

## UNDERTAKING TO THE CLEAN ENERGY REGULATOR

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

by

Nasir Taimoor Kahloo

### 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 4033 Installation and safety requirements for photovoltaic (PV) arrays.

**Approved Solar Panel Manufacturer** means a solar panel manufacturer participating in the SPV Initiative.

**Baybak** means Baybak Pty Ltd ACN 607 731 920.

**CEC** means Clean Energy Council.

**Dispose** means the destruction or deportation out of Australia of the Existing Irregular Systems.

**Existing Irregular Systems** means the existing Systems installed at the Sites, and listed in the Schedule.

**Nasir Kahloo** means Nasir Taimoor Kahloo

**New Compliant PV System** means an unused AS/NSZ 5033 compliant solar PV module and CEC approved inverter that is listed on the CEC's website, agreed by the Regulator and Nasir Kahloo.

**PV** means photovoltaic.

**REC** means Renewable Energy Certificate.

**REC Agent** means a Renewable Energy Certificate Agent registered under the Act.

**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.

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

**Sites** means the 41 addresses at which Baybak caused the Existing Irregular Systems to be installed.

**SPV Initiative** means the Clean Energy Regulator's Solar Panel Validation initiative.

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

**STC** means Small-scale Technology Certificate, a type of REC.

## **2. Background**

### ***Person giving this Undertaking***

- 2.1 This Undertaking is given to the Regulator by Nasir Kahloo for the purposes of section 154Q of the Act.
- 2.2 Nasir Kahloo was the director of Baybak between 19 August 2015 and 15 March 2016, and again between 1 May 2017 and 3 January 2019. Baybak Pty Ltd operates Baybak Solar, a solar PV retail and installation enterprise.
- 2.3 The events that gave rise to this Enforceable Undertaking occurred between 18 March 2016 and 25 May 2017 inclusive. Despite not being an official office holder in that period, Nasir Kahloo did maintain managerial responsibility of Baybak during this time.
- 2.4 Baybak was at all relevant times a registered person under Part 2, Division 2 of the Act.

### ***Improper creation of STCs arising from the provision of false information***

- 2.5 The Regulator is a statutory agency with responsibility for administering and enforcing the Act and Regulations.
- 2.6 Under the Act, registered persons can create STCs for electricity generated from certain renewable energy sources. Section 23A of the Act establishes that STCs may be created after a System is installed, while r 20AC of the Regulations sets out the conditions which must be satisfied before STCs can be created in relation to a System.
- 2.7 Included in those conditions are requirements under:
  - a) regulation 20AC(2), that the System 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) regulation 20AC(5), to obtain a written statement from the installer that the installation has used a model of solar PV panel listed as an approved PV module on the CEC website.
- 2.8 Between 18 March 2016 and 25 May 2017, Nasir Kahloo in contravention of section 24B of the Act, provided STC assignment forms, containing false information

regarding the installation of 41 Systems, to a REC Agent, knowing that the REC Agent would rely on that information to create STCs.

2.9 Those STC assignment forms falsely recorded:

- a) the model type of solar PV panels for 38 systems; whereby the panels were not the model their label purported them to be; and
- b) nine Systems as being designed and installed by CEC accredited persons, when in fact those persons did not design or install the systems  
  
(collectively, the Existing Irregular Systems).

2.10 Nasir Kahloo has co-operated with the Regulator in coming to an agreeable outcome regarding the conduct 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 Nasir Kahloo hereby undertakes, at his expense:

Removal and replacement of Existing Irregular Systems

- (a) within one month of the date of this Undertaking coming into effect, to write in a form approved by the Regulator, to the owners and occupiers of the Sites to obtain consent to the removal and disposal of the Existing Irregular Systems and their replacement with New Compliant PV Systems;
- (b) subject to obtaining informed consent from the applicable owner/occupier of the Site, and within six months of the date of this Undertaking coming into effect, to remove and Dispose of the Existing Irregular Systems at each of the 41 sites particularised in the Schedule;
- (c) within six months of the date of this Undertaking coming into effect, to replace, using a CEC-accredited designer (or designers) and installer (or

installers) agreed with the Regulator, the Existing Irregular Systems at each Site with New Compliant PV Systems that are equivalent to or better in size and capacity to the Existing Irregular Systems;

- (d) prior to their installation, to validate the panel serial numbers for the New Compliant PV Systems with a SPV Approved Solar Panel Manufacturer;
- (e) in the event that any of the owners/occupiers of the Sites decline to consent to removal and replacement of the Existing Irregular System, to provide to the Regulator a statutory declaration listing any such owners/occupiers and the steps taken to contact them and seek their consent, together with copies of any correspondence sent to those owners/occupiers seeking such consent and any correspondence received from such owner/occupiers;
- (f) not to seek or cause the creation of STC for the New Compliant PV Systems. (No STC are to be created for the New Compliant Systems).

