

DATED

July 2024

*(1) Calne Without Parish Council*

*(2) Valencia Energy Ltd*

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**COMMUNITY BENEFIT AGREEMENT**  
**RELATING TO LAND AT CALNE LANDFILL, CALNE**

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TBC

(Pinsents?)

**THIS AGREEMENT** is made the

day of

2015

**BETWEEN:**

- (1) Calne Without Parish Council (the "Town/Parish Council")
- (2) Valencia Energy Ltd (Company Registration Number xxxxxxxxx) whose registered office is at [address] (the "Company")

**RECITALS**

**WHEREAS:**

- (A) The *Calne Without Parish Council* is the [Parish] Council for the [Town Council – define as ▼ area. Parish Council – define as ▼ parish or ▼ area if part of a parish]
- (B) The Company is to own and operate the Development on the Land
- (C) The Land is within the Calne Without Parish and the Development could have an impact upon the communities within the Calne Without Parish.
- (D) To mitigate any impact the Company has agreed to make the Annual Community Payment to the Calne Without Parish for the Period in accordance with the terms of this Agreement

**IT IS AGREED** as follows:

**1 Definitions**

- 1.1 In this Deed the words and expressions below unless the context otherwise requires shall mean as follows:

**"Annual Community Benefit Payment"** means the sum of 350 pounds (£350) per megawatt of exported electricity generation capacity

**"Approved Project"** means such project or projects as the [Calne Without Parish Council] shall identify and approve by a majority vote at a meeting of the [Calne Without Parish Councillors] which it determines will be of an environmental or social benefit to the communities within the Calne Without Parish

**"Development"** means the construction and operation of a solar farm and associated equipment on the Land

|                             |   |
|-----------------------------|---|
| <b>“Company”</b>            | means the company who is providing the Annual Community Benefit Payment as defined in 3.3 of this agreement   |
| <b>“Exempt Disposal”</b>    | means any one or more of the following: <ul style="list-style-type: none"> <li>a. a transfer or lease of any land required for an electricity sub-station, switchgear house or other site service infrastructure</li> <li>b. a transfer of any land which is to be adopted or</li> <li>c. the creation of a legal charge, debenture or other form of security over the whole or any part of the Property to a bona fide funder</li> <li>d. the creation of an easement or right in respect of the Development of the Land whether with or without other land</li> <li>e. the creation of any other right or easement or disposition which relates to or is necessary for the purposes of the provision of infrastructure to or from the Land in connection with the Development whether with or without other land</li> <li>f. the assignment of any lease of the Land to any funder of the Development or any funder of the Company</li> </ul> |
| <b>“▼ Area”</b>             | means the area shown edged blue on Plan X   |
| <b>“Index Linked”</b>       | means the increase in the Annual Community Payment which is equivalent to any increase in the Retail Price Index (all items) published by the Office for National Statistics (or such other equivalent index if the Retail Price Index ceases to be published) from the date that the Retail Price Index was last published prior to the date of this Agreement to the date that it is last published prior to the date that the relevant Annual Community Payment is made or due to be paid  |
| <b>“Land”</b>               | means the parcel of land situated at part of the Calne Landfill shown edged red on Plan 1   |
| <b>“Period”</b>             | means the period from the date when the Development first generates electricity for the lesser of 37 (▼) years or until the Development ceases permanently to generate electricity  |
| <b>“Plan 1”</b>             | means the plan attached to the Agreement and marked “Plan 1”  |
| <b>“Plan 2” if required</b> | means the plan attached to this Agreement and marked “Plan 2”   |
| <b>“Working Day”</b>        | means any day other than a Saturday or Sunday or public or bank holiday   |

## **2 Interpretation**

For the purposes of this Agreement:

- 2.1 The expressions [*“the Town/Parish Council”*] and “the Company” shall include their respective successors in title and assigns and in the case of the [*Town/Parish Council*] its successors in function
- 2.2 Words denoting the singular only shall include the plural and vice versa and words denoting the masculine gender shall be deemed to include (as appropriate) the feminine and neuter genders and vice versa and words denoting actual persons shall include companies corporations and firms and all such words shall be construed interchangeably
- 2.3 Wherever there is more than one person named as a party and where more than one party undertakes an obligation all their obligations shall be enforceable against all of them jointly and severally
- 2.4 References to any clause sub-clause or schedule paragraph or annexure is to a clause sub-clause, schedule, paragraph or annexure of or to this Agreement
- 2.5 The headings in this Agreement are inserted for convenience only and shall not affect its construction
- 2.6 Reference to laws statutes by-laws regulations orders and delegated legislation shall include any law statute by-law regulation order or delegated legislation re-enacting consolidating or made pursuant to the same
- 2.7 The words “include” “includes” and “including” shall be construed as if they were followed by the words “without limitation”

## **3 Company’s Covenants**

The Company covenants and agrees with the Calne Without Council as follows:

- 3.1 To inform the Calne Without Parish Council in writing of the total installed capacity of the Development as soon as possible after construction of the Development has been completed and in any event within twenty-eight (28) Working Days of such completion
- 3.2 To pay the Annual Community Benefit Payment to the Calne Without Parish Council as follows:
  - 3.2.1 to pay the first instalment within one (1) month of the date that electricity is first generated by the Development
  - 3.2.2 thereafter payment shall be made on the anniversary of the first payment until the expiration of the Period
- 3.3 If the Company sells, transfers or otherwise parts with its interest in the Development at any time during the Period it shall require the person to whom its interest is transferred to enter into an agreement with the Calne Without Parish Council to continue to make the Annual Community Benefit Payment on the same terms as this Agreement or as otherwise agreed by the parties

- 3.4 [Upon completion of this Agreement to apply to HM Land Registry to impose the following restriction upon the *[freehold/leasehold]* registered title to the Land:

*No disposition of the registered estate (other than a charge) by the proprietor of the registered estate is to be registered without a certificate signed by the proprietor for the time being of the estate registered under title number [Company's title number] or their conveyancer that the provisions of Clauses 3.1 to 3.2 of an Agreement dated xxx between Valencia Energy Ltd and Calne Without Parish Council have been complied with or that they do not apply to the disposition*

PROVIDED THAT it is expressly agreed by the parties that the restriction shall not apply to any Exempt Disposal]

*[NB: To be used only if registration against title required]*

#### **4 Calne Without Parish Council Covenants**

The *Calne Without Parish Council* covenants and agrees with the Company as follows:

- 4.1 To identify and agree the Approved Project and thereafter from time to time to identify and agree such further Approved Projects until the total of the Annual Community Benefit Payments shall have been expended in accordance with the terms of this Agreement subject only to the provisions of clause 4.6
- 4.2 To supply the Company with details of the Approved Project within twenty-eight (28) Working Days of it having been identified and agreed by the *Calne Without Parish Council*
- 4.3 To use and apply the Annual Community Benefit Payment towards the Approved Project only and for no other purpose whatsoever unless otherwise first agreed in writing with the Company
- 4.4 To keep and maintain records of the amount of the Annual Community Benefit Payments which are expended on each Approved Project including details of the nature of the Approved Project and the amount of and purposes for which the Annual Community Benefit Payments were expended
- 4.5 If so requested to provide the Company with details of the expenditure referred to in clause 4.4 within twenty-eight (28) Working Days of receipt of a written request so to do
- 4.6 To produce a report within three (3) months of the anniversary of the first Annual Community Benefit Payment and annually thereafter which shall set out details of the Approved Projects which have been funded in the previous year the amount of the Annual Community Benefit Payments expended on such Approved Projects details of any unexpended Annual Community Benefit Payment which is to be carried forward for expenditure in the following year and details of expected expenditure the following or future year on any identified Approved Projects and to provide the Company with a copy of such report and publish or otherwise make available to residents within the *Calne Without Area/Parish*
- 4.7 If any part of the Annual Community Benefit Payment shall remain unspent or uncommitted to an Approved Project *[five (5) years] or other agreed period for repayment]* after the expiration of the Period to return such unexpended sum or the relevant part of it to whichever of the

Company or any successor to which the Development may have transferred in accordance with Clause 3.3 as shall have originally paid the unexpended sum or part of it

- 4.8 Following receipt of the final Annual Community Benefit Payment to permit and/or consent and not to object to any application made by the Company to HM Land Registry to remove from the *[freehold/leasehold]* registered title to the Land the restriction on disposal referred to in clause 3.4 (including for the avoidance of doubt an application in form RX3 (or such equivalent or replacement form as may be required at the relevant time to remove the restriction) and to use all reasonable endeavours to assist the Company in removing the restriction including by signing and returning forthwith on demand form RX4 (or such equivalent or replacement form as may be required at the relevant time to remove the restriction) and the Council hereby confirms its irrevocable consent to the Company confirming on behalf of the Council on form RX4 (or such equivalent or replacement form as may be required at the relevant time to remove the restriction) that the relevant consents accompany the application and to supply a copy of this Agreement to the Land Registry as evidence of this.

## **5 VAT**

For the avoidance of doubt no VAT shall be payable on any payments made by the Company to the *[Calne Without Parish Council]* under this Agreement unless VAT is applicable to a specific project and/or as defined by HMRC

## **6 Governing Law and Jurisdiction**

This Agreement is governed by and construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement

## **7 Termination**

This Agreement shall absolutely determine and become null and void upon:

- 7.1 The first anniversary of the date of this Agreement if the Development has not been connected and is exporting electricity by that date unless the parties shall agree otherwise in writing
- 7.2 Save for the provisions of clause 4.6 the date upon which the final Annual Community Benefit Payment is paid to the *[ Calne Without Parish Council]* by the Company

## **8 Notices**

All notices or other written communication to or upon the parties pursuant to this Agreement shall be served and shall be deemed to have been properly given or made if sent by recorded delivery post to the party to whom such notice request demand or other written communication is to be given or made under this Agreement or by such other method as the parties may from time to time agree and addressed as follows:

- 8.1 In the case of the *[Calne Without Parish Council]* to the Clerk to the *[Calne Without Parish Council]*

8.2 In the case of the Company to the Company Secretary at the address set out at the beginning of this Agreement

or such other person and/or address for service as shall have been previously notified to the parties

**9 General**

9.1 Save as expressly provided it is hereby agreed by the parties to this Agreement that none of the provisions of this Agreement are intended to or will operate to confer any benefit pursuant to the Contracts (Rights of Third Parties) Act 1999 on any person who is not named as a party to this Agreement or their successors in title

9.2 If any of the provisions of this Agreement are found to be unlawful or otherwise unenforceable this shall not affect the enforceability of the remaining provisions of this Agreement

9.3 Any obligations or restrictions in this Agreement which bind the Company shall cease to be binding upon and enforceable against the Company once it shall have parted with its interest in the Development except for any antecedent breach **PROVIDED THAT** the Company shall have first complied with the requirements of clause 3.3

**10 Entire Agreement**

10.1 This Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between them relating to the subject matter of this Agreement

10.2 This Agreement may only be varied or modified in writing

This Agreement has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it

**EXECUTED as a DEED**

by **Valencia Energy Ltd**

acting by a Director

in the presence of:

Witness name

Witness address

Witness occupation

**EXECUTED as a DEED**

by ***[CALNE WITHOUT PARISH COUNCIL]***

acting by an authorised representative

in the presence of:

Witness name

Witness address

Witness occupation