023;

PARTICULARS

(i) *Statements (a) and (b) above were expressly made in the 1Q23 Results Pack, pp 2 to 4, and in the August Earnings Call.*

(ii) *Statements (c), (d) and (e) were expressly made by Miele in the August Earnings Call (p.4)*

(iii) *Statements (f), (g) and (i) were expressly made by Gadd in the August Earnings Call~~.~~*

367. By the August Revised FY23 Guidance and the matters pleaded in paragraph 366, James Hardie:

(a) reduced its guidance range for James Hardie's group ANI; but

(b) increased its guidance range for net sales growth in James Hardie's NA business while slightly reducing its guidance range for EBIT margin growth in that business

PARTICULARS

	February FY23 Guidance	**May Reaffirmed FY23 Guidance**	**August Revised FY23 Guidance**
Group ANI	US$740 to $820 million	US$740 to $820 million	US$730 to $780 million
Net Sales Growth (v FY22)	16% to 20%	18% to 22%	18%+ (no top end cap; scenarios exceeding 22%)
EBIT Margin	30% to 33%	30% to 33%	28% to 32%

			(mid-point of 30% is a "most likely" scenario)

368. On 16 August 2022, by reason of the matters pleaded in paragraphs 365 to 366A, James Hardie represented to the market of investors and potential investors in JHX Shares that:

(a) notwithstanding that James Hardie would not achieve the May Reaffirmed FY23 Guidance:

(i) the full year FY23 ANI guidance had decreased to US$730 million to US$780 million (previously US$740 million to US$820 million) (**August Revised FY23 Group Guidance Representation**);

(ii) the North America division would achieve in FY23:

(A) Net Sales Growth of 18%+, and there were scenarios where Net Sales Growth would exceed 22% so that this top end cap was not relevant; and

(B) an EBIT Margin of 28% to 32%, with the midpoint of 30% being most likely,

(**August Revised FY23 NA Guidance Representations**);

(together the **August Revised FY23 Guidance Representations**).

PARTICULARS

(i) *The August Revised FY23 Group Guidance Representation was made expressly by James Hardie in the 1Q23 Results Pack, pp 2, 4 and 45.*

(ii) *The August Revised FY23 NA Guidance Representations were made expressly by James Hardie in the 1Q23 Results Pack, p 45.*

369. Further, on 16 August 2022, by reason of the matters pleaded in paragraphs 365 to 368, James Hardie represented to the market of investors and potential investors in JHX Shares that James Hardie had reasonable grounds for making each of the August Revised FY23 Guidance Representations (**August FY23 Implied Representation).**

PARTICULARS

(i) *The August FY23 Implied Representation is to be implied from the making by James Hardie of the express August Revised FY23 Guidance Representations.*

M AUGUST 2022 FACTS AND KNOWLEDGE

M.1 Summary

370. As at 16 August 2022, when James Hardie gave the August Revised FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known) that:

(a) James Hardie's NA Business:

(i) had experienced, and was likely to continue to experience, decreased demand for FC Products in FY23 from that experienced in FY22;

(ii) had been adversely impacted by sustained high inflation and increasing interest rates in the US throughout FY23 to-date, and was likely to continue to be adversely impacted by sustained high inflation and increasing interest rates in the US through FY23;

(b) James Hardie's May 2022 and July 2022 financial results were materially below forecast, and the June 2022 financial results were achieved by one-off initiatives to pull-forward volume;

(c) James Hardie's NA Business continued to utilise a Revised Demand Forecasting Method which adopted unreasonable assumptions, namely using FY22 volume as a base and utilising 10-month growth rates (without adequately adjusting for the likely market conditions in (a)) and other unreasonable assumptions pleaded in Section M.5 below;

(d) James Hardie's NA Business was depleting its customer backlog.

PARTICULARS

(i) *As to sub-paragraph 370(a)(i) – see Section M.2 below, which is repeated.*

(ii) *As to sub-paragraph 370(a)(ii) – see Section M.3 below, which is repeated.*

(iii) *As to sub-paragraph 370(b) – see Section M.4 below, which is repeated.*

(iv) *As to sub-paragraph 370(c) - see Section M.5 below, which is repeated.*

(v) *As to sub-paragraph 370(d) – see Section M.6 below, which is repeated.*

371. As at 16 August 2022 when James Hardie gave the August Revised FY23 Guidance, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) it was unlikely that James Hardie's NA Business would achieve FY23 net sales growth of 18%+ from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 30% (being the most likely midpoint in the range of 28 to 32%);

(b) it was unlikely that James Hardie would achieve FY23 ANI of US$730 million to US$780 million (being 18 to 26% growth from the FY22 result of US$620.7M).

PARTICULARS

See Sections M.7 and M.8 below, which are repeated.

372. As at 16 August 2022, it was the fact (and/or James Hardie knew or ought to have known then or on each subsequent day) that:

(a) a reasonable estimate was that James Hardie's NA Business would achieve FY23 net sales growth of approximately 8%, and an EBIT Margin of 25%;

(b) a reasonable estimate was that James Hardie would achieve FY23 ANI of US$580 million to $660 million, or US$600 million to US$640 million.

PARTICULARS

See Section Sections M.7 and M.8 below, which are repeated.

M.2 Demand impacts as at August 2022

M.2.1 Decreased demand

373. As at 16 August 2022:

(a) there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these had not been repeated in FY23 to date and were not likely to be repeated over the balance of FY23;

(b) demand for FC Products sold by James Hardie's NA Business had decreased, and was likely to continue to decrease, from that experienced in FY22,

(the **August Demand Impacts**).

PARTICULARS

The conditions which led to the demand decreasing from that experienced in FY22, are all or any combination of the matters pleaded in Sections M.2.2 and M.2.3 (paragraphs 374 to 383) below.

M.2.2 Conditions as at February 2022 when the February FY23 Guidance was given

374. Between early 2021 and early 2022, the suppliers of Competing Products to FC Products, namely vinyl, engineered and natural wood, were exposed to short-term supply chain issues, including:

(a) significant material shortages;

(b) significant labour shortages;

(c) global supply chain constraints, in respect of products that were manufactured outside of the US; and

(d) wait time on manufacturing capacity expansion projects.

PARTICULARS

(i) *Cornerstone Building Brands, Inc. Q3 2021 Earnings Call, 10 November 2021, p 6 which reported that Cornerstone and "many others in our industry" had been "impacted by constraints in raw materials and labor, slowing the pace of recovery" [RAE.0001.0001.3322].*

(ii) *The global supply chain constraints referred to in (c) conferred a structural advantage on James Hardie, which manufactured fibre cement in the US, as compared to competitors who were reliant on imports of fibre cement or PV resin manufactured outside of the US.*

(iii) *The supply-chain issues were short-term because:*

(A) *Allura's supply constraints in late 2021 in respect of vinyl were not likely to continue throughout FY23;*

(B) *LP's supply constraints were expected to resolve by March 2022;*

(C) *Nichiha was expected to increase production capacity by 20% from 2021.*

375. Between early 2021 and early 2022, US lumber prices fluctuated significantly, spiking twice at over 300% of the long-term average of approximately US$400 per 1000 board feet, but this was not likely to continue throughout FY23.

PARTICULARS

(i) *Current and historical lumber commodity prices available online at https://www.macrotrends.net/2637/lumber-prices-historical-chart-data.*

(ii) *That the increase in price was a short-term 'spike' was evident from its severity (which could not be sustained across more than a few months) and well understood within the construction industry, including in a 12 January 2022 Jefferies 'Building Products' report which noted "Framing Lumber Prices Have Spiked Again, Adding to Affordability Concerns with Rising Rates" [JHX.0005.0002.9392] at 9398.*

(iii) *The lumber price peaked at approximately US$1,300 per thousand feet on or around 16 February 2022, before falling to approximately:*

(A) *US$1,000 per thousand feet on 28 March 2022;*

(B) *US$800 per thousand feet on 10 May 2022; and*

(C) *US$600 per thousand feet on 6 June 2022.*

376. By reason of the matters in paragraphs 374 and 375 above, between early 2021 and early 2022, there was a substantial reduction in supply, and/or significant increases in price, for Competing Products in the NA Market (and therefore a decrease in demand for Competing Products to James Hardie's FC Products in the NA Market).

377. In late 2021, there was an increase in volume of new construction in the US residential housing construction market (both in total, and for single unit residential construction), but as at January 2022 and May 2022 this was not continuing.

PARTICULARS

US Census Bureau Monthly New Residential Construction data – New housing starts:

Month	**Total**	**Single Unit**
Jan 2021	1,602	1,117
Feb 2021	1,430	1,053
Mar 2021	1,711	1,243
Apr 2021	1,505	1,061
May 2021	1,605	1,110
Jun 2021	1,664	1,165
Jul 2021	1,573	1,124
Aug 2021	1,576	1,095
Sep 2021	1,559	1,094
Oct 2021	1,563	1,079
Nov 2021	1,706	1,220
Dec 2021	1,768	1,212
Jan 2022	1,666	1,157
Feb 2022	1,777	1,213
Mar 2022	1,716	1,191
Apr 2022	1,805	1,173
May 2022	1,562	1,073

M.2.3 Demand conditions were no better as at 16 August 2022 and were worse for James Hardie than as at 17 May 2022

378. As at 16 August 2022, lumber prices in the NA Market had stabilised.

PARTICULARS

(i) *The position as at 17 May 2022 was that there had been stabilisation of lumber prices, and stabilisation was ongoing. Stabilisation continued between 17 May and 16 August 2022.*

(ii) *Current and historical lumber commodity prices available online at https://www.macrotrends.net/2637/lumber-prices-historical-chart-data.*

(iii) *The lumber price peaked at approximately US$1,300 per thousand feet on or around 16 February 2022, before falling to approximately:*

(a) US$1,000 per thousand feet on 28 March 2022;

(b) US$800 per thousand feet on 10 May 2022;

(c) US$600 per thousand feet on 6 June 2022;

(d) US$500 per thousand feet on 4 August 2022.

379. As at 16 August 2022, the supply of Competing Products made from natural and engineered wood, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (that is, the Competing Product Supply Improvement Conditions continued).

PARTICULARS

The position as at 17 May 2022 was that there had been significant stabilisation of lumber prices and improvement of supply in timber siding, with further improvement likely over FY23:

(i) *The further stabilisation in lumber prices led to a reduced cost of producing the timber-based siding, given the lower cost overall of the inputs required for production of the Competing Products; and*

(ii) *This led to the cost of the Competing Products reducing overall, and becoming more price competitive vis-à-vis James Hardie's FC Products, which would result in an improvement in the supply of Competing Products relative to James Hardie's FC Products.*

(iii) *A Market Pulse summary authored by McDonald and sent by email to Mulhall and Madson, 18 April 2022 in relation to the FY23 1+11 Forecast identified key competitive factors including:*

- *"Vinyl returning to supply health and normal lead times,*
- *Southeast is growing like gangbusters…LP opened up a new plant in Maine,*
- *Horton threatening to move away if we don't give them Cemplank" [JHX.0032.0020.5871].*

This position had continued to improve between 17 May 2022 and 16 August 2022.

380. By 16 August 2022, supply-chain issues that had impacted the supply of Competing Products had progressively improved and had largely resolved, increasing the supply (or lowering the price of Competing Products) in FY23 (that is, the Further Competing Product Supply Improvement Conditions continued).

PARTICULARS

The position as at 17 May 2022 was that there had been improvement (normalization) of supply-chain issues since late 2021:

(i) *Cornerstone Building Brands Q3FY21 Earnings Call, 10 November 2021, p 12 reported that PVC supply (a core material required in the manufacturing of vinyl siding) 'is slowly getting better' [RAE.0001.0001.3322].*

(ii) *Email from ICR to Miele, 31 March 2022, attaching a Barclay's report '[W]e started to see normalization in PVC prices in early 2022': [JHX.0005.0001.4396] and [JHX.0005.0001.44184442].*

(iii) *Word Document authored by McDonald, 'Market Pulse Summary', emailed to Madson and Mulhall stating that 'Vinyl is returning to supply health and normal lead times', 18 April 2022, [JHX.0032.0020.5871].*

As at 16 August 2022, the supply-chain issues had almost completely resolved:

(iv) *Email from Gadd to Madson, 15 June 2022, where Gadd states "we are definitely fighting imports from allure" [JHX.0009.0025.4983].*

(v) *Email from Patrick Rhode (Sales Director, West) to Matt Logan, Sean Patel and Mark Wallace, 1 July 2022, where Rhode identifies loss of market share to LP in the Southwest [JHX.0032.0021.6180].*

(vi) *Email from Ozlem Akcakoca (Senior Director Strategic Analytics) to Madson, 12 July 2022, confirming a meaningful loss of business to LP in Colorado [JHX.0032.0023.9192].*

(vii) *Email from Brennan-Chong to Miele and Roberts 25 July 2022, circulating a graph showing the number of container ships waiting off Los Angeles/Long Beach which indicated that the bulk of improvement in waiting times happened in February 2022 [JHX.0002.0012.3548], to which Miele responded "[s]upply chains normalizing???".*

381. As at 16 August 2022, supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products, or confer a structural advantage on James Hardie when compared to competitors who were reliant on imports of fibre cement or PV resin.

PARTICULARS

Email from Mulhall re Daily Orders to James Hardie's Senior Global and NA staff, including Wiens, Miele and Gadd, 9 August 2022, stating that "[a] recent article from John Burns highlights supply chain constraints are easing so our competition are getting back in the game." [JHX.0005.0038.2154].

382. As at 16 August 2022, customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (that is, the Competing Product Demand Conditions continued).

PARTICULARS

(i) *The position as at 17 May 2022 was that substitution was less likely than it had been in FY22.*

(ii) *The increased supply of Competing Products made it unnecessary for customers to substitute towards James Hardie FC Products given the price competitiveness of Competing Products increasing the demand of those products vis-à-vis James Hardie's FC Products; and*

(iii) *This was likely to lead, and led, to reduced demand for James Hardie's FC Products.*

(iv) *The position as at 16 August 2022 was that substitution was even less likely, because the conditions were further improved.*

383. Between 17 May and 16 August 2022 there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, including single unit construction (that is, a continuation of the US Construction Market Softening), which would result in a decrease in demand for James Hardie's FC Products.

PARTICULARS

(i) *US Census Bureau Monthly New Residential Construction data – New Starts:*

Month	**Total**	**Single Unit**
May 2022	1,562	1,073
June 2022	1,575	1,013
July 2022	1,377	900

(ii) *Email from Brennan-Chong to Gadd and Miele, 7 July 2022, extracting major findings from a John Burns Builder Survey including "Only 5% of builders report High traffic this June, down from 36% one year ago and 46% report Low traffic" [JHX.0013.0027.5939].*

(iii) *Increasing mortgage interest rates were driving weakening consumer sentiment adding to a steep decline in builder activity as well as increasing order cancellations.*

M.2.4 Knowledge of reduced demand for FC Products

384. As at 16 August 2022 and at the time of giving the August Revised FY23 Guidance (or alternatively, on each day after 16 August 2022), James Hardie knew or ought to have known the August Demand Impacts, namely that:

(a) there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these were not likely to be repeated in FY23; and

(b) demand for FC Products sold by James Hardie's NA Business in FY23 was likely to either decrease, or increase at a reduced rate from that experienced in FY22.

PARTICULARS

As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known, that there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these had not been repeated in FY23 to date and were not likely to be repeated over the balance of FY23 by reason of the following matters:

(i) ***between early 2021 and early 2022, the suppliers of Competing Products were exposed to short-term supply chain issues (paragraph 374 above);***

(A) ***Gadd*** *knew that a key competitor of James Hardie and vinyl product producers were experiencing significant supply constraints in 2021, as evidenced by his receipt of a presentation entitled 'NA Price Increase Recommendation', dated 10 October 2021, which reported that "Allura [a fibre cement manufacturer] continues to experience significant supply constraints" and Vinyl producers were experiencing "[d]elays in shipments and service out 6 weeks": [JHX.0009.0042.7446 at .7448].*

(B) *It is to be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that a key competitor was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor was expected to increase its production capacity by 20%, as evidenced by the fact that:*

1. Brennan-Chong and Castillo knew that a key competitor of James Hardie, Louisiana Pacific, was experiencing short-term supply chain issues in late 2021 which were expected to resolve in March 2022, and that another key competitor, Nichiha, was expected to increase its production capacity *by 20% by reason of their authorship and receipt of emails regarding these matters dated 12 October 2021 [JHX.0013.0019.6946] and 10 December 2021 [JHX.0013.0017.3716]; and,*

2. *Brennan-Chong and Castillo ought reasonably to have informed Miele of the information in particular (B) immediately above by reason of:*

   i. *their roles, responsibilities and reporting lines; and*

   ii. *the nature and significance of the information in particular (B) immediately above including the likely impact on the competitive position of James Hardie and demand for James Hardie's FC Products in FY23.*

(ii) ***the spiking in US lumber prices (paragraph 375 above);***

(A) ***Gadd*** *knew of the spiking in US lumber prices by reason of receiving emails with industry news as evidenced by an email from 'Door and Window Business' dated 5 January 2022 that noted "Following a few months of moderating prices last spring and summer, U.S. lumber prices are soaring once again, disrupting the housing market and harming housing affordability" [JHX.0009.0023.7599]. The plaintiff infers that Gadd, as the President of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the President of a North American building materials company ought to have known, with there being no structural reason for it to remain elevated.*

(B) ***Miele*** *knew that US lumber prices had spiked at over 300% of the long-term average between early 2021 and early 2022, as evidenced by his receipt of an email from Brennan-Chong dated 11 January 2022 containing a graph tracking the price of US lumber between January 2018 to January 2022, and in which Brennan-Chong stated "US lumber prices have collapsed" [JHX.0013.0015.6924]. The plaintiff infers that Miele, as the CFO of a North American building materials company, ought to have known that spiking would not continue because it was counter to long-term trends of lumber prices in the North American building materials industry that the CFO of a North American building materials company ought to have known, with there being no structural reason for it to remain elevated.*

(iii) ***as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (paragraph 376 above);***

(A) ***Gadd*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market as evidenced by reason of Gadd's email to Castillo dated 1 February 2022 noting "I have seen these" [JHX.0005.0003.0737] which was in response to an email from Castillo dated 31 January 2022 attaching competitor decks [JHX.0005.0004.0499] including:*

1. *Fiber Cement Competition Update FY2022 which showed Allura was "Increasing price for the year by about 20% to offset inflation and labor costs" [JHX.0005.0004.0529].*

2. *LPX Q3 2021 Earnings Call Transcript which noted that LP had experienced "ongoing inflation and supply chain challenges" and EBITDA had "been affected by "lower production capacity" [JHX.0005.0004.0512].*

(B) ***Miele*** *knew that there was a substantial reduction in the supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market as evidenced by his receipt of the same email from Castillo dated 31 January 2022 as Gadd referred to at (A) immediately above.*

(iv) ***in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (paragraph 377 above);***

(A) ***Gadd*** *knew that:*

1. *housing starts in new residential construction increased +12% to 1.679m units in November 2021, which was the highest level since March 2021, as evidenced by his receipt of an email from Roberts dated 16 December 2021, attaching the US Census Bureau November 2021 Report on New Residential Construction [JHX.0013.0021.1689];*

2. *housing starts in new residential construction increased +2% YoY to 1.7m units in December 2021, as evidenced by his receipt of an email from Castillo dated 19 January 2022,*

attaching the US Census Bureau December 2021 Report on New Residential Construction [JHX.0005.0011.4734];

3. *housing starts in new residential construction decreased -4.1% in January 2021 compared to December 2021, as evidenced by his receipt of an email from Roberts dated 17 February 2022, attaching the US Census Bureau January 2022 Report on New Residential Construction [JHX.0013.0001.7541].*

(B) ***Miele** knew the information in (A) immediately above, as evidenced by his receipt of the same emails and US Census Bureau reports as Gadd referred to at (A) immediately above.*

*As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known that **demand for FC Products sold by James Hardie's NA Business had decreased, and was likely to continue to decrease, from that experienced in FY22**, by reason of the following matters:*

(v) ***lumber prices in the NA Market had stabilised (paragraph 378 above);***

(A) ***Gadd** knew that lumber prices in the NA Market had stabilised as evidenced by his receipt of an email from Castillo on 3 June 2022 which noted "Lumber has fallen back to $623/1000ft and is down -53% YoY" [JHX.0005.0004.2205], and a 28 June 2022 bulletin entitled 'Building Materials Prices on the Decline' which noted "If the fall in lumber prices is any indication, building materials are expected to drop in price in the foreseeable future" [JHX.009.0029.0675].*

(B) ***Miele** knew that lumber prices in the NA Market had stabilised as evidenced by his receipt of an email from Castillo on 3 June 2022 which noted "Lumber has fallen back to $623/1000ft and is down -53% YoY" [JHX.0005.0004.2205].*

(vi) ***supply-chain issues that had impacted the supply of Competing Products had progressively improved and largely resolved (paragraph 380 above), and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (paragraph 379 above);***

(A) ***Gadd** knew that supply chain constraints were easing, as evidenced by his receipt of an email from Mulhall dated 9 August 2022 which stated that "[a] recent article from John Burns highlights supply chain constraints are easing so our competition are getting back in the game" [JHX.0005.0038.2154].*

(B) ***Miele*** *knew that supply chain constraints were easing, as evidenced by his receipt of the same email from Mulhall as Gadd [JHX.0005.0038.2154] and his response to an email from Brennan-Chong dated 25 July 2022 circulating a graph showing a decline in wait times for container ships from February 2022, "supply chains normalizing??" [JHX.0002.0012.3548].*

(C) ***Wiens*** *knew that supply chain constraints were easing, as evidenced by his receipt of the same email from Mulhall as Gadd [JHX.0005.0038.2154].*

(vii) ***supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products (paragraph 381 above);***

(A) *It can be inferred that* ***Gadd*** *knew, or alternatively Gadd ought to have known that supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products, as evidenced by the fact that:*

1. Patrick Rhode, Matt Logan, Sean Patel, Mark Wallace, Ozlem Akcakoca and Madson knew that James Hardie had lost market share to LP as evidenced by their authorship and receipt of emails confirming these matters dated 1 July 2022 [JHX.0032.0021.6180] and 12 July 2022 [JHX.0032.0023.9192];

2. Patrick Rhode, Matt Logan, Sean Patel, Mark Wallace, Ozlem Akcakoca and Madson ought reasonably to have informed Gadd of the information in particular (A) immediately above by reason of:

i. *their roles, responsibilities and reporting lines; and*

ii. *the nature and significance of the information in particular (A) immediately above including the impact on the competitive position of James Hardie and demand for James Hardie's FC Products in FY23.*

(B) *It can be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products because of the reasons set out with respect to Gadd at (A) immediately above (including that Patrick Rhode, Matt Logan, Sean Patel, Mark*

Wallace, Ozlem Akcakoca and Madson ought reasonably to have informed Miele of the information at (A.1) and (A.2) immediately above).

