

## AFFINITY FOR BUSINESS (RETAIL) LIMITED

### SCHEME OF TERMS AND CONDITIONS

2020/2021

#### 1. INTERPRETATION

In these Terms and Conditions:

1.1 the following words and expressions have the following meanings and, in addition, any words and expressions defined in any Condition will have the same meaning when used in any other Condition:

<b>“1991 Act”</b>	means Water Industry Act 1991 (as amended)
<b>“Authority”</b>	means the Water Services Regulation Authority also known as Ofwat, established by section 1A of the Water Industry Act 1991
<b>“Bill”</b>	means a bill or invoice setting out the Charges that <b>you</b> owe to <b>us</b> for providing the Services to <b>you</b>
<b>“Billing Year”</b>	means 1 April to 31 March
<b>“Business Day”</b>	a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales
<b>“Charges”</b>	the charges for the Services, being the sum of the Water Supply Charges, Sewerage Charges and Other Charges (as applicable)
<b>“Charges Scheme”</b>	means the charges scheme for the provision of water and sewerage services and other related services for the area in which the Premises is located, which can be found on our website, as updated from time to time
<b>“Complaints Handling Procedure”</b>	means the procedure which sets out how <b>you</b> can make a complaint and how it will be handled and progressed by <b>us</b> details of which are set out on <b>our</b> website
<b>“Data”</b>	means all Personal Data and other data which <b>you</b> <b>provide</b> to <b>us</b> in connection with this Deemed Contract
<b>“Data Protection Laws”</b>	means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018, and any codes of practice, issued by the relevant data protection or supervisory authority

<b>“Deemed Contract”</b>	means the terms and conditions set out in the Scheme pursuant to which Services are provided by <b>us to you</b>
<b>“Due Date”</b>	means the date by which <b>you</b> must pay <b>your</b> Bill as determined in accordance with <b>Condition 10.2</b> and <b>Schedule 1</b>
<b>“Exit Date”</b>	means 1 April 2017
<b>“Expiry Date”</b>	means the date on which this Deemed Contract ends
<b>“Interim Supply Customer”</b>	means a customer whereby a previous supplier has ceased to supply <b>you</b> with water and/or sewerage services, <b>you</b> wish to continue to receive a supply of water and/or sewerage services but have not chosen a new supplier and <b>we</b> have been directed by the Authority to be <b>your</b> water supplier pursuant to section 63AC(3) of the 1991 Act and/or your supplier of sewerage services pursuant to section 110L of the 1991 Act
<b>“Market Arrangements Code”</b>	means the code of that name designated by the Authority from time to time
<b>“Metered Charges”</b>	mean charges for Services that are based wholly or partly on measured quantities of volume and that are calculated in accordance with the relevant Charges Scheme
<b>“Non-Metered Charges”</b>	means assessed charges and rateable value charges in accordance with the relevant Charges Scheme
<b>“Non-Primary Charge”</b>	has the meaning given in the Wholesale-Retail Code
<b>“Other Charges”</b>	means the charges other than Water Supply Charges and Sewerage Charges determined in accordance with <b>Condition 7</b>
<b>“Personal Data”</b>	has the meaning given in the Data Protection Act 2018
<b>“Premises”</b>	means the land, building or structure supplied with the Services being premises which are not household premises within the meaning given in Section 17C of the 1991 Act
<b>“Primary Charge”</b>	has the meaning given in the Wholesale-Retail Code
<b>“Redress Scheme”</b>	means the Water Redress Scheme which is an independent scheme run on behalf of the water industry by Resolving Water Disputes Limited or any other redress scheme which <b>we</b> have in place from time to time and is notified to <b>you</b> as part of the Complaints Handling Procedure
<b>“Retail Exit Regulations”</b>	means the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016

