



EMISSIONS REDUCTION FUND: PARTICIPATING IN AGGREGATED PROJECTS

Case studies in aggregation agreements:

Industrial energy efficiency project

This case study is about a hypothetical aggregated energy efficiency project under the Emissions Reduction Fund (ERF). It may be useful for people thinking about doing an aggregated project and who want to learn more about what an aggregation agreement might involve.

It is recommended that you read this case study together with the [‘Key issues to consider in your aggregation agreement’ guidance document](#) from the Department of the Environment. You should also be familiar with how to participate in the ERF and the basics of aggregation before reading this case study (see the [Aggregation](#) and [Legal Right](#) sections of the Clean Energy Regulator’s website).

In this case study, three site owners agree to let a company do an ERF project at their facilities. The project involves service providers installing and upgrading equipment. The case study discusses issues that the facility site owners and aggregation company consider when setting up their contractual arrangements.

This document is not an exhaustive summary of important matters. You should seek independent legal, financial, tax and technical advice with particular reference to your own requirements. Further, everyone’s risk appetite is different and whether or not you choose to participate in an aggregated project is an individual decision to be taken in the context of your own circumstances.

Step one: Green Industries sets up an aggregated energy efficiency project

Green Industries Pty Ltd (GI) is a private company with experience advising on energy efficiency projects for medium and large scale energy users. GI sees that there are opportunities to participate in the ERF by managing an energy efficiency project that aggregates emissions reductions across a group of industrial sites. By undertaking the activities across several sites, GI will achieve economies of scale in carrying out the ERF project.

GI wants to do the project under the *Carbon Credits (Carbon Farming Initiative – Industrial Electricity and Fuel Efficiency Methodology Determination 2015* (Industrial Energy Efficiency Method).¹ The project activities will include:

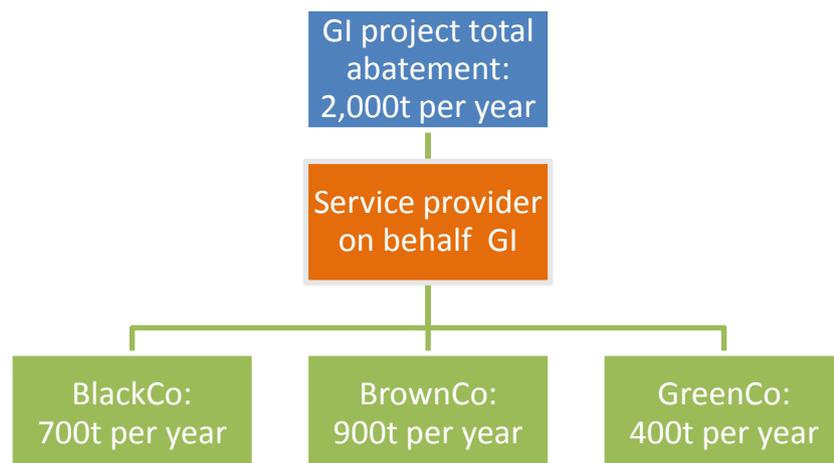
1. the replacement of heating, ventilation and air conditioning (HVAC) systems;
2. boiler upgrades and replacement; and
3. waste heat capture and re-use.

GI approaches three site owners of industrial facilities with medium-scale energy intensive equipment (site owners) – BlackCo, BrownCo and GreenCo. GI invites them to participate in an aggregated Industrial Electricity and Fuel Efficiency project (the project) (see Figure 1).

BlackCo, BrownCo and GreenCo have each received GI’s proposal and agree that, in principle, it is attractive because they are keen to receive new or upgraded equipment and reduce their energy costs. They agree to participate in the project.

¹ <http://www.comlaw.gov.au/Details/F2015L00346>

Figure 1. GI aggregates emissions reductions



GI first confirms with all the facility site owners that the site in question is not already part of another ERF project or operating, or planning to operate, with funding from a government programme excluded by the *Carbon Credits (Carbon Farming Initiative) Rule 2015*. If they were, GI would conduct further investigations to determine whether this affected the eligibility of the project. For further information see the [Eligibility, additionality and newness](#) section of the Clean Energy Regulator's website.