(viii) ***customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (paragraph 382 above);***

(A) *Gadd knew that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products as evidenced by his email to Madson, Fredericksen and others dated 15 June 2022 which noted that James Hardie was under pressure from competitor Allura in the Texas and Pacific North West regions, [JHX.0009.0025.4983].*

(B) *It can be inferred that* ***Miele*** *knew, or alternatively Miele ought to have known that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products by reason of his knowledge of the stabilisation in lumber prices, LP's new factory commencing operations and that supply-chain issues had resolved.*

(ix) ***there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, which would result in a decrease in demand for James Hardie's FC Products (paragraph 383 above);***

(A) ***Gadd*** *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, as evidenced by his receipt of an email from Brennan-Chong dated 7 July 2022 which extracted findings from a John Burns Builder Survey and stated that "Only 5% of builders report High traffic this June, down from 36% one year ago and 46% report Low traffic" [JHX.0013.0027.5939].*

(B) ***Miele*** *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction as evidenced by his receipt of the same email from Brennan-Chong as Gadd [JHX.0013.0027.5939].*

(x) *it can be inferred that* ***Gadd*** *and* ***Miele*** *knew, or alternatively ought to have known that* ***the demand for James Hardie's FC Products in the NA Market in FY23 had decreased, and was likely to continue to decrease, from that experienced in FY22 (paragraph 373 above)*** *by reason of their knowledge as particularised in particulars (i), (ii), (iii),*

(iv), (v), (vi), (vii), (viii), (ix) immediately above of the following matters:

(A) *between early 2021 and early 2022, the suppliers of Competing Products were exposed to short-term supply chain issues;*

(B) *the spiking in US lumber prices;*

(C) *as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market;*

(D) *in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing;*

(E) *lumber prices in the NA Market had stabilised;*

(F) *supply-chain issues that had impacted the supply of Competing Products progressively improved and had largely resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23;*

(G) *supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products;*

(H) *customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products; and*

(I) *there was a continuing decrease in the volume of new starts in the NA Market for US residential construction, reducing demand for James Hardie's FC Products.*

(xi) ***Wiens** and the **James Hardie Board** ought to have known that the **demand for James Hardie's FC Products in the NA Market in FY23 had decreased, and was likely to continue to decrease, from that experienced in FY22** by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed Wiens and the Board of the information in particular (iv), in their roles as President, North America and CFO, and the nature and significance of the information;*

(B) *the information in particular (iv) was material to the preparation and release of James Hardie's August Revised FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

*(xii) Further or alternatively, **Wiens, Miele** and **Gadd** ought to have known that **demand for James Hardie's FC Products in the NA Market in FY23 had decreased, and was likely to continue to decrease, from that experienced in FY22** because:*

(A) *they were responsible in their roles as Interim CEO, CFO and President, North America for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the August Revised FY23 Guidance;*

(B) *the position of James Hardie's competitors and the implications for demand for James Hardie's FC Products was a factor relevant to the delivery of the August Revised FY23 Guidance;*

(C) *the likely demand for James Hardie's FC Products having regard to the rate of new residential construction was a factor relevant to the delivery of the August Revised FY23 Guidance; and*

(D) *it would be expected that Wiens, Miele and Gadd took those factors into account in assessing the current and future demand for James Hardie's FC Products.*

M.3 Continuing inflationary pressures and increased interest rates in the US as at August 2022

M.3.1 Inflation and Increased Interest Rates

385. As at 16 August 2022, there had been and was likely to continue to be sustained high inflation and increasing interest rates in the US throughout FY23, which had adversely affected, and were likely to continue to adversely impact, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (**August Inflation/Interest Rate Impacts**).

M.3.2 Inflation

386. As at 7 February 2022:

(a) From in or around October 2021 to January 2022, the inflation rate in the United States had increased significantly.

PARTICULARS

US Bureau of Labor Statistics January 2020 to January 2023 data – 12 month inflation rate:

Month	Total
Mar 2021	2.6%
Apr 2021	4.2%
May 2021	5.0%
Jun 2021	5.4%
Jul 2021	5.4%
Aug 2021	5.3%
Sep 2021	5.4%
Oct 2021	6.2%
Nov 2021	6.8%
Dec 2021	7.0%
Jan 2022	7.5%

(b) US inflation, commonly measured by the CPI, was well above two percent and further inflationary pressures for 2022 were likely.

387. Between 7 February 2022 and 17 May 2022, the inflation rate in the United States continued to remain at elevated levels, with CPI well above two percent.

PARTICULARS

US Bureau of Labor Statistics January 2020 to January 2023 data:

Month	Total
Feb 2022	7.9%
Mar 2022	8.5%
Apr 2022	8.3%

388. Between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely.

PARTICULARS

(i) *US Bureau of Labor Statistics January 2020 to January 2023 data – 12 month inflation rate:*

Month	Total
May 2022	8.6%
June 2022	9.1%
July 2022	8.5%

(ii) *A draft market intelligence Board pack circulated by Brennan-Chong to Miele, 24 July 2022, which provided analysis on the North American housing market conditions showed inflation at 9.1%, the highest level in 40 years [JHX.0005.0030.4917].*

389. As at 16 August 2022, the Inflation Conditions continued to exist (that is, high inflation in the US was likely to increase the cost of building and construction materials in the US), and the COGS Increase Conditions continued to exist (that is, an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers).

390. As at 16 August 2022, the Inflation Demand Conditions continued to exist (that is, a sustained period of high inflation in the US was likely to have an adverse impact on the demand for James Hardie's products, as consumer spending in the residential housing market slowed).

M.3.3 Interest Rates

391. By 16 August 2022, the Interest Rate Conditions continued to exist (that is, the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US), and there had been four consecutive interest rate rises.

PARTICULARS

(i) *On or around 26 January 2022, the US Federal Reserve published and released a statement that inflation was well above two percent and with a strong labour market and the Committee expected it would soon be appropriate to raise the target range for the federal funds rate. This statement was express and contained in the US Federal Reserve, 'Federal Reserve press release', 26 January 2022, p 1*

(ii) *On 16 March 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.25% to 0.5% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 16 March 2022, p 1.*

(iii) *Further, on 4 May 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 0.75% to 1.0% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 4 May 2022, p 1.*

(iv) *Further, on 15 June 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the* *target range for the federal funds rate to 1.5% to 1.75% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 15 June 2022, p 1.*

(v) *Further, on 27 July 2022, the US Federal Reserve published and released a statement that the Committee had decided to raise the target range for the federal funds rate to 2.25% to 2.5% and anticipated that ongoing increases in the target range would be appropriate. These statements were express and contained in the US Federal Reserve, 'Federal Reserve press release', 27 July 2022, p 1.*

392. As at 16 August 2022, the Interest Rate Demand Conditions continued to exist, that is, further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23, in that they:

(a) were likely to increase the cost of debt-funded building and construction materials; and

(b) were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market.

PARTICULARS

(i) As at 16 August 2022, there had been continuous declines in US Census Bureau residential construction starts data (particularly in the single-family category), including a 12% decline in July 2022, and a decline in the NAHB Housing Market Index from 83 in January 2022 to 49 in August 2022.

(ii) Public builder June 2022 quarter cancellation rates lifted to 16% from 10% in the March 2022 quarter (Presentation, 'North America Flash Intel: June quarter 2022 builder's commentary', 3 August 2022 [JHX.0032.0045.4717]).

M.3.4 Knowledge of Inflationary Conditions and Rising Interest Rates

393. As at 16 August 2022, and at the time of giving the August Revised FY23 Guidance (or alternatively, on each day after 16 August 2022), James Hardie knew or ought to have known that there had been and was likely to continue to be sustained high inflation and increasing interest rates in the US throughout FY23, which had adversely affected, and were likely to continue to adversely impact, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (the August Inflation/Interest Rate Impacts).

PARTICULARS

As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known that there had been and was likely to continue to be sustained high inflation and increasing interest rates in the US throughout FY23, which had adversely affected, and were likely to continue to adversely impact, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 by reason of the following matters:

(i) as at 7 February 2022, from in or around October 2021 to January 2022, the inflation rate in the US had increased significantly, and US inflation, commonly measured by the CPI was well above two percent, and further inflationary pressures for 2022 were likely (paragraph 386 above);

(A) ***Gadd*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of an email from Miele dated 29 January 2022 forwarding an email from CRC with a macroeconomic update that stated CPI had increased 7% year on year in December 2021 [JHX.0002.0003.2237]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(B) ***Miele*** *knew that the 12 month CPI rate at the end of calendar year 2021 had increased 7.12% compared to 2020, as evidenced by his request for and receipt of inflation metrics and data in an email dated 14 January 2022 [JHX.0005.0006.6460]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the United States had increased significantly, as evidenced by his receipt of periodic Market Intelligence updates from Castillo, including an email dated 14 February 2022 which stated "consumer inflation had posted the biggest increase since 1982, as CPI jumped 7.5% year/year in January" [JHX.0005.0006.8363]. That the US inflation rate was well over two percent was also common knowledge at the time.*

(ii) between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (paragraph 387 above);

(A) ***Gadd*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his receipt of documents including an email from Miele to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION"*

[JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.

(B) ***Miele*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his authorship of an email to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the US continued to remain at elevated levels as evidenced by his receipt of an email from Miele to the Global ELT on 16 May 2022 with the subject line "RECORD INFLATION" [JHX.0005.0012.9830]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(iii) between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely (paragraph 388 above);

(A) ***Gadd*** *knew that the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely, as evidenced by his receipt of a Board Paper entitled "Enterprise Readiness for Uncertain Markets" dated 10 August 2022 which stated "Headline inflation [CPI] hit 9.1% in July. Highest level in >40 years" [JHX.0005.0035.4758]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(B) ***Miele*** *knew that the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely, as evidenced by his authorship of a Board Paper entitled "Enterprise Readiness for Uncertain Markets" dated 10 August 2022 which stated "Headline inflation [CPI] hit 9.1% in July. Highest level in >40 years" [JHX.0011.0001.1508]. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(C) ***Wiens*** *knew that the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely as evidenced by his receipt of the Board Paper authored by Miele at (B) above. That* *the US inflation rate remained at elevated levels was also common knowledge at the time.*

(D) *The* ***James Hardie Board*** *knew that the inflation rate in the US continued to remain at elevated levels, as evidenced by their receipt of the Board Paper authored by Miele as particularised at (B) above. That the US inflation rate remained at elevated levels was also common knowledge at the time.*

(iv) high inflation in the US was likely to increase the cost of building and construction materials in the US, and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (paragraph 389 above);

(A) ***Gadd*** *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US, and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS, as evidenced by:*

1. *an email he sent on 12 May 2022 in which he said "yesterday we looked at the forecast and saw that with the inflationary costs that are coming into the business it puts our EBIT range at risk for the full year" [JHX.0032.0028.0945 at .0946]*
2. *an email he received from Criddle on 13 May 2022 which indicated that they had implemented a "price increase that based on current forecasting will cover our raw material headwinds, however we will not start to see the impact of that increase until Q2" [JHX.0005.0004.2492].*

(B) ***Miele*** *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US, and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS as evidenced by his receipt of the email from Criddle as Gadd referred to at (A.2) immediately above.*

(v) a sustained period of high inflation (paragraph 390 above) and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) (paragraph 392 above) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23;

(A) ***Gadd*** *knew that further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact* *implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23, in that they were likely to increase the cost of debt-funded building and construction materials, and were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market, as evidenced by:*

1. *his receipt of a 7 July 2022 email from Brennan-Chong containing a John Burns builder survey titled "June New Home Slowdown Intensifies: 25% of Builders Reducing Net Prices" [JHX.0005.0037.6173] which stated "cancellation rates jumped to 14.5% nationally, up from 6.5% one year ago and 10.4% this May" [JHX.0005.0037.6173]*

2. *his authorship of an email to Miele regarding "Builder Commentary" in which he said, with respect to builder estimates for calendar year 2023 "they are saying in general next year is likely to be between 6 and 8% down versus this year" [JHX.0005.0031.6088].*

(B) ***Miele** knew that further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23, in that they were likely to increase the cost of debt-funded building and construction materials, and were likely to dampen the demand for the R&R Sector and New Construction in the US residential housing construction market, as evidenced by:*

1. *his receipt of a draft market intelligence Board pack from Brennan-Chong dated 24 July 2022 which stated "currently, mortgage rates and elevate (sic) home prices are causing a slowdown of NC [housing starts]" [JHX.0005.0030.4917]*

2. *his receipt of the email sent by Brennan-Chong referred to at (A.1) immediately above;*

3. *his receipt of the email from Gadd referred to at (A.2) immediately above.*

(vi) the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US,

and there had been four consecutive interest rate rises (paragraph 391 above)

(A) ***Gadd*** *knew that the US Federal Reserve had increased interest rates, and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by his receipt of a Board Paper entitled "Enterprise Readiness for Uncertain Markets" dated 10 August 2022 which stated "Fed has lifted rates 4 times in 2022; mortgage rates have almost doubled since 2021 to just under 6%" [JHX.0005.0035.4758].*

(B) ***Miele*** *knew that the US Federal Reserve had increased interest rates, and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by his receipt of a draft market intelligence Board pack from Brennan-Chong dated 24 July 2022 which stated "mortgage rates have almost doubled since 2021 to just under 6%; highest mortgage rate in >10 years, back to pre-GFC levels; the FED has raised rates with rates back to pre-COVID levels" [JHX.0005.0030.4917], and his authorship of the Board Paper entitled "Enterprise Readiness for Uncertain Markets" [JHX.0011.0001.1508] which was based on the draft market intelligence Board pack.*

(C) ***Wiens*** *knew that the US Federal Reserve had increased interest rates, and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, as evidenced by his receipt of the same Board Paper entitled "Enterprise Readiness for Uncertain Markets" as received by Gadd at (A) [JHX.0011.0001.1508].*

(D) *The* ***James Hardie Board*** *knew that the US Federal Reserve had increased interest rates, and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US as evidenced by their receipt of the same Board Paper entitled "Enterprise Readiness for Uncertain Markets" as received by Gadd at (A) [JHX.0011.0001.1508].*

(vii) *it can be inferred that* ***Gadd*** *and* ***Miele*** *knew, or alternatively ought to have known that* ***further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 385 above)*** *by reason of their knowledge as particularised in particulars (i), (ii), (iii), (iv), (v) and (vi) immediately above of the following matters:*

(A) *as at 7 February 2022, from in or around October 2021 to January 2022, the inflation rate in the US had increased significantly, and US inflation, commonly measured by the CPI was well above two percent, and further inflationary pressures for 2022 were likely;*

(B) *between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels;*

(C) *between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels;*

(D) *high inflation in the US was likely to increase the cost of building and construction materials in the US and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers;*

(E) *sustained period of inflation and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23; and*

(F) *the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, and there had been four consecutive interest rate rises.*

(viii) ***Wiens** and the **James Hardie Board** ought to have known **that further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 385 above)** by reason of the following matters:*

(A) *their awareness of:*

1. *the fact that between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels;*

2. *the fact that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US;*

(B) *Gadd and Miele ought reasonably to have informed the Board of the information in particular (vii) above, in their roles as President, North America and CFO and the nature and* *significance of the information including the impact on James Hardie's financial performance in FY23;*

(C) *the information in particular (vii) above was material to the preparation and release of James Hardie's August Revised FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(D) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

*(ix) Further or alternatively, **Gadd, Miele** and **Wiens** ought to have known that **further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (paragraph 385 above)** because:*

(A) *they were responsible in their roles as President, North America, CFO and Interim CEO for managing James Hardie's financial position and assessing the impact of factors relevant to the delivery of the August Revised FY23 Guidance;*

(B) *the inflation rate and interest rates in the US were factors relevant to the demand for James Hardie's products, James Hardie's COGS and the delivery of the August Revised FY23 Guidance; and*

(C) *it would be expected that Gadd, Miele and Wiens assessed the impact of the inflation rate and interest rates in the US on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23.*

M.4 Actual Performance between 17 May 2022 and 16 August 2022 and Preparation of the August Revised FY23 Guidance

M.4.1 Actual Performance between 17 May 2022 and 16 August 2022

394. By no later than mid-June 2022, James Hardie finalised its NA results for May 2022, the second month of FY23, and recorded its second consecutive month of poor performance. The May 2022 results were materially below the FY23 1+11 NA Forecast, and included:

(a) EBIT of US$58.6 million:

(i) approximately 16% lower than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 3.7% higher than the corresponding prior year result in May 2021;

(b) EBIT margin of 24.0%:

(i) approximately 250 bps lower than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 660 bps lower than the corresponding prior year result in May 2021;

(c) Net sales of US$244.3 million:

(i) approximately 7% lower than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 32.3% higher than the corresponding prior year result in May 2021;

(d) Cash cost of US$119.2 million:

(i) approximately 5% worse than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 53.8% worse than the corresponding prior year result in May 2021;

(e) Freight costs of US$27.9 million:

(i) approximately 2% worse than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 27.5% worse than the corresponding prior year result in May 2021;

(f) Volume of 274.0 mmstf:

(i) approximately 7% lower than the forecast for May 2022 in the FY23 1+11 NA Forecast; and

(ii) approximately 16.8% higher than the corresponding prior year result in May 2021.

395. The biggest drivers of the miss to forecast in May 2022 pleaded in paragraph 394 above were:

(a) volume, contributing US$(7.5) million to EBIT; and

(b) increased cash cost, contributing US$(2.7) million to EBIT,

(the matters in paragraphs 394 and 395 above are together the **May 2022 Results**).

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On 10 June 2022, Frances Akalusi circulated the NA Business Results for May 2022 to Wiens, Miele, Gadd and others: See Presentation, 'May FY23 – JHBP Business Results', 10 June 2022, [JHX.0005.0017.5358] attaching [JHX.0005.0007.5360], which stated "volume unfavourable primarily driven by Midwest, SC and NE due to shipment capability miss".

396. As at early to mid-June 2022, it was less than 3 months into the financial year and:

(a) James Hardie's NA EBIT trend was already 14% below the FY23 Plan;

(b) there was a decline in orders growth and demand was weaker than forecast in several regions of NA;

(c) year-to date results were falling short of the FY23 volume targets; and

(d) cash costs were ramping up at an unsustainable rate;

PARTICULARS

(i) As to sub-paragraph (a), the FY23 NA EBIT trend was US$804 million (FY23 Plan for NA was US$928 million), as documented in a presentation entitled "Enterprise Readiness for Uncertain Markets" prepared for the 10 & 11 August 2022 Board Meeting) at (.0124), [JHX.0011.0001.1508_0047].

(ii) As to sub-paragraph (b), the Plaintiff refers to an email from McDonald to Geisen and Mike Williams, 6 June 2022, confirming that volume misses in Mid-Atlantic, Midwest and Southwest regions were driven by reduced demand [JHX.0032.0035.7946].

(iii) As to sub-paragraph (c), the Plaintiff refers to an email from Ed Sedeno to Scott Doyle, Matt Armstrong, Karen Barnes and Jeff Rettig, Madson, Jeff Wrobel and others, 8 June 2022, which stated that "[o]verall revenue is -$14M, being driven entirely by the reduced volume forecast for FY23".

(iv) As to sub-paragraph (d), the Plaintiff refers to an email from Gadd to the NA Leadership Team, 23 May 2022, which stated "cash costs are ramping up at a rate that is not sustainable +51% over last year" [JHX.0027.0066.5282].

397. By mid-July 2022, James Hardie finalised its NA results for June 2022, the third month of FY23, and recorded a largely positive performance compared to the FY23 2+10 NA Forecast, including:

(a) EBIT of US$81.2 million:

(i) approximately 1.2% higher than the forecast for June 2022 in the FY23 2+10 NA Forecast; and

(ii) approximately 23% higher than the corresponding prior year result in June 2021;

(b) EBIT margin of 29.1%:

(i) approximately 30 bps higher than the forecast for June 2022 in the FY23 2+10 NA Forecast; and

(ii) approximately 70 bps lower than the corresponding prior year result in June 2021;

(c) Net sales of US$279.2 million:

(i) flat to the forecast for June 2022 in the FY23 2+10 NA Forecast; and

(ii) approximately 25.9% higher than the corresponding prior year result in June 2021;

(d) Cash cost of US$131.2 million:

(i) flat to the forecast for June 2022 in the FY23 2+10 NA Forecast; and

(ii) approximately 36.2% worse than the corresponding prior year result in June 2021;

(e) Freight costs of US$32.4 million:

(i) flat to the FY23 2+10 NA Forecast; and

(ii) approximately 36.2% worse than the corresponding prior year result in June 2021;

(f) Volume of 306.3 mmstf:

(i) approximately 2% lower than the forecast for June 2022 in the FY23 2+10 NA Forecast; and

(ii) approximately 10% higher than the corresponding prior year result in June 2021,

(the **June 2022 Results**).

PARTICULARS

On 13 July 2022 Frances Akalusi circulated the NA Business Results for June 2022 via email to Wiens, Miele, Gadd and others [JHX.0031.0011.2524] attaching Presentation, 'June FY23 – JHBP Business Results', 13 July 2022 [JHX.0031.0011.2526].