*Report in writing*

- (g) to report to the Regulator, in writing, every month as to the progress made in completing the undertakings in clause 3.2 until such time as all undertakings thereunder have been completed in full;
- (h) the reports are to include copies of the written consent from the owners and occupiers of the sites to carry out the removal and replacement of their Existing Irregular Systems, and for each replacement New Compliant System a Completed Certificate of Compliance for electrical work for each installed system; and

Future involvement in activity relating to solar panels

- (i) once all undertakings in paragraphs (a) to (h) of clause 3.2 have been completed, to refrain, for a period of 3 years, from engaging in trade or commerce in connection with the installation, supply or possible supply of solar panels, or in connection with the promotion of supply or use of solar panels.

#### **4. Acknowledgements**

4.1 Nasir Kahloo acknowledges:

- a) the basis on which the Regulator has formed its conclusion in clause 2.8 of this undertaking is valid and that the matter requires immediate attention;
- b) the Regulator will make this Undertaking publicly available, including 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 Nasir Kahloo; and

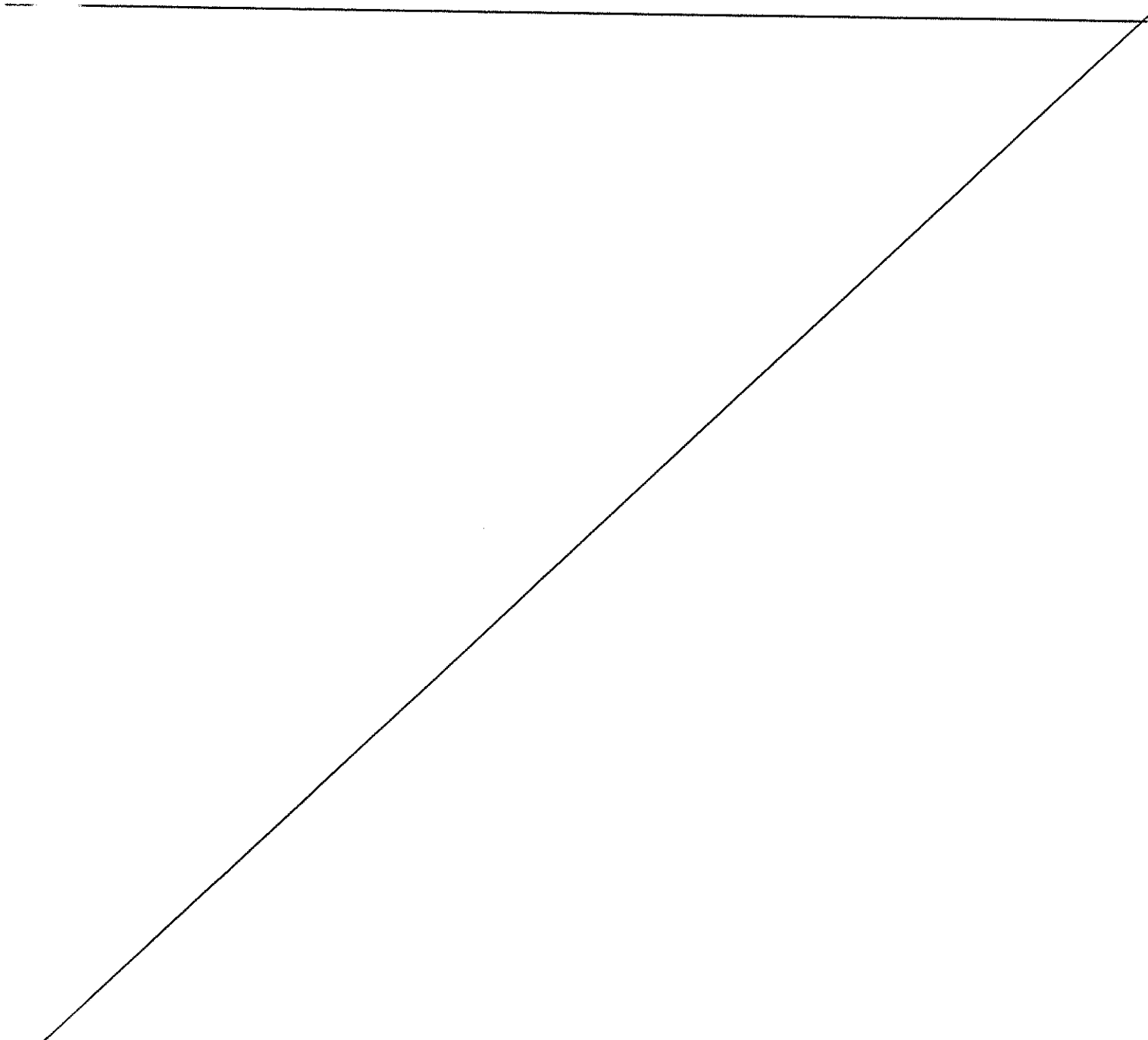
- e) he bears all costs associated with his compliance with this Undertaking;
- f) he cannot claim any STCs for any of the replacement solar PV systems, nor procure any other person to do so.