<b>“Scheme”</b>	means this scheme of terms and conditions
<b>“Services”</b>	means the supply of water and/or provision of sewerage services and/or provision of trade effluent services together with ancillary services which <b>you</b> may from time to time ask <b>us</b> to carry out including but not limited to metering, surveys, disconnections and reconnections
<b>“Service Levels”</b>	means the standards to which the Services are to be provided as set out in the Guaranteed Standards Scheme published by Ofwat, from time to time
<b>“Sewerage Charges”</b>	mean the charges payable in respect of the provision of sewerage services and/or provision of trade effluent services
<b>“Start Date”</b>	means the date on which <b>we</b> start <b>your</b> supply of the Services the earliest date being the Exit Date
<b>“Trade Effluent”</b>	has the meaning given to trade effluent in section 141 of the Water Industry Act 1991
<b>“Trade Effluent Consent”</b>	means a consent granted by a sewerage undertaker under section 118 of the Water Industry Act 1991
<b>“Unplanned Event”</b>	means any of the following: <ul style="list-style-type: none"> <li>(a) breakdown, blockage, defect, fault or failure of plant, equipment, apparatus, pipes, structures or facilities forming part of a Wholesaler’s network</li> <li>(b) shortage of, or limitation on the use of, water arising from weather or environmental conditions</li> <li>(c) deficiency in the quantity of water available for supply</li> <li>(d) a water quality incident</li> <li>(e) any pollution from sewage, any unplanned discharge or flooding</li> <li>(f) any other emergency.</li> </ul>
<b>“Water Supply Charges”</b>	mean the charges payable in respect of the supply of water
<b>“We”, “Us”, “Our”</b>	means Affinity for Business (Retail) Limited (registered number 09933767) whose registered office is at Alchemy, Bessemer Road, Welwyn Garden City, Hertfordshire, AL7 1HE
<b>“Wholesale Contract”</b>	means the contract between <b>us</b> and a Wholesaler
<b>“Wholesale Retail Code”</b>	means the code of that name issued by the Authority under sections 66DA and 117F of the Water Industry Act 1991

**“Wholesaler”** means a water company that provides **us** with water and/or sewerage services on a wholesale basis

**“You”, “Your”** means any occupier of the Premises to which the Services are provided or any other person responsible for paying **our** Charges in accordance with **Condition 14**.

1.2 all headings are for reference only and will not affect the meaning of these Conditions;

1.3 references to these Conditions are references to these Conditions as varied from time to time in accordance with their terms;

1.4 unless the context otherwise requires:

1.4.1 references to the singular include the plural and vice versa and references to any gender include every gender; and

1.4.2 references to a “person” include any individual, body corporate, association, partnership, firm, trust, organisation, joint venture, government, local or municipal authority, governmental or supra-governmental agency or department, state or agency of state or any other entity (in each case whether or not having separate legal personality);

1.5 references to “in writing” or “written” include references to communication effected by email or any other means of reproducing words in a legible and non-transitory form;

1.6 references to any statute or statutory provision will include any legislation made under it and will be interpreted as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time; and

1.7 any words following the words “include”, “includes”, “including”, “in particular” or any similar words or expressions will be interpreted without limitation and will not limit the meaning of the words stated before them.

## **2. SCOPE OF SCHEME**

2.1 This Scheme is made by **us** pursuant to Section 29 of the Retail Exit Regulations and Sections 63AE and 110N of the 1991 Act. The Scheme applies wherever Services are supplied by **us** to Premises other than under an expressed contractual agreement between **you** and **us**.

2.2 We may offer to enter into alternative contractual terms with you instead of this Deemed Contract. Upon the date of the alternative contractual terms coming into effect, this Deemed Contract shall cease to be enforceable in relation to the supply of Services by **us** to **you** at the relevant Premises.

## **3. COMMENCEMENT AND TERM**

3.1 The Services will be supplied from the Start Date and will continue to be supplied until the Deemed Contract is ended by either **you** or **us** or otherwise comes to an end for one of the reasons set out in **Condition 11**.

3.2 **We** can change this Scheme at any time as required to comply with applicable law or regulatory requirements or with one months’ notice by publishing a new scheme on **our** website. If you continue to receive Services after the passing of one month from publication, then **you** will be deemed to have accepted the new scheme.

#### **4. SUPPLY OF SERVICES**

- 4.1 The Services will be provided in accordance with the Service Levels and with reasonable skill and care and applicable law.
- 4.2 **We** have the right to make any changes to the Services which are necessary to comply with any laws, the Market Arrangements Code, the Wholesale Retail Code, safety regulations and the directions of the Authority or other regulator and will notify **you** of such changes in writing.
- 4.3 The supply of Services may be interrupted or suspended for the purposes of the relevant Wholesaler carrying out necessary maintenance, repair, replacement and inspection works, **we** will notify **you** of such works in advance, where it is practicable to do so.
- 4.4 The supply of Services may be interrupted or suspended without notice if there is an Unplanned Event.
- 4.5 If at any time **we** fail to meet any of the Service Levels for any reason then **we** will pay the compensation sums referred to in those Service Levels regardless of the reason for the failure and regardless of whether Clause 4.3 or Clause 4.4 applies.