398. The June 2022 Results were positively skewed by the following:

(a) the pull forward of volume from post-20 June 2022, as customers placed orders earlier to avoid paying more after the 20 June 2022 price increase; and

(b) pull forward demand from promotional activity in the South regions (Carolinas, South Central, Southeast and South Atlantic,

and these matters would have a negative impact on James Hardie's sales/volume in NA in July 2022,

(the **June 2022 Volume Pull-Forward**).

PARTICULARS

Email from McDonald to Mike Williams and Geisen, 23 June 2022, which stated in relation to June 2022 that there was:

(i) "~10mmstf jump-up in orders in June for the final 2 days of the pricing exception. This would all be pull-forward from July." See also Presentation, 'Enterprise Readiness for Uncertain Markets', 10 August 2022 at _0099, [JHX.0011.0001.1508_0047].

(ii) 32mmstf of primed plank PPV orders "and if 50% of that is pull-forward, that would mean a 16mmstf pull-forward impact, which we split between June and July (which matches what we are hearing from the sales team; they talk about distributors not needing plank for ~6 weeks)" [JHX.0032.0032.3997].

399. By mid-August 2022, James Hardie finalised its NA results for July 2022, the fourth month of FY23, and recorded poor performance compared to the FY23 3+9 NA Forecast, including:

(a) EBIT of US$64.6 million:

(i) approximately 1% lower than the forecast for July 2022 in the FY23 3+9 NA Forecast; and

(ii) approximately 15% higher than the corresponding prior year result in July 2021;

(b) EBIT margin of 27.6%:

(i) approximately 110 bps lower than the forecast for July 2022 in the FY23 3+9 NA Forecast;

(ii) approximately 90 bps higher than the corresponding prior year result in July 2021;

(c) Net sales of US$233.7 million:

(i) approximately 5% lower than the forecast for July 2022 in the FY23 3+9 NA Forecast; and

(ii) approximately 19% higher than the corresponding prior year result in July 2021;

(d) Cash cost of US$109.4 million:

(i) approximately 5% worse than the forecast for July 2022 in the FY23 3+9 NA Forecast; and

(ii) approximately 25% worse than the corresponding prior year result in July 2021;

(e) Freight costs of US$23.6 million:

(i) approximately 12% worse than the forecast for July 2022 in the FY23 3+9 NA Forecast; and

(ii) approximately 36.2% worse than the corresponding prior year result in July 2021;

(f) Volume of 254.8 mmstf:

(i) approximately 4% lower than the forecast for July 2022 in the FY23 3+9 NA Forecast; and

(ii) approximately 5% higher than the corresponding prior year result in July 2021.

400. The biggest drivers of the miss to forecast in July 2022 pleaded in paragraph 399 above were:

(a) volume, contributing US$(3.8) million to EBIT; and

(b) increased cash cost, contributing US$(2.2) million to EBIT,

(the matters in paragraphs 399 and 400 above are together the **July 2022 Results**).

PARTICULARS

On 10 August 2022 Frances Akalusi circulated the NA Business Results for July 2022 via email to Wiens, Miele, Gadd and others, attaching Presentation, 'July FY23 – JHBP Business Results', 10 August 2022, [JHX.0005.0035.2621] and [JHX.0005.0035.2623] respectively, which stated that volume had a US$(3.8) million impact on EBIT which was "primarily driven by slowdown in order trends".

M.4.2 Knowledge of Actual Performance to 16 August 2022

401. As at 16 August 2022 and at the time James Hardie gave the August Revised FY23 Guidance, James Hardie knew or ought to have known the:

(a) May 2022 Results;

(b) June 2022 Results (including the June 2022 Volume Pull-Forward); and

(c) July 2022 Results.

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*As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known the **May 2022 Results, June 2022 Results** and **July 2022 Results** by reason of the following matters:*

*(i) **Gadd** knew the:*

A. May 2022 Results by reason of his receipt of a presentation dated 10 June 2022 which contained this information: [JHX.0005.0017.5358]; [JHX.0005.0007.5360];

B. June 2022 Results by reason of his receipt of a presentation dated 13 July 2022 which contained this information: [JHX.0031.0011.2524]; [JHX.0031.0011.2526];

C. July 2022 Results by reason of his receipt of a presentation dated 10 August 2022 which contained this information: [JHX.0005.0035.2621]; [JHX.0005.0035.2623].

*(ii) **Miele** knew the May 2022 Results, June 2022 Results and July 2022 Results by reason of this receipt of the same documents as Gadd particularised at (i) immediately above.*

*(iii) **Wiens** knew the May 2022 Results, June 2022 Results and July 2022 Results by reason of this receipt of the same documents as Gadd particularised at (i) immediately above.*

*(iv) the **James Hardie Board** ought to have known the May 2022 Results, June 2022 Results and July 2022 Results by reason of:*

A. Gadd, Miele and Wiens ought to have informed the James Hardie Board of the May 2022 Results, June 2022 Results and July 2022 Results in their roles as President, North America, CFO and interim CEO and the nature and significance of the information;

B. the May 2022 Results, June 2022 Results and July 2022 Results were material to the preparation and release of James Hardie's August Revised FY23 Guidance, as they impacted the likely future financial performance James Hardie in FY23; and/or

C. the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.

*As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known the **June 2022 Volume Pull-Forward** by reason of the following matters:*

*(v) It can be inferred that **Gadd** knew or ought to have known the June 2022 Volume Pull-Forward by reason of:*

A. McDonald, Mike Williams and Geisen knew that the June 2022 Results were positively skewed by the pull forward of volume ahead of the 20 June 2022 price increase and the pull forward of demand from promotional activity, by *reason of their receipt and authorship of an email detailing these matters [JHX.0032.0032.3997];*

B. McDonald, Williams and Geisen ought reasonably to have informed Gadd of the June 2022 Volume Pull-Forward by reason of:

1. their roles, responsibilities and reporting lines; and

2. the nature and significance of the June 2022 Volume Pull-Forward, including the likely impact on James Hardie's future demand and sales in FY23;

(vi) It can be inferred that ***Miele*** *knew or ought to have known the June 2022 Volume Pull-Forward because of the reasons set out with respect to Gadd at (i) above (including that McDonald, Williams and Geisen ought reasonably to have informed Miele of the information at (A) above).*

M.4.3 Preparation of the August Revised FY23 Guidance

402. The August Revised FY23 Guidance was based on the FY23 3+9 NA Forecast prepared on 13 July 2022 with directions from Miele, and:

(a) did not take into account the forecast in operation at the time of the August 2022 Announcements, which forecast financial results that were lower than the August Revised FY23 Guidance;

(b) did not adjust for the impact of the June 2022 Volume Pull-Forward;

(c) did not take into account the July 2022 Results.

403. On 13 June 2022, the FY23 NA 2+10 Forecast was prepared by James Hardie and uploaded to the HFM system and included the following forecast metrics for the NA Business:

USD (m)	**FY23 2+10**
Volume (mmstf)	3,445.2
Net sales	$3201.6
Cash cost	$1,435.5
Freight cost	$320.7
Unallocated	-
EBIT	$970.9
EBIT margin	30.3%

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Email from Kevin Brannan to Frances Akalusi, 13 June 2022 and attachment Excel Spreadsheet, Copy of 2+10 HFM Upload

Template FY23 – NA, 13 June 2022, [JHX.0032.0036.2763] and [JHX.0032.0036.2766].

404. As at 14 June 2022, James Hardie had identified that the FY23 2+10 NA Forecast contained the following risks and issues:

(a) forecast FY23 EBIT had declined by US$37 million to US$971 million compared to the FY23 0+12 NA Forecast, and if that rate of decline continued, the NA Business would miss EBIT by US$150 million for FY23;

(b) cost pressures were outpacing price increases;

(c) sales revenue had increased 30% compared to FY22, while EBIT had only increased 7% compared to FY22; and

(d) 'serious steps' were required to be taken to decrease costs, and significant downside risk remained on the cost front.

PARTICULARS

Presentation entitled "ELT – 14 June – Adjustments" sent by email from Miele to ELT (including Wiens and Gadd), 13 June 2022 [JHX.0002.0001.2988] and [JHX.0002.0001.2989].

405. On or around mid-June 2022, a FY23 forecast for NA was prepared at the request of Miele, which:

(a) annualised FY23 performance to date and showed substantial risk to NA FY23 EBIT and net sales, including:

(i) FY23 EBIT margin of 24%;

(ii) FY23 EBIT of US$664 million;

(iii) FY23 net sales growth of 8.4% compared to FY22;

(iv) Volume of 3,104 mmstf; and

(b) was not used, but tracked closely to the ultimate NA full year FY23 result at the volume/sales level.

PARTICULARS

Email from Khamille De Lara to Miele, 17 June 2022 attaching Excel Spreadsheet, 'FY24 2+10 Adjustment', [JHX.0005.0007.7682] and [JHX.0005.0007.7684] respectively.

406. On 13 July 2022, the FY23 NA 3+9 Forecast was prepared by James Hardie and uploaded to the HFM system and included the following forecast metrics for the NA Business:

USD (m)	FY23 3+9

Volume (mmstf)	3,378.8
Net sales	$3,155.3
Cash cost	$1,451.8
Freight cost	$338.2
Unallocated	-
EBIT	$913.6
EBIT margin	29.0%

407. On 9 August 2022, the FY23 4+8 NA Forecast was prepared by James Hardie and uploaded to the HFM system and included the following forecast metrics for the NA Business:

USD (m)	**FY23 4+8**
Volume (mmstf)	3,359.4
Net sales	$3,138.6
Cash cost	$1.451
Freight cost	$333.9
Unallocated	-
EBIT	$899.2
EBIT margin	28.6%

PARTICULARS

Email from Kevin Brannan to Frances Akalusi, 9 August 2022, [JHX.0031.0013.2313]; Excel Spreadsheet, 'Copy of 4+8 HFM Upload Template – FY23 – NA', [JHX.0031.0013.2314].

408. On 11 August 2022, and 5 days prior to the provision of the August Revised FY23 Guidance, the FY23 4+8 Global Forecast was loaded into James Hardie's HFM system and included the following forecast metrics for the Global Business:

(a) NA FY23 EBIT: US$899.2 million;

(b) NA FY23 EBIT margin: 28.3%; and

(c) Global FY23 ANI: US$724.3 million.

PARTICULARS

Email from Khamille De Lara to Miele, 11 August 2022, [JHX.0005.0038.9201] attaching document entitled "FY23 4+8Global Forecast Preview" [JHX.0005.0038.9202].

409. The August Revised FY23 Guidance was determined by no later than 14 August 2022 by Miele.

PARTICULARS

(i) Email from Miele to Lauren Richey, 14 August 2022 [JHX.0002.0010.0945].

(ii) The revised range had been suggested by Miele to Gadd as early as 16 July 2022: "I was thinking about taking 10 off the bottom and 20 off the top which would be 750-800; basically exactly in-line with this." [JHX.0002.0011.3750].

M.5 Demand Forecasting Method and Volume Forecasts as at 16 August 2022

410. As at and from 16 August 2022, James Hardie's FY23 demand forecasts upon which the August Revised FY23 Guidance and August Revised FY23 Guidance Representations were based were generated using the Revised Demand Forecasting Method, which:

(a) adopted the 10-month growth rate, which was not likely to be representative of underlying base volumes on and from 17 May 2022, or in FY23;

(b) assumed in the 10-month growth rate the absence of supply chain constraints (i.e. that James Hardie would be able to produce sufficient stock to supply all customer demand);

(c) applied the 10-month growth rate for the majority of FC Products to generate the FY23 demand forecast, at all times from the April 2022 forecast onwards;

(d) applied exceptions to the 10-month growth rate to certain FC Products, but in many instances these exceptions had the impact of further increases in the volume forecast, most notably in 'Neo' or 'Innovation' products;

(e) had the effect that declining volume growth rates (including negative growth) realised in late FY22 and FY23 were insufficiently accounted for in James Hardie's forecasting method at all times during the Relevant Period.

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(i) April 2022: The FY23 0+12 volume forecast was based on the 10-month period from May 2021 to February 2022 as shown in the document entitled "220411 Forecast Model – Final v2" sheet "Updated Forecast", dated 11 April 2022 [JHX.0059.0001.0884];

(ii) May 2022: The FY23 1+11 volume forecast was based on the 10-month period from June 2021 to March 2022 as shown in the document entitled "220511 1+11 Forecast Model_cleaned" sheet "Updated Forecast", dated 2 June 2022 [JHX.0059.0001.1168], although, a "YOY Growth Override" was subsequently applied

to the majority of products in the 1+11 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 0+12 Forecast Model;

(iii) *June 2022: The FY23 2+10 volume forecast was based on the 10-month period from July 2021 to April 2022 as shown in the document entitled "220615 2+10 Forecast Model_in-month analysis.xlsx" sheet "Updated Forecast", dated 15 June 2022 [JHX.0059.0001.2249], although, a "YOY Growth Override" was subsequently applied to the majority of products in the 2+10 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 0+12 Forecast Model;*

(iv) *July 2022: The FY23 3+9 volume forecast was based on the 10-month period from July 2021 to May 2022 as shown in the document entitled "220705 3+9 Forecast Model - FINAL_post analysis.xlsx" sheet "Updated Forecast", dated 26 July 2022 [JHX.0059.0001.2545]; and*

(v) *August 2022: The FY23 4+8 volume forecast, was based on the 10-month period from August 2021 to June 2022 as shown in the document entitled "220805 4+8 Forecast Model - Final.xlsx" sheet "Updated Forecast", dated 11 August 2022 [JHX.0059.0001.2804], although, a "YOY Growth Override" was subsequently applied to the majority of products in the 4+8 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 3+9 Forecast Model.*

411. The use of FY22 volume in the Revised Demand Forecasting Method as a base for the FY23 volume forecast overstated, or was likely to overstate, underlying customer demand because James Hardie had undertaken promotions and other volume-shaping activity in FY21 and which meant that FY22 volumes were not, or were not likely to be, representative of underlying base volumes, as at 16 August 2022 and at all times thereafter.

PARTICULARS

(i) *Email exchange between Criddle and Miele, 22 March 2022, where in response to Criddle's comments that "The issue is the lack of system data on the order side", Miele states, "[w]hat I want you to focus on is how we leverage the order file data to identify trends, help drive the business and help with forecasting.". Adds "[w]e are not leveraging the inbound orders enough" [JHX.0027.0060.3265].*

(ii) *Email exchange between Miele and Brennan-Chong, 3 June 2022, regarding trends in customer data where Miele states, "We need to focus on the dealers and distributors. We have plenty of info on NC. R&R is what we need to figure out. We need the trends in the Boise, BFS, Lansing data." [JHX.0002.0002.2429];*

(iii) *Email exchange between Brennan-Chong and Miele, 17 July 2022, where Brennan-Chong responds to Miele's request for customer data to forecast trends noting, "It was the collective view that Inventory and Pick tickets are our most forward leading indicators. The holy grail would be our customers' incoming purchase orders, but we don't have that." [JHX.0005.0035.4038].*

412. Further, or alternatively, as at 16 August 2022, the Revised Demand Forecasting Method, did not factor in the August Demand Impacts or August Inflation/Interest Rate Impacts on customer demand adequately, or at all.

PARTICULARS

(i) *The Revised Demand Forecasting Method used the 10-month growth rate to forecast FY23 demand growth, and by doing so did not adjust for the August Demand Impacts or August Inflation/Interest Rate Impacts.*

(ii) *The 10-month growth rate reflected peak result periods for James Hardie.*

413. Further, or alternatively, as at 16 August 2022, the Revised Demand Forecasting Method, did not take into account adequately, or at all, that James Hardie had been clearing its backlog for approximately 12 months, and that, once the backlog had been cleared, there would be a drop in addressable demand.

PARTICULARS

(i) *Email from Nick Langhammer (Supply Chain Manager, S&OP), to Geisen, Stephanie Lunt (Supply Chain Deputy Manager G&A Supply Strategy – reported to Jeff Wrobel) and Mark Wallace (Senior Sales Director – reported to Madson), 20 October 2021 noted that "As Gadd brought up yesterday, our order file is decreasing because we are clearing out our backlog" [JHX.0032.0064.7879].*

(ii) *Email from Geisen to Sean Patel, Joseph Mills, Mulhall and Matt Logan, 27 January 2022 stating "Backlog has shrunk to 57mmstf (by 21mmstf from 12/31) despite extended lead times maintaining around 200mstf given the order weakness to open the year" [JHX.0014.0010.1350].*

(iii) *Email from Geisen to Gadd, Madson and Matt Logan, 3 June 2022 that indicates James Hardie was beginning to clear its backlog as early as September 2021 [JHX.0038.0006.6628].*

(iv) *Email from Miele to Gadd, 24 June 2022 enclosing a graph that demonstrates a decline in siding backlog since August 2021, and a sudden drop in siding backlog between May and June 2022 [JHX.0002.0002.8714].*

414. As at and from 16 August 2022, the Revised Demand Forecasting Method continued to be inadequate to predict the volume growth that James Hardie's NA Business would experience in FY23, due to the existence of the inadequacies pleaded at paragraphs 410 to 413 above (the **August Volume/Demand Modelling Inadequacy**).

M.5.1 Knowledge of revised unreasonable volume forecasting method

415. As at and from 16 August 2022, and at the time of giving the August Revised FY23 Guidance (or alternatively, on each day after 16 August 2022), James Hardie:

(a) knew that it was using the Revised Demand Forecasting Method; and

(b) knew or ought to have known the August Volume/Demand Modelling Inadequacy.

PARTICULARS

The Plaintiff refers to and repeats paragraph 235 and the particulars thereto.

As at 16 August 2022, James Hardie Officers identified in these particulars knew or ought to have known that James Hardie was using the Revised Demand Forecasting Method and of the August Volume/Demand Modelling Inadequacy by reason of the following matters:

(i) ***Gadd** knew that James Hardie continued to use the Revised Demand Forecasting Method, and that James Hardie's FY23 demand forecasts were generated by applying selective James Hardie volume growth rates as growth rates to FY22 volumes, as evidenced by:*

(A) *his receipt of the following presentations:*

(i) June 2022: presentations entitled "FY23 2+10 Unconstrained Demand Review_v2" and "NA Demand Planning Process_May_2022" from Geisen which contained the FY23 2+10 unconstrained volume forecast for NA [JHX.0016.0001.0171] and [JHX.0016.0001.0178].

(ii) July 2022: a presentation entitled "FY23 3+9 Unconstrained Demand Review_v3" from Geisen dated 23 June 2022 which contained the FY23 3+9 unconstrained volume forecast for NA" [JHX.0005.0010.0868].

(iii) August 2022: a Presentation entitled "4+8 Volume summary" from Geisen dated 29 July 2022 which contained

the FY23 4+8 constrained volume forecast for NA [JHX.0009.0026.3156].

(B) *the fact that:*

(i) The FY23 2+10 volume forecast (June 2022) was based on the 10-month period from July 2021 to April 2022 as shown in the document entitled "220615 2+10 Forecast Model_in-month analysis.xlsx" [JHX.0059.0001.2249] dated 15 June 2022 , although, a "YOY Growth Override" was subsequently applied to the majority of products in the 2+10 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 0+12 Forecast Model.

(ii) The FY23 3+9 volume forecast (July 2022) was based on the 10-month period from July 2021 to May 2022 as shown in the document entitled "220705 3+9 Forecast Model - FINAL_post analysis.xlsx", sheet "Updated Forecast" dated 26 July 2022 [JHX.0059.0001.2545].

(iii) The FY23 4+8 volume forecast (August 2022) was based on the 10-month period from August 2021 to June 2022 as shown in the document entitled "220805 4+8 Forecast Model - Final.xlsx" sheet "Updated Forecast" dated 11 August 2022 [JHX.0059.0001.2804], although, a "YOY Growth Override" was subsequently applied to the majority of products in the 4+8 Forecast Model which had the effect of reverting expected growth back to the old 10-month period used for the 3+9 Forecast Model.

(ii) ***Gadd** knew, or alternatively it is to be inferred that he knew, the August Volume/Demand Modelling Inadequacy as evidenced by:*

(A) *his receipt of an email of 12 July 2022 from Geisen regarding a call down to NA volume of 66mmstf in the 3+9 volume forecast arising from a "a gap on both the demand and make/ship side" [JHX.0032.0032.2303].*

(B) *Fredericksen, Madson, Geisen, Criddle, and Brennan-Chong knew that the volume forecast was inadequate including by reason of their receipt of a 20 July 2022 email where in reference to the forecasted demand, McDonald stated "I would welcome your perspectives on whether you think a 65mmstf call-down is the right number. The market situation is rapidly evolving; for this call, we will share some market data, but many of these data* *points are lagging indicators, and might not reflect the real situation" [JHX.0013.0030.1086], and*

(C) *Fredericksen, Madson, Geisen, Criddle, and Brennan-Chong ought reasonably to have informed Gadd of the information in particular (ii) immediately above by reason of:*

A. their role/s, responsibilities and reporting lines; and

B. the nature and significance of the information in particular (ii) immediately above including the likely impact on James Hardie's financial performance in FY23.

(iii) ***Miele*** *knew that James Hardie continued to use the Revised Demand Forecasting Method, as evidenced by his receipt of the same documents as Gadd referred to at (i) immediately above, and is inferred to have known the August Volume/Demand Modelling Inadequacy for the same reasons as Gadd referred to in (ii) immediately above.*

(iv) ***Wiens*** *and the* ***James Hardie Board*** *ought to have known of the use of the Revised Demand Forecasting Method and August Volume/Demand Modelling Inadequacy as Gadd and Miele ought reasonably to have informed them by reason of:*

(A) *their roles and responsibilities as President, North America and CFO; and*

(B) *the nature and significance of the information in particular (iv) immediately above including the likely impact on the accuracy of James Hardie's May Reaffirmed FY23 Guidance of using the Revised Demand Forecasting Method.*

M.6 Customer Backlog as at 16 August 2022

M.6.1 Backlog depletion

416. As at 16 August 2022, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 had been impacted and were likely to continue to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (the **August Backlog Depletion**).

M.6.2 Conditions giving rise to the August Backlog Depletion

417. The likely adverse impact of the August Backlog Depletion was due to the following matters:

(a) as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in:

(i) the cancellation of existing orders for James Hardie's FC Products;

(ii) a decline in the rate of new orders for James Hardie's FC Products; and

(iii) the further depletion of James Hardie's customer order backlog;

(b) as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5%;

(c) as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22;

(d) as a consequence of the matters set out in sub-paragraphs 417(a) – (c), James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23.

