

Alternative Eligible Credit Support Agreement

South West Water Limited

(Contracting Wholesaler)

and

J Sainsbury's PLC

(Contracting Retailer)

SWW Alternative Credit Agreement (based on Maximum Credit Recommendation)

DATED 16 AUGUST 2022

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) **J Sainsbury PLC** (Company No. 00185647) whose registered office is at 33 Holborn, London, EC1N 2HT (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 23 April 2021 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. '**Alternative Unsecured Allowance**' means an amount equal to 1% (one per cent) of the Maximum Credit Recommendation save that the Alternative Unsecured Allowance shall not exceed £50,000 (fifty thousand pounds) at any time;
 - b. **Credit Scoring Agency** has the same meaning as defined in the Market Code;
 - c. **Maximum Credit Recommendation** means the nominated Credit Scoring Agency's recommendation as to the maximum amount of credit that should be made available to the Contracting Retailer (calculated by reference to the current credit score of the contracting Retailer);
 - d. **Nominated Credit Scoring Agency** means Dun and Bradstreet or such other Credit Scoring Agency as may be nominated by the parties by written agreement from time to time.
 - e. **Other Unsecured Arrangement** means any other arrangement for unsecured credit that the Contracting Wholesaler makes available to retailers and for which the Contracting Retailer may meet the applicable eligibility criteria.
 - f. **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 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 is an alternative to Schedule 2 Unsecured Credit and 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. The entitlement of the Contracting Retailer to the Alternative Unsecured Allowance is subject to the following conditions:
 - a. The Contracting Retailer shall at all times hold and maintain a Current Credit Score that translates to a Credit Assessment Score of 10 (such terms and scores being as set out in Schedule 2F of the business terms); and
 - b. The Contracting Retailer shall, at least once in any three (3) month rolling period and at its own cost, provide evidence of its Current Credit Score to the satisfaction the Contracting Wholesaler.
5. If in any month the Primary Charges falling to be paid by the Contracting Retailer are less than the Alternative Unsecured Allowance then the Contracting Wholesaler shall treat the Credit Support Requirement for that month as zero.
6. The Contracting Wholesaler reserves the right to review, temporarily suspend, or remove the entitlement of the Contracting Retailer to Alternative Eligible Credit Support under this Agreement, if:
 - a. the Contracting Retailer becomes a Defaulting Trading Party under the Wholesale Contract, and/or is otherwise in breach of the Wholesale Contract; and/or
 - b. without prejudice to 6(a) above, the Contracting Retailer in any event fails to make payment due under the Wholesale Contract on or before the due date, in accordance with Business Terms, on two or more occasions in any rolling 6 month period and the Contracting Wholesaler has issued notice to the Contracting Retailer to remedy such non-payment upon at least two (2) of those occasions and those sums remain outstanding; and/or
 - c. the Conditions in clause 4 are not met; and/or
 - d. the Contracting Wholesaler otherwise has reasonable grounds to believe that the Contracting Retailer will default on its payment obligations under the Wholesale Contract, and in such circumstances the Contracting Wholesaler shall notify the Contracting Retailer in writing and the requirements of the Wholesale Contract relating to the provision of Eligible Credit Support shall continue as though this Agreement was not in force and effect from the date of the written notice.
7. The parties agree that nothing in this Agreement shall prejudice or otherwise undermine the obligation or other liability of the Contracting Retailer to pay any amount to the Contracting Wholesaler under the Wholesale Contract, and the rights and remedies of the Contracting Wholesaler in respect of such obligations and liabilities shall be unaffected.
8. 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.
9. Nothing in this Agreement affects:
 - a. any choice the Contracting Retailer has of the manner in which it meets the Credit Support Requirement.

10. If as a result of this Agreement the Contracting Retailer's Credit Support Amount for any month falls to below the Alternative Unsecured Allowance then the Contracting Wholesaler agrees that the Contracting Retailer may withdraw any existing credit support with immediate effect.
11. The Contracting Wholesaler reserves the right to reduce the "Alternative Unsecured Allowance" on 30 days' written notice to the Contracting Retailer.
12. This Agreement will automatically terminate on the termination for any reason of the Contract.
13. This Agreement may be terminated:
 - a. by the Contracting Retailer on written notice to the Contracting Wholesaler, such termination shall not be effective until such time as the Contracting Retailer has put alternative arrangements in place to meet its obligations with regard to the payment terms under the Wholesale Contract; 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; or
 - e. by either Party in the event that replacement credit support arrangements take effect between the Parties.
14. 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.
15. 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.
 - c. the parties agree that the full terms of this Agreement shall be notified to the Market Operation and the Authority by the Wholesaler, and may be published in full on the Market Operators website
16. No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each party.
17. In the event of a conflict between this Agreement and the Contract, the terms of the Contract shall take precedence.
18. 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.
19. Any notices under this Agreement shall be served in accordance with the provisions of the Contract.

20. 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).
21. 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 authorised person]</i> for and on behalf of South West Water Limited	Duly Authorised Person
Date 17/8/22	

Signed by <i>[name of duly authorised person]</i> for and on behalf of J Sainsbury PLC	Duly Authorised Person
Date 16/08/22	