GI meets with the three site owners to agree on how the project will be set up. They discuss key questions such as:

- *Who will be the proponent for the project?*
- *Who will do the implementation activities?*
- *Who will be responsible for the ongoing maintenance of the plant and equipment?*
- *Who will register the project and obtain any necessary approvals or consents required for the project?*
- *Will the project be bid into an ERF auction and if so, who will enter the Carbon Abatement Contract with the Clean Energy Regulator?*
- *Who will do the monitoring and reporting?*
- *How will the income from the sale of the Australian Carbon Credit Units (ACCUs) be distributed and when?*
- *What income or other benefits will the site owners receive?*

The basic structure of the project is agreed between the parties:

- GI will be the proponent and manage the project's registration and ERF auction bid.
- GI will pay service providers to install equipment and monitor its performance.
- The site owners will grant GI the legal right to earn ACCUs from the project and carry out the project using the owners' equipment. They will also give the service providers (as GI's subcontractors) the right to enter their facilities. In return, they will have equipment installed at a discounted price and benefit from lower electricity costs.

Each of the site owners agrees to this structure as they believe it will allocate the key responsibilities for the project to the party with the best skill set for the necessary tasks.

They agree on the following responsibilities for GI and each of the site owners.

Figure 2. Project responsibilities

GI's responsibilities	Site owners' responsibilities	Service providers' responsibilities
<ul style="list-style-type: none"> • Be the project proponent, taking responsibility for carrying out the project and delivering ACCUs to the Australian Government as required by the Carbon Abatement Contract. • Get project registration, prepare the offsets reports, obtain audit reports, apply for certificates of entitlement, comply with the requirements of the Industrial Energy Efficiency Method and bid into an ERF auction. • Ensure that activities of service providers and site owners comply with the requirements of the Industrial Energy Efficiency Method. • Get any necessary regulatory approvals. • Consult with owners before doing activities and about any major changes to the project. 	<ul style="list-style-type: none"> • Provide GI with the necessary legal right and access rights required to undertake the project. • Provide any necessary assistance in order for regulatory approvals to be obtained. • Pay GI a discounted fee for the installation of the new plant and equipment and carrying out the upgrades. • Operate and maintain the new and upgraded plant and equipment in the crediting period in accordance with the manufacturer's requirements, and any instructions from GI or the service provider. • Inform GI if they intend to undertake any other emissions reduction activities under the ERF or other government programme that may affect the project's eligibility. • Consult with GI about any major changes to the project. For example, if something happens to the equipment or the site of the project that may affect emissions reductions. 	<ul style="list-style-type: none"> • Access the facility to obtain baseline and project data prior to installation and upgrade activities. • Install the new plant and equipment at the site owners' facilities. • Upgrade the existing plant and equipment at the owners' facilities. • After installation and upgrade activities, attend the facilities as needed to obtain the necessary operating period data for the offsets reports (for example daily ambient air temperature, quantity of daily production of each product class, daily quantity of fuel used by the boiler) and all required audits. • Comply with any instructions from GI.

Australian financial services laws obligations

The structure of the project, the services provided by GI, and the specific provisions of the aggregation agreements may trigger obligations on GI under Australia's financial services laws. For example, the project may be a 'managed investment scheme'. GI gets legal advice about its obligations. Depending on the advice, GI may need to hold an Australian Financial Services licence (AFS licence) and give the site owners a 'Financial Services Guide' and a 'Product Disclosure Statement'.

To be assured that GI is compliant, the site owners get GI to give them written advice saying that GI is following the rules set out in the Australian financial services laws.

Further information about the Australian Securities and Investments Commission (ASIC) and the regulation of financial services can be found on [ASIC's Carbon markets website](#).

Step two: GI and the site owners sign aggregation agreements

GI and the site owners will have responsibilities to each other for several years to come. They want to have an aggregation agreement – a legal contract that is designed to protect the interests of everyone involved.