M.6.3 Knowledge of August Backlog Depletion

418. As at 16 August 2022, and at the time of giving the August Revised FY23 Guidance (or alternatively, on each day after 16 August 2022), James Hardie knew or ought to have known the August Backlog Depletion.

PARTICULARS

As at 16 August 2022, James Hardie Officers identified in these particulars knew, or ought to have known that the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 had been impacted and were likely to continue to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 by reason of the following matters:

(i) ***as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (paragraph 417(a) above):***

(A) *it can be inferred that* ***Gadd*** *knew, or alternatively Gadd ought to have known that, as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog, as it would be expected that an executive in that position would draw that conclusion by reason of his knowledge of the matters as particularised in particulars (i),(ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xii) to paragraph 384 above (ie, the August Demand Impacts) and in particulars (i), (ii), (iii), (v), (vi), (vii) and (ix) to* *paragraph 393 above (ie, the August Inflation/Interest Rate Impacts).*

(B) *it can be inferred that **Miele** knew, or alternatively Miele ought to have known that, as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog, as it would be expected that an executive in his position would draw that conclusion by reason of his knowledge of the matters as particularised in particulars (i),(ii), (iii), (iv), (v), (vi), (vii), (vii), (viii), (ix), (x) and (xii) to paragraph 384 above (ie, the August Demand Impacts) and in particulars (i), (ii), (iii), (v), (vi), (vii) and (ix) to paragraph 393 above (ie, the August Inflation/Interest Rate Impacts).*

(ii) ***as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5% (paragraph 417(b) above);***

(A) ***Gadd** knew that that, as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5%, as evidenced by a conversation he had with Miele on 30 August 2022 where he was told this information and referred to it as a "bad number" [JHX.0002.0010.3759].*

(B) ***Miele** knew that, as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5%, including as evidenced by an email he authored on 1 July 2022 where he stated "I believe we are at about 4-5% order volume growth for this period. And the only reason we are out performing that number is we are draining our backlog. As such, as the backlog evaporates I believe we are in REAL TROUBLE of seeing a big drop in our shipment growth year on year" [JHX.0002.0010.3759].*

(iii) ***as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22 (paragraph 417(c) above);***

(A) ***Gadd** knew that, as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average* *backlog in 1Q23 was down 24% on 1Q22, as evidenced by his receipt of an email from Miele on 24 June 2022, attaching the analysis that was attached to the email referred to at (B) below, and adding "I am sure you get this someplace, but these backlog trends would suggest all MF desks should be open and no more allocations" [JHX.0002.0002.8714].*

(B) ***Miele** knew that, as at 16 August 2022 James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22, as evidenced by his receipt of an email from Mulhall dated 23 June 2022 that noted "Please see below a file I sent to Shirley earlier- you will see April-June average backlog is down 24% YOY." [JHX.0005.0006.5961].*

(iv) ***James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23 (paragraph 417(d) above)**;*

(A) *it can be inferred that **Gadd** knew, or alternatively ought to have known that, James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23, as it would be expected that an executive in his position would draw that conclusion by reason of his knowledge of the matters particularised in particulars (ii) and (iii) above.*

(B) *it can be inferred that **Miele** knew, or alternatively ought to have known that, as at 16 August 2022, James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23, as it would be expected that an executive in his position would draw that conclusion by reason of his knowledge of the matters particularised in particulars (ii) and (iii) above.*

*(v) it can be inferred that Gadd and Miele knew, or alternatively ought to have known that **the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (paragraph 416 above)** by reason of their knowledge as particularised in particulars (i), (ii), (iii) and (iv) immediately above of the following matters:*

(A) *as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to* *result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog;*

(B) *as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5%;*

(C) *as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22; and*

(D) *James Hardie's customer backlog had been largely consumed by mid-August 2022 and would no longer contribute to volume growth in FY23.*

(vi) ***Wiens** and the **James Hardie Board** ought to have known that **the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (paragraph 416 above)** by reason of the following matters:*

(A) *Gadd and Miele ought reasonably to have informed the Board of the information in particular (v) above, in their roles as President, North America and CFO and the nature and significance of the information including the impact on James Hardie's financial performance in FY23;*

(B) *the information in particular (v) above was material to the preparation and release of James Hardie's August Revised FY23 Guidance, as it impacted the demand for and sale of James Hardie's FC Products in FY23; and/or*

(C) *the Board was responsible for approving company guidance before it was released, consistent with section 7.1 of the ASX Listing Rules Guidance Note 8.*

M.7 The Achievability of the August Revised FY23 Guidance for James Hardie's NA Business as at 16 August 2022

M.7.1 The August Revised FY23 Guidance for James Hardie's NA Business was unlikely to be achieved as at 16 August 2022

419. As at and from 16 August 2022:

(c) James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the August Revised FY23 Guidance (namely, FY23 net sales growth of 18%+ from FY22) or the volume growth necessary to achieve such growth rates;

(d) James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the August Revised FY23 Guidance (namely, 28 to 32%);

(each of (a) and (b) being **August Unlikely NA Guidance Information**).

PARTICULARS

(i) *The reasons why James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business were as set out in Section M.7.2 below.*

M.7.2 The reasons why the August Revised FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

420. As at and from 16 August 2022, James Hardie was unlikely to achieve the August Revised FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business by reason of:

(a) the August Demand Impacts (namely, there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these had not been repeated in FY23 to date and were not likely to be repeated over the balance of FY23 and demand for FC Products sold by James Hardie's NA Business had decreased, and was likely to continue to decrease, from that experienced in FY22);

(b) the August Inflation/Interest Rate Impacts (namely, that there had been and was likely to continue to be sustained high inflation and increasing interest rates in the US throughout FY23, which had adversely affected, and were likely to continue to adversely impact, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23);

(c) the August Volume/Demand Forecasting Inadequacy (namely, that the Revised Demand Forecasting Method was not adequate to predict the volume growth that James Hardie's NA Business would experience in FY23).

421. Further, or alternatively to paragraph 420, as at and from 16 August 2022, James Hardie was unlikely to achieve the August Revised FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was likely to experience in FY23 was lower than that conveyed by the August Revised FY23 Guidance.

422. Further, or alternatively to paragraphs 420 and 421, as at and from 16 August 2022, James Hardie was unlikely to achieve the August Revised FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business because a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 8% (**August Counterfactual NA Sales Growth Guidance Information**);

(b) EBIT Margin in North America: approximately 25% (**August Counterfactual NA EBIT Margin Guidance Information**).

PARTICULARS

(i) *As to (a) (the August Counterfactual NA Sales Growth Guidance Information):*

(A) *annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);*

(B) *net sales growth of approximately 8% would represent a good result for James Hardie's NA Business in FY23, given the August Demand Impacts and August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 8%.*

(ii) *As to (b) (the August Counterfactual NA EBIT Margin Guidance Information):*

(A) *given the August Demand Impacts and August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be lower.*

(B) *an FY23 EBIT Margin of approximately 25% would represent an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business;*

(C) *a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated FY23 EBIT Margin of approximately 25%.*

M.7.3 Knowledge that the August Revised FY23 Guidance for James Hardie's NA Business was unlikely to be achieved

423. As at 16 August 2022, at the time James Hardie gave the August Revised FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business (namely, that it would achieve FY23 net sales growth of 18%+ from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 28 to 32%).

PARTICULARS

As at 16 August 2022, James Hardie Officers identified in these particulars knew or ought to have known that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business by reason of the following matters:

(i) ***Gadd*** *is inferred to have known or alternatively Gadd ought to have known this information because he:*

(A) *knew the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 384);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 384);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 384);*

(D) *knew that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 384);*

(E) *knew that lumber prices in the NA Market had stabilised (particular (v) to paragraph 384);*

(F) *knew that supply-chain issues that had impacted the supply of Competing Products had progressively improved and largely resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (particular (vi) to paragraph 384);*

(G) *is inferred to have known, or alternatively ought to have known that the supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products (particular (vii) to paragraph 384);*

(H) *knew that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (viii) to paragraph 384);*

(I) *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction (particular (ix) to paragraph 384);*

(J) *is inferred to have known, or alternatively ought to have known that the demand for James Hardie's FC Products in the NA Market in FY23 was likely to either decrease, or increase at a* *reduced rate from that experienced in FY22 (particulars (x) and (xii) to paragraph 384);*

(K) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 393);*

(L) *knew that between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 393);*

(M) *knew that between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely (particular (iii) to paragraph 393);*

(N) *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (iv) to paragraph 393);*

(O) *knew that a sustained period of high inflation and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (v) to paragraph 393);*

(P) *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, and there had been four consecutive interest rate rises (particular (vi) to paragraph 393);*

(Q) *is inferred to have known, or alternatively ought to have known that further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (vii) and (ix) to paragraph 393);*

(R) *knew the May 2022 Results (which were materially below forecast) (particular (i)A to paragraph 401);*

(S) *knew the June 2022 Results, and is inferred to have known or alternatively ought to have known the June 2022 Results were positively skewed by the pull forward of volume ahead of the 20 June 2022 price increase and from promotional activity (particulars (i)B and (v) to paragraph 401);*

(T) *knew the July 2022 Results (which were materially below forecast) (particular (i)C to paragraph 401);*

(U) *knew that James Hardie continued to use the Revised Demand Forecasting Method (particular (i) to paragraph 415);*

(V) *knew, or alternatively is inferred to have known the August Volume/Demand Modelling Inadequacy (particular (ii) to paragraph 415);*

(W) *is inferred to have known, or alternatively ought to have known that as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (i) to paragraph 418);*

(X) *knew that as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5% (particular (ii) to paragraph 418);*

(Y) *knew that as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22 (particular (iii) to paragraph 418);*

(Z) *is inferred to have known, or alternatively ought to have known that James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23 (particular (iv) to paragraph 418);*

(AA) *is inferred to have known, or alternatively ought to have known that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (v) to paragraph 418);*

(BB) *each item of information in (A) to (AA) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business.*

(ii) ***Miele** is inferred to have known or alternatively ought to have known this information because he:*

(A) *is inferred to have known, or ought to have known the short-term supply chain-issues the suppliers of Competing Products were exposed to (particular (i) to paragraph 384);*

(B) *knew the spiking in US lumber prices (particular (ii) to paragraph 384);*

(C) *knew that as a consequence of the short-term supply-chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of* *demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (iii) to paragraph 384);*

(D) *knew that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (iv) to paragraph 384);*

(E) *knew that lumber prices in the NA Market had stabilised (particular (v) to paragraph 384);*

(F) *knew that supply-chain issues that had impacted the supply of Competing Products had progressively improved and largely resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (particular (vi) to paragraph 384);*

(G) *is inferred to have known, or alternatively ought to have known that the supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products (particular (vii) to paragraph 384);*

(H) *is inferred to have known, or alternatively ought to have known that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (viii) to paragraph 384);*

(I) *knew that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction (particular (ix) to paragraph 384);*

(J) *is inferred to have known, or alternatively ought to have known that the demand for James Hardie's FC Products in the NA Market in FY23 was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (x) and (xii) to paragraph 384);*

(K) *knew that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 393);*

(L) *knew that between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 393);*

(M) *knew that between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely (particular (iii) to paragraph 393);*

(N) *knew that high inflation in the US was likely to increase the cost of building and construction materials in the US and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (iv) to paragraph 393);*

(O) *knew that a sustained period of high inflation and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (v) to paragraph 393);*

(P) *knew that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, and there had been four consecutive interest rate rises (particular (vi) to paragraph 393);*

(Q) *is inferred to have known, or alternatively ought to have known that further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (vii) and (ix) to paragraph 393);*

(R) *knew the May 2022 Results (which were materially below forecast) (particular (ii) to paragraph 401);*

(S) *knew the June 2022 Results, and is inferred to have known or alternatively ought to have known the June 2022 Results were positively skewed by the pull forward of volume ahead of the 20 June 2022 price increase and from promotional activity (particulars (ii) and (vi) to paragraph 401);*

(T) *knew the July 2022 Results (which were materially below forecast) (particular (ii) to paragraph 401);*

(U) *knew that James Hardie continued to use the Revised Demand Forecasting Method (particular (iii) to paragraph 415);*

(V) *knew, or alternatively is inferred to have known the August Volume/Demand Modelling Inadequacy (particular (iii) to paragraph 415);*

(W) *is inferred to have known, or alternatively ought to have known that as at 16 August 2022 and the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (i) to paragraph 418);*

(X) *knew that as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5% (particular (i) to paragraph 418);*

(Y) *knew that as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22 (particular (iii) to paragraph 418);*

(Z) *is inferred to have known, or alternatively ought to have known that James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23 (particular (iv) to paragraph 418);*

(AA) *is inferred to have known, or alternatively ought to have known that sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (v) to paragraph 418);*

(BB) *each item of information in (A) to (AA) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business.*

(iii) ***Wiens** ought to have known this information because he:*

(A) *knew:*

1. *that as at 7 February 2022, the inflation rate in the United States had increased significantly from in or around October 2021 to January 2022 and US inflation, commonly measured by the CPI, was well above two percent, and further inflationary pressures for 2022 were likely (particular (i) to paragraph 393);*

2. *that between 7 February 2022 and 17 May 2022, the inflation rate in the US continued to remain at elevated levels (particular (ii) to paragraph 393);*

3. *that between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely (particular (iii) to paragraph 393);*

4. *that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, and there had been four consecutive interest rate rises (particular (vi) to paragraph 393);*

5. *the May 2022 Results, the June Results and the July Results (particular (iii) to paragraph 401);*

(B) *ought to have known:*

1. *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (xi) to paragraph 384);*

2. *the spiking in US lumber prices (particular (xi) to paragraph 384);*

3. *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (xi) to paragraph 384);*

4. *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (xi) to paragraph 384);*

5. *that lumber prices in the NA Market had stabilised (particular (xi) to paragraph 384);*

6. *that the supply-chain issues that had impacted the supply of Competing Products had progressively improved and largely resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (particular (xi) to paragraph 384);*

7. *that the supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products (particular (xi) to paragraph 384);*

8. *that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (xi) to paragraph 384);*

9. *that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction (particular (xi) to paragraph 384);*

10. *that the demand for James Hardie's FC Products in the NA Market in FY23 was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (xi) and (xii) to paragraph 384);*

11. *high inflation in the US was likely to increase the cost of building and construction materials in the US and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (viii) to paragraph 393);*

12. *that a sustained period of high inflation and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (viii) to paragraph 393);*

13. *that further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (viii) and (ix) to paragraph 393);*

14. *that James Hardie continued to use the Revised Demand Forecasting Method (particular (iv) to paragraph 415);*

15. *the August Volume/Demand Modelling Inadequacy (particular (iv) to paragraph 415);*

16. *that as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (vi) to paragraph 418);*

17. *that as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order*

backlog was estimated to be ~4% - 5% (particular (vi) to paragraph 418);

18. *that as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22 (particular (vi) to paragraph 418);*

19. *that James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23 (particular (vi) to paragraph 418);*

20. *that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (vi) to paragraph 418);*

21. *each item of information in (A) to (B) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business.*

(iv) *the **James Hardie Board** ought to have known this information because they:*

(A) *knew:*

1. *that between 17 May 2022 and 16 August 2022, the inflation rate in the US continued to remain at elevated levels, with CPI well above two percent, and further inflationary pressures for 2022 were likely (particular (iii) to paragraph 393);*

2. *that the US Federal Reserve had and was likely to continue to increase interest rates through FY23 in order to combat inflation in the US, and there had been four consecutive interest rate rises (particular (vi) to paragraph 393);*

(B) *ought to have known:*

1. *that the suppliers of Competing Products were exposed to short-term supply chain issues (particular (xi) to paragraph 384);*

2. *the spiking in US lumber prices (particular (xi) to paragraph 384);*

3. *that as a consequence the short-term supply chain issues and US lumber price spiking, between early 2021 and early 2022, there was a substantial reduction in supply of, and/or significant increases in price (and therefore a decrease in quantity of demand) for Competing Products to James Hardie's FC Products in the NA Market (particular (xi) to paragraph 384);*

4. *the fact that in late 2021, there was an increase in the volume of new constructions in the US residential housing construction market, but as at January 2022 this was not continuing (particular (xi) to paragraph 384);*

5. *that lumber prices in the NA Market had stabilised (particular (xi) to paragraph 384);*

6. *that the supply-chain issues that had impacted the supply of Competing Products had progressively improved and largely resolved, and the supply of Competing Products, relative to James Hardie's FC Products, had continued to improve and was likely to continue to improve in FY23 (particular (xi) to paragraph 384);*

7. *that the supply-chain issues that had impacted the supply of Competing Products ceased to have any meaningful positive impact upon demand for James Hardie's FC Products (particular (xi) to paragraph 384);*

8. *that customers were less likely to substitute James Hardie's FC Products in place of Competing Products, reducing demand for James Hardie's FC Products (particular (xi) to paragraph 384);*

9. *that there was a continuing decrease in the volume of new starts in the NA Market for US residential construction (particular (xi) to paragraph 384);*

10. *that the demand for James Hardie's FC Products in the NA Market in FY23 was likely to either decrease, or increase at a reduced rate from that experienced in FY22 (particulars (xi) and (xii) to paragraph 384);*

11. *high inflation in the US was likely to increase the cost of building and construction materials in the US and an increase in the cost of building and construction materials was likely to cause James Hardie's NA Business to incur additional COGS which would not be recouped from customers (particular (viii) to paragraph 393);*

12. *that a sustained period of high inflation and further increases in interest rates by the US Federal Reserve (and/or the interest rate rises in fact implemented) were likely to adversely impact (or increasingly adversely impact) the demand for James Hardie's FC Products in the NA Market in FY23 (particular (viii) to paragraph 393);*

13. *that further sustained high inflation in the US and increasing interest rates in the US were likely to cause adverse impacts on the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (particulars (viii) and (ix) to paragraph 393);*

14. *the May 2022 Results, the June Results and the July Results (particular (iv) to paragraph 401);*

15. *that James Hardie continued to use the Revised Demand Forecasting Method (particular (iv) to paragraph 415);*

16. *the August Volume/Demand Modelling Inadequacy (particular (iv) to paragraph 415);*

17. *that as at 16 August 2022, the August Demand Impacts and August Inflation/Interest Rate Impacts had and were likely to continue to result in the cancellation of existing orders for James Hardie's FC Products, a decline in the rate of new orders for James Hardie's FC Products and the further depletion of James Hardie's customer order backlog (particular (vi) to paragraph 418);*

18. *that as at 16 August 2022, James Hardie's volume growth excluding sales from the depletion of its customer order backlog was estimated to be ~4% - 5% (particular (vi) to paragraph 418);*

19. *that as at 16 August 2022, James Hardie's backlog volume had significantly decreased, including that the average backlog in 1Q23 was down 24% on 1Q22 (particular (vi) to paragraph 418);*

20. *that James Hardie's customer backlog had been largely consumed by mid-August 2022, and would no longer contribute to volume growth in FY23 (particular (vi) to paragraph 418);*

21. *that the sales growth and EBIT Margin achieved by James Hardie's NA Business were likely to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (particular (vi) to paragraph 418);*

22. *each item of information in (A) to (B) above was likely to adversely impact James Hardie's net sales and EBIT Margin in FY23, and meant that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business.*

424. Further, or alternatively, as at 16 August 2022, at the time James Hardie gave the August Revised FY23 Guidance, James Hardie ought to have known that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information).

PARTICULARS

A reasonable estimate of James Hardie's net sales growth in NA was approximately 8% because:

(i) annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

(ii) net sales growth of approximately 8% would represent a good result for James Hardie's NA Business in FY23, given the

February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts and the August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;

(iii) The Plaintiff refers to and repeats paragraphs 86 and 243 and 423 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts and the August Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation), paragraphs 228 and 384 (knowledge of reduced demand for FC Products) and paragraphs 72, 208 and 393 (knowledge of inflationary conditions and rising interest rates);

(iv) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Revised Demand Forecasting Method;

(v) The Plaintiff refers to and repeats paragraphs 86 and 243 and 423 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the Revised Demand Forecasting Method and its inadequacies (the Plaintiff also refers to the particulars to paragraphs 235 and 415 (knowledge of revised unreasonable volume forecasting method));

(vi) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts, the August Inflation/Interest Rate Impacts and the Revised Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72, 208, 217, 384, 393 and 415 above, which were all factors relevant to the net sales performance of James Hardie's NA Business, Gadd, Wiens and Miele ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 8%.

A reasonable estimate of James Hardie's EBIT Margin in NA was approximately 25% because:

(vii) Given the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts and the August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable

estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved by James Hardie in FY22, and was likely to be lower;

(viii) The Plaintiff refers to and repeats paragraphs 86 and 243 and 423 above and the particulars thereto, which list the items of information individual James Hardie Officers knew or ought to have known in relation to the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts and the August Inflation/Interest Rate Impacts (the Plaintiff also refers to the particulars to paragraph 64 (knowledge of temporary demand elevation), paragraphs 228 and 384 (knowledge of reduced demand for FC Products) and paragraphs 72, 208 and 393 (knowledge of inflationary conditions and rising interest rates);

(ix) an FY23 Margin of approximately 25% would represent an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business;

(x) Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts and the August Inflation/Interest Rate Impacts as pleaded and particularised in paragraphs 64, 72, 208, 217, 384 and 393 above, which were all factors relevant to the EBIT Margin of James Hardie's NA Business, Gadd, Wiens and Miele ought to have known that a reasonable estimate of the EBIT Margin in James Hardie's NA Business was approximately 25%.

M.8 The Achievability of the August Revised FY23 Guidance for ANI

M.8.1 The August Revised FY23 Guidance for ANI was unlikely to be achieved

425. As at and from 16 August 2022, James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (**August Unlikely ANI Guidance Information**) (namely, US$730 million to US$780 million).

PARTICULARS

The reasons why James Hardie was unlikely to achieve the August Revised FY23 Guidance for ANI, were as set out in Section M.8.2 below.

