

**THIS LETTER CONTAINS IMPORTANT INFORMATION ABOUT YOUR MEMBERSHIP OF THE RENEWABLE ENERGY CONSUMER CODE AND A WRITTEN RESPONSE FROM YOU IS REQUESTED. PLEASE READ IT CAREFULLY AND DO NOT IGNORE IT**

Mr D Welch  
 New World Renewables Ltd  
 7 North Way  
 Betteshanger  
 Deal  
 CT14 0LS

23 June 2015

Dear Mr Welch,

**Request for New World Renewables Ltd to agree to a Consent Order**

I am writing to you in accordance with clause 7 of the Bye-Laws to invite New World Renewables Ltd (referred to in this letter as "the Code Member") to agree to a Consent Order. The Bye-Laws are available at <http://www.recc.org.uk/scheme/bye-laws>.

**Background**

In my letter dated 4 February 2015, the Code Member was informed that the RECC Executive had received information which gave it reasonable grounds to consider that provisions of the Renewable Energy Consumer Code ("the Code") had been breached. Having investigated the information in accordance with clause 6 of the Bye-Laws, the RECC Executive informed the Code Member that it was invoking disciplinary proceedings in line with clause 8 of the Bye-Laws. The Code Member was invited to provide its written comments in response to this letter which it did in a letter dated 9 April 2015. Following a review of this response, the RECC Executive decided that there was still a case to answer and asked the Code Member to provide its written comments in response to all outstanding issues. This response was provided in a letter dated 8 May 2015. The content of these communications is considered below.

**Summary of information received**

The following information was received from the sources identified below.

Issue	Source	Breaches of the Code
Code Member sub-contracted to carry out installations for The Green Energy Company MCS Ltd ("Green Energy "), an entity which was not MCS certified and which was non-compliant with the Code, and for British Solar, an entity which was	Audit on 27 May 2014 Communications with the Code Member Communications with the auditor	Code sections 2.4 and 6.1.1 Code section 4

Renewable Energy Consumer Code, 25 Eccleston Place, London SW1W 9NF

Part of Renewable Energy Assurance Ltd. Company number 5720606

Telephone 020 7981 0850 | Facsimile 020 7925 2715 | Web [www.recc.org.uk](http://www.recc.org.uk) | Email [info@recc.org.uk](mailto:info@recc.org.uk)

not a RECC member, was not MCS certified, and which was non-compliant with the Code.	Audit on 27 May 2014 Communications with the Code Member	Clause 4.1 of the Bye-Laws Code Section 4
Code Member failed to demonstrate its compliance with the Code following a full audit by the RECC Executive and during the disciplinary proceedings		

A full narrative, including details of the information received, the responses from the Code Member, and the details of the breaches which the RECC Executive has identified is included in **Appendix 1** to this letter to which we suggest you refer carefully.

#### **Review of the Code Member's Response**

The RECC Executive has reviewed the Code Member's written response dated 8 May 2015 (summarised in the attached appendix) in accordance with clause 8.4 of the Bye-Laws. The Code Member's response shows that it accepts that sections of the Code have been breached although it indicates that it may not have been aware that it was breaching the Code at the time with regard to sections 2.4 and 6.1.1. It states that the non-compliances have been addressed with regard to these sections, and provided evidence to demonstrate its compliance with the outstanding issues from audit. A review of this evidence showed that there are still outstanding issues to be addressed.

#### **Working with Green Energy and British Solar**

The RECC Executive considers that (a) entering into a sub-contract agreement with (i) a company who is not a Code member, or (ii) a Code member who is not accredited with MCS, and (b) failing to ensure that the company has been effectively trained in how to use the Code and complies with it, are serious breaches of the Code. The RECC Executive therefore considers that sections 2.4 and 6.1.1 of the Code have been breached. The RECC Executive also regards this to be a breach of section 4 of the Code.

#### **Outstanding Audit Issues**

The RECC Executive also considers failing to demonstrate compliance with the Code within the allocated time (as set out in the audit follow-up) to be a serious breach of the Bye-Laws. The RECC Executive therefore considers that clause 4.1 of the Bye-Laws has been breached. The RECC Executive also considers this to be a breach of section 4 of the Code.

Following its review of the Code Member's response, the RECC Executive considers that there is a case to answer in accordance with clause 8.5.2 of the Bye-Laws and accordingly it has decided to request the Code Member to agree to a Consent Order in accordance with clauses 7 and 8.5.2.2 of the Bye-Laws. The RECC Executive has decided that a Consent Order a) requiring the Code Member to desist from taking certain action in the future and b) requiring the Code Member to take certain action is necessary in order to ensure the Code Member's future compliance with the Code.