The proposed agreement will use standardised provisions, with separate schedules for each agreement showing the: location of each facility (the project area), specific access arrangements for that facility, and details of the replacement or modification works (described as an 'implementation' under the Industrial Energy Efficiency Method) that are to be done at that facility.

The site owners raise a number of concerns that GI responds to with specific provisions in the agreement.

Figure 3. Site owner concerns and specific provisions in agreement

What if the project activities interfere with my day-to-day operations?	GI will not unduly interfere with the ongoing operation of the site owners' facilities. The site owners can restrict access to certain times so they can continue operating.	Clause 4
Are the people installing the equipment doing it properly?	GI agrees to grant each of the site owners a warranty and an indemnity. This means that the new equipment will be installed and the existing equipment modified, with due skill and care and will be fit for purpose on completion of the works. GI will also transfer to each site owner the applicable manufacturers' warranties.	Clauses 9 and 11-12
What if I don't get the energy savings GI promised? How will I be paid?	GI agrees to grant each site owner an indemnity and warranty for the minimum energy savings that will be achieved from each implementation. However, it also seeks to impose obligations on each site owner regarding the ongoing operation and maintenance of the equipment such that it can achieve the emissions reductions estimated for the project.	Clause 12
How will our commercial data be used? I don't want it made public.	GI agrees to include confidentiality provisions in each of the aggregation agreements. It notes that some of the information that is shared between GI and each site owner is needed to carry out the project and, therefore, will not be confidential.	Clause 17
What if I want to sell my facility?	GI agrees that each site owner will be able to transfer their facility during the project period as they wish, as long as they also assign the aggregation agreement to the new site owner.	Clause 15
What if my equipment produces less ACCUs than estimated?	If the equipment fails because a site owner has breached its aggregation agreement, then that site owner must pay GI an agreed amount of money to cover the cost of the ACCUs, which GI will have to purchase from an alternative source.	Clause 13
How will I manage my work health and safety obligations when the service providers are doing their activities?	GI and the site owners agree that each party must continue to strictly comply with their own work, health and safety obligations and, if required, they must also consult with each other about that. For GI, this will also mean ensuring that the new equipment and the modified equipment must comply with work, health and safety requirements. The parties agree to set out these service levels in the detailed scope of works attached to the aggregation agreement.	Clause 18
When will the agreement start? I don't want to sign up with an aggregator who then doesn't get a contract with the Australian Government.	Each of the site owners decide with GI that it will be appropriate to include conditions precedent in their aggregation agreement to delay the start of the project until GI has secured a Carbon Abatement Contract with the Clean Energy Regulator.	Clause 2

Example agreement clauses

Following discussion, GI and each of the site owners agree on the above specific provisions, which allow the project to proceed. The aggregation agreement which is prepared by GI's lawyers covers a number of important matters. These matters are explained in more detail in the 'Key issues to consider in your aggregation agreement' document. For a list of the example 'clauses' see **Attachment A**.

Step three: GI and the site owners do the project

The site owners each sign their aggregation agreement with GI. GI registers the project under the ERF and enters into a Carbon Abatement Contract with the Clean Energy Regulator after successfully bidding at an ERF auction. GI then engages service providers to carry out the installation and upgrade activities at each of BlackCo, BrownCo and GreenCo's facilities in accordance with the detailed scope of works attached to each aggregation agreement.

On completion of the installation and upgrade activities, GI provides each site owner with a tax invoice for the discounted costs of the new equipment and for the installation and upgrade work undertaken by the service providers, and assigns to each site owner the relevant manufacturers' warranties.

Over delivery

Two years after the project has commenced, BrownCo's facility achieves significantly greater emissions reductions than was originally anticipated. When negotiating the aggregation agreement, the parties agreed that GI would have the right to the extra ACCUs, in exchange for the site owners getting equipment at a discounted price at the start of the project. So, BrownCo does not receive any payment.

