

UNDERTAKING TO THE CLEAN ENERGY REGULATOR

Undertaking to the Clean Energy Regulator given for the purposes of section 154Q of the
Renewable Energy (Electricity) Act 2000

by

Emerging Energy Solutions Group Pty Ltd (ACN 152953412)

1. Glossary

1.1 In this Undertaking, unless the contrary intention appears, the following definitions apply:

Act means the *Renewable Energy (Electricity) Act 2000* (Cth).

AS/NZS 5033 means *AS/NZS 5033 Installation and safety requirements for photovoltaic (PV) arrays*.

CEC means Clean Energy Council.

Compliance Program means the Small-scale Renewable Energy Scheme Compliance Program set out in Annexure A.

Compliant PV System means a SGU that is AS/NZS 5033 compliant, comprising a CEC approved inverter that is listed at <http://www.cleanenergycouncil.org.au/>.

Dispose means the destruction or deportation out of Australia of Non-Compliant PV Panels.

Emerging Energy means Emerging Energy Solutions Group Pty Ltd (ACN 152953412), registered at Level 51, 260 Elizabeth St, Melbourne, Victoria, 3000.

Non-compliant PV panels means solar PV panels that are not AS/NZS 5033 compliant.

PV means photovoltaic.

REC means renewable energy certificate.

REC Registry Account means Emerging Energy's REC Registry Account 35465.

REC Registry means the public registry of information maintained by the Regulator in accordance with Part 13 of the Act and which is published at <http://www.rec-registry.gov.au>.

Regulations means the *Renewable Energy (Electricity) Regulations 2001* (Cth).

Regulator means the Clean Energy Regulator.

Regulatory Requirements means the legislative requirements to be complied with for the installation of solar PV panels in Australia in order to qualify for RECs. These requirements include without limitation the Act, Regulations, CEC Guidance, Australian Standards, Federal and State based Australia Consumer Law and laws in respect of health and safety.

SGU means a small generation unit as defined in subregulation 3(2) of the Regulations.

STC means small-scale technology certificate.

2. Background

Person giving this Undertaking

- 2.1 This Undertaking is given to the Regulator by Emerging Energy Solutions Group Pty Ltd for the purposes of section 154Q of the Act.
- 2.2 Emerging Energy is an Australian propriety company limited by shares.
- 2.3 Emerging Energy have been a registered person under the Act since 11 July 2012 and has been creating STCs since September 2012.

Improper creation of STCs

- 2.4 The Regulator is a statutory agency with responsibility for administering and enforcing the Act and Regulations.
- 2.5 Under the Act, registered persons can create certificates for electricity generated from certain renewable energy sources. Regulation 20AC of the Regulations sets out the conditions which must be satisfied before STCs can be created in respect of a small generation unit.
- 2.6 Included in those conditions are requirements under:
 - a) subregulation 20AC(2) that the small generation unit was designed and installed by a person accredited for grid-connected power systems under the ABCSE accreditation scheme or the CEC accreditation scheme, and
 - b) subregulation 20AC(5), that before certificates can be created, the person who is entitled to create certificates for the small generation unit must first obtain a written statement by the installer that the installation has used a model of PV module listed in AS/NZS 5033.
- 2.7 Emerging Energy inadvertently improperly created, in contravention of section 24A of the Act, 15,878 STCs that did not meet the requirements under regulation 20AC of the Regulations. Emerging Energy relied on information provided and professional representations made by third parties and created the STCs based on that reliance.
- 2.8 In one matter, 5,724 STCs were improperly created for the installation of 36 SGUs in NSW containing Non-Compliant PV Panels. Emerging Energy was, however, unaware at the time of STC creation, that the solar PV panels were non-genuine solar PV panels and was not involved in the supply or installation of Existing Non-Compliant PV Panels.
- 2.9 In another matter, 10,154 STCs were improperly created for the installation of 146 SGUs that were not installed by a CEC accredited installer. Emerging Energy was unaware that the information provided to them by a third party was false, and its compliance procedures did not identify, at the time of the STC creation, that the information provided to them contained falsified installer declarations.