M.8.2 The reasons why the August Revised FY23 Guidance for ANI was unlikely to be achieved

426. As at and from 16 August 2022, James Hardie was unlikely to achieve its August Revised FY23 Guidance for ANI of US$730 million to US$780 million because to the extent it was set by reference to the sales growth, EBIT Margin and EBIT in James Hardie's NA business, James Hardie was unlikely to achieve the August Revised FY23 Guidance for sales growth and/or EBIT Margin in James Hardie's NA Business.

PARTICULARS

(i) *James Hardie's ANI forecast as at 16 August 2022 of US$789 million was based upon its FY23 estimate for EBIT in the NA Business (US$913.4 million).*

(ii) *If James Hardie's NA Business did not in FY23 achieve net sales growth of 18%+ from FY22, but only achieved net sales growth of approximately 8%, this would result in forecast FY23 net sales of approximately US$2,755 million for James Hardie's NA Business, which in combination with (iii) below would reduce ANI for the reason set out in paragraph 54(b).*

(iii) *If James Hardie's NA Business did not in FY23 achieve an EBIT Margin of 28 to 32%, but only achieved an EBIT Margin of approximately 25%, when applied to forecast FY23 net sales of approximately US$2,755 million, this would result in FY23 EBIT of approximately US$689 million, which in combination with (ii) above would reduce ANI for the reason set out in paragraph 54(b).*

(iv) *The negative US$225 million EBIT impact (US$913.4 million less US$689 million) represents an ANI impact of approximately US$173 million to James Hardie's forecast FY23 ANI of US$789 million (i.e. US$616 million).*

427. Further, or alternatively to paragraph 426, as at and from 16 August 2022, James Hardie was unlikely to achieve the August Revised FY23 Guidance for ANI because a reasonable estimate of James Hardie's FY23 ANI was:

(a) approximately US$580 million to US$660 million (**August A Counterfactual ANI Guidance Information**);

(b) alternatively, approximately US$600 million to US$640 million (**August B Counterfactual ANI Guidance Information**).

PARTICULARS

(i) *As to sub-paragraph 427(a) (the August A Counterfactual ANI Guidance Information):*

(A) ***Net sales****:*

(I) Annual net sales growth for James Hardie's NA Business (or equivalent segment) across the 15 years

between FY07 and FY21 averaged 4.1% (with a median of 6.3%);

(II) Net sales growth of approximately 8% would represent a good result for James Hardie's NA Business in FY23, given the August Demand Impacts and August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business;

(III) a reasonable industry executive in the position of Gadd, Miele or Wiens would not have adopted the Demand Forecasting Method and would have estimated FY23 net sales growth of approximately 8%;

(IV) net sales growth of approximately 8% on the FY22 result of US$2,551 million would result in forecast FY23 net sales of approximately US$2,755 million for James Hardie's NA Business.

(B) ***EBIT Margin**:*

(I) Given the August Demand Impacts and August Inflation/Interest Rate Impacts, which represented challenging market conditions for the NA Business, a reasonable estimate of FY23 EBIT Margin was not higher than the EBIT Margin in fact achieved in FY22 and was likely to be lower;

(II) an FY23 EBIT Margin of approximately 25% represents an appropriate reduction on FY22 performance given the increasingly difficult macroeconomic conditions facing James Hardie's NA Business;

(III) a reasonable industry executive in the position of Gadd, Miele or Wiens would have estimated FY23 EBIT Margin of approximately 25%.

(C) ***EBIT***

(I) an EBIT margin of approximately 25% on net sales of US$2,755 million would result in forecast EBIT for FY23 of approximately US$689 million for James Hardie's NA Business;

(II) James Hardie's EBIT for the NA Business in FY23 was US$913.4 million, approximately US$225 million more than the amount calculated at (I) above.

(D) ***ANI***

(I) a reduction in forecast EBIT of approximately US$225 million (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) would have an impact of approximately US$173 million in James Hardie's ANI;

(II) deducting approximately US$173 million from James Hardie's forecast US$789 million ANI as at 16 August

2022 to reflect reasonable estimates of net sales growth and EBIT Margin in North America would result in a pinpoint ANI estimate of approximately US$616 million. This calculation is corroborated by extrapolating James Hardie's 1Q23 ANI of US$154.3 million across 4 quarters for an estimated ANI of $617.2 million;

(III) a reasonable range around approximately US$616 million would be +-8% around a slightly higher midpoint of US$620 million, being approximately US$580 million to US$660 million. A +-8% range would be reasonably selected given the challenging economic conditions presented by the August Demand Impacts and August Inflation/Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance.

(ii) *As to sub-paragraph 427(b) (the August B Counterfactual ANI Guidance Information):*

(A) ***Net sales**: approximately US$2,7055 million as per (i)(A) above;*

(B) ***EBIT Margin**: approximately 25% as per (i)((B) above;*

(C) ***EBIT**: approximately US$689 million as per (i)(C) above;*

(D) ***ANI**: as per (i)(D)(I)-(II) above, the ANI impact was approximately US$173 million producing a pinpoint ANI estimate of approximately US$616 million, and adopting an alternative narrower reasonable range of +-5% around a slightly higher midpoint of US$620 million produces an ANI range of approximately US$600 million to US$640 million. In the event that a +-8% range was not reasonably selected, a +-5% range would reasonably have been selected, given that James Hardie itself adopted an approximately +-5% range around a midpoint of about $779 million to $780 million.*

M.8.3 Knowledge that the August Revised FY23 Guidance for ANI was unlikely to be achieved

428. Further, or alternatively, as at 16 August 2022, at the time James Hardie gave the August Revised FY23 Guidance, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the August Revised FY23 Guidance for ANI of US$730 million to US$780 million.

PARTICULARS

(i) ***Gadd, Miele, Wiens and the James Hardie Board** ought to have known this by reason that they knew or ought to have known that the August Revised FY23 Guidance for sales growth and EBIT Margin in James Hardie's NA Business was unlikely to be achieved. Paragraph 423 is repeated.*

429. Further, or alternatively, as at 16 August 2022, at the time James Hardie gave the August Revised FY23 Guidance, James Hardie ought to have known that a reasonable estimate of James Hardie's FY23 ANI was:

(a) approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information);

(b) alternatively, approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information).

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraph 424 above and the particulars thereto, which pleads that James Hardie ought to have known that a reasonable estimate of net sales growth in James Hardie's NA Business was approximately 8% and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 25%.*

(ii) *James Hardie's FY23 ANI forecast of US$789 million was based on its FY23 estimate for EBIT in the NA Business of US$913.4 million.*

(iii) *If James Hardie achieved net sales growth of approximately 8%, this would result in forecast FY23 net sales of approximately US$2,755 million for James Hardie's NA Business.*

(iv) *If James Hardie achieved an EBIT Margin of approximately 25%, when applied to forecast FY23 net sales of approximately US$2,755 million, this would result in FY23 EBIT of approximately US$689 million.*

(v) *A reduction in forecast EBIT for James Hardie's NA Business (reflecting reasonable estimates of net sales growth and EBIT Margin in North America) of US$225 million, would have an impact of approximately US$173 million on James Hardie's FY23 ANI forecast.*

(vi) *James Hardie's FY23 ANI forecast of US$789 million minus US$153 million would have produced a pinpoint ANI estimate of US$616 million.*

(vii) *A reasonable range around approximately US$616 million would be +/-8% or alternatively +/-5% around a slightly higher midpoint of US$620 million, being approximately US$580 million to US$660 million or alternatively US$600 million to US$640 million. A +/-8% range would be reasonably selected given the challenging economic conditions presented by the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts and the May Inflation/Interest Rate Impacts increased the degree of uncertainty as to achievability of such midpoint guidance, alternatively a +/-5% range reflects that actually adopted by James Hardie.*

(viii) *Based on their knowledge of the February Demand Impacts, the February Inflation/Interest Rate Impacts, the May Demand Impacts, the May Inflation/Interest Rate Impacts, the August Demand Impacts, the August Inflation/Interest Rate Impacts and the Revised Demand Forecasting Method and its inadequacies as pleaded and particularised in paragraphs 64, 72, 208, 217, 384, 393 and 415 above, Gadd, Miele and Wiens ought to have known that a reasonable estimate of the sales growth in James Hardie's NA Business was approximately 8% net sales growth and a reasonable estimate of EBIT Margin in James Hardie's NA Business was approximately 25%, and therefore ought to have known that a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million or alternatively US$600 million to US$640 million.*

M.9 The Achievability of the August Revised FY23 Guidance for ANI at September 2022 and October 2022

M.9.1 The August Revised FY23 Guidance was unlikely to be achieved as at September 2022 and October 2022

430. As at:

(a) mid-September 2022; and

(b) mid-October 2022,

it was the case that:

(c) James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the August Revised FY23 Guidance (namely, FY23 net sales growth of 18%+ from FY22) or the volume growth necessary to achieve such growth rates;

(d) James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the August Revised FY23 Guidance (namely, 28 to 32%);

(being the August Unlikely NA Guidance Information pleaded in paragraph 419).

PARTICULARS

The reasons why James Hardie was unlikely to achieve the August Revised FY23 NA Guidance as at September 2022 and October 2022 were as set out in Section M.9.2 below.

431. As at:

(a) mid-September 2022; and

(b) mid-October 2022,

it was the case that James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (namely, US$730 million to US$780 million, being 18% to 26% growth from the FY22 ANI of US$620.7 million (being the August Unlikely ANI Guidance Information pleaded in paragraph 425).

PARTICULARS

The reasons why James Hardie was unlikely to achieve the August Revised FY23 Guidance for ANI as at September 2022 and October 2022 were as set out in Section M.9.2 below.

M.9.2 Reasons why the August Revised FY23 Guidance was unlikely to be achieved as at September 2022 and October 2022

Conditions the same as in August

432. As at each of 16 September 2022 and 13 October 2022:

(a) it was still the case that the August Demand Impacts continued, namely:

(i) there had been elevated levels of demand for FC Products sold by James Hardie's NA Business experienced between early 2021 and early 2022, but these had not been repeated in FY23 to date and were not likely to be repeated over the balance of FY23;

(ii) demand for FC Products sold by James Hardie's NA Business had decreased, and was likely to continue to decrease, from that experienced in FY22;

(b) it was still the case that there had been and was likely to continue to be sustained high inflation and increasing interest rates in the US throughout FY23, which had adversely affected, and were likely to continue to adversely impact, the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 (that is, the August Inflation/Interest Rate Impacts continued);

(c) it was still the case that the August Revised FY23 Guidance had been based on the FY23 3+9 NA Forecast prepared on 13 July 2022 with directions from Miele, and:

(i) did not take into account the forecast in operation at the time of the August 2022 Announcements, which forecast financial results which were lower than the August Revised FY23 Guidance;

(ii) did not adjust for the impact of the June 2022 Volume Pull-Forward; and

(iii) did not take into account the July 2022 Results.

(d) it was still the case that the Revised Demand Forecasting Method continued to be inadequate to predict the volume growth that James Hardie's NA Business would experience in FY23, due to the existence of the inadequacies pleaded at paragraphs 411 to 414 above (that is, the August Volume/Demand Modelling Inadequacy continued);

(e) it was still the case that the sales growth and EBIT Margin achieved by James Hardie's NA Business in FY23 had been impacted and was likely to continue to be adversely impacted by the depletion of James Hardie's backlog of unfilled customer orders in FY23 (that is, the August Backlog Depletion continued).

PARTICULARS

The Plaintiff refers to and repeats sections M.2, M.3, M.4, M.5 and M.6 above.

Performance was worse than predicted in August 2022

433. By mid-September 2022, further to paragraph 432, James Hardie finalised its NA results for August 2022, the fifth month of FY23, and recorded poor performance compared to the FY23 4+8 NA Forecast, including:

(a) EBIT of US$75.1 million:

(i) approximately 9% lower than the forecast for August 2022 in the FY23 4+8 NA Forecast; and

(ii) approximately 37% higher than the corresponding prior year result in August 2021;

(b) EBIT margin of 28.3%:

(i) approximately 60 bps lower than the forecast for August 2022 in the FY23 4+8 NA Forecast;

(ii) approximately 150 bps higher than the corresponding prior year result in August 2021;

(c) Net sales of US$265.6 million:

(i) approximately 7% lower than the forecast for August 2022 in the FY23 4+8 NA Forecast; and

(ii) approximately 29% higher than the corresponding prior year result in August 2021;

(d) Cash cost of US$125.1 million:

(i) approximately 5% worse than the forecast for August 2022 in the FY23 4+8 NA Forecast; and

(ii) approximately 34% worse than the corresponding prior year result in August 2021;

(e) Freight costs of US$25.1 million:

(i) approximately 16% better than the forecast for August 2022 in the FY23 4+8 NA Forecast; and

(ii) approximately 16% worse than the corresponding prior year result in August 2021;

(f) Volume of 286.9 mmstf:

(i) approximately 6% lower than the forecast for August 2022 in the FY23 4+8 NA Forecast; and

(ii) approximately 12% higher than the corresponding prior year result in August 2021.

434. The biggest drivers of the miss to forecast in August 2022 pleaded in paragraph 433 above were:

(a) volume, contributing US$(7.5) million to EBIT; and

(b) price mix, contributing US$(4.2) million to EBIT,

(the matters in paragraphs 433 and 434 above are together the **August 2022 Results**).

PARTICULARS

On 16 September 2022 Khamille De Lara circulated the NA Business Results for August 2022 via email to Erter, Miele, Gadd and others, attaching Presentation, 'August FY23 – JHBP Business Results', 16 September 2022, [JHX.0005.0035.2645] and [JHX.0005.0035.2647] respectively, which stated that volume had a US$(7.5) million impact on EBIT which was "primarily driven by C+ products (11mmstf)" and price mix had a US$(4.2) million impact on EBIT which was "primarily driven by unfavourable product mix due to lower than forecasted C+ statement siding".

435. By mid-October 2022, further to paragraph 432, James Hardie finalised its NA results for September 2022, the sixth month of FY23, and recorded poor performance compared to the FY23 5+7 NA Forecast, including:

(a) EBIT of US$73.2 million:

(i) approximately 2% lower than the forecast for September 2022 in the FY23 5+7 NA Forecast; and

(ii) approximately 3% higher than the corresponding prior year result in September 2021;

(b) EBIT margin of 29.1%:

(i) approximately 90 bps higher than the forecast for September 2022 in the FY23 5+7 NA Forecast;

(ii) approximately 150 bps lower than the corresponding prior year result in September 2021;

(c) Net sales of US$251.2 million:

(i) approximately 5% lower than the forecast for September 2022 in the FY23 5+7 NA Forecast; and

(ii) approximately 8% higher than the corresponding prior year result in September 2021;

(d) Cash cost of US$118.2 million:

(i) approximately 5% better than the forecast for September 2022 in the FY23 5+7 NA Forecast; and

(ii) approximately 4% worse than the corresponding prior year result in September 2021;

(e) Freight costs of US$25.6 million:

(i) approximately 6% better than the forecast for September 2022 in the FY23 5+7 NA Forecast; and

(ii) approximately 4% worse than the corresponding prior year result in September 2021;

(f) Volume of 269.0 mmstf:

(i) approximately 5% lower than the forecast for September 2022 in the FY23 5+7 NA Forecast; and

(ii) approximately 5% lower than the corresponding prior year result in September 2021.

436. The biggest drivers of the miss to forecast in September 2022 pleaded in paragraph 435 above were:

(a) volume, contributing US$(6.2) million to EBIT; and

(b) cash cost, contributing US$(2.7) million to EBIT,

(the matters in paragraphs 435 and 436 above are together the **September 2022 Results**).

PARTICULARS

On 13 October 2022 Frances Akalusi circulated the NA Business Results for September 2022 via email to Erter, Miele, Gadd and others, attaching Presentation, 'September FY23 – JHBP Business Results', 13 October 2022, [JHX.0005.0035.2694] and [JHX.0005.0035.2696] respectively, which stated that volume had a $(7.5m) impact on EBIT which was "primarily driven by Prime Trim (8mmstf) and Prime Soffit (4mmstf)".

Counterfactuals

437. As at each of mid-September 2022 and mid-October 2022, it was still the case that:

(a) a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 8% (August Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 25% (August Counterfactual NA EBIT Margin Guidance Information);

(b) a reasonable estimate of James Hardie's FY23 ANI was approximately

(i) approximately US$580 to US$660 million (August A Counterfactual ANI Guidance Information);

(ii) alternatively, approximately US$600 to US$640 million (August B Counterfactual ANI Guidance Information).

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraphs 422 and 427 above.*

M.9.3 Knowledge of the reasons why the August Revised FY23 Guidance was unlikely to be achieved

438. As at mid-September 2022, James Hardie knew or ought to have known that:

(a) James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business (namely, that it would achieve FY23 net sales growth of 18%+ from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 28 to 32%);

(b) James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (namely, US$730 million to US$780 million, being 18-26% growth from the FY22 ANI of $620.7 million

because:

(i) of its awareness of the facts and circumstances pleaded in paragraph 423; and

(ii) of the knowledge it had of actual performance against guidance to mid-September 2022, as pleaded in paragraphs 433 to 434.

PARTICULARS

Gadd and Miele knew the August 2022 Results by reason of receiving a presentation dated 16 September 2022 which contained this information [JHX.0005.0035.2645] and [JHX.0005.0035.2647].

439. As at mid-September 2022, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the August Revised FY23 Guidance for FY23 ANI of US$730 million to US$780 million.

PARTICULARS

The Plaintiff refers to and repeats paragraph 428.

440. Further or alternatively, as at mid-October 2022, James Hardie knew or ought to have known that James Hardie was unlikely to achieve the August Revised FY23 Guidance for James Hardie's NA Business (namely, that it would achieve FY23 net sales growth of 18%+ from FY22 or the volume growth rates necessary to achieve such growth, or an EBIT Margin of 28 to 32%), because:

(a) of the awareness it had of the facts and circumstances pleaded in paragraph 424;

(b) of the awareness it had of actual performance against guidance to mid-September 2022 and mid-October 2022, as pleaded in paragraphs 435 and 436.

PARTICULARS

(i) *As to the August 2022 Results, the particulars to paragraph 438 are repeated.*

(ii) *Gadd and Miele knew the September 2022 Results by reason of receiving a presentation dated 13 October 2022 which contained this information [JHX.0005.0035.2694] and [JHX.0005.0035.2696].*

441. As at mid-October 2022, James Hardie knew or ought to have known that James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (namely, US$730 million to US$780 million, being 18% to 26% growth from the FY22 ANI of $620.7 million.

PARTICULARS

(i) *The Plaintiff refers to and repeats paragraph 428.*

N MISLEADING CONDUCT IN AUGUST 2022

N.1 Misleading Conduct Contraventions

442. The making of each of the August Revised FY23 Guidance Representations and the August FY23 Implied Representation was conduct engaged in by James Hardie:

(a) in trade or commerce; and

(b) in relation to JHX Shares.

N.1.1 August Revised FY23 NA Guidance Representations

443. As at and from 16 August 2022, alternatively mid-September 2022, alternatively mid-October 2022, James Hardie did not have reasonable grounds for making the August Revised FY23 NA Guidance Representations, by reason of:

(a) the facts and circumstances set out in paragraphs 373, 385, 414, 416 and/or 419;

(b) alternatively:

(i) the facts and circumstances set out in paragraphs 373, 385, 414, 416 and/or 419; and

(ii) its actual or constructive knowledge of those facts and circumstances set out in paragraphs 384, 393, 415, 418 and/or 423;

(c) alternatively, as at and from mid-September 2022, alternatively mid-October 2022, the matters pleaded in (b) above, and the material matters pleaded in paragraphs 432 to 437.

PARTICULARS

(i) *Each of the August Revised FY23 NA Guidance Representations was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

444. As at and from 16 August 2022, alternatively mid-September 2022, alternatively mid-October 2022, by making and/or failing to correct the August Revised FY23 NA Guidance Representations, in the circumstances set out in paragraph 444, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) James Hardie failed to correct or qualify the August Revised FY23 NA Guidance Representations by informing the market of:

(A) the August Unlikely NA Guidance Information;

(B) alternatively, the May Counterfactual NA Sales Growth Guidance Information and/or the May Counterfactual NA EBIT Margin Guidance Information.

N.1.2 August Revised FY23 Group Guidance Representations

445. As at and from 16 August 2022, James Hardie did not have reasonable grounds for making the August Revised FY23 Group Guidance Representation, by reason of:

(a) the facts and circumstances set out in paragraphs 373, 385, 414, 416 and/or 425;

(b) alternatively:

(i) the facts and circumstances set out in paragraphs 373, 385, 414, 416 and/or 425; and

(ii) its actual or constructive knowledge of those facts and circumstances set out in paragraphs 384, 393, 415, 418 and/or 428.

(c) alternatively, as at and from mid-September 2022, alternatively mid-October 2022, the matters pleaded in (b) above, and the material matters pleaded in paragraphs 432 to 437).

PARTICULARS

(i) *The August Revised FY23 Group Guidance Representation was a representation as to future matters, and s 12BB of the ASIC Act, s 769C of the Corporations Act and/or s 4 of the Australian Consumer Law are relied upon.*

446. As at and from 16 August 2022, as at and from mid-September 2022, alternatively mid-October 2022, by making and/or failing to correct or qualify the August Revised FY23 Group Guidance Representation, in the circumstances set out in paragraphs 443 and/or 445, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the August Revised FY23 Group Guidance Representation by informing the market of:*

(A) the August Unlikely ANI Guidance Information;

(B) alternatively, the August A Counterfactual ANI Guidance Information, or alternatively the August B Counterfactual ANI Guidance Information.

N.1.3 August FY23 Implied Representation

447. As at and from 16 August 2022, as at and from mid-September 2022, alternatively mid-October 2022, James Hardie did not have reasonable grounds for making and maintaining the August FY23 Implied Representation, by reason of the matters pleaded in paragraphs 443 and/or 445.

