

SCHEDULE 1 – DEED OF ADHERENCE –PROSPECTIVE INVESTORS SIGN AND SUBMIT THIS PAGE

THIS DEED OF ADHERENCE is made on ____/____/2018, by _____
[name] of

_____ [address] (New Shareholder)

SUPPLEMENTAL to a Shareholders' Agreement dated and made between Jessica Burg [**First Shareholder**] AND Repower Six Pty Ltd (**Shareholders' Agreement**)

1. The New Shareholder hereby confirms that he she or it has been supplied with a copy of the Shareholders' Agreement and hereby covenants with each of the other parties to the Shareholders' Agreement from time to time to observe, perform and be bound by all the terms of the Shareholders' Agreement which are capable of applying to the New Shareholder and which have not been performed at the date hereof to the intent and effect that the New Shareholder shall be deemed with effect from the date on which the New Shareholder is registered as a member of the Company to be a party to the Shareholders' Agreement.
2. This Deed shall be governed by and construed in accordance with the laws of New South Wales.

Executed as a deed

Signed sealed and delivered by

.....
Name

.....
Name of Witness

.....
Signature (prospective shareholder)

.....
Signature of Witness

EXECUTION PAGE –PROSPECTIVE SHAREHOLDERS DO NOT SIGN THIS PAGE

This agreement has been entered into on the date stated at the beginning of it.

**Signed Sealed and Delivered by Jessica Burg
[First Shareholder] of [B660 Princes Highway,
Jaspers Brush NSW 2535].**

.....
Signature

.....
Signature of Witness

.....
Name of Witness
(Please print)

**Executed in accordance with section 127(1) of the
Corporations Act 2001 (Cth) by Repower Six Pty
Ltd (ABN 886 243 00349.)**

.....
Signature of Director

.....
Signature of Director

.....
Name of Director
(Please print)

.....
Name of Director

Shareholders Agreement - Repower Six Pty Ltd (ABN 886 243 00349.)

Date: 02/03/2018

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This Agreement is dated

Parties

(1) Repower Six Pty Ltd (ABN: 886 243 00349) of 26 Shoalhaven St, Nowra, NSW 2541
(Company)

AND

(2) Jessica Burg [**First Shareholder**]

Background

- A. The Company is a private company limited by shares.
- B. With effect on and from the date of this agreement, the Shareholders will be the registered owners of shares in the Company.
- C. The Shareholders wish to enter into this document to regulate their respective rights and obligations as members of the Company.
- D. The Company has agreed with the Shareholders to be bound by and to comply with all of the provisions of this document that relate to the Company.

Agreed terms

1 Definitions and Interpretation

1.1. Definitions

The following definitions shall apply in this agreement.

Business Day a day (other than a Saturday, Sunday or public holiday in New South Wales) when banks in Sydney are generally open for business.

Confidential Information means any written or oral information of a technical, business or financial nature or which is taken by any provision of this agreement to be confidential information, and includes all information that is:

- (a) personal information for the purposes of the *Privacy Act 1988 (Cth)*;
- (b) related to or concerns the parties, their goods or services or their clients, including any and all relevant:
 - i. know-how or trade secrets; or
 - ii. information about the business affairs, activities and practices of the parties or their clients including customer lists and databases;
- (c) lawfully disclosed to or acquired by the parties or a third party under or in connection with this deed or the terms of any prior agreements between the parties;
- (d) generally not publicly available;

(e) but does not include information which:

- i. was in the public domain when it was given to the recipient;
- ii. becomes, after being disclosed to the recipient, part of the public domain, except through disclosure contrary to this agreement;
- iii. was in the recipient's possession when it was given to the recipient and had not been acquired in some other way (directly or indirectly) from the discloser; or
- iv. was lawfully received from another person who had the unrestricted legal right to disclose that information free from any obligation to keep it confidential.

Continuing Shareholders has the meaning given in clause 8.2 and **Continuing Shareholder** means any of them.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Deed of Adherence means the deed in Schedule 1 to this agreement.

Entitlement has the meaning given to it in clause 8.2.

Fair Value has the meaning given to it in clause 10.4.

Insolvent means in relation to a person, when the person:

(a) is:

- i. insolvent as that term is defined in Section 9 of the Corporations Act; or
- ii. the subject of an event described in Sections 459C(2) (a) to (f) or Section 585 of the Corporations Act (or it makes a statement from which another party to this agreement may reasonably deduce it is so subject); or
- iii. an insolvent under administration or suffers the appointment of a controller, administrator, liquidator or provisional liquidator as those terms are defined in Section 9 of the Corporations Act; or
- iv. dissolved;

other than to carry out an amalgamation or reconstruction while solvent; or

(b) is otherwise unable to pay its debts as and when they become due and payable; or

(c) being a natural person, commits or suffers an act of bankruptcy; or

(d) takes or suffers a similar under the law of any jurisdiction.

