

ENFORCEABLE UNDERTAKING

National Greenhouse and Energy Reporting Act 2007

Undertaking to the Regulator given for the purposes of section 45 of the *National Greenhouse and Energy Reporting Act 2007*

by

Diamond Offshore General LLC

ABN 91 050 122 051

Glossary

Act means the *National Greenhouse and Energy Reporting Act 2007* (Cth).

Annual Supplementary Document means the document detailing the greenhouse gas emissions, energy production and energy consumption from facilities under Diamond's operational control for the reporting period.

Basis of Preparation means the document that supports Diamond's record keeping requirements under the Act. It will include the methodologies, assumptions and estimations used to prepare the Report and will describe responsibilities for data gathering and reporting.

Compliance Consultant means a consultant with expertise in the requirements of the Act and Regulations and who has the appropriate qualifications and resources to perform the role set out under the sub-heading "Compliance Consultant" below.

Diamond means Diamond Offshore General LLC (ABN 91 050 122 051)

Facility means an activity, or a series of activities (including ancillary activities) that:

- involve the production of greenhouse gas emissions, the production of energy or the consumption of energy;
- form a single undertaking or enterprise and meet the requirements of the regulations; and are attributable to a single industry sector.

Offshore Maintenance Supervisor means the Diamond role overseeing the recording of emissions data on the offshore facility.

Quality Engineer means the Diamond employee overseeing the quality assurance program for recording and reporting emissions on onshore and offshore facilities.

Regulations means the National Greenhouse and Energy Reporting Regulations 2008 (Cth).

Regulator means the Clean Energy Regulator.

Report means an energy and emissions report submitted to the Regulator pursuant to section 19 of the Act.

Undertaking means this enforceable undertaking.

Vendor Approval Process means the internal process undertaken by Diamond to research, contact and vet any new potential vendors after an operational or business need is identified. A Vendor is only added once the relevant checks are completed and approved by Diamond's Review Committee.

1. Person giving undertaking

- 1.1. This Undertaking is given to the Regulator by Diamond Offshore General LLC (**Diamond**) for the purposes of section 45 of the Act.

2. Background

- 2.1. Diamond is a company registered in Australia and is a subsidiary of Diamond Offshore Drilling Inc, headquartered in Houston, Texas.
- 2.2. Diamond maintains a registered office in Australia and a physical office located in Perth, Western Australia.
- 2.3. Diamond is a corporation registered under section 17 of the Act.
- 2.4. The Act sets out a number of reporting obligations for registered corporations.

3. Reporting

- 3.1. The Act requires the registered controlling corporation to report on the activities of facilities under the controlling corporation's operational control and the facilities under operational control of the controlling corporation's corporate group for each financial year that they are registered.
- 3.2. Sections 19, 22G and 22X of the Act set out the obligations of registered corporations to report.
- 3.3. Diamond is required to report under section 19 of the Act.
- 3.4. Under paragraph 19(6)(d) of the Act, a Report must be submitted to the Regulator before the end of 4 months after the end of the financial year. This means by midnight (AEDT) 31 October each year or, if 31 October is not a business day, the Report must be submitted to the Regulator by midnight (AEDT) of the first business day following 31 October.
- 3.5. Diamond has repeatedly failed to satisfactorily meet its reporting obligations under the Act.
- 3.6. Diamond acknowledges that it has failed to accurately report all greenhouse gas emissions, energy production, and energy consumption from facilities under its operational control and under the operational control of members of its corporate group. Diamond has made calculation errors which have resulted in instances of over- and under-reporting, and incorrectly assessed and reported uncertainty under Chapter 8 of the National Greenhouse and Energy Reporting (Measurement) Determination 2008.