**5. Commencement of enforceable undertaking**

5.1 This undertaking comes into effect when:

- a) the Undertaking is executed by Nasir Kahloo; and
- b) the Regulator accepts the Undertaking so executed by Nasir Kahloo.

5.2 This undertaking ceases to have effect once the matters referred to in clause 3.2 have been completed to the satisfaction of the Regulator.



**Executed by**

Nasir Taimoor Kahloo

  
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Nasir Taimoor Kahloo

This 18 day of July 2019

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

  
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Mark Williamson

Delegate of the Regulator

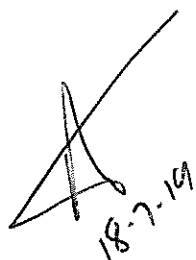
This 22<sup>ND</sup> day of July 2019

## Existing Irregular Systems

Accreditation Code	RECs Created Quantity	SGU Number of Panels	Installation Date	REC Creation Date	Installation State
PVD2516722	233	45	18/03/2016	31/08/2016	NSW
PVD2436337	103	20	19/03/2016	12/04/2016	NSW
PVD2436253	62	12	20/03/2016	12/04/2016	NSW
PVD2436620	62	12	20/03/2016	13/04/2016	NSW
PVD2483703	129	25	23/03/2016	4/07/2016	NSW
PVD2484973	207	40	29/03/2016	6/07/2016	NSW
PVD2486568	124	24	21/04/2016	8/07/2016	NSW
PVD2484358	124	24	22/04/2016	5/07/2016	NSW
PVD2483712	207	40	23/04/2016	4/07/2016	NSW
PVD2486685	393	70	24/04/2016	8/07/2016	NSW
PVD2483790	476	92	27/04/2016	4/07/2016	NSW
PVD2483708	62	12	24/05/2016	4/07/2016	NSW
PVD2504827	248	48	24/05/2016	10/08/2016	NSW
PVD2486595	62	12	25/05/2016	8/07/2016	NSW
PVD2507376	124	24	25/05/2016	15/08/2016	NSW
PVD2484933	228	44	26/05/2016	6/07/2016	NSW
PVD2519750	295	57	26/05/2016	6/09/2016	NSW
PVD2483705	41	8	27/05/2016	4/07/2016	NSW
PVD2483704	62	12	1/06/2016	4/07/2016	NSW
PVD2483709	31	6	1/06/2016	4/07/2016	NSW
PVD2483294	114	22	7/06/2016	4/07/2016	NSW
PVD2484349	202	39	7/06/2016	5/07/2016	NSW
PVD2484955	124	24	13/06/2016	6/07/2016	NSW
PVD2486597	228	40	14/06/2016	8/07/2016	NSW
PVD2486618	139	27	17/06/2016	8/07/2016	NSW
PVD2483699	51	10	21/06/2016	4/07/2016	NSW
PVD2486587	228	44	25/06/2016	8/07/2016	NSW
PVD2484379	31	6	26/06/2016	5/07/2016	NSW
PVD2484322	62	12	27/06/2016	5/07/2016	NSW
PVD2486590	217	42	28/06/2016	8/07/2016	NSW
PVD2495915	217	42	3/07/2016	26/07/2016	NSW
PVD2495792	119	23	6/07/2016	26/07/2016	NSW
PVD2495201	217	42	11/07/2016	25/07/2016	NSW
PVD2495805	124	24	14/07/2016	26/07/2016	NSW
PVD2495897	72	14	17/07/2016	26/07/2016	NSW
PVD2495227	114	22	18/07/2016	25/07/2016	NSW
PVD2495589	518	102	19/07/2016	26/07/2016	NSW
PVD2524286	165	32	17/08/2016	13/09/2016	NSW
PVD2519800	114	22	20/08/2016	6/09/2016	NSW
PVD2519895	176	34	21/08/2016	6/09/2016	NSW
PVD2519820	72	14	30/08/2016	6/09/2016	NSW
<b>Total</b>	<b>6,577</b>				

NJK  
18-07-2019

MW  
22-07-2019

  
18-7-19