You will recall that in my letter dated 4 February 2015 I also asked you to respond to the RECC Executive's concern that sections 2.5, 3, 5.2, 5.4, 6.2.1, 7.2, 7.3 and 9.1 of the Code may have been

breached as a result of the concerns raised. You will see that the RECC Executive has decided following its review of your response that the primary concerns it has raised can be adequately addressed in the Consent Order without reference to these potential breaches. Please note however, that in the event that a Hearing does take place in relation to this matter, the RECC Executive reserves the right to refer these potential breaches, and any evidence relating to them, to the Non-Compliance Panel, if appropriate at that time.

### **Terms of Consent Order**

Accordingly, the RECC Executive invites the Code Member to agree to a Consent Order on the following terms:

*1. From the date on which this Consent Order is signed by the Code Member, the Code Member agrees that where it enters into any sub-contract agreement(s) to carry out the installation work for any contract which falls within the scope of the Code, it will only enter into such sub-contract agreement(s) where the sub-contractor is:*

*(a) another Code Member; and*

*(b) MCS accredited for the relevant technology being installed.*

*Since the Code requirements in relation to sub-contracting may change in the future, by signing this Consent Order the Code Member confirms that it will also comply with the Code's requirements, as amended from time to time, in relation to sub-contracting.*

*2. The Code Member agrees that the RECC Executive shall, within the period of 6 months commencing on the date on which this Consent Order is signed, carry out a paper based Compliance Check of the Code Member's documentation, including all contractual and consumer facing documentation, and all marketing and sales materials, to ensure it is compliant with the Code. The Code Member agrees that the RECC Executive may invoice the Code Member for this Compliance Check in advance of it taking place.*

*The Code Member further agrees that:*

*3. the RECC Executive may publish this Consent Order or a summary of its terms on the RECC Executive's website.*

### **Breach of this Consent Order**

In the event that the Code Member agrees to the Consent Order and subsequently breaches it, the RECC Executive shall convene a disciplinary Hearing before the Non-Compliance Panel in accordance with clauses 7.5 and 8.12 of the Bye-Laws.

### **Next Steps**

I have set out below the next steps if (1) the Code Member wishes to request a Hearing, (2) the Code Member does not agree with, or respond to the Consent Order, or (3) if the Code Member agrees to the Consent Order.

**(1) If the Code Member wishes the matter to be considered by the Non-Compliance Panel at a Hearing**

In accordance with clause 7.6 of the Bye-Laws, following the RECC Executive's invitation to the Code Member to agree to this Consent Order, the Code Member may request that the matter be considered by a Hearing of the Non-Compliance Panel instead of being addressed by a Consent Order. In such a case, the Executive will convene a disciplinary Hearing in accordance with clauses 7.6 and 8.12 of the Bye-Laws. Please make any such request by 7 July 2015.

In the event of a Hearing being convened before the Non-Compliance Panel, the provisions of clauses 8 and 10 of the Bye-Laws will apply. The Code Member should be aware that the Non-Compliance Panel may make such order for costs against the Code Member or the Executive as it considers fair and reasonable in the circumstances. Please take note that in accordance with clause 8.20 of the Bye-Laws all disciplinary Hearing determinations are published in full on the RECC Executive's website, unless the Non-Compliance Panel orders otherwise.

**(2) If the Code Member does not agree with or respond to the Consent Order**

Should the Code Member fail to respond to this request by 7 July 2015, or should the Code Member fail to agree the terms of the Consent Order, the RECC Executive shall convene a disciplinary Hearing before the Non-Compliance Panel in accordance with clauses 7.5 and 8.12 of the Bye-Laws in order to address the breaches of the Code identified in this letter.

In the event of a Hearing being convened before the Non-Compliance Panel, the provisions of clauses 8 and 10 of the Bye-Laws will apply. The Code Member should be aware that the Non-Compliance Panel may make such order for costs against the Code Member or the Executive as it considers fair and reasonable in the circumstances. Please take note that in accordance with clause 8.20 of the Bye-Laws all disciplinary Hearing determinations are published in full on the RECC Executive's website, unless the Non-Compliance Panel orders otherwise.

**(3) If the Code Member agrees to the Consent Order**

To confirm your agreement to the Consent Order, please sign, date and return a copy of this letter. The RECC Executive requests that the Code Member provides its written agreement to the terms of this Consent Order by 7 July 2015. On receipt of your agreement, the RECC Executive will provide you with a completed and countersigned copy of the Consent Order and no Hearing before the Non-Compliance Panel will take place in relation to this matter unless the Consent Order is breached.

I look forward to hearing from you.