#### **5. ACCESS**

- 5.1 **You** confirm that **you** are able to, and have all necessary consents, licences and permissions to, allow access to **us** or a Wholesaler (and anyone acting on **our** or the Wholesaler's behalf) to any of **your** Premises (including **your** meters) whenever **we** require access in connection with the provision of the Services under the Deemed Contract.
- 5.2 If **we** or a Wholesaler (or anyone acting on **our** or the Wholesaler's behalf) is unable to gain access to **your** Premises or any pipes, meters or any fittings used in connection with the supply of the Services then **you** will be responsible for providing such access, or removing any obstacle preventing such access, and **you** will be responsible for the cost of doing so.

#### **6. CHARGES FOR THE SUPPLY OF SERVICES**

- 6.1 **You** will pay the Charges to **us** in accordance with this **Condition 6 and Condition 10**.
- 6.2 **Our** Charges for Services provided will be calculated in accordance with the relevant Charges Scheme which shall be published on **our** website.
- 6.3 **You** will be liable to pay VAT at the standard rate on Water Supply Charges if **your** predominant business activity is within Divisions 1 to 5 of the 1980 Standard Industrial Classification.

#### **7. OTHER CHARGES**

- 7.1 **You** will pay Other Charges to **us** in accordance with this **Condition 7 and Condition 10**.
- 7.2 If **we** provide an ancillary service and/or if **we** determine that **we** need to carry out an activity and/or if an event occurs for which there is a charge relating to administration (including late payment and debt collection fees) then **you** will pay the applicable charge in accordance with the relevant Charges Scheme.
- 7.3 **You** may from time to time request **us** to carry out another ancillary service for which no charge is specified in the relevant Charges Scheme. **We** may charge a reasonable administration fee of £75 per hour in respect of administration tasks pursuant to this **Condition 7.3**. **We** will provide **you** with the charge for these ancillary services when **you** contact **us** about providing these services and will not provide these services until **you** have formally confirmed **your** acceptance of the application charge.

7.4 **We** will charge **you** and **you** agree to pay to **us** any reasonable costs **we** incur to recover outstanding sums from **you**. Such costs may include, visiting a property to collect money you owe, litigation (the cost of which will be recoverable from **you** on a full indemnity basis) and disconnecting and reconnecting **your** supply.

7.5 All Other Charges will be subject to VAT where applicable.

## 8. **CHARGES FOR EMPTY PREMISES**

Unless **we** agree otherwise, Charges remain payable when **your** Premises are empty.

## 9. **FIRE FIGHTING WATER**

9.1 **We** will not charge Water Supply Charges in respect of:

9.1.1 Water taken or made available for the purpose of extinguishing fires or taken by a fire and rescue authority for any other emergency purpose; or

9.1.2 Water taken or made available for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of fire-fighting training.

## 10. **BILLING AND PAYMENT**

10.1 **We** will provide **you** with a Bill annually, six monthly or monthly setting out the Water Supply Charges and the Sewerage Charges (as applicable) **you** owe **us**. The Bill may be based on a reasonable estimate of the amount of Services **we** have provided and/or will provide to **you**.

10.2 Each Bill in respect of the Water Supply Charges and the Sewerage Charges will be payable by **you** on or before the Due Date determined in accordance with Schedule 1 and by the payment methods listed on our website.

10.3 **We** will provide **you** with a Bill in respect of Other Charges as soon as practicable after **you** have instructed **us** to provide a service to which those Other Charges relate or where **we** have determined that **we** need to carry out an activity on or immediately after the date on which that activity is carried out.

10.4 If any Charges payable to **us** by **you** are not paid on or before the Due Date **we** will be entitled to charge **you** interest at the rate applicable under law at the relevant time.

10.5 If **you** disagree with any part of the Charges in **your** Bill, **you** can raise a dispute through **our** Complaints Handling Procedure, available on **our** website at [www.affinityforbusiness.co.uk](http://www.affinityforbusiness.co.uk), as varied from time to time. **You** must do this as soon as is practicable and in any event no later than seven (7) days from the date of the Bill. **You** agree to act reasonably and in good faith in relation to any dispute that **you** raise.

