

UNDERTAKING TO THE CLEAN ENERGY REGULATOR

Variation to the Undertaking accepted by the Clean Energy Regulator on 7 May 2020 as varied on 1 February 2022, pursuant to sub-section 154Q(3) of the *Renewable Energy (Electricity) Act 2000*

by

Trina Solar (Australia) Pty Ltd (ACN 150 695 524)

1 Glossary

1.1 In this agreement, unless the contrary intention appears, the definitions in section 5 of the Act, regulation 3 of the Regulations, and this clause apply:

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

Acceptance Criteria are those described in **Annexure A**

CEC means Clean Energy Council.

Certificate means a renewable energy certificate as defined in the REE Act 2000 (also known as a small-scale technology certificate (STC)).

COVID-19 Pandemic means the global pandemic that began in late 2019 as a result of the spread of the coronavirus and in relation to which strict restrictions on movement and contact are in place.

Geotagged photographs means photographs with imbedded location metadata including latitude and longitude coordinates.

PV means photovoltaic.

PV Lab Australia means PV Lab Australia Pty Ltd (ABN 18 166 787 800).

Regulations means the Renewable Energy (Electricity) Regulations 2001.

Regulator means the Clean Energy Regulator.

Sites means solar PV system installations listed at **Annexure B** to this Undertaking

Solar PV system means small generation unit; including solar panels, solar array, isolator, inverter and wiring.

Trina means Trina Solar (Australia) Pty Ltd Pty Ltd (ACN 150 695 524).

Uncertified factory means a factory that is not recorded on a Compliance Certificate held by the Clean Energy Council as per the Clean Energy Council PV module terms and conditions.

Undertaking means the Enforceable Undertaking accepted by the Clean Energy Regulator from Trina Solar (Australia) Pty Ltd on 7 May 2020, as varied from time to time under section 154Q(3) of the REE Act .

2 Background

- 2.1 The Regulator accepted an Undertaking from Trina on 7 May 2020 under s 154Q(1) of the Act.
- 2.2 The Undertaking was given by Trina and agreed by the Regulator on the basis that incorrect information may have been provided by Trina in relation to the eligibility of certain solar PV panels for certificates created under the Act. This has had the effect that solar PV panels have been installed and STCs have been created on an incorrect assumption that the panels were eligible for certificates and were on the CEC approved module list.
- 2.3 The intention of the Undertaking was to provide assurance to the Regulator that the improper creation of certificates does not occur based on information provided by Trina.
- 2.4 The Undertaking was varied with the Regulator's consent on 1 February 2022, in accordance with section 154Q(3) of the Act (the **First Variation**).
- 2.5 The First Variation established a Compliance Testing Program to be undertaken by Trina to provide assurance to the Regulator as to the safety and quality of the installed panels that do not meet the CEC approved PV module listing requirements. A second variation (**Second Variation**) made a minor adjustment to the deadline to complete the actions set out in clause 3.7 below due to Covid related delays. This variation (**Third Variation**) makes further minor adjustments to the deadline to complete the actions set out in clause 3.7 below due to Covid related delays and poor weather.
- 2.6 In the event that the Regulator is satisfied that the Compliance Testing Program provides assurance that the relevant panels meet relevant safety and quality standards, the Regulator will confirm that the actions required by clause 2.2 of the Undertaking of 7 May 2020 are no longer required.
- 2.7 In the event that the Regulator is not satisfied in accordance with clause 2.6 above, Trina will be obliged to complete the actions described by clause 2.2 of the Undertaking of 7 May 2020.

3 Compliance testing

Scope

- 3.1 In accordance with ISO 2859 the Regulator and Trina have agreed on the appropriate sampling lot size at **Annexure C**.
- 3.2 **Annexure B** records two tranche (**Tranche One** and **Tranche Two**) of sites that contain a representative sample of solar PV panel modules detailed in Annexure B.
- 3.3 **Annexure B** also details the specific PV module serial numbers recorded in the Renewable Energy Certificate Registry as being installed on each site.
- 3.4 Should the testing of Tranche One modules uncover a failure rate above the acceptance criteria described in **Annexure A**, the process for the testing of modules described in Tranche Two will commence at the request of the Regulator.