Under delivery

Three years after the project has commenced, the new equipment at GreenCo's facility fails so that they do not produce as many ACCUs as anticipated. Investigations by GreenCo and GI find out that the equipment failed because GreenCo had not carried out the necessary regular maintenance to the equipment.

The failure to maintain the equipment is a breach of GreenCo's obligations to GI under their aggregation agreement. The difference in the amount of emissions reductions that was anticipated and the reductions that will now be delivered will amount to a "Delivery Failure" for GI, under the Carbon Abatement Contract with the Clean Energy Regulator. GreenCo pays to GI a pre-agreed sum to assist GI source alternative ACCUs for GI to comply with its Carbon Abatement Contract.

More information

More detail about aggregated projects under the ERF can be found at www.environment.gov.au and www.cleanenergyregulator.gov.au.

Note: While the Commonwealth has made reasonable efforts to ensure the accuracy, correctness or completeness of the material, the Commonwealth does not guarantee, and accepts no liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of this material. Any references to the potential costs or benefits of undertaking an activity in accordance with an emissions reduction method are estimates only. This material is not a substitute for independent professional advice and entities should obtain professional advice suitable to their particular circumstances.

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ATTACHMENT A: Example clauses from GI aggregation agreements and relevant sections from the ‘Key issues to consider in your aggregation agreement’ guidance document

The clauses outlined in this attachment are illustrative only. They are intended to indicate the rights and responsibilities of project parties under an aggregation agreement and should not be relied on to form legal commercial arrangements. The Australian Government is not responsible for these clauses, nor the terms of aggregation agreements or their enforcement. Parties should seek their own independent legal advice when considering participation in an aggregated ERF project or entering into an aggregation agreement.

#	Matter	GI example clause	Question in ‘Key issues’
1.	The agreement will need to include a number of defined terms. The defined terms used in these example clauses are set out in the next column.	<p>1.1 Definitions:</p> <p>(a) ACCU means an Australian Carbon Credit Unit as defined in the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>.</p> <p>(b) Agreed Performance Levels means the detail set out in the Scope of Works regarding the minimum energy efficiency and abatement of emissions that will be achieved from each Implementation.</p> <p>(c) Carbon Abatement Contract means a contract entered into between GI and the Clean Energy Regulator under the CFI Act for the delivery of the ACCUs from the project.</p> <p>(d) CFI Act means the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i>.</p> <p>(e) Delivery Failure Payment means the amount of \$[to be agreed between the parties and inserted here] per tonne of carbon abatement.</p> <p>(f) GI’s Agents means a consultant, contractor, employee, auditor or agent acting on behalf of or engaged by GI in connection with the project.</p> <p>(g) Implementation means the activities set out in the Scope of Works to be carried out for the purposes of the project.</p> <p>(h) Method means the <i>Carbon Credits (Carbon Farming Initiative) – Industrial Electricity and Fuel Efficiency Methodology Determination 2015</i>.</p> <p>(i) Site owner means [insert the full name of individuals or corporation] being the [registered proprietor/lessee/insert other right of site owner to lawfully occupy the site] of the site.</p> <p>(j) project means the GI Industrial Energy Efficiency project.</p> <p>(k) project area means [insert description of the area of the site over which the project is to be</p>	Questions 1 and 2

