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DATED 16th July **2019**

SOUTH STAFFORDSHIRE WATER PLC

- and -

MARSTON'S PLC

**ALTERNATIVE ELIGIBLE CREDIT SUPPORT AGREEMENT
UNDER SCHEDULE 3 OF THE BUSINESS TERMS
WITHIN THE WHOLESALE CONTRACT**



South Staffs Water

Green Lane, Walsall, West Midlands WS2 7PD

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THIS AGREEMENT is made on [16th July] 2019

Between

- (1) **SOUTH STAFFS WATER PLC** (Company no. 2662742) whose registered office is at Green Lane, Walsall, West Midlands, WS2 7PD ("**the Contracting Wholesaler**"); and
- (2) **MARSTON'S PLC** whose registered office is at **Marston's House, Brewery road, Wolverhampton, WV1 4JT** ("**the Contracting Retailer**").

BACKGROUND

- A.** This is an agreement for Alternative Eligible Credit Support arrangement pursuant to Schedule 3 of the Business Terms contained within the Wholesale Contract dated **20th November 2017** and made under section 66E or section 117E of the Water Industry Act 1991 ("**the Contract**") and this Agreement is to be read in conjunction with the Contract.
- B.** The purpose of this Agreement is to reduce the Eligible Credit Support required to be provided by the Contracting Retailer to the Contracting Wholesaler in connection with the Contract.

It is now agreed as follows:

1. In this Agreement all defined terms in the Agreement have the same meaning as in the Contract, unless stated otherwise.
2. This Agreement commences on the date hereof, and continues, unless terminated earlier in accordance with this Agreement, until 31 March 2020 when it shall terminate automatically, 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 following the commencement of and during the term of this Agreement, the Contracting Retailer shall be required to provide Eligible Credit Support each month on the Credit Support Requirement, as calculated subject to clauses 4, 5, 6, 7 and 8.
4. The Credit Support Requirement shall be calculated by the Contracting Wholesaler by first discounting the amount specified in the P1 Aggregated Settlement Report issued to the Contracting Retailer and the Contracting Wholesaler by:
 - (a) £40,000 or such lesser sum such that the Credit Support Requirement for that month is never less than zero if the Contracting Retailer's Credit Assessment Score is 7 or 8 ("**Discount 1**"); or
 - (b) £65,000 or such lesser sum such that the Credit Support Requirement for that month is never less than zero if the Contracting Retailer's Credit Assessment Score is 9 or 10 ("**Discount 2**");

For the purpose of this clause 4 "**Credit Assessment Score**" means the credit assessment score used for the purpose of calculating the Unsecured Credit Allowance in accordance with Schedule 2F of the Business Terms.

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5. In addition to the alternatives set out in clause 4 above, a Contracting Retailer shall be entitled to obtain an additional Unsecured Credit allowance based on Payment Performance (pursuant to clause 6) subject to these alternatives in combination with Payment Performance forming a maximum combined Unsecured Credit Allowance of 40%.
6. Where Payment Performance has been:
 - (a) been maintained for six (6) months, then there shall be an allowance of 10% applied to the Credit Support Requirement; and
 - (b) been maintained for twelve (12) months, then there shall be an allowance of 20% applied to the Credit Support Requirement;
 - (c) where Payment Performance has not occurred in any Month, then the allowance shall revert to zero (0) per cent (%);
 - (d) Payment Performance means the full payment of Primary Charges by the due date and full provision by the due date and maintenance of Credit Support Balances and Credit Support Amounts in accordance with Section 9 of the Business Terms.
7. This Agreement does not affect the Credit Support Requirement as calculated under the Contract, subject to clause 6.
8. Subject to clause 7 of this Agreement, if in any month the Primary Charges payable by the Contracting Retailer are less than either Discount 1 or Discount 2 (whichever applies) and/or any Unsecured Credit allowance based on Payment Performance calculated in accordance with clause 6 then the Contracting Wholesaler shall treat the Credit Support Requirement for that month as zero.
9. This Agreement does not affect:
 - (a) any Unsecured Credit Allowance to which the Contracting Retailer is entitled; or
 - (b) the Contracting Retailer's discretion as to the manner in which it meets the Credit Support Requirement; or
 - (c) the Contracting Retailer's rights to have any Excess Eligible Credit Support Amount returned or to reduce the amount of Eligible Credit Support provided to match the Credit Support Requirement.
10. This Agreement will automatically terminate if the Contract terminates.
11. This Agreement may be terminated by:
 - (a) the Contracting Retailer on written notice to the Contracting Wholesaler; or
 - (b) the Contracting Wholesaler on 30 days' written notice to the Contracting Retailer; or
 - (c) the Contracting Wholesaler with immediate effect in the event of three or more incidents of late payment, non-payment or late provision of Eligible or Alternative Eligible Credit Support by the Contracting Retailer under this Agreement or under the Contract; or
 - (d) the Contracting Wholesaler with immediate effect if the Contracting Wholesaler has reasonable grounds to believe that the Contracting Retailer will default on its payment obligations under the Contract; or
 - (e) either Party in the event that replacement credit support arrangements take effect between the Parties.

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12. On expiry or earlier termination of this Agreement the arrangements set out in this Agreement shall end and provided that the Contract remains in force the provision of credit support by the Contracting Retailer shall be governed exclusively by the Contract. The Parties agree to co-operate with each other to the extent necessary to ensure compliance with the Contract.
13. 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 Business Terms (forming part of the Contract); and
 - (b) that in order to comply with Schedule 3, the Contracting Wholesaler is required to publish this Agreement in full in a prominent place on its website.
14. No variation of this Agreement shall be effective unless it is in writing and signed by or on behalf of each party subject to clause 15.
15. The Contracting Wholesaler shall amend any provisions of this Agreement to satisfy the requirements of any relevant legislation (including, for the avoidance of doubt, any change to the Wholesale-Retail Code (issued under sections 66DA and 117F of the Water Industry Act 1991), any order, decision, determination, or direction of Ofwat or any other competent regulatory authority).
16. In the event of any conflict between this Agreement and the Contract, the terms of the Contract shall take precedence, save as expressly specified otherwise in this Agreement.
17. The parties do not intend any third party to have any right to enforce any provision of this Agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
18. Any notices under this Agreement shall be served in accordance with the provisions of the Contract.
19. Save for the Contract, this Agreement is the entire agreement between the Parties and replaces all previous written or oral agreements, representations, and understandings between them, relating to its subject matter.
20. This Agreement shall be governed by and construed in accordance with English law, and the English courts shall have exclusive jurisdiction to determine any dispute arising in connection with it.

SIGNED on behalf of the Contracting Wholesaler

By	"Name"
	"Position"

SIGNED on behalf of the Contracting Retailer

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By	"Name"
	"Position"

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