10.6 If **you** raise a dispute, **you** must pay **us** the amount of the Charges that **you** do agree with on or before the Due Date.

10.7 If **we** identify that **you** have not been billed for all or part of the Services relating to the supply of water and/or sewerage services and/or trade effluent services **we** will back-bill **you** for those Charges in accordance with the relevant Customer Protection Code of Practice for non-household retailers (as amended from time to time).

10.8 If, as a result of a recalculation of a Primary Charge or a Non-Primary Charge, a Wholesaler pays to **us** any sums relating to the supply of water to **you**, **we** will either pay this sum on to **you** or credit such sum to **your** account with **us**. Any such payment to **you** will be made via BACS or cheque within 30 days of **us** receiving payment by the relevant Wholesaler.

## 11. ENDING THE DEEMED CONTRACT

11.1 If **you** choose to receive Services from another supplier **you** can end this Deemed Contract at any time by notifying **us** that **you** no longer wish to receive Services from **us** and informing **us** of the details of **your** new supplier provided that neither **Condition 11.2, 11.3** or **11.4** applies.

11.2 If **we** have submitted a request to the relevant Wholesaler to disconnect **your** water supply then the Deemed Contract shall continue in full force and effect unless terminated by **us** in accordance with **Condition 11.5** or it comes to an end for one of the reasons set out in **Condition 11.6**.

11.3 If **we** receive a notification from **you** under **Condition 11.1** and **you** are not an Interim Supply Customer, **we** may send **you** a notice objecting to the ending of the Deemed Contract if the following conditions are met:

11.3.1 there are payments due under this Deemed Contract which have not been paid within ninety (90) days of the Due Date;

11.3.2 **we** have demanded payment in writing and specified a new due date for payment not less than five (5) Business Days after receipt of the written demand;

11.3.3 payment has not been received by the new due date; and

11.3.4 **you** have not disputed **our** Charges under **Condition 10.5**;

in which case this Deemed Contract will continue in full force and effect unless terminated by **us** in accordance with **Condition 11.5** or it comes to an end for one of the reasons set out in **Condition 11.6**.

11.4 If **we** receive a notification from **you** under **Condition 11.1** and **you** are an Interim Supply Customer **we** may send **you** a notice objecting to the ending of the Deemed Contract if the following conditions are met:

11.4.1 There are payments due under this Deemed Contract and **we** have demanded such payment in writing on two separate occasions in each case specifying a new due date for payment not less than five (5) Business Days after receipt of the written demand; and

11.4.2 Payment has not been received by the new date referred to in the second written demand for payment

In which case this Deemed Contract will continue in full force and effect unless terminated by **us** in accordance with **Condition 11.5** or it comes to an end for one of the reasons set out in **Condition 11.6**.

11.5 **We** may bring the Deemed Contract to an end with immediate effect by giving written notice to **you** and/or may arrange for **your** water supply to be disconnected in accordance with **Condition 12** if **you** fail to make any payment due to **us** under the Deemed Contract within fourteen (14) days of the Due Date. **You** will still be responsible for paying **our** Charges for the period **we** provide any Services to **you**.

11.6 This Deemed Contract will come to an end if:

11.6.1 **we** are no longer authorised to perform **our** obligations under this Deemed Contract;

11.6.2 **you** enter into another Contract with **us**; or

11.6.3 **you** move out of the Premises.

- 11.7 Following expiry of the Deemed Contract or if it is brought to an end early:
- 11.7.1 the following Conditions which **we** have agreed will continue to have effect after expiry or termination of the Deemed Contract will continue in force: **Conditions 15 and 20 - 26** (inclusive); and
  - 11.7.2 all other rights and obligations which **you** or **we** have will immediately end but this will not include obligations, claims and liabilities arising prior to the Expiry Date or the date on which the Deemed Contract was brought to an end early;
  - 11.7.3 **we** will be entitled to raise a Bill for all Charges for Services provided which have not yet been billed;
  - 11.7.4 all Bills (including any Bills issued under **Condition 11.7.3**) will become immediately due and payable by **you**.
- 11.8 Within fourteen (14) days after the Expiry Date or the date on which the Deemed Contract is brought to an end early, each party will, subject to the exception set out in **Condition 11.9**:
- 11.8.1 if requested to do so, return to the other party all of the other party's confidential information (including all copies and extracts) in its possession or control;
  - 11.8.2 cease to use the other party's confidential information.
- 11.9 Each party may keep any of the other party's confidential information which it has to keep to comply with any applicable laws.