#	Matter	GI example clause	Question in 'Key issues'
		<p><i>carried out</i>].</p> <p>(l) Regulator means the Clean Energy Regulator.</p> <p>(m) Regulatory Approvals means any approval, consent or licence required by a law to carry out the project.</p> <p>(n) Scope of Works means the attachment to this agreement entitled 'Scope of Works' setting out the nature, scope and timing of each of the activities required to be carried out for the project for the crediting period and the Agreed Performance Levels.</p> <p>(o) Service Provider means a person engaged by GI to carry out all or part of the project on behalf, and at the direction, of GI.</p> <p>(p) Site means <i>[insert the full legal description of the parcel of land or the building, or the part of land or building over which the site owner has legal rights]</i>.</p>	
2.	The agreement will last for a certain period of time.	<p>2.1 This agreement is subject to the following conditions precedent being fulfilled within 12 months of the last date on which a party signed this agreement:</p> <p>(a) GI receives registration of the project under the CFI Act; and</p> <p>(b) GI has entered into a Carbon Abatement Contract with the Regulator.</p> <p>2.2 If any condition precedent is not satisfied or waived within the time specified, either party may terminate this agreement by giving written notice to the other party and the parties are released from their obligations under this agreement on and from the date of that notice.</p>	Question 8
3.	The agreement will not start unless a number of things happen (known as 'conditions precedent').	<p>3.1 This agreement is subject to the following conditions precedent being fulfilled within six months of the last date on which a party signed this agreement:</p> <p>(a) GI receives registration of the project under the CFI Act; and</p> <p>(b) GI has entered into a Carbon Abatement Contract with the Regulator.</p> <p>3.2 If any condition precedent is not satisfied or waived within the time specified, either party may terminate this agreement by giving written notice to the other party and the parties are released from their obligations under this agreement on and from the date of that notice.</p>	Question 7
4.	GI can go onto or into the site	<p>4.1 The site owner grants GI and GI's Agents a non-exclusive licence to:</p> <p>(a) access and enter the project area;</p>	Question 9

#	Matter	GI example clause	Question in 'Key issues'
	owner's facility at certain times and in certain ways.	<p>(b) carry out the project on the project area; and</p> <p>(c) bring vehicles, machinery, plant and equipment required for the project onto the project area.</p> <p>4.2 In carrying out the project under clause 4.1(b)(b), GI must undertake the activities set out in clause 6.1.</p> <p>4.3 In exercising its rights under this licence, GI must, and must ensure that GI's Agents:</p> <p>(a) comply with all applicable laws, including the Regulatory Approvals, and the terms of this agreement;</p> <p>(b) not disrupt other activities undertaken by the site owner on the site; and</p> <p>(c) comply with the reasonable directions of the site owner in relation to minimising any impact of the project on the other activities undertaken by the site owner on the site.</p> <p>4.4 GI must not use the project area for any purpose other than for carrying out the project in accordance with this agreement.</p> <p>4.5 Within one month after termination of this agreement, GI must:</p> <p>(a) vacate the project area;</p> <p>(b) remove all of its vehicles, machinery, plant and equipment used for the project from the project area, which does not otherwise form a fixture on the project area or is not otherwise required by the site owner for its ongoing use of the site;</p> <p>(c) ensure the project area is left clean and tidy and in a condition appropriate for its ongoing use by the site owner; and</p> <p>(d) ensure the project area is left in a condition appropriate for its ongoing use by the site owner at the Agreed Performance Levels.</p>	
5.	The site owner gives GI the legal right to the emissions reductions that come from the implementations	<p>5.1 The site owner grants GI the legal right to carry out the project and the exclusive right to claim all ACCUs generated by the project.</p> <p>5.2 GI must carry out the project in accordance with this agreement, and has full responsibility for carrying out the project.</p> <p>5.3 The site owner acknowledges that GI may engage one or more Service Providers to carry out the project on behalf, and at the direction, of GI.</p>	Questions 3 and 10

