

## UNDERTAKING TO THE CLEAN ENERGY REGULATOR

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

by

GB Environmental Trading Pty Ltd (ACN 604 328 734)

### 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).

**Approved Solar Panel Manufacturer** means solar panel manufacturers who are currently participating in the SPV initiative.

**CEC** means Clean Energy Council.

**Certificate** means Small-scale Technology Certificate.

**Clean Energy Regulator** means the regulator established pursuant to Part 2 of the *Clean Energy Regulator Act 2011* (Cth).

**Compliance Program** means the SRES Compliance Program set out in Annexure D.

**Electrical Standards** means the Australian standards issued by Standards Australia Limited in relation to solar PV installations, as in force at the time the unit was installed that includes but not limited to AS/NZS 3000, AS/NZS 1768, AS 4777, AS/NZS 5033, and AS/NZS 1170.2.

**GB Environmental** means GB Environmental Trading Pty Ltd ACN 604 328 734 of 5 Walkers Rd, Nunawading, Victoria 3131.

**Non-installation Sites** means the locations, listed in Annexure C, for which GB Environmental unknowingly created certificates when no installations had occurred.

**PV** means photovoltaic.

**REC** means Renewable Energy Certificate.

**REC Registry Account** means GB Environmental's REC Registry Account 40533.

**REC Registry** means the public registry of information maintained by the Regulator in accordance with Part 13 of the Act.

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

**Regulator** means the Clean Energy Regulator.

**SGU** means a Small Generation Unit as defined in regulation 3(2) of the Regulations.

**Solar PV System** means a solar photovoltaic system.

**SPV** means the Solar Panel Validation initiative.

**SRES** means Small-scale Renewable Energy Scheme.

**SRES Smart** means the online tool designed to support registered agents to refresh or gain knowledge about their obligations and expected capabilities under the SRES.

**Sub-standard Installation** means the solar PV system does not meet the Electrical Standards.

**Unverified Non-installation Sites** means the 15 locations, listed in Annexure B, where GB Environmental and the Regulator suspect SGUs have not been installed.

## 2. Background

### *Person giving this Undertaking*

- 2.1 This Undertaking is given to the Regulator by GB Environmental, for the purposes of section 154Q of the Act.
- 2.2 GB Environmental is an Australian propriety company limited by shares.
- 2.3 GB Environmental have been a registered person under the Act since 2 July 2015 and has been creating Certificates since 13 August 2015.

### *Improper creation of Certificates*

- 2.4 The Regulator is a statutory agency responsible 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.
- 2.6 Section 23A of the Act establishes that Certificates may be created after a SGU is installed, while regulation 20AC of the Regulations sets out the conditions which must be satisfied before those Certificates can be created.
- 2.7 Between 6 March 2017 and 25 May 2017, GB Environmental unknowingly received false information from a third party relating to the purported designer and installer of seven SGUs. GB Environmental subsequently, in contravention of section 24A(1) of the Act, relied on that information to improperly create 1,128 Certificates when not entitled to do so.
- 2.8 In addition, between 9 April 2017 and 15 April 2018, GB Environmental unknowingly received false information from a different third party in relation to the purported installation of 10 SGUs. No SGU had been installed in relation to these purported installations (the Non-Installation Sites), and GB Environmental subsequently, in contravention of section 24A(1), relied on the false information to improperly create 2,702 Certificates when not entitled to do so.
- 2.9 GB Environmental had processes in place for conducting compliance checks prior to the creation of Certificates, these processes did not detect the discrepancies identified at clauses 2.7 and 2.8 above.

### *Unverified installation sites*

- 2.10 Between 26 June 2016 and 19 February 2017, the same third party referred to above in clause 2.8, provided GB Environmental information in relation to the purported

installation of 15 SGUs. Subsequently, GB Environmental relied on the information to create 2,982 certificates. The existence of these systems will be confirmed under section 3.2(b) of this Undertaking.

#### *Past and future cooperation with the Regulator*

- 2.11 GB Environmental 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 third parties who provided false information.
- 2.12 The third parties referred to in 2.7, 2.8 and 2.10 have been identified to the Regulator but are not named in this Undertaking to avoid prejudicing any investigation or separate action which may be taken against those parties.