## 12. DISCONNECTION OF YOUR WATER SUPPLY

- 12.1 If **you** fail to make any payment due to **us** under this Deemed Contract within fourteen (14) days of the Due Date **we** may, subject to **Condition 12.2**, disconnect **your** water supply provided that **we** have done the following:
- 12.1.1 sent **you** a reminder notice requiring payment of Charges due;
  - 12.1.2 not less than fourteen (14) days following the sending of the reminder notice, sent **you** a final notice requiring payment of Charges due and a disconnection notice stating **our** intention to disconnect **your** water supply for non-payment of Charges;
- and **you** have not within seven (7) days of the final notice made payment or served a notice stating that **you** dispute liability to pay the Charges in question.
- 12.2 If **you** serve **us** with a notice under **Condition 12.1** we will not disconnect **your** water supply unless **you** are the occupier and the Charges are enforceable against **you** under a Court judgment or because **you** are in breach of an agreement to pay the Charges entered into since the service of **your** notice.
- 12.3 **You** will be liable to pay any costs that **we** incur in arranging for disconnection of **your** water supply including any charge which the Wholesaler or an accredited entity makes to **us** for carrying out the disconnection.
- 12.4 **We** will not disconnect any Premises specified in Schedule 4A of the 1991 Act or where **you** are not the occupier of the Premises.

## 13. MOVING OUT OF THE PREMISES

- 13.1 **You** should tell **us** if **you** are moving out or have moved out of the Premises.



13.2 **You** should tell **us** that **you** are moving at least two Business Days in advance of moving out. If **you** don't **you** will be responsible for paying **our** Charges until whichever is the earliest of the date **we** are informed by the new occupier of the change of occupation or 28 days from the date on which **you** do inform **us**.

13.3 Subject to **Condition 13.2**, **we** will refund any Charges paid in respect of a period after you have moved out of the Premises.

#### **14. RESPONSIBILITY FOR OUR CHARGES**

14.1 The occupier of the Premises shall be responsible for **our** Charges unless one of **Conditions 14.2 - 14.6** apply.

14.2 If **we** have agreed that a person other than the occupier of the Premises should be responsible for the Charges then that person will be responsible for the Charges.

14.3 Where separate Premises are supplied with water through a single meter and there is no written agreement with **us** by which any person accepts responsibility for the Charges then the occupiers of each of those Premises are jointly and severally liable for the whole of the Charges in respect of water supplied through the single meter.

14.4 Where Premises **we** supply with water through a single meter comprise areas in separate occupation and there is no written agreement with **us** by which any one person accepts responsibility for the Charges then each of the occupiers of the Premises is jointly and severally liable for the whole of the Charges in respect of water supplied by the single meter.

14.5 At **our** discretion, notwithstanding **Condition 14.3** and **Condition 14.4** any person **we** determine to be:

14.5.1 the principal user of the water supplied through the single meter; and/or

14.5.2 using or permitting (whether formally or informally) the water supplied through the single meter to afford a supply to areas of the Premises in separate occupation.

will be liable for the whole of the Charges in respect of water supplied by such single meter.

14.6 Where more than one Premises are supplied from a private water supply network then the one occupier may have previously assumed responsibility for charges in respect of water passing through the first (main) meter connected to the Wholesaler's network and they will be responsible for paying **our** Charges.

14.7 In cases other than those described in **Condition 14.6** **we** use meters installed on the private network (sub-meters) for charging purposes and the occupier of each Premises will be responsible for paying the Charges in respect of water supplied through the sub-meter for that Premises. In this case, if the total volume of water supplied through the main meter is greater than the sum of the volumes supplied through all of the sub-meters **we** will previously have identified the person to be responsible for the Charges in respect of the volume of water which is not recorded by the sub-meters.