#	Matter	GI example clause	Question in 'Key issues'
	on the site owner's facility for the period of the agreement.	<p>5.4 The site owner must:</p> <ul style="list-style-type: none"> (a) as soon as reasonably practicable, deliver to GI any documents, data or information reasonably required by GI to become registered as the project proponent for the project under the CFI Act; and (b) do all things reasonably practicable to ensure that GI remains qualified to be, and is, a project proponent at all relevant times and for all purposes under the CFI Act for the term of this agreement. 	
6.	GI must meet all the responsibilities the company agreed to (see Figure 2).	<p>6.1 GI must undertake the following activities in connection with the project:</p> <ul style="list-style-type: none"> (a) Apply for registration of the project as an eligible offsets project under the CFI Act. (b) Bid the project into an ERF auction. (c) Obtain and comply with any Regulatory Approvals required for the project. (d) Prepare the offsets reports for the project. (e) Commission any audit reports required for the project. (f) Apply to the Regulator for certificates of entitlement in connection with the project. (g) Comply with the requirements of the Method and notify the site owner of any activities it must do to comply with the requirements of the Method. (h) Carry out the Implementations in accordance with the Scope of Works and Agreed Performance Levels. (i) Monitor the performance of the Implementations in accordance with the Scope of Works. (j) Undertake any necessary actions required to ensure that the maximum reduction in energy use is achieved at the site. <p>6.2 GI must:</p> <ul style="list-style-type: none"> (a) undertake the activities in clause 6.1 with all due care, skill and diligence; and (b) in carrying out the activities, comply with all applicable Regulatory Approvals and laws, including the requirements of the <i>Corporations Act 2001</i>. <p>6.3 GI must pay for all costs associated with complying with its obligations under this clause.</p>	Question 10

#	Matter	GI example clause	Question in 'Key issues'
7.	The site owner must meet all the responsibilities they agreed to (see Figure 2).	<p>7.1 The site owner must at all times:</p> <ul style="list-style-type: none"> (a) comply with the requirements of any Regulatory Approvals applying to the project; (b) comply with the requirements of the Method as those requirements are notified to the site owner by GI; (c) maintain and operate the Implementations in accordance with the Scope of Works and Agreed Performance Levels; (d) advise GI of any matter which may impact on the operation of the project; and (e) deliver to GI any documents, data or other information reasonably required by GI as necessary for GI to comply with the requirements of clause 6 and the CFI Act. <p>7.2 The site owner must pay for all costs associated with complying with its obligations under this clause after installation of the equipment and certification of the equipment as fit for purpose.</p>	Question 10
8.	GI and the site owner must meet the responsibilities they share, such as telling each other if something important is happening with the project (see Figure 2).	<p>8.1 Each party must use its best endeavours to consult and cooperate with each other in good faith during the term of this agreement in order to ensure that:</p> <ul style="list-style-type: none"> (a) the project is carried out in accordance with the CFI Act and this agreement; and (b) each party receives the benefits they have contracted for under this agreement. 	Questions 6, 8 and 10
9.	GI will reimburse the site owners for any damage which GI causes to the site owner's facility, plant or equipment. The site owner will not be responsible for	<p>9.1 GI indemnifies the site owner against any actions, claims, demands, losses, damages, costs and expenses to which the site owner is or may be or become liable in respect of all or any of the following:</p> <ul style="list-style-type: none"> (a) any loss or damage to property, or death or injury of any kind caused or contributed to by GI arising from the exercise by GI of the rights granted under this agreement; (b) any non-compliance by GI with the Regulatory Approvals or laws; and (c) any negligent act or omission by GI under this agreement. 	Question 15

#	Matter	GI example clause	Question in 'Key issues'
	any breach of applicable laws, such as work health and safety or environmental laws.	9.2 GI's use of the project area and the rights granted under this agreement are at the sole risk of GI. 9.3 GI releases the site owner from liability or loss arising from, and any costs incurred in connection with: (a) any injury, damage or loss that GI suffers as a result of carrying out the project; (b) loss or damage to any property of GI; and (c) injury to or the death of any person however occurring as a result of the project, except to the extent that such injury, loss or damage is caused or contributed by the negligent act or omission of the site owner.	
10.	GI will provide the new plant and equipment, and charge the costs of the service providers to install and upgrade the plant and equipment, at discounted rates to the site owner.	10.1 In consideration of: (a) the site owner granting GI the licence under this agreement; and (b) the site owner agreeing to allow GI to carry out the project on the project area, GI must provide the site owner with a tax invoice for: (c) the cost of the new plant and equipment; (d) the cost of the Service Provider in installing the new plant and equipment; and (e) the cost of the Service Provider in upgrading the site owner's existing plant and equipment, at a discount of [<i>insert the percentage or dollar amount of the discount that is agreed between the parties</i>] to the total cost that was incurred by GI in obtaining the new plant and equipment and engaging the Service Provider.	Question 17
11.	The site owner will obtain comfort that the Implementations will be fit for purpose by requiring GI to provide an indemnity and warranty in favour	11.1 GI warrants to the site owner and indemnifies the site owner for any loss suffered as a result of breach of this warranty that the Implementations will be carried out with due skill and care and will be fit for purpose in accordance with the Scope of Works and Agreed Performance Levels. 11.2 On completion of the Implementations, GI must transfer to the site owner the applicable manufacturers' warranties.	Question 15