### **3. Terms of 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 GB Environmental hereby undertakes, at its own expense, to:

#### *Inspect installations*

- a) in respect of the installations set out in Annexure A:
  - (i) within 9 months of the date of this Undertaking coming into effect, arrange for a CEC accredited installer (or installers) to inspect the solar PV system installations;
  - (ii) in the event these inspections detect any sub-standard PV systems, within 3 months of undertaking the inspection, rectify the installation to meet electrical standards at time of installation;
  - (iii) in the event these inspections detect SGUs have not been installed, within 3 months of undertaking the inspection, advise the Regulator in writing and surrender an equivalent amount of Certificates to those created for the SGUs;
- b) in respect of installations set out in Annexure B:
  - (i) within 9 months of the date of this Undertaking coming into effect, inspect



- the Unverified Non-Installation Sites identified, and
- (ii) in the event these inspections detect SGUs have been installed, provide evidence to the Regulator of the existing SGUs;
- (iv) in the event these inspections detect SGUs have not been installed, within 3 months of undertaking the inspection, advise the Regulator in writing, and surrender an equivalent amount of Certificates to those created for the SGUs;

*Surrender of Certificates*

- c) surrender 2,702 Certificates, equivalent to the amount created for SGUs at the Non-Installation Sites identified in Annexure C, in accordance with the following schedule:
  - (i) within 3 months of this Undertaking coming into effect, surrender 1,351 Certificates;
  - (ii) within 6 months of this Undertaking coming into effect, surrender a further 1,351 Certificates;

*Compliance Program*

- d) implement GB Environmental's compliance regime in accordance with the Compliance Program at Annexure D;
- e) maintain and continue to implement the Compliance Program for a period of two years from the date of this Undertaking coming into effect; and
- e) provide a copy of any documents required by the Regulator in accordance with Annexure D.

#### **4. Acknowledgements**

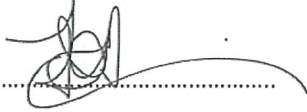
- 4.1 GB Environmental acknowledges that:
  - a) the Regulator may lawfully accept this Undertaking;
  - b) the Regulator will make this Undertaking publicly available, including its publication on the Regulator's website;
  - c) the Regulator and officers of the Regulator may, from time to time, make public reference to this Undertaking;
  - d) this Undertaking in no way derogates from the rights and remedies available to the Commonwealth and any other person arising from any conduct of GB Environmental; and
  - e) 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 GB Environmental; and
  - b) the Regulator accepts the Undertaking so executed.
- 5.2 This Undertaking ceases to have effect two years from the date of this Undertaking coming into effect.

**Executed by**

GB Environmental Trading Pty Ltd ACN 604 328 734 by its authorised officer pursuant to section 127(1) of the *Corporations Act 2001*.



Fiona O'Hehir

Director

This **9<sup>th</sup>** day of **October** 2019

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



Mark Williamson

Delegate of the Regulator

This **24<sup>TH</sup>** day of **OCTOBER** 2019

## ANNEXURE A

### Installations for which misused installer details

Accreditation Code	Certificates Passed Audit Quantity	Installed Date	Creation Date	Small Unit Installation State
PVD2632332	193	6/03/2017	10/03/2017	SA
PVD2646940	156	29/03/2017	31/03/2017	SA
PVD2652798	194	10/04/2017	10/04/2017	SA
PVD2662374	229	19/04/2017	27/04/2017	SA
PVD2670933	114	2/05/2017	10/05/2017	SA
PVD2680688	121	18/05/2017	23/05/2017	SA
PVD2682235	121	24/05/2017	25/05/2017	SA
<b>Total</b>	<b>1,128</b>			

## ANNEXURE B

### Certificates created by GB Environmental for Unverified Non-Installations

Accreditation Code	Certificates Passed Audit Quantity	Installed Date	Creation Date	Small Unit Installation State
PVD2486835	124	26/06/2016	8/07/2016	NSW
PVD2495179	230	10/07/2016	25/07/2016	NSW
PVD2503399	130	31/07/2016	8/08/2016	NSW
PVD2507300	186	7/08/2016	15/08/2016	NSW
PVD2524302	161	28/08/2016	13/09/2016	NSW
PVD2524303	149	28/08/2016	13/09/2016	NSW
PVD2537750	248	18/09/2016	7/10/2016	NSW
PVD2556178	207	23/10/2016	9/11/2016	NSW
PVD2583094	124	30/10/2016	16/12/2016	NSW
PVD2572645	124	30/10/2016	5/12/2016	NSW
PVD2586247	186	4/12/2016	21/12/2016	NSW
PVD2606481	232	15/01/2017	31/01/2017	NSW
PVD2609079	232	22/01/2017	3/02/2017	NSW
PVD2612633	185	29/01/2017	9/02/2017	NSW
PVD2639875	464	19/02/2017	22/03/2017	NSW
<b>Total</b>	<b>2,982</b>			

## ANNEXURE C

### Certificates created by GB Environmental confirmed to be Non-Installations

Accreditation Code	Certificates Passed Audit Quantity	Installed Date	Creation Date	Small Unit Installation State
PVD2713063	185	9/04/2017	11/07/2017	NSW
PVD2748601	125	27/08/2017	31/08/2017	NSW
PVD2767350	278	3/09/2017	27/09/2017	NSW
PVD2783111	232	8/10/2017	19/10/2017	NSW
PVD2802506	278	29/10/2017	15/11/2017	NSW
PVD2823436	406	26/11/2017	11/12/2017	NSW
PVD2845903	348	10/12/2017	15/01/2018	NSW
PVD2854554	348	17/12/2017	25/01/2018	NSW
PVD2894226	215	4/02/2018	16/03/2018	NSW
PVD2931606	287	15/04/2018	8/05/2018	NSW
<b>Total</b>	<b>2,702</b>			



