

ALTERNATIVE ELIGIBLE CREDIT SUPPORT AGREEMENT – Good payment performance history

This Agreement is made on 3 July 2020 between

- (1) Anlian Water Services Limited, a company incorporated in England and Wales (No.02366656) whose registered office is at Lancaster House, Lancaster Way, Huntingdon Cambs PE29 6XU (the “**Contracting Wholesaler**”); and
- (2) Heineken UK Limited, a company incorporated in England and Wales (No. SC065527) whose registered office is at is at 3-4 Broadway Park, South Gyle Broadway, Edinburgh,EH12 9JZ (the “**Contracting Retailer**”).

WHEREAS:

- A. The Contracting Wholesaler and the Contracting Retailer entered into a wholesale contract dated 21 May 2020 (such contract and its schedules together with confirmations exchanged between the Contracting Wholesaler and the Contracting Retailer pursuant thereto, in each case as amended from time to time, the “**Wholesale Contract**”). The Wholesale Contract is entered into pursuant to the Wholesale Retail Code (the “**Wholesale Code**”) issued by the Market Operator. The Wholesale Contract incorporates the Business Terms mandated by the Wholesale Code.
- B. The Wholesale Contract requires the Contracting Retailer to satisfy a Credit Support Requirement to limit the financial exposure of the Contracting Wholesaler in the event that the Contracting Retailer is unable to meet its Post Payment, Primary Charges obligations under the Wholesale Contract.
- C. The Business Terms state that: (i) depending on the credit worthiness of the Contracting Retailer, such Credit Support Requirement may be subject to an Unsecured Credit Allowance calculated in accordance with the Business Terms; and (ii) the balance of the Credit Support Requirement must be met by the Contracting Retailer making available to the Contracting Wholesaler Eligible Credit Support (being forms of permitted collateral or other security as permitted by the Wholesale Code).
- D. The Business Terms further state that the parties may agree to reduce the amount of Eligible Credit Support that is required (such reduction being as a consequence of the Contracting Wholesaler making available to the Contracting Retailer Alternative Eligible Credit Support).
- E. Accordingly, the Contracting Wholesaler and the Contracting Retailer have agreed to enter into this Alternative Eligible Credit Support Agreement (the “**Agreement**”) to supplement the Wholesale Contract by enabling the Contracting Wholesaler to reduce the amount of Eligible Credit Support required from the Contracting Retailer, subject to and on the terms of this Agreement on the basis that the Contracting Retailer has established a payment history with the Contracting Wholesaler in respect of the Wholesale Contract whereby the Contracting Retailer has paid all Primary Charges due under the Wholesale Contract by the due date for payment in the 12 months preceding the date of this Agreement (save that the Contracting Retailer may have missed the due date for payment of monthly Primary Charges on a maximum of 2 occasions in the 12 month period immediately preceding the date of this Agreement).

1. Definitions and Interpretation

- 1.1. In this Agreement:

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1.1.1. “**Agreed Allowance**” means the monetary value calculated from time to time using the following calculation:

Agreed Allowance = Relevant Amount – Unsecured Credit Allowance,

save that where the above calculation would result in a negative value, the Agreed Allowance shall be zero.

1.1.2. “**Relevant Amount**” means £300,000.

1.2. Unless the context requires otherwise, terms not otherwise defined in this Agreement shall have the meaning ascribed to them in the Wholesale Contract.

1.3. Headings and titles are for convenience only and do not affect the interpretation of this Agreement.

2. Consideration

2.1. In consideration of the Contracting Wholesaler’s agreement set out in clause 3 below, the Contracting Retailer agrees to pay to the Contracting Wholesaler on demand the sum of £1 (one pound Sterling).

3. Alternative Eligible Credit Arrangement

3.1. Subject to the remaining provisions of this Agreement, the Contracting Wholesaler hereby agrees that for the duration of this Agreement, if the Unsecured Credit Allowance in the relevant month is less than the Relevant Amount, the Contracting Wholesaler shall allow the Contracting Retailer by way of Alternative Eligible Credit Support an amount equal to the Agreed Allowance in respect of that month.

3.2. For the avoidance of doubt no Alternative Eligible Credit Support shall be allowed to the Contracting Retailer at any time where the Unsecured Credit Allowance is more than the Relevant Amount. Accordingly, the Agreed Allowance in such circumstances shall be zero.

3.3. 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 clause 3.3(a) above, during any rolling 12 month period, the Contracting Retailer fails to pay all or part of any monthly Primary Charges (save in respect of any Primary Charges which are disputed in good faith) under the Wholesale Contract on or before the due date, in accordance with Business Terms, on three occasions or more in any rolling 12 month period; and/or

(c) 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.

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3.4. 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.

4. Termination of this Agreement

4.1 The Contracting Wholesaler may at its sole discretion terminate this Agreement at any time:

(a) on providing 60 days' notice to the Contracting Retailer, for any reason; or

(b) with immediate effect, on written notice to the Contracting Retailer, if any of the circumstances set out in clause 3.3 apply.

4.2 The Contracting Retailer may at its sole discretion terminate this Agreement on not less than 14 written days' written notice to the Contracting Wholesaler and 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.