#	Matter	GI example clause	Question in 'Key issues'
	of the site owner.		
12.	The site owner will obtain comfort that the Implementations will achieve a certain energy efficiency by requiring GI to provide an indemnity and warranty in favour of the site owner.	<p>12.1 GI warrants to the site owner and indemnifies the site owner for any loss suffered as a result of breach of this warranty, and that the Implementations will achieve at least the minimum energy efficiency set out in the Agreed Performance Levels.</p> <p>12.2 GI's warranty and indemnity in clause 12.1 is subject to the site owner's compliance with its obligation under clause 7.</p>	Question 15
13.	The site owner will 'make good' by paying GI a pre-agreed sum if the project fails to achieve the anticipated abatement due to a breach of the site owner's obligations.	<p>13.1 If the project fails to achieve the amount of abatement of emissions set out in the Agreed Performance Levels as set out in the Scope of Works due to the site owner failing to fulfil its obligations under this agreement, the site owner must pay to GI the Delivery Failure Payment within one month of the parties identifying the failure of the project to achieve the anticipated abatement of emissions.</p> <p>13.2 The parties agree that the Delivery Failure Payment is a genuine pre-estimate of the costs that will be incurred by GI in purchasing ACCUs from an alternative source in order for GI to continue to comply with the Carbon Abatement Contract, if the project fails to achieve the anticipated abatement of emissions as set out in the Scope of Works due to the default of the site owner under this agreement.</p>	Question 20
14.	GI is entitled to keep any ACCUs achieved by the project in excess of the number originally anticipated	<p>14.1 If the project achieves a greater amount of abatement of emissions than set out in the Agreed Performance Levels, GI has all rights to any ACCUs which are created from that increased abatement.</p>	Question 21

#	Matter	GI example clause	Question in 'Key issues'
15.	The site owner must assign this agreement if it wishes to sell the site.	<p>15.1 If the site owner proposes to assign or transfer its interest in the site, it must, prior to completion of the proposed assignment or transfer:</p> <ul style="list-style-type: none"> (a) ensure that any proposed transferee or assignee enters into an agreement with GI substantially in the same terms as this agreement; and (b) do all other acts and sign all other documents which may be reasonably required in order to give effect to this agreement. 	Question 12
16.	The agreement will end if certain things happen.	<p>16.1 The occurrence of any of the following events with respect to a party constitutes an Event of Default:</p> <ul style="list-style-type: none"> (a) a party fails to make any payment required when due; (b) a party fails to perform a material obligation under this agreement; (c) any Regulatory Approval is revoked, not renewed or suspended; or (d) there is or has been an insolvency event in respect of a party. <p>16.2 If a party commits an Event of Default (Defaulting Party), the other party (Non-Defaulting Party) may serve a written notice on the Defaulting Party providing particulars of the Event of Default and requiring the Defaulting Party to remedy the default within one month of the date of the notice (Default Notice).</p> <p>16.3 If the Default Notice is not complied with, the Non-Defaulting Party may terminate this agreement.</p> <p>16.4 The parties may terminate this agreement by mutual agreement.</p> <p>16.5 If this agreement terminates for any reason:</p> <ul style="list-style-type: none"> (a) each party is released from its obligation to further perform the agreement; and (b) each party retains the rights it had against the other party in respect of any past breach, in addition to any other rights, powers or remedies provided by law. 	Question 13
17.	The parties must keep certain information confidential.	<p>17.1 A party must not publicise or otherwise publicly announce the arrangement that is the subject of this agreement without obtaining the prior written consent of the other party.</p> <p>17.2 Clause 17.1 does not apply:</p> <ul style="list-style-type: none"> (a) to the information provided by one party to the other under clause 6.1 and clause 7.1; and (b) where a party is required to disclose the agreement or any information provided by one party to 	Question 23