- 2.10 Since January 2017, Emerging Energy has had a Compliance Management Policy in place which includes further measures for preventing contraventions of the Act as a result of the actions of third parties. Emerging Energy recognises that these policies and procedures need to be continually updated under a Compliance Program to identify and reduce the risk of breaching Regulatory Requirements for STC creation, remedy any breach that may occur, and continue to foster a culture of compliance within Emerging Energy.
- 2.11 Emerging Energy has cooperated with the Regulator in coming to an agreeable outcome regarding the conduct above and is committed to assisting the Regulator with any further investigations into the retailer and wholesaler involved in the conduct described at subclauses 2.8 and 2.9 above.

3. Undertaking

- 3.1 Under section 154Q of the Act, the Regulator may accept any of the following undertakings:
- a) a written undertaking given by a person that the person will, in order to comply with the Act, the Regulations or the associated provisions, take specified action;
 - b) a written undertaking given by a person that the person will, in order to comply with the Act, the Regulations or the associated provisions, refrain from taking specified action;
 - c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the person does not contravene the Act, the Regulations or the associated provisions, or is unlikely to contravene the Act, the Regulations or the associated provisions, in the future; or
 - d) a written undertaking given by a person that the person will surrender one or more renewable energy certificates under section 28A of the Act, to compensate for the creation of one or more certificates that the person was not entitled to create.

- 3.2 Emerging Energy hereby undertakes to:

Compliance Program

- a) at its own expense, update its Compliance Program in accordance with the requirements set out in Annexure A, being a program designed to minimise Emerging Energy's risk of future contraventions of the Act and Regulations;
- b) maintain and continue to implement the Compliance Program for a period of two years from the date of this Undertaking coming into effect; and
- c) provide a copy of any documents required by the Regulator in accordance with Annexure A;

Rectify improper creation of STCs for SGUs containing Non-compliant PV panels

- d) within nine months of the date of this Undertaking coming into effect, surrender 5,724 STCs equivalent to the amount created for SGUs containing Non-Compliant PV Panels identified in Annexure B;

Rectify improper creation of STCs for SGUs not installed by a CEC accredited installer

- e) within 12 months of the date of this Undertaking coming into effect:

- i. surrender 10,154 STCs equivalent to the amount created from the SGUs not installed by a CEC accredited installer identified in Annexure C;
- ii. for those SGUs identified in Annexure C, write to the owners and the occupiers of those sites to obtain consent to inspect the SGUs; and
- iii. at its own expense, inspect the SGUs identified in Annexure C, in accordance with regulation 39 of the Regulations, using a CEC-accredited installer (or installers) agreed with the Regulator;
- iv. where the inspection identifies there is material or pervasive evidence that the Regulatory Requirements in relation to the SGU being inspected have not been satisfied, rectify the installation of the SGUs to ensure they meet the Regulatory Requirements;
- v. validate the serial numbers for the solar PV panels used for the SGUs, identified in Annexure C, with the relevant solar PV panel manufacturer;
- vi. include the Regulator in all correspondence between Emerging Energy and the manufacturers whilst completing the Undertakings in subparagraph 3.2(e)(v);
- vii. where a manufacturer identifies Non-Compliant PV Panels as part of the SGUs identified in Annexure C:
 - I. for those SGUs, write to the owners and the occupiers of those sites to obtain consent to replace the Non-Compliant PV Panels with Compliant PV Systems; and
 - II. replace, using a CEC-accredited installer (or installers) agreed with the Regulator, the Non-Compliant PV Panels in relation to which the consents specified in subparagraph 3.2(e)(vii)(I) have been obtained, with a Compliant PV System, in a manner which meets all Regulatory Requirements;
 - III. not create STCs for the Compliant PV System under paragraph 3.2(e)(vii)(II); and
 - IV. dispose of all Non-Compliant PV Panels removed under paragraph 3.2(e)(vii)(II).

Report in writing

- f) report to the Regulator, in writing:
 - i. every three months against the undertakings in subclause 3.2 until such time as all requirements have been met in full. This report is to include copies of the following documentation for each SGU inspected as part of the undertaking at paragraph 3.2(e):
 - I. written consent from the system owner to carry out the inspection of their solar PV system;
 - II. details of any faults requiring rectification;
 - III. evidence of any fault rectification; and
 - IV. completed NSW Certificate of Compliance for electrical work;

Ownership and directorship

- g) in the event of a change in ownership or change of directors of Emerging Energy, bring the existence of the EU to the attention of the new owners/directors and provide them a copy of the EU or direct them to the website of the Clean Energy Regulator.