Notes means the unsecured, variable rate loan notes issued by the Company in integrals of \$A 1,538.28 and subject to the terms of the Community Solar Loan Note instrument entered into by the Company on or around 02/03/2018.

Project means the initiative to establish a community owned solar power system at a facility on number of locations.

Proposed Sale Price has the meaning given to it in clause 8.2.

Sale Price means the Proposed Sale Price or in respect of a Transfer Notice issued under clause 9.1, the Fair Value.

Sale Shares has the meaning given to it in clause 8.2.

Seller has the meaning given in clause 8.2.

Shareholder means each of the parties from time to time to this agreement (including any person who becomes a party by executing a Deed of Adherence in the form set out in Schedule 1) together with their respective successors and assigns and **Shareholders** means all of them together.

Transfer Notice has the meaning given to it in clause 8.2.

Valuers means an independent firm of accountants appointed by the Seller and by the Continuing Shareholders or, in the absence of agreement between them, an independent firm of accountants appointed by the President of the Institute of Chartered Accountants Australia.

1.2. **Interpretation**

The following interpretations shall apply in this agreement:

- (a) headings do not affect the interpretation of this agreement.
- (b) a reference to a **person** includes a natural person, a corporate or unincorporated body (whether or not having a separate legal personality).
- (c) a reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment, and includes any subordinate legislation for the time being in force made under it.
- (d) a reference to **Writing** or **written** includes faxes and e-mail.
- (e) words in the singular include the plural and in the plural include the singular.

2 Shareholding in the Company

As at the date of this agreement, the Shareholders agree that they will each hold the legal interest in the shares in the Company to which they subscribe and they agree to be bound by the terms of this agreement in respect of those shares.

3 Objectives

3.1 The objectives of the Company are to:

- (a) carry out the Project in a socially and environmentally responsible manner for the benefit the community; and

(b) generate profit for the benefit of the Shareholders.

4 Shareholder Obligations

Each Shareholder must:

- (a) co-operate and use all reasonable endeavours to ensure that the Company complies with its obligations under this agreement;
- (b) use all reasonable endeavours to assist the Company to meet the objectives stated in clause;
- (c) not use Confidential Information in a way which does or is reasonably likely to damage the Company, the success of the Project or other Shareholders;
- (d) not unreasonably withhold or delay any action, approval, direction, determination or decision which is required of the Shareholder to meet its obligations under this agreement; and
- (e) be just and faithful in the Shareholder's activities and dealings with the Company and the other Shareholders.

5 Shareholder Loans

- 5.1 Each Shareholder must, on or before, the date of this agreement, advance to the Company, an amount equal to \$A 1,538.28 for each Class G share held by that Shareholder (**Loan Amount**).
- 5.2 Upon payment by the Shareholder of the Loan Amount, the Company will issue the Shareholder with the same number of Notes as the number of Class G shares held by that Shareholder.
- 5.3 The Shareholders acknowledge that it is intended that the shares in the Company and the Notes be and remain stapled such that no Shareholder may dispose of its shares in the Company unless it simultaneously disposes of its Notes pursuant to the terms of this document.
- 5.4 If a Shareholder disposes of its shares in the Company (including where its shares are compulsorily transferred in accordance with clause 9), it must also simultaneously transfer all Notes held by it, to the recipient of its shares in the Company.

6 Company Information

- 6.1 The Company will provide each Shareholder with such accounting data and information as the Shareholder may request to enable the Shareholder to comply with any financial, tax and other regulatory requirements to which the Shareholder may be subject (**Shareholder Information**).
- 6.2 To the extent that the Shareholder Information is not:
 - (a) available from the records and accounts kept by that Company; or
 - (b) required to be kept by the Company under the Corporations Act or other applicable law;the Shareholder Information will be provided to the Shareholder subject to the Shareholder reimbursing that Company for any costs incurred in providing the Shareholder Information.

- 6.3 Each Shareholder shall be entitled, by itself or by its agents or representatives, to inspect and obtain copies of all accounts and records of the Company.
- 6.4 A Shareholder shall only be entitled to any inspection and copies pursuant to clause 6.3:
- (a) to the extent that such inspection and copies are reasonably required by a Shareholder;
 - (b) at such times and in such a manner which would not unreasonably disrupt the proper conduct of the Company's business; and
 - (c) at its own expense.

7 Dividends

- 7.1 The Directors will determine in their discretion in respect of each Financial Year, whether dividends will be distributed to Shareholders.
- 7.2 No dividend shall be declared by the Company:
- (a) which would render the Company unable to pay its debts as and when they fall due; or
 - (b) the amount of which should reasonably be retained as a provision for corporate or other tax liabilities.