Replacement and testing of Panels

- 3.5 The Regulator will seek consent from owners of the sites detailed in **Annexure B** by sending the letter (or a reasonably alternative version) set out at **Annexure D**. In the first instance, the letter will be sent for systems included in Tranche One. Letters will only be sent in relation to systems in Tranche Two if Tranche Two is activated via clause 3.4 above.
- 3.6 Within three weeks of being informed by the Regulator in writing that an owner has consented to the replacement of their systems, Trina will contact the relevant owner to arrange for a CEC-accredited installer (or installers), agreed with the Regulator, to remove all panels from the installation.
- 3.7 Trina will complete prior to 1 November 2022:
- (a) install new solar PV panels of equal or superior quality and performance where that's possible. The panels will be covered by Trina's manufacturer's warranty from the date of install;
 - (b) obtain and maintain:
 - i. geotagged photographs of each removed solar PV panel's under-glass located serial number. This photograph must be taken while the panel remains on site and also contain time and date metadata;
 - ii. geotagged photographs of each new installed solar PV panel's under-glass located serial number. This photograph must be taken while the panel is on site; and
 - iii. written installer declarations that reference the solar PV panel's removed and installed along with the installers attendance at the site, in a format agreed with the Regulator, for each site.
 - (c) arrange for the delivery of one solar PV panel identified in **Annexure B** for that particular site to PV Lab Australia;
 - (d) if more than one solar PV panel identified in **Annexure B** for a particular site is to be delivered to PV Lab Australia, Trina must obtain the Regulator's agreement;
 - (e) if a site has a solar PV panel or panels with serial numbers that are not recorded in **Annexure B**, Trina must obtain the Regulator's agreement before delivering any of those solar PV panels to PV Lab Australia;
 - (f) arrange for the lawful disposal of all removed solar PV panels, preferably by an accredited recycler.
- 3.8 Trina will also provide the Regulator, within 14 days of a written request, any of the photographs, information or documentation referred to in clause 3.7.

PV Lab Australia

- 3.9 It is agreed between Trina and the Regulator that the Regulator will instruct PV Lab Australia to:
- (a) perform power performance, insulation measurement, electroluminescence imaging and a visual inspection on each panel;

- (b) record the under-glass serial number of each solar PV panel;
- (c) provide test reports for each solar PV panel to the Regulator and Trina;
and
- (d) arrange for the lawful disposal of all removed solar PV panels,
preferably by an accredited recycler.

that is delivered to it pursuant to this Undertaking.

4 Acknowledgements

4.1 Trina acknowledges that:

- (a) they bear all costs associated with their compliance with this Undertaking,
including the replacement program and the assurance testing;
- (b) no person is entitled to create certificates with respect to any work
commenced or completed at a Site in relation to this Undertaking;
- (c) they cannot create, or receive any payment for certificates in relation to any
act commenced or completed in compliance with this Undertaking;
- (d) where an event or issue occurs that may prevent the fulfillment of this
Undertaking, the Regulator will not consent to vary the dates specified in the
clauses unless a request that outlines the event or issue and reasons why the
variation is required is submitted in writing as soon as reasonably practicable
after the event or issue occurs, but no later than fourteen calendar days prior
to the specified date;
- (e) Trina may offer, and the Regulator may lawfully consent to, this Undertaking
under sub-section 154Q(3);
- (f) the Regulator will make this Third Variation (excluding **Annexure B** as it
contains third party information) publicly available, including its publication on
the Regulator's website;
- (g) the Regulator and officers of the Regulator may, from time to time, make
public reference to this Undertaking;
- (h) this Undertaking in no way derogates from the rights and remedies available
to the Commonwealth and any other person arising from any conduct by
Trina.

4.2 The Regulator acknowledges that:

- (a) the COVID-19 Pandemic may prevent fulfilment of this Undertaking by
the dates specified;
- (b) the dates specified in this Undertaking may need to be varied as a
result of restrictions imposed during the COVID-19 Pandemic; and
- (c) Trina will provide details of the issues or events which require
adjustment as a result of the COVID-19 Pandemic to the Regulator as
soon as reasonably practicable for the Regulator's consideration and
consent.

5 Commencement of Compliance Testing Program

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

Executed by

Trina Solar (Australia) Pty Ltd (ACN 150 695 524), by Ying Ding, being an authorised officer pursuant to section 127(1) of the *Corporations Act 2001*



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Ying Ding
Director

This ..29... day of ..September..... 2022

Accepted by the Regulator pursuant to section 154Q(3) of the *Renewable Energy (Electricity) Act 2000*



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Piet Powell
General Manager and Delegate of the Regulator

This 30th day of September 2022