4. Terms of the Undertaking

- 4.1. Subsection 45(1) of the Act states that the Regulator may accept any of the following Undertakings:
 - a) a written undertaking that the person will take specified action, in order to comply with the provisions of this Act, the regulations or the safeguard rules;
 - b) a written undertaking that the person will refrain from taking specified action in order to comply with the provisions of this Act, the regulations or the safeguard rules;

- c) a written undertaking that the person will take specified action directed towards ensuring that the person:
 - (i) does not commit a contravention of this Act, the regulations or the safeguard rules; or
 - (ii) is unlikely to commit a contravention of this Act, the regulations or the safeguard rules in the future;
- d) a written undertaking of a kind specified in regulations made for the purposes of subsection 45(1) of the Act.

4.2. Diamond hereby undertakes to:

Quality Assurance

Data review

- a) Ensure that, commencing from December 2021, the Quality Engineer and Offshore Maintenance Supervisors of facilities working within Commonwealth and Australian waters will conduct internal monthly reviews of the Offshore Diesel, Oil and Electricity data that forms the basis of Diamond's reporting under the Act to ensure, as far as practicable, that
 - (i) Data sets are transparent, comparable, accurate and complete as described in Section 1.13 of the NGER (Measurement) Determination 2008; and
 - (ii) Variations in operational activities that impact emissions are appropriately documented, such as down time incurred due to unplanned maintenance, unfavourable weather conditions for operations and when a facility is warm-stacked and not operational.

Advisor

- b) By 31 December 2021, to appoint an advisor to assist in ensuring that Diamond is compliant with the Act and Regulations in the future (**Advisor**). Diamond will complete its internal Vendor Approval Process to ensure the Advisor is reputable and suitably qualified for its role;
- c) To require the Advisor to:
 - (i) map and provide descriptions of all reportable emissions sources and points of energy production and consumption;
 - (ii) define the information requirements for each facility under Diamond's operational control. This will include collating evidence of operational control¹ and facilities under operational control;
 - (iii) analyse the energy and emissions data (scope 1 emissions and scope 2 emissions, as defined in the Act) against facility and corporate group thresholds and identify any information gaps with Diamond;
 - (iv) develop a Basis of Preparation to support Diamond's record keeping

¹ Guidance around determining operational control as it relates to energy and greenhouse emissions reporting can be found in the Operational control supplementary guideline available on the <http://www.cleanenergyregulator.gov.au/NGER/Forms-and-resources/Guides-and-factsheets> web page.

requirements under the Act. This will include addressing the methodologies, assumptions and estimations used to prepare the Report and will describe responsibilities for data gathering and reporting. The Basis of Preparation will identify the data sources and methodologies to be applied during data quality assurance checks and will have a focus on completeness, accuracy and transparency;

- (v) develop an Annual Supplementary Document detailing the greenhouse gas emissions, energy production and energy consumption from facilities under Diamond's operational control for the reporting period;
- (vi) by 31 March 2022 to provide all materials produced under clauses 4.2(c)(i) to (iii) and recommendations for reporting to Diamond;
- (vii) by 30 June 2022 to provide the Basis of Preparation to Diamond; and
- (viii) annually, provide an Annual Supplementary Document to Diamond by 31 October, prior to the Report submission deadline.

Compliance Consultant

- d) By 1 January 2022 to appoint a Compliance Consultant (or Compliance Consultants). The Compliance Consultant/s to be engaged in accordance with this clause must be an individual eligible to register as a National Greenhouse and Energy Auditor;
- e) From 1 January 2022, ensure that the Compliance Consultant:
 - (i) by 28 February 2022 and 2023, completes a review of Diamond's internal National Greenhouse Emissions Reporting system and provides to Diamond a summary of the items identified as areas to be improved and recommendations for compliant reporting;
 - (ii) by 30 September 2022 and 2023, immediately preceding the Report's due date for submission, completes a compliance review of both the data and the Report, and provides to Diamond a summary of the items identified as areas to be improved and recommendations for compliant reporting; and
 - (iii) completes bi-annual reviews of the Basis of Preparation, commencing after 30 June 2022, to ensure that it continues to be fit for purpose and that changes to the governing legislation and matters identified in clause 4.2(e)(i) and (ii) have been appropriately incorporated;