4. Acknowledgements

4.1 Emerging Energy acknowledges:

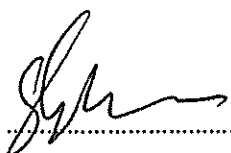
- a) the Regulator will make this Undertaking publicly available, including by publishing it on the Regulator's website;
- b) the Regulator and officers of the Regulator may, from time to time, make public reference to this Undertaking;
- c) this Undertaking in no way derogates from the rights and remedies available to the Commonwealth and any other person arising from any conduct of Emerging Energy; and
- d) it bears all costs associated with its compliance with this Undertaking.

5. Commencement of enforceable undertaking

- 5.1 This undertaking comes into effect when:
- a) the Undertaking is executed by Emerging Energy; and
 - b) the Regulator accepts the Undertaking so executed.
- 5.2 This undertaking ceases to have effect once the requirements of clause 3 have been completed.

Executed by

Emerging Energy Solutions Group Pty Ltd (ACN 152953412) by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001*.




.....

Director

This 29 day of NOVEMBER 2017

Accepted by the Regulator pursuant to section 154Q of the *Renewable Energy (Electricity) Act 2000*.



.....

Mark Williamson

Delegate of the Regulator

This 1ST day of DECEMBER 2017

Small-scale Renewable Energy Scheme Compliance Program

Emerging Energy Solutions Group Pty Ltd (ACN 152953412) (Emerging Energy) will update its Small-scale Renewable Energy Scheme Compliance Program (Compliance Program) to comply with the following requirements:

Appointments

1. Within one month of the Undertaking to the Clean Energy Regulator (Regulator) by Emerging Energy (the Undertaking) coming into effect, Emerging Energy will appoint a director or a senior manager to be responsible for the development, implementation and maintenance of the Compliance Program (the Compliance Officer).

Compliance Procedures

2. Within four months of the Undertaking coming into effect, the Compliance Officer will develop and implement new compliance procedures that ensure, prior to any creation of a Small-scale Technology Certificate (STC) in the REC Registry, all requirements for STC creation under the *Renewable Energy (Electricity) Act 2000* (Act) and the *Renewable Energy (Electricity) Regulations 2001* (Regulations) are met (the Compliance Procedures).
3. The Compliance Procedures will include:
 - a. random nationwide site audits of small generation unit (SGU) installations for which Emerging Energy have created STCs. The number and frequency of these site audits will be no lower than 5 % of installations for which Emerging Energy have created STCs per calendar year;
 - b. random client auditing to be conducted by independent portfolio traders. Clients are individuals, companies or others that have installed systems eligible for STCs. The number and frequency of these client audits will be no lower than 10% client audits per calendar year;
 - c. documented procedures to prevent the improper creation of STCs which include steps to actively:
 - i. verify solar photovoltaic (PV) panels are accredited in accordance with the Act and Regulations
 - ii. verify SGUs are only designed and installed by Clean Energy Council (CEC) accredited designers and installers
 - iii. verify SGUs are compliant with all local, state and territory government requirements
 - iv. verify the SGU installation actually occurred at the listed address and on the provided date, and
 - v. ensure duplicate claims are never made for solar PV panels or SGU components, or for the same address;

- d. a system to collect, secure and store records that assure the credibility of and support each creation of STCs;
- e. a documented procedure to ensure any improper creation of STCs is reported to the Regulator within 72 hours;
- f. documented procedures to research the capability and trustworthiness of industry partners and contractors; and
- g. the ability to provide compliance procedures and records, on request, to the Regulator.

Training

- 4. Emerging Energy will require all directors, and employees to receive regular (at least once a year) training administered by the Compliance Officer or a qualified compliance professional or legal practitioner with expertise in the Act and regulations. This training should ensure that up to date knowledge is maintained regarding responsibilities under all relevant laws including (but not limited to):
 - a. The *Renewable Energy (Electricity) Act 2000*, associated Regulations and policies of the Regulator
- 5. Emerging Energy will implement these compliance procedures for a period of 2 years unless otherwise agreed with the Regulator.