Yours sincerely,

Rebecca Robbins  
Compliance Manager  
Non-Compliance Team

Signed by Danny Welch of New World Renewables Ltd to confirm its agreement to the terms of this letter which, once signed by the Code Member, will constitute the agreed Consent Order.

Dated this [ 7 ] day of [ JULY ] 20[ 15 ]

Signed

SIGNATURE REMOVED

Name

Position

Company New World Renewables Ltd

SIGNATURE REMOVED

Name

Position

Company Renewable Energy Assurance Ltd

VIRGINIA GRATHAM

CHIEF EXECUTIVE

## **Appendix 1: Summary of information received and response from the Code Member**

### **Information received**

#### **Working with Green Energy and British Solar**

An audit of the Code Member was carried out by the RECC Executive on 27 May 2014, during which it was noted that the Code Member acted as the installer for Green Energy and British Solar: Green Energy was a Code Member between November 2011 and October 2013 but was never an MCS certified company, and British Solar was not a Code Member and was not MCS certified. The RECC audit follow up letter sent to the Code Member on 15 June 2014 reminded it that as per MCS 001, 'A contract for the sale and installation of a system shall be entered into only between an MCS certified Company, which is certified for the technology type (s) in the contract, and a Customer'.

The RECC Executive has received information about the sales practices of Green Energy and British Solar which has been investigated accordingly. The practices of both entities were found to be non-compliant with the Code.

#### **The Green Energy Company MCS Ltd**

In a public determination dated 8 October 2013 following a hearing of the Non-Compliance Panel, Green Energy's Code membership was terminated. The Panel found that the company had breached section 2.4 of the Code (then 2.3) by failing to achieve MCS certification within 6 months of becoming a Code member. It also found that the company had breached section 5.1 (using advertising materials that were not 'legal, decent, honest and truthful' by claiming to be MCS certified when it was not) and section 5.2 (sales representatives using high pressure sales techniques including offering discounts for signing on the day, providing misleading information to consumers, and targeting elderly vulnerable consumers). There is no evidence to suggest that the Code Member carried out the appropriate checks or monitoring to ensure that Green Energy was carrying out its business in a manner that was compliant with the Code.

#### **British Solar**

Numerous complaints received by the RECC Executive indicated that British Solar's sales practices did not comply with the Code. There is no evidence to suggest that the Code Member carried out the appropriate checks or monitoring to ensure that British Solar was carrying out its business in a manner that was compliant with the Code.

The Code Member was providing an installation service for non-MCS certified entities that, when assessed by RECC, were found to be highly non-compliant with the Code. On this basis the Code Member should not have been working with these entities, is responsible for their non-compliances and, for these reasons, is found to be non-compliant with the Code.

#### **Ongoing Audit Issues**

An audit of the Code Member was carried out by the RECC Executive on 27 May 2014, during which it was noted that there were a number of non-compliant issues. In a letter dated 25 June 2014, the Code Member received notice of all out-standing issues and the actions the Code Member was required to take. The Code Member was given a period of 6 weeks within which to ensure all of its

business practices were fully compliant. A review of the Code Member's response showed that there were still outstanding issues and consequently was granted a second 6 week period. A review of its final response was undertaken and, as a result of the outstanding issues, the Code Member was referred to the Non-Compliance Team in accordance with clause 4.12.9 of the Bye-Laws.

### **Response from the Code Member**

#### **Working with Green Energy and British Solar**

Based on the information received, the RECC Executive invoked disciplinary proceedings against the Code Member in a letter dated 4 February 2015. This letter informed the Code Member that the RECC Executive considered carrying out installations under a subcontract for an entity that was not MCS accredited to be a serious breach of the Code. The Code Member was asked to provide its comments on the allegations of breach and to provide the RECC Executive with information about its relationship with the non-MCS certified entities, Green Energy and British Solar.

On 9 April 2015 the Code Member provided a written response to the disciplinary letter stating:

"Once this was brought to our attention we immediately stopped work for other companies and reported this to our auditor. We no longer carry out work for any other company."

This response was reviewed by the RECC Executive, and it was determined that it was inadequate and that there was still a case to answer. In a letter dated 24 April 2015 the RECC Executive asked the Code Member to provide its response to specific questions relating to its purported breach of sections 2.4 and 6.1.1 of the Code.

The Code Member provided its response in a letter dated 8 May 2015. The Code Member confirmed that it had issued 287 MCS certificates for the two entities over a 9 month period, that it had undertaken all the installations it had generated certificates for, and that it had been paid per install. It explained that it had begun carrying out installations for Green Energy, stating 'who were MCS accredited'. It also submitted a copy of the sub-contract agreement that was in place with Green Energy dated 12 April 2013. The Code Member explains that the directors of Green Energy split and began operating British Solar but maintains that it was neither aware of this split nor that it was installing for British Solar, at the time. It states that 'as far as we were concerned we were only doing installations for The Green Energy Company. When we became aware of the situation, as stated at the audit, we stopped working for them immediately'. The Code Member confirmed that it has no links with either entity, including all current employees or ongoing business arrangements.