4.3 This Agreement shall automatically terminate on the earlier of: (i) termination or expiry for any reason of the Wholesale Contract; or (ii) in the event that the Contracting Retailer elects to change from Post Payment of its Primary Charges, to Pre Payment of its Primary Charges.

4.4 On termination of this Agreement for any reason:

(a) the arrangements set out herein shall terminate and the availability of Alternative Eligible Credit Support to the Contracting Retailer shall cease with immediate effect; and

(b) provided the Wholesale Contract remains in force and effect, arrangements relating to Eligible Credit Support, the Credit Support Amount and the Credit Support Requirement shall thereafter be governed exclusively by the Wholesale Contract. The parties shall co-operate with each other to the extent necessary to ensure compliance with the Wholesale Contract.

4.5 Notwithstanding any other provisions of this Agreement, the calculation of the Agreed Allowance and the associated provisions of this Agreement shall be amended by the Contracting Wholesaler from time to time on written notice to the Contracting Retailer to satisfy the requirements of any Relevant Legislation (including, for the avoidance of doubt, any order, decision, determination, code change, or direction of Ofwat or any other competent regulatory authority).

5. General

5.1 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 with regard to the manner in which it meets the Credit Support Requirement.

5.2 Subject to clause 4.5, no variation to this Agreement shall be effective unless it is in writing and signed by a duly authorised representative of each party.

5.3 Each party will pay its own costs and expenses in connection with performing its obligations under this Agreement, and the negotiation of it.

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- 5.4 This Agreement supplements the Wholesale Contract. In the event of a conflict between this Agreement and the Wholesale Contract, the terms of the Wholesale Contract shall take precedence.
- 5.5 The parties do not intend any third party to have the right to enforce any provision of this Agreement (whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise).
- 5.6 All notices served under this Agreement shall be served in accordance with the requirements of the Wholesale Contract relating to the provision of notices on that party. For the avoidance of doubt, all notices served on the Contracting Wholesaler shall also be served on the Company Secretary of the Contracting Wholesaler at the registered office of the Contracting Wholesaler.
- 5.7 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 Wholesale Contract; and
 - (b) that in order to comply with Schedule 3, this Agreement shall be published in full on the Contracting Wholesaler's website.
- 5.8 Save to the extent varied or amended by the arrangements set out in this Agreement, the Wholesale Contract (and all provisions of it) shall remain in full force and effect without amendment and shall continue to govern the relationship between the parties as Contracting Wholesaler and Contracting Retailer (including, for the avoidance of doubt, the liabilities and obligations of the respective parties). No greater liability shall be assumed by the Contracting Wholesaler to the Contracting Retailer as a consequence of entering into this Agreement.
- 5.9 Each party shall only assign, novate or transfer its rights and/or obligations under this Agreement strictly in accordance with the restrictions imposed under the Wholesale Contract. In the event that the Wholesale Contract is assigned, novated or transferred to another party, this Agreement shall be simultaneously assigned, novated or transferred to the same party, and in the event that such assignment or novation is not completed, this Agreement shall be deemed to automatically terminate on the date that the Wholesale Contract is assigned or novated.

6. Entire Agreement

- 6.1 This Agreement, together with the Wholesale Contract, sets out the entire agreement and understanding between the parties, and supersedes all proposals and prior agreements, arrangements, course of dealings and understandings between the parties, whether written or oral, relating to its subject matter.
- 6.2 Each party acknowledges that in entering into this Agreement it does not rely on any representation, warranty, collateral contract or other assurance of any person (whether party to this Agreement or not) that is not set out in this Agreement.

7. Cumulative Rights

- 7.1 Save as expressly indicated otherwise, all rights, powers and remedies granted to either of the parties shall be cumulative and without prejudice to any other right, power or remedy of that party and no single or partial exercise of any right, power or remedy shall restrict or prejudice any other or further exercise of it or the exercise of any other right, power or remedy available to it.

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7.2 Except as otherwise provided herein, the rights of either party under the Agreement shall not be prejudiced or restricted by any indulgence or forbearance extended by one party to the other and No waiver by one party of its rights in relation to any breach of the Agreement shall affect its rights in respect of any subsequent breach

8. Law and Jurisdiction

8.1 This Agreement and all matters arising from or connected with it are governed by and shall be construed in accordance with the law of England and Wales.

8.2 Without prejudice to the rights of the Authority, the courts of England and Wales have exclusive jurisdiction to settle any dispute (including any non-contractual dispute) arising from or connected with this Agreement. The parties agree that the courts of England and Wales are appropriate and convenient courts to settle any such dispute.

IN WITNESS WHEREOF this Agreement has been executed by the parties and takes effect from the date specified at the head of it.

Signed by a duly authorised

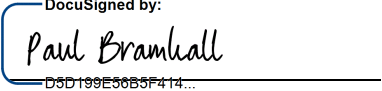
Signed by a duly authorised

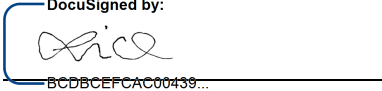
Representative for and on behalf of

Representative for and on behalf of

The Contracting Wholesaler

The Contracting Retailer

Signature: 
Name: Paul Bramhall
Title: wholesale Commercial Manager
Date: 02-Jul-2020

Signature: 
Name: Lynsey Nicoll
Title: Director
Date: 01-Jul-2020