

SWW Alternative Credit Agreement (with additional allowances – subject to payment history)

DATED 27 MARCH 2023

PARTIES

(1) **South West Water Limited** (Company No 02366665) whose registered office is at Peninsula House, Rydon Lane, Exeter EX2 7HR (the "**Contracting Wholesaler**"); and

(2) **MARSTON'S PLC** (Company No. 031461) whose registered office is at St Johns House, St Johns Square, Wolverhampton WV2 4BH (the "**Contracting Retailer**")

Together referred to as the "Parties".

BACKGROUND

- A. This is an Agreement for Alternative Eligible Credit Support under Schedule 3 of the Business Terms of the Wholesale Contract dated 01st August 2018 between the Parties which itself is made pursuant to Section 66D or Section 117E of the Water Industry Act 1991 (the "**Contract**") and this Agreement is to be read in conjunction with the Contract.
- B. Under the Contract, the Contracting Retailer is required to provide monthly Eligible Credit Support in the sum of the Credit Support Amount and in relation to that month's Primary Charges;
- C. The Contracting Wholesaler has agreed to enter into this Alternative Eligible Credit Support Agreement providing a Discount to enable it to reduce the amount of Eligible Credit Support required of the Contracting Retailer.
- D. Further, the Contracting Wholesaler has agreed to make an additional allowance on top of the Discount available to the Contracting Retailer subject to having built up a good Payment History with the Contracting Wholesaler, subject to these terms.

It is now agreed as follows:

1. Unless defined in this Agreement, all defined terms herein shall have the meaning given to them in the Contract, with the following additional definitions:
- a. '**Discount**' means £10,000 (ten thousand pounds sterling);
- b. '**Agreed Allowance**' means the monetary value calculated on the following basis:

Agreed Allowance is lower of:				
i) Discounted Credit Support Requirement (CSR) x Payment History %				
ii) Specified cash value based on Dun & Bradstreet Score (as stated below)				
To agree allowance, in combination with ant Schedule 2 unsecured credit, is capped at a maximum of 40% of the Discounted CSR				
Payment Performance Tier	Payment Performance Discount	Dun & Bradstreet 5A1	Dun & Bradstreet 5A2	Dun & Bradstreet All Other scores
0 Months	0%	£100,000	£50,000	£25,000
6 Months	10%			
12 Months	20%			
24 Months	40%			

- c. '**Payment History**' means full satisfaction to the Contracting Wholesaler of all due invoices and maintenance of credit support balances on time in full for the relevant Payment Performance Tier period set out in the relevant Agreed Allowance.

2. This Agreement shall take effect on the date it is executed and subject to clauses 16 and 17 shall continue until **31 March 2024** when it shall automatically terminate unless otherwise agreed in writing by the parties.
3. The arrangements set out in this Agreement may not be used in conjunction with any other Schedule 3 Credit Support arrangements, and the Parties agree as a condition precedent to this Agreement that any pre-existing credit arrangement between the parties shall terminate on commencement on this Agreement.
4. 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 Requirement.
5. The Discounted Credit Support Requirement shall be calculated by the Contracting Wholesaler by deducting £10,000 from the amount specified in the P1 Aggregated Settlement Report issued to the Contracting Retailer and the Contracting Wholesaler or such lesser sum such that the Discounted Credit Support Requirement for that month is never less than £0 (zero) (which sum shall be called the 'Discount')
6. Subject to clause 4, if in any month the Primary Charges falling to be paid by the Contracting Retailer are less than the Discount then the Contracting Wholesaler shall treat the Credit Support Requirement for that month as zero.
7. If the Contracting Retailer maintains a Performance History on its invoices and CSR, the Contracting Retailer is eligible for a further reduction on the Discount up to Agreed Allowance set out in this Agreement based on for the relevant Payment Period (where the period must be consecutive months).
8. If the Contracting Retailer fails (for any reason) to make payment due under the Contract on or before the due date, in accordance with Business Terms Section 9.2.3 and Section 9.3.9, the eligibility for the rate of discount offered by the Contracting Wholesaler shall be reduced for each late payment by to the next lower Tier on the Agreed Allowance table. By way of illustration, if a Contracting Retailer had demonstrated a 24 months payment history and so was eligible for the highest Payment Period Tier and Allowance available, but then missed a due payment, the Payment Performance Discount would immediately be reduced to the next lower Tier (12 months payment history). Any subsequent late payment would result in reducing to the next lower Tier and so on. Failure to make payment when due will reduce the eligibility for Tier Discounts each month until the rate will be reduced to zero Discount available.
9. In the event of any reduction in eligibility for an Agreed Allowance as set out in Clause 8 above, a minimum of 6 consecutive months of clear Payment Performance history will need to be demonstrated to be eligible for the higher Payment Performance Tier.
10. Any Agreed Allowance and any unsecured credit that the Contracting Retailer may be entitled to under the Market Code (Schedule 2) will capped at 40% of the discounted CSR. For the avoidance of doubt, by way of example, if a Contracting Retailer 20% unsecured credit under Schedule 2, then this Agreement under Schedule 3 will only grant 20% on a cumulative Discount/Agreed Allowance to bring the total to 40%).
11. Nothing in this Agreement shall affect the Credit Support Requirement as calculated under the Contract. The aggregated sum of the Discounted Credit Support Requirement and the Discount taken together shall at all times equal or exceed the relevant Credit Support Requirement for that month.
12. Nothing in this Agreement affects:
 - (a) any Unsecured Credit Allowance to which the Contracting Retailer is entitled; or

- (b) any choice the Contracting Retailer has of the manner in which it meets the Credit Support Requirement.
13. The Contracting Wholesaler shall show the Discount separately in the relevant Credit Support Notice.
 14. If as a result of this Agreement the Contracting Retailer's Credit Support Amount for any month falls to below the Discount then the Contracting Wholesaler agrees that the Contracting Retailer may withdraw any existing credit support with immediate effect.
 15. The Contracting Wholesaler reserves the right to reduce the "Discounted amount" on 30 days' written notice to the Contracting Retailer.
 16. This Agreement will automatically terminate on the termination for any reason of the Contract.
 17. 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; and / or
 - (d) the Contracting Wholesaler otherwise has reasonable grounds to believe that the Contracting Retailer will default on its payment obligations under the Contract.
 - (e) by either Party in the event that replacement credit support arrangements take effect between the Parties.
 18. On expiry or earlier termination of this Agreement the arrangements set out in the agreement 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.
 19. The Contracting Retailer acknowledges and agrees:
 - (a) that it is entering into this Agreement as a means of obtaining Alternative Eligible Credit Support within the meaning of Schedule 3 of the Contract; and
 - (b) that in order to comply with Schedule 3, this Agreement shall be published in full on the Contracting Wholesaler's website.
 20. No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each party.
 21. In the event of a conflict between this Agreement and the Contract, the terms of the Contract shall take precedence.
 22. 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.
 23. Any notices under this Agreement shall be served in accordance with the provisions of the Contract.

- 24. 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 (other than the terms of the Contract).
- 25. 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.

Signed by <i>[name of duly authorized person]</i> for and on behalf of South West Water Limited	Duly Authorised Person
Date 27/3/23	

Signed by <i>[name of duly authorized person]</i> for and on behalf of MARSTON'S PLC	Duly Authorised Person
Date 22-Mar-2023	