#### **15. EXCLUSIONS AND LIMITATIONS OF LIABILITY**

**Your attention is particularly drawn to this Condition 15.**

15.1 Subject to **Condition 15.4**, **our** entire legal responsibility to **you** arising out of or in connection with the Deemed Contract, whether in contract, tort, misrepresentation, under statute or otherwise, including any legal responsibility arising from a breach of, or a failure to perform or defect or delay in performance of, any of **our** obligations under the Deemed Contract, in each case however caused including if caused by negligence, will be limited as follows:

- 15.1.1 subject to **Condition 15.2**, **our** entire legal responsibility to **you** for any damage that **we** cause to **your** Premises or any physical property owned by **you** in the course of performing **our** obligations under the Deemed Contract will not exceed £5,000,000 (five million pounds) in any Billing Year; and
  - 15.1.2 subject to **Condition 15.2**, **our** maximum legal responsibility to **you** relating to any other loss or damage that **we** cause in the course of performing **our** obligations under the Deemed Contract or failing to perform those obligations will not exceed the amount of Charges **we** anticipate would be paid by **you** in the current Billing Year.
- 15.2 **We** will have no legal responsibility to **you** for any:
- 15.2.1 loss of profit;
  - 15.2.2 loss of revenue, loss of production or loss of business;
  - 15.2.3 loss of goodwill, loss of reputation or loss of opportunity;
  - 15.2.4 loss of anticipated savings or loss of margin;
  - 15.2.5 liability that **you** have to third parties; or
  - 15.2.6 indirect, consequential or special loss,
- subject always to **Condition 15.4**.
- 15.3 **We** will not be legally responsible to **you** for any failure to perform or delay in performing **our** obligations under the Deemed Contract to the extent that such failure or delay is due to any event or circumstance beyond **our** reasonable control (for example if **we** are unable to provide the Services due to burst pipes and drought events). If **we** are paid any money by a Wholesaler in relation to a failure to provide **you** with the Services then **we** will pass on to **you** the proportion of such money which relates to the Services **we** were unable to provide.
- 15.4 Nothing in the Deemed Contract will exclude or restrict one party's legal responsibility (if any) to the other for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its legal responsibility.

## 16. YOUR OBLIGATIONS

- 16.1 **You** will:
- 16.1.1 provide **us** with all information and assistance as **we** may require in order to perform **our** obligations or exercise **our** rights under the Deemed Contract;
  - 16.1.2 maintain and where necessary repair **your** supply pipe;
  - 16.1.3 take reasonable care of any meter **we** provide or which belongs to any Wholesaler;
  - 16.1.4 where **you** are the owner, **you** confirm that **your** metering equipment is in good working order and complies with all applicable standards;
  - 16.1.5 notify **us** within 24 hours of any discussions, negotiations or proposals with any of **your** creditors in relation to a debt or debts owed to any of them or any discussions relating to **your** impending insolvency;
  - 16.1.6 obtain any licences, permits, consents and authorisations as may be required by **you** in order to receive the Services and comply with all conditions of those licences,

permits, consents and authorisations including but not limited to a Trade Effluent Consent in respect of any discharge of Trade Effluent; and

- 16.1.7 inform **us** if any third party is acting on **your** behalf.
- 16.2 Where **we** provide **our** metering equipment to **you** as part of the Services or **you** use metering equipment belonging to any Wholesaler, **you** will be responsible for any loss or damage to metering equipment whilst it is on **your** Premises and the cost of replacing or repairing that equipment. **You** agree that **we** may charge **you** for such repair or replacement and for costs incurred in accessing or re-siting the meter because **you** have covered or obstructed it and include that charge in a Bill if that metering equipment belongs to **us** or any Wholesaler.
- 16.3 **We** will not be responsible for any fault (or if anything happens because of a fault) with any meter which **we** did not provide to **you**.
- 16.4 **We** will not have failed to comply with **our** obligations under the Deemed Contract to the extent **our** failure to perform or delay or defect in performance of obligations under the Deemed Contract arises as a result of:
- 16.4.1 any failure by **you** to comply with **your** obligations contained in the Deemed Contract;
- 16.4.2 **our** reliance on any incomplete or inaccurate Data provided by **you** or a third party; or
- 16.4.3 **our** compliance with any instruction or request by **you** or one of **your** employees.
- 16.5 **You** will not
- 16.5.1 discharge any Trade Effluent other than in accordance with a Trade Effluent Consent; or
- 16.5.2 obstruct, cover, interfere with, wilfully damage or remove any meter which **we** have provided to **you** or which belongs to the Wholesaler
- 16.5.3 throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer any matter likely to injure the sewer or drain, to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its contents.
- 16.6 **You** acknowledge and agree that **you** are responsible for the water and wastewater pipework and other infrastructure, in or under the Premises including responsibility for any loss of water or for any water or wastewater flooding arising from the condition of such pipework or infrastructure or any equipment or appliances connected to such pipework or infrastructure and any Charges arising therefrom.
- 16.7 Where there is a leak in the supply to the Premises (irrespective of whether such leak occurs inside or outside the Premises) unless and until a leak allowance is granted by the Wholesaler (acting in its sole discretion), **you** shall be responsible for all Charges relating to the leak and any costs and losses incurred by **us** in relation to such leak.
- 16.8 If a leak allowance is granted by the Wholesaler, **we** shall pay or credit to you, those Charges previously paid by **you** to **us** which has been paid by the Wholesaler to us as part of any leak allowance payment. Where **you** have outstanding sums due to us in respect of the Premises or in relation to the provision of any other services, **we** shall be entitled to apply the whole or any part of such leak allowance payment in settlement of such outstanding sums.
- 17. OUR METER OPTION SCHEME**
- 17.1 **You** can ask to have a meter installed and to switch to Metered Charges at any time by contacting