8 Transfer of shares

- 8.1 No Shareholder shall sell, transfer, assign, pledge, charge or otherwise dispose of any share or any interest in any share in the capital of the Company:
- (a) except as permitted by this agreement;
 - (b) before the expiry of a 12-month period after the date they are issued the shares;
 - (c) unless it transfers all (and not some only) of the shares held; and
 - (d) unless it also disposes at the same time, all Notes held by that Shareholder in accordance with clause 5.4.
- 8.2 A Shareholder (**Seller**) wishing to transfer shares in the capital of the Company (**Sale Shares**) shall first give 10 days' notice in writing (**Transfer Notice**) to the other parties excluding any Shareholder whose shares are, at the date of the Transfer Notice, the subject of a deemed Transfer Notice under clause 9.1 (**Continuing Shareholders**) specifying the details of the proposed transfer, including the number of Sale Shares comprised within the Transfer Notice, the identity of any proposed buyer(s), the proposed price for each Sale Share.
- 8.3 the Seller shall be entitled to transfer those Sale Shares, at its discretion, to a third party buyer, or any Shareholder that offers to purchase the Sale Shares identified in the Transfer Notice, at a price determined between the Seller and the buyer.

8.4 the Seller shall procure that any buyer of Sale Shares that is not, immediately prior to completion of the transfer in question, a party to this agreement shall, at completion, enter into a Deed of Adherence with the Continuing Shareholders, agreeing to be bound by the terms of this agreement, in such form as the Continuing Shareholders may reasonably require (but not so as to oblige the buyer to have any obligations or liabilities greater than those of the Seller).

9 Events of default

9.1 A Shareholder is deemed to have served a Default Notice immediately before any of the following events of default:

- (a) they become Insolvent; or
- (b) they fail to remedy a material breach of any obligation under this agreement within 15 Business Days of receipt of a notice to remedy the breach being served by all the other Shareholders.

9.2 The Default Notice has the effect that the defaulting Shareholder agrees to appoint the directors as its agents and attorney to sell or dispose its shares in the Company at a price not less than the Fair Value. All acts and things done by the directors in exercising their powers under this power of attorney will be as good and valid as if they had been done by the defaulting Shareholder and they agree to ratify and confirm whatever the directors do in exercising a power under this power of attorney.

10 Completion of share purchase

10.1 Completion of the sale and purchase of shares under clause 8 and clause 9 of this agreement shall take place in accordance with this clause.

10.2 At such completion:

- (a) the Seller shall deliver, or procure that there is delivered to the purchaser of the Sale Shares:
 - (i) a duly completed share transfer form transferring the legal and beneficial ownership of the relevant Sale Shares,
 - (ii) relevant share certificate(s);
 - (iii) all Notes held by the Seller;
 - (iv) a duly completed instrument transferring all rights in the Notes to the purchaser; and
 - (v) any such other documents reasonably required to show good title to the shares, and Notes;
- (b) the purchaser shall deliver or procure that there is delivered to the Seller a bankers' draft made payable to the Seller or to their order for the price of the Sale Shares (or such other method of payment agreed between the purchaser and the Seller); and

- (c) the Seller shall automatically cease to be a party to this agreement, but without prejudice to any rights or obligations of the Seller which accrued before such cessation (including, without limitation, their obligations under clause 16 which shall survive such cessation), including in respect of any prior breach of this agreement.

10.3 Any transfer of shares by way of a sale that must be made under this agreement shall be deemed to include a warranty that the Seller sells the shares with full title guarantee.

10.4 Each of the Continuing Shareholders shall procure (so far as is lawfully possible in the exercise of their rights and powers as a Shareholder of the Company) the registration (subject to due stamping by the Continuing Shareholders) of the transfers of the Sale Shares under this clause 10 and each of them consents to such transfers and registrations.

11 Fair value

11.1 The Fair Value for any Sale Share shall be the price per share determined in writing by the Valuers on the following bases and assumptions:

- (a) valuing each of the Sale Shares as a proportion of the total value of all the issued shares in the capital of the Company without any premium or discount being attributable to the percentage of the issued share capital of the Company which they represent;
- (b) if the Company is then carrying on business as a going concern, on the assumption that it will continue to do so;
- (c) the sale is to be on arms' length terms between a willing seller and a willing buyer;
- (d) the shares are sold free of all restrictions, liens, charges and other encumbrances; and
- (e) the sale is taking place on the date the Valuers were requested to determine the Fair Value.