Provision of Basis of Preparation and Annual Supplementary Document

- f) To provide the Basis of Preparation and Annual Supplementary Document relevant to each NGER reporting period to the Regulator as attachments to the Report;

Training

- g) By 31 January 2022 to review and update its existing site-specific procedures to ensure a step-by-step process is documented for each aspect of data recording, review and reporting for each facility and ensure that the roles and responsibilities of all individuals involved in the process is clearly documented;

- h) By 31 January 2022, the Quality Engineer to prepare and implement additional training for current offshore teams and associated management involved in the collection and reporting of data. This must include, but not be limited to, training on:
 - (i) Diamond's reporting obligations pursuant to the Act, the Regulations and this Undertaking;
 - (ii) Diamond's internal recording and reporting processes; and
 - (iii) the roles and responsibilities of individuals in the recording and reporting processes;
- i) By 31 January 2022, to prepare and implement a mechanism for recording the identity of each person who has received the training specified in clause 4.2(h), recording an acknowledgement by each such person that they have understood the training, and recording their agreement to follow the training;
- j) At least every 12 months, to review and update the training specified in clause 4.2(h) to ensure that changes to the governing legislation and any other matters identified in clauses 4.2(e)(i) and (ii) have been incorporated where necessary;
- k) Where the training has been updated as per clause 4.2(j), the Quality Engineer to ensure that training in relation to the updates is completed by the offshore teams and associated management involved in the collection and reporting of data, and recorded as set out in clause 4.2(i), as soon as reasonably practicable;

Progress Reporting

- l) Within three (3) months of the date the Undertaking comes in to effect, develop a register and provide it to the Regulator;
- m) Ensure that the register includes:
 - (i) items identified in this Undertaking as areas to be improved;
 - (ii) details of the actions taken to resolve the items in the register;
 - (iii) timeframes for implementation or completion of remedial actions;
- n) At intervals of no longer than six (6) months, review the register, update as required and ensure that the register continues to be fit for purpose; and
- o) Within one month after each review under clause 4.2(n), provide a progress report to the Regulator. The progress report will attach a copy of the relevant register and will detail the progress towards implementation of actions taken, any proposed changes to the register and any barriers to implementing remedial actions against specific items listed in the register.

5. General

- 5.1. Where this Undertaking requires Diamond to perform or complete an action in a specific timeframe, Diamond may request in writing, and the Regulator may grant, an extension to the timeframe; and

5.2. When considering whether to grant an extension under clause 5.1, the Regulator must act reasonably at all times. For the avoidance of doubt, nothing in clause 5 obliges the Regulator to grant a request for an extension to any timeframe.

6. Acknowledgements

6.1. Diamond acknowledges:

- a) the Regulator will make this Undertaking publicly available, including by publishing it on the Regulator's website;
- b) the Regulator and officers of the Regulator will, from time to time, make public reference to this Undertaking;
- c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from any conduct of Diamond;
- d) Diamond undertakes to pay all costs associated with its compliance with this Undertaking; and
- e) Breaching this Undertaking may result in the Regulator enforcing this Undertaking through the Federal Court.

7. Commencement of Undertaking

7.1. This Undertaking comes into effect:

- a) when the Undertaking is executed by Diamond; and
- b) the Regulator accepts the Undertaking so executed.

7.2. This Undertaking ceases to have effect on the date two (2) years after the Undertaking comes into effect.

Executed by

Diamond Offshore (ABN 91 050 122 051) by its authorised representative.

Signature.....

Name.....*Samantha Icebn*

Position.....*Attorney in fact*

Diamond Offshore General LLC

This *17th*.....day of *December* 2021

Accepted by the Clean Energy Regulator pursuant to section 45 of the *National Greenhouse and Energy Reporting Act 2007*

Signature.....

Shayleen Thompson

Delegate of the Regulator

This *20th*.....day of *December* 2021

