

Affinity Water

Schedule 3 of the Business Terms: Alternative Eligible Credit Support Agreement

Affinity Water Limited and
Arla Foods Ltd

Contract No. WRC0041.2 – 3

February 2025



This Agreement shall commence on Mar 19, 2025

PARTIES

- (1) **Affinity Water Limited**, a company incorporated in **England and Wales** (No. **2546950**) 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 Eligible Credit Support made pursuant to Schedule 3 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) Under the Contract, the Contracting Retailer is required to provide and maintain monthly Eligible Credit Support and/or (with the agreement of the Contracting Wholesaler) Alternative Eligible Credit Support for the Credit Support Amount.
- (C) The Parties have agreed to enter into this Alternative Eligible Credit Support Agreement (the "**Agreement**") to enable the Contracting Retailer to, in certain circumstances, reduce the amount of Eligible Credit Support that it provides and maintains.

IT IS AGREED AS FOLLOWS:

1. Under this Agreement:
 - (a) "**Credit Support Adjustment**" shall have the meaning set out in clause 5;
 - (b) "**Discounted Credit Support Amount**" shall have the meaning set out in clause 4; and
 - (c) unless defined in this Agreement, all other defined terms herein shall have the meaning given to them in the Contract.
2. This Agreement shall replace any existing Agreement for Alternative Eligible Credit and take effect on the date hereof between the Parties and, subject to clause 9 and clause 10, 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 Credit Support Notice issued by the Contracting Wholesaler to the Contracting Retailer during the term of this Agreement, the Contracting Retailer shall be required to provide Eligible Credit Support each Month only on the Discounted Credit Support Amount.
4. The Discounted Credit Support Amount shall be calculated firstly based on the Credit Support Requirement (50 Day Requirement) each Month as follows:

- (a) Where the Credit Support Requirement is less than or equal to £50,000 (fifty thousand), the Discounted Eligible Credit Support Amount is £50,000 (fifty thousand); or
- (b) Where the Credit Support Requirement is greater than £50,000 (fifty thousand), the Discounted Eligible Credit Support Amount is £50,000 (fifty thousand) + 20% (twenty) of the Credit Support Requirement but shall not exceed £150,000 (one hundred and fifty thousand).

and then by applying the relevant Credit Support Adjustment, provided that the Discounted Credit Support Amount for that Month is never less than £0 (zero.)

5. The Credit Support Adjustment applicable to the Contracting Retailer in each relevant Month will be determined as follows:

(a) A 0% (zero) reduction to the Discounted Eligible Credit Support Amount if the Contracting Retailer has failed to pay to the Contracting Wholesaler (on or before the due date) an amount properly due by it under the Contract (excluding amounts relating to Non-Primary Charges, Meter Reading Services and amounts disputed under Section 9.7.2) on:

- i. Two (2) or more occasions where the Contracting Retailer has five (5) or fewer Months payment history with the Contracting Wholesaler; or
- ii. Three (3) or more occasions within the three (3) Months directly preceding the date of the Credit Support Notice; or

(b) A 50% (fifty) reduction to the Discounted Eligible Credit Support Amount if the Contracting Retailer has either:

- i. Five (5) or fewer Months payment history with the Contracting Wholesaler and during that period has failed to pay to the Contracting Wholesaler (on or before the due date) an amount properly due by it under the Contract (excluding amounts relating to Non-Primary Charges, Meter Reading Services and amounts disputed under Section 9.7.2) on no more than 1 occasion; or
- ii. Six (6) or more Months payment history with the Contracting Wholesaler and has failed to pay to the Contracting Wholesaler (on or before the due date) an amount properly due by it under the Contract (excluding amounts relating to Non-Primary Charges, Meter Reading Services and amounts disputed under Section 9.7.2) on two (2) occasions within the three (3) Months directly preceding the date of the Credit Support Notice; or

(c) A 100% (one hundred) reduction to the Discounted Eligible Credit Support Amount if the Contracting Retailer has six (6) or more Months payment history with the Contracting Wholesaler and has failed to pay to the Contracting Wholesaler (on or before the due date) an amount properly due by it under the Contract (excluding amounts relating to Non-Primary Charges, Meter Reading Services and amounts disputed under Section 9.7.2) on no more than one (1) occasion within the three (3) Months directly preceding the date of the Credit Support Notice.

6. Nothing in this Agreement affects:

(a) any Unsecured Credit Allowance to which the Contracting Retailer is entitled under Schedule 2E of the Business Terms and the Contracting Retailer's access to such Unsecured Credit Allowance, and/or

- (b) any choice the Contracting Retailer has under the Contract of the manner in which it meets the Credit Support Requirement.
7. The Credit Support Notice issued by the Contracting Wholesaler shall, to the extent applicable, make clear in respect of the Contracting Retailer:
- (a) the Unsecured Credit Allowance, if any, applicable to the Contracting Retailer as appropriate in accordance with Schedule 2E of the Business Terms;
 - (b) the Alternative Eligible Credit Support Amount, if any, applicable to the Contracting Retailer as appropriate in accordance with the terms of this Agreement,
- and upon written request from the Contracting Retailer, the Contracting Wholesaler shall provide to the Contracting Retailer a report of the Contracting Retailer's payment performance on which the applicable Credit Support Adjustment, if any, has been calculated.
8. Nothing in this Agreement shall affect the Credit Support Requirement as calculated under the Contract.
9. This Agreement will automatically terminate on the termination, for any reason, of the Contract.
10. This Agreement may be terminated:
- (a) by the Contracting Retailer on written notice to the Contracting Wholesaler; or
 - (b) by the Contracting Wholesaler on 30 days written notice to the Contracting Retailer; or
 - (c) if the Contracting Retailer becomes a Defaulting Trading Party under the Contract, or is otherwise in breach of the Contract; or
 - (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 Eligible Credit Support arrangements take effect between the Parties.

On expiry or earlier termination of this Agreement the arrangements set out herein shall end and the provision of credit support 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.

11. The Contracting Retailer acknowledges and agrees:
- (a) that it is entering into this Agreement as a means of providing Alternative Eligible Credit Support within the meaning of and pursuant to Schedule 3 of the Contract; and
 - (b) that in order to comply with Schedule 3 of the Contract, the Contracting Wholesaler will notify the Authority and the Market Operator in full, all the terms of this Agreement including the identity of the Contracting Retailer within five (5) Business Days of entering into the Agreement; and

- (c) that in order to comply with Schedule 3 of the Contract, this Agreement shall be published in full on the Contracting Wholesaler's website within five (5) Business Days of entering into the Agreement.
12. No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each Party.
 13. Except as and only to the extent provided in this Agreement, the Contract remains in full force and effect.
 14. In the event of a conflict between this Agreement and the Contract, the terms of the Contract shall take precedence.
 15. 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.
 16. Any notices under this Agreement shall be served in accordance with the provisions of the Contract.
 17. 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.
 18. 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.