Compliance Review

- 6. Emerging Energy will, at its own expense, arrange a review of the Compliance Program (Compliance Review) to be carried out, within 60 days of the 12 month and 24 month anniversaries of this Undertaking coming into effect, in accordance with each of the following requirements:
 - a. the Compliance Review is carried out by a suitable qualified, independent compliance professional (Reviewer). The Reviewer will qualify as independent on the basis that:
 - i. he or she did not design or implement the Compliance Program;
 - ii. is not a present or past staff member or director of Emerging Energy; and
 - iii. has no significant shareholding or other interests in Emerging Energy.
 - b. Emerging Energy will use its best endeavours to ensure that each Compliance Review is conducted on the basis that the Reviewer has access to all relevant sources of information in Emerging Energy's possession or control, including without limitation:
 - i. The ability to make enquiries of any officers, employees, representatives, and agents of Emerging Energy; and
 - ii. Documents relating to Emerging Energy's Compliance Program; and

Compliance Reports

- 7. Emerging Energy will use its best endeavours to ensure that within 30 days of a Compliance Review, the Reviewer includes the following findings of the Compliance Review in a report to the Regulator:

- a. whether the Compliance Program includes all the elements detailed in clauses 1 to 5 above, and if not, what elements need to be included or further developed;
 - b. whether staff training is effective, and if not, what aspects need to be further developed;
 - c. whether there are any material deficiencies in Emerging Energy's Compliance Program, or whether there are or have been instances of material non-compliance with the Compliance Program (Material Failure), and if so, recommendations for rectifying these Material Failures.
8. Emerging Energy will implement promptly and with due diligence any recommendations made by the Reviewer of the Compliance Report to address a Material Failure.
9. Where a Material Failure has been identified by the Reviewer in the Compliance Report, Emerging Energy will:
 - a. Provide a copy of that Compliance Report to the Regulator within 10 days of Emerging Energy receiving the Compliance Report;
 - b. Inform the Regulator of any steps that have been taken, or are proposed to be taken, to implement the recommendations made by the reviewer in the Compliance Report.

Provision of Compliance Program to the Regulator

10. Emerging Energy will maintain a record of and store all documents relating to the Compliance Program for a period of not less than 2 years.
11. If requested by the Regulator during the period of 2 years from the date of this Undertaking, Emerging Energy will, at its own expense, produce and provide to the Regulator copies of all documents constituting the Compliance Programs, including:
 - a. Staff training materials;
 - b. All completed Compliance Reports.

Regulator Recommendations

12. Emerging Energy will implement promptly and with due diligence any recommendations that the Regulator may make that the Regulator deems reasonably necessary to ensure that Emerging Energy maintains and continues to implement the Compliance Program in accordance with the requirements of this Undertaking.

ANNEXURE B

Solar generation units containing Non-Compliant PV Panels

Accreditation code	STCs Passed	SGU_Brand	SGU_Model	Installation State
PVD2519820	72	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2519895	176	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2519800	114	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2524286	165	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495589	518	ReneSola Jiangsu Ltd	JC245M-24/Bb (60 Poly cells)	NSW
PVD2495227	114	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495897	72	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495805	124	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495201	217	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495792	119	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2495915	217	ReneSola Jiangsu Ltd	JC250M-24/Bz (60 Poly cells)	NSW
PVD2486590	217	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2484322	62	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2484379	31	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2486587	228	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483699	51	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2486618	139	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2486597	228	ReneSola Jiangsu Ltd	JC275S-24/Bb (60 Mono cells)	NSW
PVD2484955	124	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2484349	202	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483294	114	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483709	31	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483704	62	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483705	41	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2519750	295	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2484933	228	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2507376	124	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW

Accreditation code	STCs Passed	SGU_Brand	SGU_Model	Installation State
PVD2486595	62	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483708	62	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2504827	248	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483790	476	ReneSola Jiangsu Ltd; Changzhou Trina Solar Energy Co Ltd	JC250M-24/Bz (60 Poly cells); TSM-250PC05A (60 poly cells)	NSW
PVD2483712	207	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2484358	124	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2486568	124	ReneSola Jiangsu Ltd	JC250M-24/Bz (60 Poly cells)	NSW
PVD2484973	207	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW
PVD2483703	129	ReneSola Jiangsu Ltd	JC250M-24/Bb (60 Poly cells)	NSW