## Small-scale Renewable Energy Scheme Compliance Program

GB Environmental Trading Pty Ltd ACN 604 328 734 (GB Environmental) will establish a Small-scale Renewable Energy Scheme (SRES) Compliance Program (Compliance Program) that complies with the following requirements:

### Appointments

1. Within 1 month of the Undertaking to the Clean Energy Regulator (Regulator) by GB Environmental coming into effect, GB Environmental will appoint their Compliance Manager to be responsible for the development, implementation and maintenance of the Compliance Program.

### Compliance Procedures

2. Within 2 months of the Undertaking coming into effect, the Compliance Manager will develop and implement new compliance procedures that ensure, prior to any creation of a Small-scale Technology Certificate (Certificate) in the REC Registry, all requirements for Certificate creation under the *Renewable Energy (Electricity) Act 2000* (Act) and the *Renewable Energy (Electricity) Regulations 2001* (Regulations) are met.
3. The Compliance Procedures will include:
  - a. updated internal compliance checks, including but not limited to:
    - i. increasing the percentage of daily claims where the client or installer is contacted for further information,
    - ii. implementing a series of changes to GB Environmental's electronic Application (app) where photos of the physical installation are geotagged,
    - iii. app functionality improvements to take a photo of the installer and the system owner at the time of signing, and geotag their location,
    - iv. increasing phone audits to the system owners when paper-based forms are received, and
    - v. Bi-annual phone audits of installers of solar photovoltaic (PV) systems related to Certificates created by GB Environmental.
  - b. documented steps to ensure, prior to any Certificate creation, all requirements under the Act and the Regulations are met. The new Compliance Procedures will contain a strong emphasis on, but not be limited to, ensuring Certificates are created for Small Generation Units (SGUs) that:
    - i. have been installed;
    - ii. are compliant with all local, state and territory government requirements;
    - iii. contain compliant PV systems;
    - iv. are installed by a Clean Energy Council accredited installer; and
    - v. are designed by a Clean Energy Council designer;

- c. a documented procedure to ensure any improper creation of Certificates is reported to the Regulator within 72 hours; and
- d. the ability to provide Compliance Procedures and records, on request, to the Regulator.

#### **SPV initiative**

4. GB Environmental will be an active participant in the SPV initiative. GB Environmental will use best endeavours to ensure that where Certificates are created for an approved solar PV panel manufacturer, the serial numbers be validated via SPV, before creating Certificates. Alternatively, other evidence-based systems (such as serial number photos and photos of compliance plates) will be used to verify panel validity.

#### **SRES Smart**

5. GB Environmental will ensure all current and future staff who have permissions within the REC Registry to create Certificates will complete the SRES Smart program within 1 month of obtaining permissions to create Certificates.

#### **Compliance Review**

6. GB Environmental will, at its own expense, arrange for annual reviews of the Compliance Program (Compliance Review) to be carried out on the anniversary of the Undertaking to the Regulator coming into effect, in accordance with each of the following requirements:
  - a. each Compliance Review is carried out by a suitably qualified, independent compliance professional (Reviewer). GB Environmental will obtain a written report from the Reviewer confirming their independence and that no conflict of interest or perceived conflict of interest arises from their appointment. The Reviewer will qualify as independent on the basis that the Reviewer:
    - i. did not design or implement the Compliance Program;
    - ii. is not a present or past staff member or director of GB Environmental; and
    - iii. has no significant shareholding or other interests in GB Environmental;
  - b. GB Environmental 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 GB Environmental's possession or control, including without limitation:
    - i. the ability to make enquiries of any officers, employees, representatives, and agents of GB Environmental; and
    - ii. documents relating to GB Environmental's Compliance Program.
  - c. GB Environmental will ensure that a Compliance Review is completed within one year of the Undertaking coming into effect and subsequently annually up to a period of 2 years.

#### **Compliance Report**

7. GB Environmental will 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 6 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 GB Environmental'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 Provision of Compliance Program to the Regulator.
8. GB Environmental will maintain a record of and store all documents relating to the Compliance Program for a period of not less than 2 years.

**Provision of Compliance Program to the Regulator**

9. If requested by the Regulator during the period of 2 years from the date of this Undertaking, GB Environmental 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**

10. GB Environmental will implement promptly and with due diligence any recommendations reasonably made by the Regulator to ensure that GB Environmental maintains and continues to implement the Compliance Program in accordance with the requirements of the Undertaking to the Regulator.