### **Details of breach of the Code**

Having reviewed the Code Member's response, the RECC Executive considers that there is a case to answer in relation to the following sections of the Code for the reasons given below:

#### **Section 2.4 The Microgeneration Certification Scheme**

This section stipulates that any 'Code member who enters into a contract with a domestic consumer...must be certified to the relevant MCS installer standards'.

Being certified to the relevant standards of the MCS extends to ensuring all business is carried out within the parameters of their standards. Any evidence that the Code Member has breached the Code also comes from the MCS standards which may have been breached. The RECC Executive understands that there has been a breach of the following MCS requirements:

MCS 001, Appendix 1, Clause 8:

'A contract for the sale and installation of a system shall be entered into only between an MCS certified Company, which is certified for the technology type (s) in the contract, and a Customer. An MCS certified Company may carry out work under subcontract to another MCS certified Company'.

The Code Member has breached this section of the Code and the MCS standards by not having a formal subcontract agreement with an appropriately accredited MCS Company to install and commission a system.

This section goes on to emphasise that the 'Code member will be responsible for any non-compliance with the Code by the third party' where that third party is not a Code member. The Code specifically states this with regard to a Code member who obtains sales leads from any third party. However, this must also be applied where Code member companies knowingly take on the risk of installing for a company who is not a Code member.

The Code Member's response of 8 May 2015 suggests that it understood that Green Energy was MCS accredited. However, it was the responsibility of the Code Member to ensure that this was the case. Furthermore, the Code Member avers that it was not aware that it was installing systems under contracts held by British Solar. This suggests that it did not take any steps to ensure that contracts were correct or that the consumer had been given correct information as any such investigation would have revealed which entity was party to the contract. It was the responsibility of the Code Member to ensure that at all stages of the contract the Code was complied with. Based on the information received by the RECC Executive, it is clear that the Code Member was not working to ensure that Green Energy (and consequently British Solar) was compliant with the Code.

#### **Section 6.1.1 Sub-contracting requirements**

This section states that an MCS-certified business may subcontract another MCS certified business to carry out the on-site work on its behalf so long as this is strictly in compliance with MCS rules and there is a formal subcontract agreement between the parties.

As an MCS Certified company, the Code Member is in breach of this RECC requirement by entering a sub-contract agreement with a non-MCS certified company.

#### **Section 4 General Business Standards**

This section states that 'Code members will not act in any way to bring the Code into disrepute.'

The RECC Executive considers the Code Member's breach of sections 2.4 and 6.1.1 to be evidence that this section of the Code has been breached.

#### **Outstanding Audit Issues**



Based on the information received, the RECC Executive invoked disciplinary proceedings against the Code Member in a letter dated 4 February 2015. This letter set out all the outstanding issues from the audit.

The Code Member failed to respond to this letter and the RECC Executive sent an email on 11 March 2015 and a further letter on 1 April 2015 chasing the Code Member. In a letter dated 9 April 2015, the Code Member explained that 'The non-compliant issues reported by the auditor have now been addressed' and submitted supporting documentation.

This response was reviewed by the RECC Executive, and it was determined that it was inadequate and that there was still a case to answer. In a letter dated 24 April 2015 the RECC Executive asked the Code Member to provide further evidence of its compliance with the Code.

The Code Member provided its response in a letter dated 8 May 2015. This response failed to evidence its full compliance with the Code. The outstanding issues highlighted in this response have been communicated to the Code Member in a letter dated 10 June 2015.

#### **Details of breach of the Code**

Having reviewed the Code Member's response, the RECC Executive considers that there is a case to answer and therefore the Code Member has failed to demonstrate that it is compliant with the Code, as is its obligation under clause 4.1 of the Bye-Laws.

#### **Clause 4.1 of the Bye-Laws**

This clause sets out the Code Member's overarching obligation to 'comply with the obligations set out in the Code'.

The RECC Executive considers the Code Member's failure to demonstrate its compliance with the Code within the set Audit time, despite the support offered by the Auditor, to be evidence that this clause of the Bye-Laws has been and continues to be breached.

#### **Section 4 of the Code General Business Standards**

This section states that 'Code members will not act in any way to bring the Code into disrepute.'

The RECC Executive considers the Code Member's breach of clause 4.1 of the Bye-laws to be evidence that this section of the Code has been breached.