PARTICULARS

(i) *The August FY23 Implied Representation lacked reasonable grounds by reason of the matters in paragraph 443 (so far as the August FY23 NA Guidance Representation is concerned) and paragraphs 443 and/or 445 (so far as the August FY23 Group Guidance Representation is concerned).*

448. By making and/or failing to correct or qualify each of the August FY23 Implied Representation, James Hardie engaged in conduct which was misleading or deceptive or was likely to mislead or deceive.

PARTICULARS

(i) *James Hardie failed to correct or qualify the August FY23 Implied Representation by informing the market of:*

(A) the August Unlikely NA Guidance Information and/or the August Unlikely ANI Guidance Information;

(B) alternatively:

(i) the August Counterfactual NA Sales Growth Guidance Information and/or the August Counterfactual NA EBIT Margin Guidance Information; and/or

(ii) the August A Counterfactual ANI Guidance Information, or alternatively the August B Counterfactual ANI Guidance Information.

N.1.4 Contravening conduct

449. By reason of the matters pleaded in:

(a) paragraph 443, in relation to the August Revised FY23 NA Guidance Representations

(b) paragraph 445, in relation to the August Revised FY23 Group Guidance Representation;

(c) paragraph 447, in relation to the August FY23 Implied Representation,

James Hardie contravened section 1041H of the Corporations Act and/or s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law (each an **August Misleading Conduct Contravention**).

N.2 Continuing Conduct

450. Between 8 August 2022 and 7 November 2022, James Hardie did not say anything to modify, qualify or contradict any of the August Revised FY23 Guidance Representations.

451. On 12 September 2022 (**Investor Day 1**) and 13 September 2022, James Hardie held investor day sessions in New York, with the relevant presentations released to the market after ASX close of trade on 12 and 13 September respectively.

452. On Investor Day 1, James Hardie:

(a) reaffirmed the August Revised FY23 Guidance, including the Net Sales Growth and EBIT Margin for the North America Division;

(b) stated that the North America operations were "built for growth" and that it was expected that there would be a 10 year volume Compound Annual Growth Rate (**CAGR**) of 9%, 10 year Net Sales CAGR of 12% and a 10 Year Adjusted EBIT CAGR of 16%;

(c) stated that the North American division was now 65% "Repair & Remodel" and 35% "New Construction"; and

(d) the strong backlog of work in the US housing construction market remained and management were reasonably confident that the strong backlogs supported the FY23 outlook.

PARTICULARS

(i) *Statement (a) was expressly made in the Investor Day 2022 Presentation Day 1, p 7.*

(ii) *Statement (b) was expressly made in the Investor Day 2022 Presentation Day 1, p 44.*

(iii) *Statement (c) was expressly made in the Investor Day 2022 Presentation Day 1, p 52.*

(iv) *Statement (d) was expressly made at the Investor Day 1 presentation and published in UBS 'James Hardie Industries: Investor Day – Key Takeaways 14 September 2022', p 1.*

453. By reason of the matters pleaded in paragraph 258 and 451 to 452, from 8 August 2022 to 7 November 2022, James Hardie continued to:

(a) make each of the August Revised FY23 Guidance Representations (and the August FY23 Implied Representation associated with the August Revised FY23 Guidance Representations); and

(b) engage in each of the August Misleading Conduct Contraventions.

N.3 Causation, loss and damage

N.3.1 The market for JHX Shares

454. The Plaintiff and the Group Members acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps in a market of investors or potential investors in JHX Shares, JHX ADRs and JHX Equity Swaps with the features pleaded in paragraph 104 to 106.

N.3.2 Corrective disclosure and price declines

455. On 8 November 2022, James Hardie published the November Announcements, as pleaded in paragraphs 107 and 108.

456. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially, as pleaded in paragraph 109.

N.3.3 August Revised FY23 NA Guidance Representations

Market Based Inflation

457. During the Relevant Period, the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 NA Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 NA Guidance Representation) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

458. Further to paragraph 457 if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(a) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(b) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 to US$660 million (that is, the August A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 to US$640 million (that is, the August B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$560 million,

and this would have corrected or qualified the August Revised FY23 NA Guidance Representations (and/or the August FY23 Implied Representation in respect of the August Revised FY23 NA Guidance Representations), and the price of JHX Shares would have declined substantially, such that the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps would (if they decided to acquire JHX Shares, JHX ADRs and JHX Equity Swaps) have acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps at a lower prevailing market price.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 458.

(ii) *If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022, the magnitude of the decline would have been approximately 18.9%.*

(iii) *If the Affected Market became aware of the August B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 17.4%.*

(iv) *If not disclosed by James Hardie, an estimate of US$560 million could have been otherwise inferred because:*

(A) *based upon actual FY22 net sales in James Hardie's NA Business of US$2,551 million, 8% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,755 million;*

(B) *an EBIT Margin in North America of 25% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of approximately US$688 million (being 25% of $2,755 million);*

(C) *as 2 August 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$948 million (see [JHX.0013.0029.5933]), the August Counterfactual NA Sales Growth Guidance Information and* the *August Counterfactual NA EBIT Margin Guidance Information, taken together, would result in an approximately US$259 million reduction in forecast EBIT (US$688 million less US$948 million);*

(D) *a reduction in forecast EBIT of approximately US$259 million would have an impact of approximately US$200 million on James Hardie's ANI (US$259 million less 23% average effective tax rate);*

(E) *as a consequence, FY23 ANI expectations of US$757 million (see [JHX.0005.0037.6917]) would have reduced to approximately US$560 million.*

459. If the price of JHX Shares declined between 16 August 2022 and 8 November 2022 as pleaded in paragraph 458, the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the period between 16 August 2022 and 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price

PARTICULARS

(i) *If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 April 2022 (458(a)), the magnitude of the decline would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information (458(b)), the magnitude of the decline would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) If the Affected Market became aware of an FY23 ANI estimate of US$560 million (458(iii)), the magnitude of the decline would have been approximately 21.3%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.3% lower than it in fact paid, as pleaded in paragraph 2 above.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares , JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

460. Further, or alternatively to paragraphs 458 and 459:

(a) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the August Revised FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin for James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information), and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 to US$660 million (that is, the August A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 to US$640 million (that is, the August B Counterfactual ANI Guidance Information);

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately $560 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraphs (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone.

(A) the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, this would have been approximately 18.9%.

(B) the August B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 17.4%.

(C) if ANI guidance of approximately US$560 million was disclosed, this would have been approximately 21.3%.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues

at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

461. If the price of JHX Shares declined between 16 August 2022 and 8 November 2022 as pleaded in paragraph 460, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 16 August 2022 and prior to 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) The magnitude of the decline from disclosure of the August Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (460(b)) would have been at least as much as the magnitude of the decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.

(ii) The magnitude of the decline from disclosure of the August Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance (460(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone.

(A) if the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, this would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.

(B) if the August B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.

(C) If the ANI Guidance of US$560 million were disclosed alone this would have been approximately 21.3%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.3% lower than it in fact paid, as pleaded in paragraph 2 above.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.*

462. By reason of the matters pleaded in paragraphs 457 and 458 to 459 and/or 460 to 461, the Plaintiff and Group Members suffered loss and damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $6,617.99 (the price declines referred to in paragraph 458(particular (ii)) and paragraph 460 (particular (iii)(A)).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $6,092.76(the price declines referred to in paragraph 458 (particular (iii)) and paragraph 460 (particular (iii)(B)).*

(iii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,458.37 (the price declines referred to in 458 (particular (iii)) and paragraph 460 (particular (ii)(C)).*

(iv) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 460 (particular (ii)).*

(v) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Price-declines

463. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 NA Guidance Representations (and/or the August FY23 Implied Representation in respect of the August Revised FY23 NA Guidance Representations).

464. The August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 NA Guidance Representations (and/or the August FY23 Implied Representation in respect of the August Revised FY23 NA Guidance Representations) did not cease prior to the declines in the price of JHX Shares pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of their interest in JHX Shares, JHX ADRs, or JHX Equity Swaps for a price which was unaffected by disclosure of the true position, or the position as contained in the November Announcements.

465. By reason of the matters pleaded at paragraphs 463 and/or 464, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,797.17 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(ii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(iii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $6,617.99 or $6,092.76 (the counterfactuals referred to in the particulars to paragraph 460*, where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Misleading Conduct Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022.*

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who acquired JHX ADRs and JHX Equity Swaps.

Fair market and specific reliance

466. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 NA Guidance Representations had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

467. In the alternative, if James Hardie had not engaged in the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 NA Guidance Representations, the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period.

468. By reason of the matters pleaded at paragraphs 466 and/or 467, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 465 are repeated.

***N.3.4 August Revised FY23 Group Guidance Representati*on**

Market Based Inflation

469. During the Relevant Period, the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 Group Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 Group Guidance Representation) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for those contraventions.

470. Further to paragraph 469:

(c) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information), or

(d) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

then this would have corrected or qualified the August Revised FY23 Group Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 Group Guidance Representation), and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) or (b).

(ii) If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022, the magnitude of the decline would have been approximately 18.9%.

(iii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 17.4%.

471. If the price of JHX Shares declined between 16 August 2022 and 8 November 2022 as pleaded in paragraph 470, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 16 August 2022 and prior to 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022 (*470*(a)), the magnitude of the decline would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information (*470*(b)), the magnitude of the decline would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price*

approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

472. Further, or alternatively, to paragraph 470:

(a) if JHX had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that James Hardie was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely ANI Guidance Information),

then this would have corrected or qualified the August Revised FY23 Group Guidance Representation, and:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being either:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b) or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance.

(A) the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, namely approximately 18.9%.

(B) the August B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 17.4%.

473. If the price of JHX Shares declined between 16 August 2022 and 8 November 2022 as pleaded in paragraph 472, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 16 August 2022 and prior to 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) The magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (*472*(b)) would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) The magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (*472*(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance:*

(A) the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, namely approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

(B) the August B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact

paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.

474. By reason of the matters pleaded in paragraphs 469, 470 to 471 and 472 to 473, the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $6,617.99 (the price declines referred to in paragraph 470 (particular (ii)) and paragraph 472 (particular (iii)(A)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $6,092.75(the price declines referred to in paragraph 470 (particular (iii)) and paragraph 472 (particular (iii)(B)).

(iii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 472 (particular (ii)).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Price-declines

475. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 Group Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 Group Guidance Representation).

476. The August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 Group Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 Group Guidance Representation) did not cease prior to the declines in the price of JHX Shares pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of the JHX Shares, JHX ADRs and JHX Equity Swaps they had acquired for a price which as unaffected by disclosure of the true position, or the position as contained in the November Announcements.

477. By reason of the matters pleaded at paragraphs 475 and 476, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately \$4,797.14 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.*

(ii) *Alternatively, the loss and/or damage suffered by the plaintiff was approximately \$4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.*

(iii) *Alternatively, the loss and/or damage suffered by the plaintiff was approximately \$6,617.99 or \$6,092.76 (the counterfactuals referred to in the particulars to paragraph* 472*, where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Misleading Conduct Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022).*

(iv) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.*

Fair market reliance

478. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 Group Guidance Representations had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

479. In the alternative, if James Hardie had not engaged in the August Misleading Conduct Contraventions arising from the making of, further or alternatively, the failure to correct or qualify, the August Revised FY23 Group Guidance Representation (and/or the August FY23 Implied Representation in respect of the August Revised FY23 Group Guidance Representation), the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period.

480. By reason of the matters pleaded at paragraphs 276 and/or 479, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(ii) The particulars to paragraph 477 are repeated.

O DISCLOSURE BREACHES FROM AUGUST 2022

O.1 Continuous Disclosure Contraventions

O.1.1 August Counterfactual NA Guidance

481. Each of:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information;

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12 as at 16 August 2022, alternatively mid-September 2022, alternatively mid-October 2022.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 384, 393, 401, 415, 418, 423 and/or 424 and the particulars thereto.

482. Each of:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information;

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

483. Each of:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information;

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

484. James Hardie was negligent with respect to whether:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information,

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section L above, including the August Revised FY23 Guidance and August Revised FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the August Counterfactual NA Sales Growth Guidance Information and the August Counterfactual NA EBIT Margin Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the August Counterfactual NA Sales Growth Guidance Information and the August Counterfactual

NA EBIT Margin Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

485. By reason of the matters pleaded in paragraphs 481 to 484, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information

on and from the date that James Hardie had, or ought to have obtained that information.

486. James Hardie did not communicate any of:

(a) the August Counterfactual NA Sales Growth Guidance Information; and/or

(b) the August Counterfactual NA EBIT Margin Guidance Information

to the ASX before 8 November 2022.

O.1.2 August Unlikely NA Guidance Information

487. The August Unlikely NA Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12 as at 16 August 2022, alternatively mid-September 2022, alternatively mid-October 2022.

PARTICULARS

(i) *The Plaintiff refers to and repeats the particulars to each of paragraphs 384, 393, 401, 415, 418 and/or 423 and the particulars thereto.*

488. The August Unlikely NA Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

489. The August Unlikely NA Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

490. James Hardie was negligent with respect to whether the August Unlikely NA Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) *James Hardie had made the statements pleaded in Section L above, including the August Revised FY23 Guidance and August Revised FY23 Guidance Representations.*

(ii) *Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.*

(iii) *By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.*

(iv) *During the Relevant Period, the true position was as reflected by the August Unlikely NA Guidance Information but was not known to the Affected Market.*

(v) *Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.*

(vi) *James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.*

(vii) *Having regard to (vi) above, one or more of James Hardie's Officers was aware of the August Unlikely NA Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*

(viii) *Alternatively, having regard to (vii) above, James Hardie failed to ensure that its systems involved processes to ensure that those*

James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

491. By reason of the matters pleaded in paragraphs 487 to 490 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the August Unlikely NA Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

492. James Hardie did not communicate any of the August Unlikely NA Guidance Information to the ASX before 8 November 2022.

O.1.3 August Counterfactual Group Guidance

493. Each of:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12 as at 16 August 2022, alternatively mid-September 2022, alternatively mid-October 2022.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 384, 393, 415, 418, 423, 424 428 and/or 429 and the particulars thereto.

494. Each of:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

495. Each of:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

496. James Hardie was negligent with respect to whether:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) James Hardie had made the statements pleaded in Section L above, including the August Revised FY23 Guidance and August Revised FY23 Guidance Representations.

(ii) Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.

(iii) By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.

(iv) During the Relevant Period, the true position was as reflected by the August A Counterfactual ANI Guidance Information, alternatively the August B Counterfactual ANI Guidance Information but was not known to the Affected Market.

(v) Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.

(vi) James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.

(vii) Having regard to (vi) above, one or more of James Hardie's Officers was aware of the August A Counterfactual ANI Guidance Information, alternatively the August B Counterfactual ANI Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

(viii) Alternatively, having regard to (vi) above, James Hardie failed to ensure that its systems involved processes to ensure that those

James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.

497. By reason of the matters pleaded in paragraphs 493 to 496, pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX each or any item of:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

on and from the date that James Hardie had, or ought to have obtained that information.

498. James Hardie did not communicate any of:

(a) the August A Counterfactual ANI Guidance Information, or

(b) alternatively the August B Counterfactual ANI Guidance Information,

to the ASX before 8 November 2022.

O.1.4 August Unlikely ANI Guidance Information

499. The August Unlikely ANI Guidance Information was information of which James Hardie was aware within the meaning of ASX Listing Rule 19.12, alternatively mid-September 2022, alternatively mid-October 2022.

PARTICULARS

(i) The Plaintiff refers to and repeats paragraphs 384, 393, 415, 418, 423, 424 and/or 428 and the particulars thereto.

500. The August Unlikely ANI Guidance Information was information that, until 8 November 2022, was not generally available within the meaning of s 674(2)(c)(i) and s 674A(2)(c) of the Corporations Act.

501. The August Unlikely ANI Guidance Information was information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares within the meaning of s 674(2)(d) of the Corporations Act.

502. James Hardie was negligent with respect to whether the August Unlikely ANI Guidance Information would have a material effect on the price or value of the JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act.

PARTICULARS

(i) *James Hardie had made the statements pleaded in Section L above, including the August Revised FY23 Guidance and August Revised FY23 Guidance Representations.*

(ii) *Each of the statements set out in (i) above was published in a manner likely to bring what was said in those statements to the attention of the Affected Market.*

(iii) *By reason of (ii) above, the contents of those statements in (i) above were objectively likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares.*

(iv) *During the Relevant Period, the true position was as reflected by the August Unlikely ANI Guidance Information but was not known to the Affected Market.*

(v) *Had the true position referred to in (iv) above been revealed to the Affected Market, this would have qualified or contradicted some or all of the statements set out in (i) above, and JHX (and its directors and officers) acting reasonably would have considered that such qualification or contradiction was objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares.*

(vi) *James Hardie's directors and officers knew that it made the statements set out in (i) above, that they had been made to the Affected Market as set out in (ii) above and having regard to their inherent nature knew or ought reasonably to have known that the contents of those statements were objectively likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, as set out in (iii) above.*

(vii) *Having regard to (vi) above, one or more of James Hardie's Officers was aware of the August Unlikely ANI Guidance Information, and failed to consider whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors or potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made.*

(viii) *Alternatively, having regard to (vii) above, James Hardie failed to ensure that its systems involved processes to ensure that those James Hardie Officers who were aware of the information set out in (vii) above considered whether that information qualified or contradicted all or any of James Hardie's statements set out in (i) above so as to be likely to influence investors and potential investors who were considering whether to buy or sell JHX Shares, so concluding and then causing a corrective disclosure to be made*

503. By reason of the matters pleaded in paragraphs 499 to 502 pursuant to ASX Listing Rule 3.1, James Hardie became obliged to tell the ASX the August Unlikely ANI Guidance Information on and from the date that James Hardie had, or ought to have obtained that information.

504. James Hardie did not communicate any of the August Unlikely ANI Guidance Information to the ASX before 8 November 2022.

O.1.5 Contravening conduct

505. By reason of the matters pleaded in:

(a) paragraphs 481 to 486 in relation to the August Counterfactual NA Sales Growth Guidance Information and/or the August Counterfactual NA EBIT Margin Guidance Information;

(b) paragraphs 487 to 492 in relation to the August Unlikely NA Guidance Information;

(c) paragraphs 493 to 498 to in relation to the August A Counterfactual ANI Guidance Information, or alternatively the August B Counterfactual ANI Guidance Information;

(d) paragraphs 499 to 504 in relation to the August Unlikely ANI Guidance Information;

James Hardie contravened subsections 674(2) and 674A(2) of the Corporations Act (**August Continuous Disclosure Contraventions**).

O.2 Continuing conduct

506. Between 16 August 2022 and 8 November 2022, James Hardie did not disclose to the Affected Market:

(a) the August Counterfactual NA Sales Growth Guidance Information and/or the August Counterfactual NA EBIT Margin Guidance Information;

(b) the August Unlikely NA Guidance Information;

(c) the August A Counterfactual ANI Guidance Information, or alternatively the August B Counterfactual ANI Guidance Information

(d) the August Unlikely ANI Guidance Information.

507. By reason of the matters pleaded in paragraph 506 from 16 August 2022 to 8 November 2022 inclusive, James Hardie continued to engage in each of the August Continuous Disclosure Contraventions.

O.3 Causation, loss and damage

O.3.1 The market for JHX Shares

508. The Plaintiff and the Group Members acquired their interests in JHX Shares, JHX ADRs and JHX Equity Swaps in a market of investors or potential investors in JHX Shares with the features pleaded in paragraph 104.

O.3.2 Corrective disclosure and price declines

509. On 8 November 2022, James Hardie published the November Announcements, as pleaded in paragraphs 107 and 108.

510. Following the release of the November Announcements and the Revised November FY23 Guidance, the price of JHX Shares and JHX ADRs fell substantially, as pleaded in paragraph 109.

O.3.3 August Counterfactual NA Guidance

Market Based Inflation

511. During the Relevant Period, the August Continuous Disclosure Contraventions arising from the failure to disclose to the market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

    (a) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

    (b) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

    caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

512. Further to paragraph 511 if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

    (a) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

    (b) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

    then James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

    (i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information), or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$560 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 512.

(ii) If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022, the magnitude of the decline would have been approximately 18.9

(iii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 17.4%.

(iv) If not disclosed by James Hardie, an estimate of US$560 million could have been otherwise inferred because:

(A) based upon actual FY22 net sales in James Hardie's NA Business of US$2,551 million, 8% growth in FY23 would result in a consensus expectation of FY23 net sales in James Hardie's NA Business of approximately US$2,755 million;

(B) an EBIT Margin in North America of 25% would result in a consensus expectation of FY23 EBIT in James Hardie's NA Business of approximately US$688 million (being 25% of $2,755 million);

(C) as 2 August 2022 consensus FY23 EBIT expectations for James Hardie's NA Business were US$948 million (see [JHX.0013.0029.5933]), the August Counterfactual NA Sales Growth Guidance Information and the *August Counterfactual NA EBIT Margin Guidance Information, taken together, would result in an approximately US$259 million reduction in forecast EBIT (US$688 million less US$948 million);*

(D) a reduction in forecast EBIT of approximately US$259 million would have an impact of approximately US$200 million on James Hardie's ANI (US$259 million less 23% average effective tax rate);

(E) *as a consequence, FY23 ANI expectations of US$757 million (see [JHX.0005.0037.6917]) would have reduced to approximately US$560 million.*

513. If the price of JHX Shares declined between 16 August 2022 and 7 November 2022 as pleaded in paragraph 512, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022 (*512*(i)), the magnitude of the decline would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *If the Affected Market became aware of the February B Counterfactual ANI Guidance Information (512(ii)), the magnitude of the decline would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.*

(iii) *If the Affected Market became aware of an FY23 ANI estimate of US$560 million (512(iii)), the magnitude of the decline would have been approximately 21.3%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.3% lower than it in fact paid, as pleaded in paragraph 2 above.*

(iv) *Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

514. By reason of the matters pleaded in paragraphs 511,512 to 513, the Plaintiff and each of the Group Members suffered loss and damage.