#	Matter	GI example clause	Question in 'Key issues'
		the other under a law, but in such event any information to be disclosed must first be notified to the other party, where reasonably practicable, to comment on it prior to disclosure.	
18.	Work health and safety	<p>18.1 Definitions</p> <p>In this clause 18:</p> <ul style="list-style-type: none"> (a) WHS Act means the <i>Work Health and Safety Act 2011</i> (Cth); (b) corresponding WHS law has the meaning given in section 4 of the WHS Act; (c) Regulator means an authority referred to in a WHS Law as the relevant authority for work health and safety complaints, queries or investigations; (d) WHS Law means the WHS Act and any corresponding WHS law; (e) WHS entry permit holder has the meaning given in the WHS Act; and (f) WHS Regulations means the regulations made under the WHS Act. <p>18.2 Compliance with laws and policies</p> <ul style="list-style-type: none"> (a) Each party must, in carrying out its obligations under this agreement, comply, and use reasonable endeavours to ensure that its agents comply, with the provisions of all relevant statutes, regulations, by-laws and requirements of any Commonwealth, State, Territory or local authority, including those arising under a WHS Law, in respect of work health and safety. (b) GI must, in carrying out its obligations under this agreement, comply, and use reasonable endeavours to ensure that it is compliant, with any of the site owner's work, health and safety policies as notified, referred to, or made available, by the site owner to GI Recipient in writing. <p>18.3 Notifiable incidents and contraventions</p> <ul style="list-style-type: none"> (a) If GI is required by a WHS Law to report to a Regulator an incident arising out of the project: <ul style="list-style-type: none"> (i) at the same time, or as soon as is possible in the circumstances, GI must give notice of such incident and a copy of any written notice provided to a Regulator to the Clean Energy Regulator; and (ii) GI must provide to the Clean Energy Regulator, within such time as is specified by the Clean Energy Regulator, a report detailing the circumstances of the incident, the results of investigations into its cause, and any recommendations or strategies for prevention in 	Question 22

#	Matter	GI example clause	Question in 'Key issues'
		<p>the future.</p> <p>(b) GI must inform the Clean Energy Regulator of the full details of:</p> <ul style="list-style-type: none"> (i) any suspected contravention of a WHS Law relating to the project, within 24 hours of becoming aware of any such suspected contravention; (ii) any cessation or direction to cease work relating to the project, due to unsafe work, immediately upon GI being informed of any such cessation or direction; (iii) any workplace entry by a WHS entry permit holder, or an inspector, to any place where the project is being performed or undertaken, within 24 hours of becoming aware of any such workplace entry; and (iv) any proceedings against GI or GI's Agents, or any decision or request by the Regulator given to GI or GI's Agents, under a WHS Law, within 24 hours of becoming aware of any such proceedings, decision or request. <p>18.4 Site owner's facility</p> <p>(a) GI must, when accessing or using the site owner's facility, comply with all reasonable directions and procedures relating to work health, safety and security in effect in regard to the facility, as notified by the site owner or as might reasonably be inferred from the use to which the facility is being put.</p> <p>18.5 Concurrent duties</p> <p>(a) The parties agree that:</p> <ul style="list-style-type: none"> (i) to the extent that they are concurrent duty holders, they must, so far as is reasonably practicable, consult, co-operate and co-ordinate the activities for the project, with each other to ensure compliance with the WHS Law; and (ii) to the extent that a party is a concurrent duty holder with any other person who is holding a duty under the WHS Law in relation to activities for the project, the party will so far as is reasonably practicable, consult, co-operate and co-ordinate activities with that person to ensure compliance with the WHS Law. 	