

Affinity Water

Schedule 3A of the Business Terms: Alternative Payment Terms Agreement (Consolidated Invoicing)

Affinity Water Limited and
Arla Foods Ltd

Contract No. WRC0041.2 – 3A

November 2024



This Agreement is made on Dec 5, 2024

PARTIES

- (1) **Affinity Water Limited**, a company incorporated in **England and Wales** (No. **02546950**) whose registered office is at **Tamblin Way, Hatfield, Hertfordshire, AL10 9EZ** (the "**Contracting Wholesaler**"); and
- (2) **Arla Foods Ltd**, a company incorporated in **England & Wales (No. 2143253)** whose registered office is at **Arla House, 4 Savannah Way, Leeds Valley Park, Leeds, Yorkshire LS10 1AB** (the "**Contracting Retailer**").

Each a "Party" and together the "Parties".

BACKGROUND

- (A) This is an agreement for Alternative Payment Terms made pursuant to Schedule 3A of the Business Terms of the Wholesale Contract between the Contracting Retailer and the Contracting Wholesaler dated **24/05/2021** which itself is made pursuant to Section 66D of the Water Industry Act 1991 (the "**Contract**") and is to be read in conjunction with the Contract.
- (B) The Parties have agreed Alternative Payment Terms as provided for in Section 9.2.4 and Schedule 3A of the Business Terms, and this Agreement sets out those terms.
- (C) The Parties have agreed to enter into this Alternative Payment Terms agreement (the "**Agreement**") to enable the Contracting Retailer to extend the payment terms and consolidate the Due Dates of all Primary invoices received within their specified month.

IT IS AGREED AS FOLLOWS:

1. Unless defined in this Agreement, all other defined terms herein shall have the meaning given to them in the Contract.
2. This Agreement shall take effect on the date hereof and subject to clause 8 and clause 9 shall continue in force unless otherwise agreed in writing by the Parties.
3. Notwithstanding anything to the contrary in the Contract, with effect from the first day of the month following the signing of this agreement, the Contracting Wholesaler shall consolidate the invoice Due Dates of all monthly Primary Charges as set out in clauses 6 and 7.
4. Any late payments for invoices associated with this Agreement are subject to clause 5 of the Alternative Eligible Credit Support Agreement, held between the Contracting Wholesaler and Contracting Retailer, and may be subject to late payment interest and notifications as per Section 9.9.2 and 9.10.1 of the Business Terms.
5. These Alternative Payment Terms are available to the Contracting Retailer where Pre-Payment or Post-Payment has been selected for the relevant month in which the Primary charges are to be invoiced.
6. Where payment terms for the Balances are to be extended, the terms stated in Sections 9.2.3c & 9.3.9 of the Business Terms are replaced with:

Subject to Section 29, Section 9.3.10 and Section 9.5.3 of the Business Terms, the Contracting Wholesaler shall invoice the Contracting Retailer the Balances in conjunction with the statements referred to in Sections 9.3.1 to 9.3.5 (inclusive) and the R1 Monthly Charge using the relevant Aggregated Settlement Report, in accordance with its published invoicing calendar, but in any event within ten (10) Business Days of receiving each Settlement Report (whether for a Planned Settlement Run or an Unplanned Settlement Run) from the Market Operator and the amount shown on such invoice shall be paid, in accordance with Section 9.6, by the later of;

- (a) the last Business Day of the month in which the invoice from the Contracting Wholesaler is received by the Contracting Retailer; or
- (b) fifteen (15) days after the date that the invoice from the Contracting Wholesaler is received by the Contracting Retailer.

7. Where payment terms for the Provisional Monthly Charge (P1) are to be extended, the terms stated in Sections 9.2.2c of the Business Terms are replaced with:

the Provisional Monthly Charge in respect of Month X shall be paid by the Contracting Retailer to the Contracting Wholesaler, in accordance with Section 9.6, by the later of;

- (a) the last Business Day of the month in which the invoice from the Contracting Wholesaler is received by the Contracting Retailer; or
- (b) fifteen (15) days after the date that the invoice from the Contracting Wholesaler is received by the Contracting Retailer.

8. This Agreement will automatically terminate on the termination, for any reason, of the Contract.

9. This Agreement may be terminated:

- (a) by the Contracting Retailer on written notice to the Contracting Wholesaler;
- (b) by the Contracting Wholesaler on 30 days written notice to the Contracting Retailer;
- (c) if the Contracting Retailer becomes a Defaulting Trading Party under the Contract, or is otherwise in breach of the Contract;
- (d) the Contracting Wholesaler otherwise has reasonable grounds to believe that the Contracting Retailer will default on its payment obligations under the Contract; or
- (e) by either Party in the event that replacement Alternative Payment Terms arrangements take effect between the Parties.

On earlier termination of this Agreement the arrangements set out herein shall end and the provision of payment terms by the Contracting Retailer shall be governed exclusively by the Contract and the Parties agree to co-operate with each other to the extent necessary to ensure compliance with the Contract.

10. The Contracting Retailer acknowledges and agrees:

- (a) that it is entering into this Agreement as a means of gaining Alternative Payment Terms within the meaning of the Contract and pursuant to Schedule 3A of the Business Terms; and

(b) that in order to comply with Schedule 3A of the Business Terms, the Contracting Wholesaler shall:

- i. notify the Authority and the Market Operator in full; and
- ii. publish in full on its website in a prominent place relevant to the Competitive Market

all the terms of this Agreement along with the Alternative Eligible Credit Support Agreement made between the Parties and the identity of the Contracting Retailer within five (5) Business Days of entering into this Agreement.

11. No variation of this Agreement shall be effective unless it is in writing and signed by, or by duly authorised representatives on behalf of each Party.
12. Except as and only to the extent provided in this Agreement, the Contract remains in full force and effect.
13. In the event of a conflict between this Agreement and the Contract, the terms of the Contract shall take precedence.
14. The Parties do not intend any third party to have the right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
15. Any notices under this Agreement shall be served in accordance with the provisions of the Contract.
16. This Agreement is the entire agreement between the Parties, and replaces all previous agreements, representations, and understandings between them, relating to its subject matter whether written or oral.
17. This Agreement and any non-contractual obligations arising in connection with it (and, unless provided otherwise, any document entered into in connection with it) are governed by and construed in accordance with English law. Without prejudice to the rights of the Authority, the English courts have exclusive jurisdiction to determine any dispute arising in connection with this Agreement (and, unless provided otherwise, any document entered into in connection with it), including disputes relating to any non-contractual obligations.