PARTICULARS

(i) *The loss and/or damage suffered by the Plaintiff was approximately $6,617.99 (the price declines referred to in paragraph* 512 *(particular (ii)).*

(ii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $6,092.76 (the price declines referred to in paragraph* 512 *(particular (iii)).*

(iii) *Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $7,458.37 (the price declines referred to in paragraph 512 (particular (iv)).*

(iv) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Price-declines

515. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Continuous Disclosure Contraventions arising from the failure to disclose

(i) the August Counterfactual NA Sales Growth Guidance Information;

(ii) the August Counterfactual NA EBIT Margin Guidance Information.

516. The August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August Counterfactual NA Sales Growth Guidance Information;

(b) the August Counterfactual NA EBIT Margin Guidance Information,

did not cease prior to the declines in the price of JHX Shares, JHX ADRs or JHX Equity Swaps pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of the JHX Shares they had acquired with knowledge of the information contained in the November Announcements for a price which was unaffected by disclosure of the true position, or the position as contained in the November Announcements.

517. By reason of the matters pleaded at paragraphs 515 and 516, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,797.17 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(ii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(iii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $6,617.99 or $6,092.76 (the counterfactuals referred to in the particulars to paragraph 512*, where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Misleading Conduct Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022).*

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair Market and Specific Reliance

518. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August Counterfactual NA Sales Growth Guidance Information;

(b) the August Counterfactual NA EBIT Margin Guidance Information,

had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

519. In the alternative, if James Hardie had not engaged in the August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August Counterfactual NA Sales Growth Guidance Information; and

(b) the August Counterfactual NA EBIT Margin Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

520. By reason of the matters pleaded at paragraphs 518 and/or 519, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(ii) The particulars to paragraph 517 are repeated.

O.3.4 August Unlikely NA Guidance Information

Market Based Inflation

521. During the Relevant Period, the August Continuous Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the August Revised FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely NA Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

522. Further, or alternatively to paragraph 521:

(a) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that James Hardie's NA Business was unlikely to achieve net sales or earnings growth rates in FY23 in the order conveyed by the August Revised FY23 Guidance or that James Hardie's NA Business was unlikely to achieve an EBIT Margin in FY23 in the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely NA Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance for the NA Business, the price of JHX Shares would have declined substantially;

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance for the NA business being that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(ii) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

and then, James Hardie would also have concurrently stated to the Affected Market, or alternatively the Affected Market would have otherwise inferred, that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information);

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information); or

(iii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately $560 million,

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information with the market concurrently becoming aware of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone.

(A) the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, namely approximately 18.9%.

(B) the August B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 17.4%.

(C) if the ANI Guidance of US$560 million were disclosed alone, this would have been approximately 21.3%.

While the price decline may have been greater than these percentages, the Plaintiff does not claim an amount higher than this.

523. If the price of JHX Shares declined between 16 August 2022 and 8 November 2022 as pleaded in paragraph 522, then the Plaintiff and Group Members who acquired

JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 7 February 2022 and prior to 17 May 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

(i) *The magnitude of the decline from disclosure of the August Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance (522(b)) would have been at least as much as the magnitude of the decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

(ii) *The magnitude of the decline from disclosure of the August Unlikely NA Guidance Information with the market becoming concurrently aware of any substituted FY23 guidance (522(c)) would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance.*

(A) *if the August A Counterfactual ANI Guidance Information were disclosed on or after 7 February 2022 alone, this would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.*

(B) *If the August B Counterfactual ANI Guidance Information were disclosed alone, this would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.*

(C) *if the ANI Guidance of US$560 million were disclosed alone this would have been approximately 21.3%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 21.3% lower than it in fact paid, as pleaded in paragraph 2 above.*

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) *Particulars of the prices by which Group Members would have acquired JHX* Shares, *JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the*

determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes the effect of the price impact on JHX ADRs and the impact on future cashflows associated with JHX Equity Swaps.

524. By reason of the matters pleaded at paragraphs 521 and 522 and 524, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately \$4,482.03(the price declines referred to in paragraph 522 (particular (ii)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately \$6,617.99, \$6,6092.76 or \$7,458.37 (the price declines referred to in paragraph 522 (particular (iii)).

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Price-declines

525. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely NA Guidance Information.

526. The August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely NA Guidance Information did not cease prior to the declines in the price of JHX Shares pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of the JHX Shares, JHX ADRs or JHX Equity Swaps they had acquired with knowledge of the information contained in the November Announcements for a price which was unaffected by disclosure of the true position, or the position as contained in the November Announcements.

527. By reason of the matters pleaded at paragraphs 525 and 526, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately \$4,797.17 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(ii) *Alternatively, the loss and/or damage suffered by the plaintiff was approximately $4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.*

(iii) *Alternatively, the loss and/or damage suffered by the plaintiff was approximately $6,617.99 or $6,092.76 (the counterfactuals referred to in the particulars to paragraph 522 where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Continuous Disclosure Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022).*

(iv) *Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.*

Fair market and specific reliance

528. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely NA Guidance Information had not occurred.

PARTICULARS

(i) *The particulars to paragraph 116 are repeated.*

529. In the alternative, if James Hardie had not engaged in the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely NA Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs or JHX Equity Swaps during the Relevant Period.

530. By reason of the matters pleaded at paragraphs 528 and/or 529, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(ii) *The particulars to paragraph 527 are repeated.*

O.3.5 August Counterfactual Group Guidance

Market Based Inflation

531. During the Relevant Period, the August Continuous Disclosure Contraventions arising from the failure to disclose to the market that:

(a) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(b) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information),

caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

532. Further to paragraph 531:

(a) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022 stated to the Affected Market that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information), or

(b) if James Hardie had on or any time after 16 August 2022 and prior to 8 November 2022:

(i) stated to the Affected Market that

(A) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(B) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information); and

(ii) concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(A) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information);

(B) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in paragraph 532.

(ii) If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022, the magnitude of the decline would have been approximately 18.9%.

(iii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information, the magnitude of the decline would have been approximately 17.4%.

(iv) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

533. If the price of JHX Shares declined between 16 August 2022 and 7 November 2022 as pleaded in paragraph 532, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 16 August 2022 and prior to 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) If the Affected Market became aware of the August A Counterfactual ANI Guidance Information on or after 16 August 2022 (*532*(i)), the magnitude of the decline would have been approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) If the Affected Market became aware of the August B Counterfactual ANI Guidance Information (*532*(ii)), the magnitude of the decline would have been approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above.*

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

534. By reason of the matters pleaded at paragraphs 531 and 532 and 533, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,482.03 (the price declines referred to in paragraph 532 (particular (ii)).

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $6,617.99 and $6,092.76(the price declines referred to in paragraph 532 (particular (iii)).

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Price-declines

535. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Continuous Disclosure Contraventions arising from the failure to disclose:

(i) the August A Counterfactual ANI Guidance Information; or

(ii) the August B Counterfactual ANI Guidance Information.

536. The August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August A Counterfactual ANI Guidance Information; or

(b) the August B Counterfactual ANI Guidance Information,

did not cease prior to the declines in the price of JHX Shares pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of the JHX Shares, JHX ADRs and JHX Equity Swaps they had acquired with knowledge of the information contained in the November Announcements for a price which was unaffected by disclosure of the true position, or the position as contained in the November Announcements.

537. By reason of the matters pleaded at paragraphs 535 and 536, the Plaintiff and the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,797.17 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(ii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(iii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately $6,617.99 or $6,092.76 (the counterfactuals referred to in the particulars to paragraph 532, where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Misleading Conduct Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022).

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair market and specific reliance

538. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX Equity Swaps they acquired represented the market price in a market in which the August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August A Counterfactual ANI Guidance Information; or

(b) the August B Counterfactual ANI Guidance Information,

had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

539. In the alternative, if James Hardie had not engaged in the August Continuous Disclosure Contraventions arising from the failure to disclose:

(a) the August A Counterfactual ANI Guidance Information; or

(b) the August B Counterfactual ANI Guidance Information,

the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares during the Relevant Period.

540. By reason of the matters pleaded at paragraphs 538 and 539, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 537 are repeated.

O.3.6 August Unlikely ANI Guidance Information

Market Based Inflation

541. During the Relevant Period, the August Continuous Disclosure Contraventions arising from the failure to disclose to the market that James Hardie's NA Business was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely ANI Guidance Information) caused or materially contributed to the price at which JHX Shares traded on the ASX being higher than their true value and/or the market price that would have prevailed but for the contravention.

542. Further, or alternatively to paragraph 541:

(a) if James Hardie had on or any time after 16 August 2022 stated to the Affected Market that it was unlikely, given the likely performance of the NA Business, to achieve FY23 ANI of the order conveyed by the August Revised FY23 Guidance (that is, the August Unlikely ANI Guidance Information),

then:

(b) if James Hardie did not concurrently disclose to the Affected Market any substituted FY23 guidance, the price of JHX Shares would have declined substantially

(c) alternatively, James Hardie would have also concurrently disclosed to the Affected Market substituted FY23 guidance being that:

(i) a reasonable estimate of James Hardie's FY23 ANI was approximately US$580 million to US$660 million (that is, the August A Counterfactual ANI Guidance Information); or

(ii) alternatively, a reasonable estimate of James Hardie's FY23 ANI was approximately US$600 million to US$640 million (that is, the August B Counterfactual ANI Guidance Information),

and concurrently stated that a reasonable estimate of the sales growth and EBIT Margin James Hardie's NA Business was:

(i) FY23 net sales growth in North America: approximately 8% (that is, the August Counterfactual NA Sales Growth Guidance Information); and

(ii) EBIT Margin in North America: approximately 25% (that is, the August Counterfactual NA EBIT Margin Guidance Information),

and the price of JHX Shares would have declined substantially.

PARTICULARS

(i) The price of JHX Shares would have declined immediately following James Hardie in substance making the statements or disclosures referred to in subparagraph (a) and (b), or (a) and (c).

(ii) As to (b), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information without concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the abnormal decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this.

(iii) As to (c), the magnitude of the decline from disclosure of the August Unlikely NA Guidance Information with concurrent disclosure of any substituted FY23 guidance would have been at least as much as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance.

(A) the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, namely approximately 18.9%.

(B) the August B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 17.4%.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

543. If the price of JHX Shares declined between 16 August 2022 and 7 November 2022 as pleaded in paragraph 542, then the Plaintiff and Group Members who acquired JHX Shares, JHX ADRs and JHX Equity Swaps in the Relevant Period between 16 August 2022 and prior to 8 November 2022 after such decline would have occurred would (if they decided to acquire such interests) have acquired their interests at a lower prevailing market price.

PARTICULARS

*(i) The magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information without concurrent disclosure of any substituted FY23 guidance (122(b)*542*) would have been at least as much as the magnitude of the decline that was experienced on 8 November 2022 following the FY23 guidance downgrade, namely 12.8%. While the price decline may have been greater than 12.8%, the Plaintiff does not claim an amount higher than this. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 12.8% lower than it in fact paid, as pleaded in paragraph 2 above.*

*(ii) The magnitude of the decline from disclosure of the August Unlikely ANI Guidance Information with concurrent disclosure of any substituted FY23 guidance (*542*(c)) would have been at least as much*

as the magnitude of the decline that would have been experienced based upon disclosure of that counterfactual substituted FY23 guidance alone:

(A) if the August A Counterfactual ANI Guidance Information were disclosed on or after 16 August 2022 alone, namely approximately 18.9%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 26 and 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 18.9% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

(B) if the August B Counterfactual ANI Guidance Information were disclosed alone, namely approximately 17.4%. Accordingly, if disclosed prior to the Plaintiff's purchases (respectively on 28 October 2022), the Plaintiff would have acquired JHX Shares at a price approximately 17.4% lower than it in fact paid, as pleaded in paragraph 2 above. Particulars in respect of Group Members will be provided following the initial trial.

While the price decline may have been greater than these percentages the Plaintiff does not claim an amount higher than this.

(iii) Particulars of the prices by which Group Members would have acquired JHX Shares, JHX ADRs and JHX Equity Swaps on the days they in fact acquired JHX Shares, JHX ADRs and JHX Equity Swaps will be provided following the receipt of instructions following the determination of the plaintiffs' claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members. This includes Group Members who purchased JHX ADRs and JHX Equity Swaps.

544. By reason of the matters pleaded at paragraphs 541, 542 and 543, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately $4,797.17 (the price declines referred to in paragraph 542 *(particular (ii)).*

(ii) Alternatively, the loss and/or damage suffered by the Plaintiff was approximately $6,617.99 or $6,092.76 (the price declines referred to in paragraph 542 *(particular (iii)).*

(iii) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Price-declines

545. Further or alternatively, the declines in the price of JHX Shares pleaded in paragraph 109 above were caused or materially contributed to by the market's reaction to:

(a) the information contained in the November Announcements; and

(b) the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely ANI Guidance Information.

546. The August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely NA Guidance Information did not cease prior to the declines in the price of JHX Shares pleaded in paragraph 109 above, and the Plaintiff and each of the Group Members had no reasonable opportunity to dispose of the JHX Shares, JHX ADRs and JHX Equity Swaps they had acquired with knowledge of the information contained in the November Announcements for a price which was unaffected by disclosure of the true position, or the position as contained in the November Announcements.

547. By reason of the matters pleaded at paragraphs 545 and 546, the Plaintiff and each of the Group Members suffered loss and/or damage.

PARTICULARS

(i) The loss and/or damage suffered by the Plaintiff was approximately \$4,797.17 being the absolute price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(ii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately \$4,482.03, being the abnormal price declines experienced on 8 November 2022 multiplied by the number of shares purchased by the Plaintiff.

(iii) Alternatively, the loss and/or damage suffered by the plaintiff was approximately \$6,617.99 or \$6,092.76 (the counterfactuals referred to in the particulars to paragraph 542 where the loss and/or damage based on those counterfactual prices are a reasonable estimate of the loss and/or damage sustained by reason of such August Continuous Disclosure Contraventions causing the Plaintiff to continue to hold such JHX Shares on 8 November 2022.

(iv) Particulars of the loss and/or damage suffered by Group Members will be provided following the receipt of instructions following the determination of the plaintiff's claims and identified common issues at an initial trial and if, and when, it is necessary for a determination to be made of the individual claims of those Group Members.

Fair market and specific reliance

548. Alternatively, the Plaintiff and Group Members acquired an interest in, or entered into a contract to acquire an interest in JHX Shares, JHX ADRs and JHX Equity Swaps during the Relevant Period as a result of holding and acting upon the reasonable assumption that the price of the JHX Shares, JHX ADRs and JHX

Equity Swaps they acquired represented the market price in a market in which the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely ANI Guidance Information had not occurred.

PARTICULARS

(i) The particulars to paragraph 116 are repeated.

549. In the alternative, if James Hardie had not engaged in the August Continuous Disclosure Contraventions arising from the failure to disclose the August Unlikely ANI Guidance Information the Plaintiff and/or some or all of the Group Members would not have acquired an interest in, or entered into a contract to acquire an interest in JHX Shares during the Relevant Period.

550. By reason of the matters pleaded at paragraphs 548 and 549, the Plaintiff and Group Members suffered loss and/or damage.

PARTICULARS

(i) The particulars to paragraph 547 are repeated.

P COMMON QUESTIONS OF LAW OR FACT AND RELIEF

1. When did James Hardie become aware (within the meaning of Listing Rule 19.12) of:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information;

(c) the February Unlikely NA Guidance Information;

(d) the February A Counterfactual ANI Guidance Information;

(e) the February B Counterfactual ANI Guidance Information;

(f) the February Unlikely ANI Guidance Information;

(g) the May Counterfactual NA Sales Growth Guidance Information;

(h) the May Counterfactual NA EBIT Margin Guidance Information;

(i) the May Unlikely NA Guidance Information;

(j) the May A Counterfactual ANI Guidance Information;

(k) the May B Counterfactual ANI Guidance Information;

(l) the May Unlikely ANI Guidance Information;

(m) the August Counterfactual NA Sales Growth Guidance Information;

(n) the August Counterfactual NA EBIT Margin Guidance Information;

(o) the August Unlikely NA Guidance Information;

(p) the August A Counterfactual ANI Guidance Information;

(q) the August B Counterfactual ANI Guidance Information; and

(r) the August Unlikely ANI Guidance Information?

2. Whether each of:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information;

(c) the February Unlikely NA Guidance Information;

(d) the February A Counterfactual ANI Guidance Information;

(e) the February B Counterfactual ANI Guidance Information;

(f) the February Unlikely ANI Guidance Information;

(g) the May Counterfactual NA Sales Growth Guidance Information;

(h) the May Counterfactual NA EBIT Margin Guidance Information;

(i) the May Unlikely NA Guidance Information;

(j) the May A Counterfactual ANI Guidance Information;

(k) the May B Counterfactual ANI Guidance Information;

(l) the May Unlikely ANI Guidance Information;

(m) the August Counterfactual NA Sales Growth Guidance Information;

(n) the August Counterfactual NA EBIT Margin Guidance Information;

(o) the August Unlikely NA Guidance Information;

(p) the August A Counterfactual ANI Guidance Information;

(q) the August B Counterfactual ANI Guidance Information; and

(r) the August Unlikely ANI Guidance Information,

was:

(i) information that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of JHX Shares; and

(ii) not generally available,

within the meaning of ASX Listing Rule 3.1 or Chapter 6CA of the Corporations Act, that James Hardie was obliged to disclose, but failed to disclose such that James Hardie contravened s 674(2) of the Corporations Act?

3. Whether, in respect of:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information;

(c) the February Unlikely NA Guidance Information;

(d) the February A Counterfactual ANI Guidance Information;

(e) the February B Counterfactual ANI Guidance Information;

(f) the February Unlikely ANI Guidance Information;

(g) the May Counterfactual NA Sales Growth Guidance Information;

(h) the May Counterfactual NA EBIT Margin Guidance Information;

(i) the May Unlikely NA Guidance Information;

(j) the May A Counterfactual ANI Guidance Information;

(k) the May B Counterfactual ANI Guidance Information;

(l) the May Unlikely ANI Guidance Information;

(m) the August Counterfactual NA Sales Growth Guidance Information;

(n) the August Counterfactual NA EBIT Margin Guidance Information;

(o) the August Unlikely NA Guidance Information;

(p) the August A Counterfactual ANI Guidance Information;

(q) the August B Counterfactual ANI Guidance Information; and

(r) the August Unlikely ANI Guidance Information,

James Hardie was negligent as to whether each item was material information and would have a material effect on the price or value of JHX Shares within the meaning of s 674A(2)(d) of the Corporations Act?

4. Whether:

(a) the May Counterfactual NA Sales Growth Guidance Information;

(b) the May Counterfactual NA EBIT Margin Guidance Information;

(c) the May Unlikely NA Guidance Information;

(d) the May A Counterfactual ANI Guidance Information;

(e) the May B Counterfactual ANI Guidance Information;

(f) the May Unlikely ANI Guidance Information,

was information which James Hardie was obliged to tell the ASX within the meaning of ASX Listing Rule 4.3A, but failed to disclose such that James Hardie contravened s 674(2) further or alternatively s 674A(2) of the Corporations Act.

5. Whether:

(a) the May Counterfactual NA Sales Growth Guidance Information;

(b) the May Counterfactual NA EBIT Margin Guidance Information;

(c) the May Unlikely NA Guidance Information;

(d) the May A Counterfactual ANI Guidance Information;

(e) the May B Counterfactual ANI Guidance Information;

(f) the May Unlikely ANI Guidance Information,

was information which James Hardie was obliged to disclose, or provide an explanation of, to the ASX within the meaning of ASX Listing Rule 4.3D, but failed to disclose such that James Hardie contravened s 674(2) further or alternatively s 674A(2) of the Corporations Act.

6. Whether James Hardie contravened s 1041H of the Corporations Act and/or s 12DA(1) of the ASIC Act and/or s 18 of the Australian Consumer Law by making and/or maintaining and/or failing to qualify:

(a) the February FY23 NA Guidance Representations;

(b) the February FY23 Group Guidance Representation;

(c) the February FY23 Implied Representation;

(d) the May Increased FY23 NA Guidance Representations;

(e) the May Reaffirmed FY23 Group Guidance Representation;

(f) the May FY23 Implied Representations;

(g) the August Revised FY23 NA Guidance Representations;

(h) the August Revised FY23 Group Guidance Representation; and

(i) the August FY23 Implied Representation?

AND THE PLAINTIFF CLAIMS on their own behalf and on behalf of the Group Members:

A. A declaration that the Defendant contravened ASX Listing Rule 3.1, and s 674(2) and s 674A(2) of the Corporations Act by not informing the ASX immediately of some or all of:

(a) the February Counterfactual NA Sales Growth Guidance Information;

(b) the February Counterfactual NA EBIT Margin Guidance Information;

(c) the February Unlikely NA Guidance Information;

(d) the February A Counterfactual ANI Guidance Information;

(e) the February B Counterfactual ANI Guidance Information;

(f) the February Unlikely ANI Guidance Information;

(g) the May Counterfactual NA Sales Growth Guidance Information;

(h) the May Counterfactual NA EBIT Margin Guidance Information;

(i) the May Unlikely NA Guidance Information;

(j) the May A Counterfactual ANI Guidance Information;

(k) the May B Counterfactual ANI Guidance Information;

(l) the May Unlikely ANI Guidance Information;

(m) the August Counterfactual NA Sales Growth Guidance Information;

(n) the August Counterfactual NA EBIT Margin Guidance Information;

(o) the August Unlikely NA Guidance Information;

(p) the August A Counterfactual ANI Guidance Information;

(q) the August B Counterfactual ANI Guidance Information; and

(r) the August Unlikely ANI Guidance Information.

B. An order pursuant to section 1317HA(1) of the Corporations Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by its contraventions of s 674A(2) of the Corporations Act.

C. A declaration that the Defendant engaged in conduct in contravention of:

(a) s 1041H(1) of the Corporations Act; and/or

(b) s 12DA(1) of the ASIC Act; and/or

(c) s 18 of the Australian Consumer Law.

D. An order pursuant to:

(a) s 1041I of the Corporations Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of s 1041H(1) of the Corporations Act; and/or

(b) s 12GF of the ASIC Act that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of s 12DA(1) of the ASIC Act; and/or

(c) s 236 of the Australian Consumer Law that the Defendant pay compensation to the Plaintiff and Group Members for damage caused by the conduct of the Defendant in contravention of s 18 of the Australian Consumer Law.