Solar generation units not installed by an accredited installer

Accreditation code	STCs Passed	Installation State
PVD2271986	53	VIC
PVD2279844	71	VIC
PVD2285440	88	VIC
PVD2290074	53	VIC
PVD2432487	108	VIC
PVD2436847	26	VIC
PVD2437686	31	VIC
PVD2437678	53	VIC
PVD2437451	31	NSW
PVD2437507	53	VIC
PVD2440963	41	VIC
PVD2440791	53	VIC
PVD2440881	35	VIC
PVD2440875	31	NSW
PVD2440943	31	NSW
PVD2440886	62	NSW
PVD2440919	41	NSW
PVD2440755	41	NSW
PVD2440878	82	NSW
PVD2440835	35	VIC
PVD2442871	53	VIC
PVD2442912	88	VIC
PVD2442784	35	VIC
PVD2446163	79	VIC
PVD2446818	88	VIC
PVD2446480	88	VIC
PVD2448470	35	VIC
PVD2448461	35	VIC
PVD2448516	41	VIC
PVD2448218	71	VIC
PVD2451962	26	VIC
PVD2452211	103	VIC
PVD2459716	35	VIC
PVD2473663	35	VIC
PVD2474661	26	VIC
PVD2304172	35	VIC
PVD2304146	88	VIC
PVD2316992	88	VIC
PVD2316991	88	VIC

Accreditation code	STCs Passed	Installation State
PVD2319468	79	VIC
PVD2319469	79	VIC
PVD2319471	53	VIC
PVD2319463	71	VIC
PVD2319476	88	VIC
PVD2319849	88	VIC
PVD2319857	103	VIC
PVD2319502	88	VIC
PVD2319828	35	VIC
PVD2319462	88	VIC
PVD2319425	53	VIC
PVD2319453	71	VIC
PVD2319371	88	VIC
PVD2319451	88	VIC
PVD2319410	106	VIC
PVD2319384	35	VIC
PVD2321682	41	VIC
PVD2341767	35	VIC
PVD2341859	103	VIC
PVD2341860	41	VIC
PVD2341865	35	VIC
PVD2341768	88	VIC
PVD2341854	41	VIC
PVD2341771	142	VIC
PVD2341900	35	VIC
PVD2341684	35	VIC
PVD2341683	106	VIC
PVD2341701	26	VIC
PVD2341832	53	VIC
PVD2341704	53	VIC
PVD2341929	35	VIC
PVD2342064	35	VIC
PVD2341982	71	VIC
PVD2342050	35	VIC
PVD2341985	53	VIC
PVD2342012	79	VIC
PVD2341922	103	VIC
PVD2342013	35	VIC
PVD2343069	177	VIC
PVD2342466	71	VIC
PVD2343006	62	VIC
PVD2345228	35	VIC
PVD2345212	79	VIC
PVD2345217	35	VIC

Accreditation code	STCs Passed	Installation State
PVD2345185	53	VIC
PVD2348988	35	VIC
PVD2348815	79	VIC
PVD2349469	195	VIC
PVD2349478	71	VIC
PVD2352800	71	VIC
PVD2353145	88	VIC
PVD2353269	35	VIC
PVD2353265	124	VIC
PVD2353271	88	VIC
PVD2353226	53	VIC
PVD2352802	88	VIC
PVD2353137	88	VIC
PVD2353141	53	VIC
PVD2353276	35	VIC
PVD2353244	26	VIC
PVD2353144	53	VIC
PVD2366684	71	VIC
PVD2373525	88	VIC
PVD2373521	71	VIC
PVD2373526	71	VIC
PVD2373519	44	VIC
PVD2373518	71	VIC
PVD2373607	71	VIC
PVD2374718	88	VIC
PVD2378336	60	VIC
PVD2378294	53	VIC
PVD2392320	62	VIC
PVD2392199	35	VIC
PVD2423580	88	VIC
PVD2423564	53	VIC
PVD2423535	26	VIC
PVD2423571	71	VIC
PVD2423614	88	VIC
PVD2423601	79	VIC
PVD2423587	71	VIC
PVD2423562	143	VIC
PVD2423567	88	VIC
PVD2432490	159	VIC
PVD2432620	88	VIC
PVD2432296	497	VIC
PVD2435701	142	VIC
PVD2442847	88	VIC
PVD2448384	26	VIC

Accreditation code	STCs Passed	Installation State
PVD2448400	88	VIC
PVD2448193	35	VIC
PVD2448241	71	VIC
PVD2448376	53	VIC
PVD2448377	35	VIC
PVD2448222	103	VIC
PVD2449752	72	VIC
PVD2450900	88	VIC
PVD2451963	35	VIC
PVD2452309	103	VIC
PVD2452312	62	VIC
PVD2473443	41	VIC
PVD2492729	533	VIC