12 Warranties

12.1 Each party represents and warrants to the other parties that the following is true and correct in relation to that party at the date of this document:

- (a) (Insolvency): no event has occurred in respect of the Shareholder which constitutes Insolvency as defined in this agreement;
- (b) (no litigation): no litigation, arbitration, or administrative proceedings or claims are presently in progress, pending, or threatened against that party or any of their respective assets, which might by itself (or together with other proceedings or claims) have a material adverse effect on that party's assets or adversely affect that party's ability to observe or perform its obligations under this document;
- (c) (valid and enforceable): this document constitutes legally valid, binding, and enforceable obligations on each party;

- (d) (no contravention): the execution and delivery of this document and the performance of any of the transactions contemplated by it will not contravene or constitute a default under any provision contained in any agreement, instrument, law, judgment, order, licence, permit, or consent by which each party is bound or affected; and
- (e) (capacity): each party has full legal capacity to enter into and perform its obligations under this document.

13 Termination

- 13.1 This agreement terminates immediately upon the occurrence of any of the following events:
 - (a) the passing of a directors' resolution for the winding up of the Company; or
 - (b) the appointment of a receiver, administrator or administrative receiver over the whole or any part of the assets of the Company or the making of any arrangement with the creditors of the Company for the affairs, business and property of the Company to be managed by a supervisor.
- 13.2 Termination of this agreement shall be without prejudice to the rights or obligations of any Shareholder accrued prior to such termination, or under any provision which is expressly stated not to be affected by such termination including in respect of any prior breach of this agreement.
- 13.3 Following the passing of a resolution for the winding-up of the Company, the Shareholders shall endeavour to agree a suitable basis for dealing with the interests and assets of the Company and shall endeavour to ensure that:
 - (a) all existing contracts of the Company are performed so far as resources permit;
 - (b) no new contractual obligations are entered into by the Company; and
 - (c) the Company is wound up as soon as practicable.
- 13.4 The following provisions of this agreement remain in full force after termination:
 - (a) this clause 13;
 - (b) Clause 15 (No partnership);
 - (c) Clause 16 (Confidentiality);
 - (d) Clause 17 (Notices);
 - (e) Clause 21 (Costs and expenses);
 - (f) Clause 22 (Whole agreement); and
 - (g) Clause 24 (Governing law and jurisdiction).

14 Status of this agreement

14.1 Each Shareholder shall as far as their powers permit, procure that, at all times during the term of this agreement, the provisions of this agreement are duly and promptly observed and given full force and effect according to its spirit and intention.

14.2 If any provisions of the constitution of the Company at any time conflict with any provisions of this agreement, this agreement shall prevail as between the parties to it and each of the Shareholders shall, whenever necessary, exercise all voting and other rights and powers lawfully available to them as a Shareholder of the Company so as to procure the amendment, waiver or suspension of the relevant provision of the constitution to the extent necessary to permit the Company and its affairs to be administered as provided in this agreement.

15 No partnership

The Shareholders are not in partnership with each other, nor are they agents of each other.

16 Confidentiality

Each Shareholder undertakes that they shall not at any time after the date of this agreement (or, if later, the date they became a party to it) use, divulge or communicate to any person (except to their professional representatives or advisers or as may be required by law or any legal or regulatory authority) any Confidential Information concerning the terms of this agreement, the business or affairs of the other Shareholders or the Company which may have (or may in future) come to their knowledge, and each of the Shareholders shall use their reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

17 Notices

17.1 Any notice given under this agreement shall be in writing and shall be delivered by hand, transmitted by email, or sent by pre-paid post or recorded delivery post to the address notified to the other parties. A notice delivered by hand is deemed to have been received when delivered (or if delivery is not in business hours, 9.00 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email to the email address of the relevant party shall be deemed to have been received at the time of transmission.

18 Severance

18.1 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

19 Variation and waiver

- 19.1 Any variation of this agreement shall be in writing and signed by or on behalf of all the parties for the time being.
- 19.2 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 19.3 Unless specifically provided otherwise, rights and remedies arising under this agreement are cumulative and do not exclude rights and remedies provided by law.

20 Assignment

- 20.1 No person may assign, or grant any encumbrance over, or deal in any way with, any of their rights under this agreement or any document referred to in it, or purport to do any of the same, without, in each case, the prior written consent of all the parties for the time being (such consent not to be unreasonably conditioned, withheld or delayed).
- 20.2 Each person that has rights under this agreement is acting on their own behalf.

21 Costs and expenses

Each Shareholder shall pay the costs relating to the negotiation, preparation, execution and implementation by him of this agreement in the same proportion which their shares in the Company bears to the total number of shares in the Company held by all Shareholders.

22 Entire agreement

- 22.1 This agreement constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 22.2 Each party acknowledges that, in entering into this agreement, they do not rely on, and shall have no remedy in respect of, any statement, representation, assurance or warranty of any person other than as expressly set out in this agreement or those documents.
- 22.3 Nothing in this clause 22 operates to limit or exclude any liability for fraud.

23 Counterparts

This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of that agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.

24 Governing law and jurisdiction

- 24.1 This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of New South Wales.

24.2 The parties irrevocably agree that the courts of New South Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