E. Interest pursuant to statute.

F. Costs.

G. Such further or other order as the Court determines is appropriate.

Date: 10 July 2026

Signed by Mathew Chuk
Lawyer for the Plaintiff

This substituted statement of claim was prepared by Echo Law and William Stone of counsel, and settled by W.A.D. Edwards of King's Counsel.

ANNEXURE A

Defined Terms

10-Month Growth Rate has the meaning set out in paragraph 230(a).

1Q20 has the meaning set out in paragraph 19(a).

1Q20 Results Pack means the document published by the ASX at 7:30am AEST on 9 August 2019, containing a cover page summarising James Hardie's financial results for the three months ended 30 June 2019 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Adjusted Net Operating Profit of US$90.2 million for Q1 Fiscal Year 2020" (pp 2-4);
2. Management's Analysis of Results (pp 5-27);
3. Management Presentation (pp 28-76);
4. Condensed Consolidated Financial Statements (pp 77-103).

1Q21 has the meaning set out in paragraph 19(b).

1Q21 Results Pack means the document published by the ASX at 7:30am AEST on 11 August 2020, containing a cover page summarising James Hardie's financial results for the three months ended 30 June 2020 and including the following documents:

1. Media Release titled "James Hardie Announces First Quarter Fiscal Year 2021 Results" (pp 2-4);
2. Management's Analysis of Results (pp 5-21);
3. Management Presentation (pp 22-53);
4. Condensed Consolidated Financial Statements (pp 54-70).

1Q22 has the meaning set out in paragraph 19(c).

1Q22 Results Pack means the document published by the ASX at 7:30am AEST on 10 August 2021, containing a cover page summarising James Hardie's financial results for the three months ended 30 June 2021 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Record First Quarter Fiscal Year 2022 Results" (pp 2-7);
2. Management's Analysis of Results (pp 8-23);
3. Management Presentation (pp 24-56);
4. Condensed Consolidated Financial Statements (pp 57-73).

1Q23 has the meaning set out in paragraph 19(d).

1Q23 Results Pack means the document published by the ASX at 7:30am AEST on 16 August 2022, containing a cover page summarising James Hardie's financial results for the three months ended 30 June 2022 and including the following documents:

1. Media Release titled "James Hardie Industries Announces First Quarter Fiscal Year 2023 Results" (pp 2-7);

2. Management's Analysis of Results (pp 8-22);

3. Management Presentation (pp 23-61);

4. Condensed Consolidated Financial Statements (pp 62-77).

2Q20 has the meaning set out in paragraph 19(a).

2Q20 Results Pack means the document published by the ASX at 7:30am AEDT on 7 November 2019, containing a cover page summarising James Hardie's financial results for the six months ended 30 September 2019 and including the following documents:

1. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$98.6 million for Q2 Fiscal Year 2020 and US$188.8 million for the half year ended 30 September 2019" (pp 2-4);

2. Management's Analysis of Results (pp 5-27);

3. Management Presentation (pp 28-75);

4. Condensed Consolidated Financial Statements (pp 76-106)

5. Half-Yearly Directors' Report.(pp 106-107)

2Q21 has the meaning set out in paragraph 19(b).

2Q21 Results Pack means the document published by the ASX at 8:12am AEDT on 10 November 2020, containing a cover page summarising James Hardie's financial results for the six months ended 30 September 2020 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Record Second Quarter Fiscal Year 2021 Results" (pp 2-5);

2. Management's Analysis of Results (pp 6-24);

3. Management Presentation (pp 25-56);

4. Condensed Consolidated Financial Statements (pp 57-75)

2Q22 has the meaning set out in paragraph 19(c).

2Q22 Results Pack means the document published by the ASX at 8:08am AEDT on 9 November 2021, containing a cover page summarising James Hardie's financial results for the six months ended 30 September 2021 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Record Second Quarter Fiscal Year 2022 Results” (pp 2-8);

2. Management’s Analysis of Results (pp 9-26);

3. Management Presentation (pp 27-63);

4. Condensed Consolidated Financial Statements (pp 64-81)

5. Half-Yearly Directors’ Report (pp 82-83).

2Q23 has the meaning set out in paragraph 19(d).

2Q23 Results Pack means the document published by the ASX at 7:30am AEDT on 8 November 2022, containing a cover page summarising James Hardie’s financial results for the six months ended 30 September 2022 and including the following documents:

1. Media Release titled “James Hardie Industries Announces Second Quarter Fiscal Year 2023 Results” (pp 2-7);

2. Management’s Analysis of Results (pp 8-22);

3. Management Presentation (pp 23-61);

4. Condensed Consolidated Financial Statements (pp 62-74)

5. Half-Yearly Directors’ Report (pp 75-76).

3 Year Plan has the meaning set out in paragraph 52.

3Q12 Results Pack means the document published by the ASX at 8:55am AEDT on 28 February 2012, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2011 and including the following documents:

1. Media Release titled “3rd quarter net operating profit US$27.7m Nine month net operating profit US$108.3m” (pp 2-14);

2. Management’s Analysis of Results (pp 15-36);

3. Management Presentation (pp 37-64);

4. Consolidated Financial Statements (pp 65-92).

3Q13 Results Pack means the document published by the ASX at 9:02am AEDT on 27 February 2013, containing a coversheet summarising James Hardie’s financial results for the nine months ended 31 December 2012 and including the following documents:

5. Media Release titled “3rd quarter net operating profit US$28.8m Nine month net operating profit US$113.1m” (pp 2-14);

6. Management’s Analysis of Results (pp 15-37);

7. Management Presentation (pp 38-65);

8. Condensed Consolidated Financial Statements (pp 66-94).

3Q14 Results Pack means the document published by the ASX at 8:57am AEDT on 28 February 2014, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2013 and including the following documents:

1. Media Release titled "3rd quarter net operating profit US$43.7m Nine month net operating profit US$152.0m" (pp 2-18);
2. Management's Analysis of Results (pp 19-43);
3. Management Presentation (pp 44-101);
4. Condensed Consolidated Financial Statements (pp 102-132).

3Q15 Results Pack means the document published by the ASX at 7:30am AEDT on 20 February 2015, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2014 and including the following documents:

1. Media Release titled "James Hardie announces Adjusted Net Operating Profit of US$48.6 million for Q3 Fiscal 2015 and US$164.1 million for the nine months ended 31 December 2014" (pp 2-4);
2. Management's Analysis of Results (pp 5-26);
3. Management Presentation (pp 27-76);
4. Condensed Consolidated Financial Statements (pp 77-106).

3Q16 Results Pack means the document published by the ASX at 7:32am AEDT on 19 February 2016, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2015 and including the following documents:

1. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$56.2 million for Q3 Fiscal 2016 and US$185.0 million for the nine months ended 31 December 2015" (pp 2-4);
2. Management's Analysis of Results (pp 5-26);
3. Management Presentation (pp 27-65);
4. Condensed Consolidated Financial Statements (pp 66-90).

3Q17 Results Pack means the document published by the ASX at 9:27am AEDT on 3 February 2017, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2016 and including the following documents:

1. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$52.6 million for Q3 Fiscal Year 2017 and US$194.0 million for the nine months ended 31 December 2016" (pp 2-5);
2. Management Presentation (pp 6-43);

3. Management's Analysis of Results (pp 44-66);
4. Condensed Consolidated Financial Statements (pp 67-91).

3Q18 Results Pack means the document published by the ASX at 7:30am AEDT on 2 February 2018, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2017 and including the following documents:

1. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$69.9 million for Q3 Fiscal Year 2018 and US$205.5 million for the nine months ended 31 December 2017" (pp 2-4);
2. Management's Analysis of Results (pp 5-25);
3. Management Presentation (pp 26-66);
4. Condensed Consolidated Financial Statements (pp 67-89).

3Q19 Results Pack means the document published by the ASX at 8:32am AEDT on 5 February 2019, containing a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2018 and including the following documents:

1. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$65.9 million for Q3 Fiscal Year 2019 and US$226.7 million for the nine months ended 31 December 2018" (pp 2-5);
2. Management's Analysis of Results (pp 6-32);
3. Management Presentation (pp 33-89);
4. Condensed Consolidated Financial Statements (pp 90-119).

3Q20 has the meaning set out in paragraph 19(a).

3Q20 Results Pack means the document published by the ASX at 5:07pm AEDT on 11 February 2020, containing a cover letter and a coversheet summarising James Hardie's financial results for the nine months ended 31 December 2019 and including the following documents:

5. Media Release titled "James Hardie Announces Adjusted Net Operating Profit of US$77.4 million for Q3 Fiscal Year 2020 and US$266.2 million for the nine months ended 31 December 2019" (pp 3-5);
6. Management's Analysis of Results (pp 6-28);
7. Management Presentation (pp 29-76);
8. Condensed Consolidated Financial Statements (pp 77-106).

3Q21 has the meaning set out in paragraph 19(b).

3Q21 Results Pack means the document published by the ASX at 8:18am AEDT on 9 February 2021, containing a cover page summarising James Hardie's financial results for the nine months ended 31 December 2020 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Record Third Quarter Fiscal Year 2021 Results" (pp 2-6);
2. Management's Analysis of Results (pp 7-24);
3. Management Presentation (pp 25-58);
4. Condensed Consolidated Financial Statements (pp 59-77).

3Q22 has the meaning set out in paragraph 19(c).

3Q22 Results Pack means the document published by the ASX at 7:30am AEDT on 7 February 2022, containing a cover page summarising James Hardie's financial results for the nine months ended 31 December 2021 and including the following documents:

9. Media Release titled "James Hardie Industries Announces Third Quarter Fiscal Year 2022 Results" (pp 2-7);
10. Management's Analysis of Results (pp 8-25);
11. Management Presentation (pp 26-66);
12. Condensed Consolidated Financial Statements (pp 67-83).

3Q23 has the meaning set out in paragraph 19(d).

4Q20 has the meaning set out in paragraph 19(a).

4Q20 Results Pack means the document published by the ASX at 7:30am AEST on 19 May 2020, containing a cover page summarising James Hardie's financial results for the year ended 31 March 2020 and including the following documents:

1. Media Release titled "James Hardie Announces Net Operating Profit of US$86.6 million for Q4 Fiscal Year 2020 and US$352.8 million for the full year ended 31 March 2020" (pp 2-4);
2. Management's Analysis of Results (pp 5-32);
3. Management Presentation (pp 33-82);
4. Consolidated Financial Statements (pp 83-138).

4Q21 has the meaning set out in paragraph 19(b).

4Q21 Results Pack means the document published by the ASX at 7:33am AEST on 18 May 2021, containing a cover page summarising James Hardie's financial results for the year ended 31 March 2021 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Record Fourth Quarter And Fiscal Year 2021 Results" (pp 2-7);

2. Management's Analysis of Results (pp 8-26);

3. Management Presentation (pp 27-68);

4. Consolidated Financial Statements (pp 69-113).

4Q22 has the meaning set out in paragraph 19(c).

4Q22 One-Offs and Impacts has the meaning set out in paragraph 218.

4Q22 Results Pack means the document published by the ASX at 7:30am AEST on 17 May 2022, containing a cover page summarising James Hardie's financial results for the year ended 31 March 2022 and including the following documents:

1. Media Release titled "James Hardie Industries Announces Fourth Quarter And Fiscal Year 2022 Results" (pp 2-8);

2. Management's Analysis of Results (pp 9-27);

3. Management Presentation (pp 28-68);

4. Consolidated Financial Statements (pp 69-111).

4Q23 has the meaning set out in paragraph 19(d).

7 February Announcement has the meaning set out in paragraph 40 and is the 3Q22 Results Pack.

7 February Statements has the meaning set out in paragraph 42.

7 January Announcement has the meaning set out in paragraph 36 and is the document published by the ASX at 8:05am AEDT on 7 January 2022 titled "James Hardie Industries Appoints Harold Wiens as Interim CEO".

8 November Publication has the meaning set out in paragraph 107(a) and is the 2Q23 Results Pack.

16 August Publication has the meaning set out in paragraph 364(a) and is the 1Q23 Results Pack.

17 May Announcement has the meaning set out in paragraph 186 and is the 4Q22 Results Pack.

17 May Statements has the meaning set out in paragraph 190.

Affected Market has the meaning set out in paragraph 43.

ANI has the meaning set out in paragraph 33(c), expanded upon at 54.

APAC has the meaning set out in paragraph 22.**ASIC Act** has the meaning set out in paragraph 4(c).

April 2022 Results has the meaning set out in paragraph 220.

ASX has the meaning set out in paragraph 1(a)(i).

August 2022 Results has the meaning set out in paragraph 434.

August Announcements has the meaning set out in paragraph 364.

August A Counterfactual ANI Guidance Information has the meaning set out in paragraph 427(a).

August B Counterfactual ANI Guidance Information has the meaning set out in paragraph 427(b).**August Counterfactual NA EBIT Margin Guidance Information** has the meaning set out in paragraph 422(b).

August Backlog Depletion has the meaning set out in paragraph 416.

August Counterfactual NA Sales Growth Guidance Information has the meaning set out in paragraph 422(a).

August Continuous Disclosure Contraventions has the meaning set out in paragraph 505.**August Earnings Call** has the meaning set out in paragraph 364(b).

August Demand Impacts has the meaning set out in paragraph 373.

August FY23 Implied Representation has the meaning set out in paragraph 369.

August Inflation/Interest Rate Impacts has the meaning set out in paragraph 385.

August Misleading Conduct Contravention has the meaning set out in paragraph 449.

August Revised FY23 Group Guidance Representation has the meaning set out in paragraph 368(a).

August Revised FY23 Guidance has the meaning set out in paragraph 365.

August Revised FY23 Guidance Representations has the meaning set out in paragraph 368.

August Revised FY23 NA Guidance Representations has the meaning set out in paragraph 368(a).

August Unlikely ANI Guidance Information has the meaning set out in paragraph 425.

August Unlikely NA Guidance Information has the meaning set out in paragraph 419.

August Volume/Demand Modelling Inadequacy has the meaning set out in paragraph 414.

Australian Consumer Law has the meaning set out in paragraph 4(d).

Brennan-Chong has the meaning set out in paragraph 15(a).

CAGR has the meaning set out in paragraph 452(b).

Castillo has the meaning set out in paragraph 15(b).

CEO has the meaning set out in paragraph 7.**COGS Increase Conditions** has the meaning set out in paragraph 68.

CFO has the meaning set out in paragraph 12(a).

COGS has the meaning set out in paragraph 68.

Competing Product Demand Conditions has the meaning set out in paragraph 206.

Competing Product Supply Improvement Conditions has the meaning set out in paragraph 204.

Competing Products has the meaning set out in paragraph 29(a).

Continuous Disclosure Obligations has the meaning set out in paragraph 16.

Corporations Act has the meaning set out in paragraph 1(c)(i).

CPI has the meaning set out in paragraph 66(b).

Criddle has the meaning set out in paragraph 15(c).

Demand Forecasting Method has the meaning set out in paragraph 74.**EBIT** has the meaning set out in paragraph 25.

Demand Roadmap Model has the meaning set out in particular (i) to paragraph 74.

End Market Split Assumption has the meaning set out in paragraph 79.

Erter has the meaning set out in paragraph 7.

EU has the meaning set out in paragraph 22.

FC Products has the meaning set out in paragraph 23.

February A Counterfactual ANI Guidance Information has the meaning set out in paragraph 91(a).

February B Counterfactual ANI Guidance Information has the meaning set out in paragraph 91(b).

February Counterfactual NA EBIT Margin Guidance Information has the meaning set out in paragraph 85(b).

February Counterfactual NA Sales Growth Guidance Information has the meaning set out in paragraph 85(a).

February Continuous Disclosure Contraventions has the meaning set out in paragraph 152.

February Demand Impacts has the meaning set out in paragraph 59.

February Earnings Call has the meaning set out in paragraph 42.

February FY23 Guidance has the meaning set out in paragraph 41(b).

February FY23 Guidance Representations has the meaning set out in paragraph 43.

February FY23 Group Guidance Representation has the meaning set out in paragraph 43 (a).

February FY23 Implied Representation has the meaning set out in paragraph 44.

February FY23 NA Guidance Representations has the meaning set out in paragraph 43(b).

February Inflation/Interest Rate Impacts has the meaning set out in paragraph 65.

February Misleading Conduct Contravention has the meaning set out in paragraph 101.

February Unlikely NA Guidance Information has the meaning set out in paragraph 82.

February Unlikely ANI Guidance Information has the meaning set out in paragraph 88.

February Volume/Demand Modelling Inadequacy has the meaning set out in paragraph 73

Final FY23 9+3 NA Forecast has the meaning set out in paragraph 50.

Fredericksen has the meaning set out in paragraph 15(h).

Further Competing Product Supply Improvement Conditions has the meaning set out in paragraph 205.

FY20 has the meaning set out in paragraph 19(a).

FY20 Annual Report means the document published by the ASX at 4:04pm AEST on 24 August 2020 with the document description "Australian Annual Review Fiscal Year 2020".

FY21 has the meaning set out in paragraph 19(b).

FY21 Annual Report means the document published by the ASX at 8:32am AEST on 19 May 2021 with the document description "Combined Annual Report/Annual Report on Form 20-F".

FY22 has the meaning set out in paragraph 19(c).

FY22 Annual Report means the document published by the ASX at 8:21am AEST on 18 May 2022 with the document description "Combined FY22 Annual Report/Annual Report on Form 20-F".

FY23 has the meaning set out in paragraph 19(d).

FY23 Plan has the meaning set out in paragraph 52.

FY22 Guidance has the meaning set out in paragraph 41(a).

Gadd has the meaning set out in paragraph 12(b).

Geisen has the meaning set out in paragraph 15(d).

Group Members has the meaning set out in paragraph 1.

Hammes has the meaning set out in paragraph 9.

HFM has the meaning set out in paragraph 223.

Inflation Conditions has the meaning set out in paragraph 67.

Inflation Demand Conditions has the meaning set out in paragraph 69.

Interest Rate Conditions has the meaning set out in paragraph 70.

Interest Rate Demand Conditions has the meaning set out in paragraph 71.

Interim CEO has the meaning set out in paragraph 8.

Investor Day 1 has the meaning set out in paragraph 451.

Investor Day 2022 Presentation Day 1 means the document published by the ASX at 4:35pm AEST on 12 September 2022 with the document description "JHX Investor Day 2022 Presentation Day 1".

January Special Call has the meaning set out in paragraph 38.

James Hardie has the meaning set out in paragraph 1(a)(i).

James Hardie Board has the meaning set out in paragraph 11.

James Hardie Officers has the meaning set out in paragraph 12.

JHX ADRs has the meaning set out in paragraph 1(a)(ii).

JHX Equity Swaps has the meaning set out in paragraph 1(a)(iii).

JHX Shares has the meaning set out in paragraph 1(a)(i).

June 2022 Results has the meaning set out in paragraph 397.

June 2022 Volume Pull-Forward has the meaning set out in paragraph 398.

July 2022 Results has the meaning set out in paragraph 400.

Lloyd has the meaning set out in paragraph 10.

LP has the meaning set out in particular (i) to paragraph 33(c).

Madson has the meaning set out in paragraph 15(i).

May A Counterfactual ANI Guidance Information has the meaning set out in paragraph 247(a).

May B Counterfactual ANI Guidance Information has the meaning set out in paragraph 247(b).**May Continuous Disclosure Contraventions** has the meaning set out in paragraph 329.

May Backlog Depletion has the meaning set out in paragraph 236.

May Counterfactual NA EBIT Margin Guidance Information has the meaning set out in paragraph 242(b).

May Counterfactual NA Sales Growth Guidance Information has the meaning set out in paragraph 242(a).

May Demand Impacts has the meaning set out in paragraph 197.

May Earnings Call has the meaning set out in paragraph 190.

May FY23 Implied Representations has the meaning set out in paragraph 193.

May Increased FY23 NA Guidance Representations has the meaning set out in paragraph 191(b).

May Inflation/Interest Rate Impacts has the meaning set out in paragraph 209.

May Misleading Conduct Contravention has the meaning set out in paragraph 257.

May Reaffirmed FY23 Group Guidance Representation has the meaning set out in paragraph 191(a).

May Reaffirmed FY23 Guidance has the meaning set out in paragraph 188.

May Reaffirmed FY23 Guidance Representations has the meaning set out in paragraph 191.

May 2022 Results has the meaning set out in paragraph 395.

May Unlikely ANI Guidance Information has the meaning set out in paragraph 245.

May Unlikely NA Guidance Information has the meaning set out in paragraph 239.

May Volume/Demand Modelling Inadequacy has the meaning set out in paragraph 228.

McDonald has the meaning set out in paragraph 15(e).

Miele has the meaning set out in paragraph 12(a).

Misleading Conduct Disclosure Obligations has the meaning set out in paragraph 18.

Mulhall has the meaning set out in paragraph 15(f).

NA has the meaning set out in paragraph 22.

NA Business has the meaning set out in paragraph 25.

NA Market has the meaning set out in paragraph 21.

New Construction Sector has the meaning set out in paragraph 27.

November Announcements has the meaning set out in paragraph 107.

November Earnings Call has the meaning set out in paragraph 107(a).

May Periodic Disclosure Contraventions has the meaning set out in paragraph 330.

Periodic Disclosure Obligations has the meaning set out in paragraph 20.

R&R/NC End Market Split has the meaning set out in paragraph 27.

R&R Sector has the meaning set out in paragraph 27.

Relevant Period has the meaning set out in paragraph 1(a).

Revised Demand Forecasting Method has the meaning set out in paragraph 229.

Revised November FY23 Guidance has the meaning set out in paragraph 108.

Roberts has the meaning set out in paragraph 15(g).

September 2022 Results has the meaning set out in paragraph 436.

SG&A has the meaning set out in the particulars to paragraph 226.

US Construction Market Softening has the meaning set out in paragraph 207.

Wiens has the meaning set out in paragraph 8.

Certificate of lawyer

I, Mathew Chuk, certify to the Court that, in relation to the amended statement of claim filed on behalf of the Plaintiff, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 10 July 2026

Signed by Mathew Chuk
Lawyer for the Plaintiff