us at [enquiries@affinityforbusiness.co.uk](mailto:enquiries@affinityforbusiness.co.uk)

- 17.2 There will be a charge for installing a meter which is an Other Charge calculated in accordance with **Condition 7**. The charge depends on whether there is an existing boundary box and / or whether the relevant Wholesaler has to carry out excavations or fit the meter internally.
- 17.3 Any installation of a meter will be subject to the approval of the relevant Wholesaler and in the absence of approval from the Wholesaler **we** will be unable to proceed. If the Wholesaler refuses approval and **you** are currently paying rateable value Charges **you** may request to switch from rateable value charges to assessed charges in accordance with the relevant Charging Scheme. Such request will be subject to approval of the relevant Wholesaler.
- 17.4 The location of the meter will be determined by the Wholesaler, which may contact **you** about where **you** would like the meter to be located.
- 17.5 Metered Charges will apply from the date of meter installation. Once **you** have a meter installed and are being billed Metered Charges, **you** cannot revert to Non-Metered Charges.

## 18. METER READINGS

- 18.1 A meter reading taken by **us** is evidence of the water consumed except where the meter:

- 18.1.1 has stopped or slowed;
- 18.1.2 has been bypassed or otherwise removed by **you**; or
- 18.1.3 has been tested and found to exceed the limits of error prescribed by law;

and in these cases **we** will estimate the quantity of water supplied during the period when the meter had stopped, failed to register correctly, been bypassed or removed.

- 18.2 If the meter has been tested and found to be recording outside prescribed limits of error, **we** will adjust **your** Metered Charges in accordance with the adjustments made by the relevant Wholesaler.
- 18.3 If it has not been possible to read **your** meter, **we** will estimate a reading for billing purposes, for example in situations where **you** have not given **us** access. **Our** estimates are based on historical data for an equivalent period. If this data is not available, the estimate will be based on any relevant available information. Where **we** are able to obtain an actual reading, **we** will replace the estimated reading with the actual reading and Charges will be recalculated on the information supplied.
- 18.4 If the start of a Billing Year falls between two meter readings, the total volume recorded for the reading period will be apportioned on a daily basis between the period up to 31 March and the period after that date. Volumetric charges will likewise be calculated at the rates for the two relevant Billing Years.

## 19. METER TESTING

- 19.1 If **you** think the meter might not be working correctly **you** may ask **us** to arrange a test with the Wholesaler. Where the Wholesaler carries out a test a replacement meter will usually be installed and will remain in place regardless of the test result. If the results of the testing show that the meter is working incorrectly (i.e. it is registering outside of the prescribed limits of error, then **we** will adjust **your** Metered Charges back to the last meter reading but one.
- 19.2 There may be a charge for testing a meter in accordance with the relevant Wholesaler's policies and **Condition 7**.

## 20. NOTICE

20.1 Subject to **Condition 20.3**, any notice or other communication given under or in connection with the Deemed Contract will be in writing and:

20.1.1 sent to the relevant party's address by pre-paid first class post or guaranteed next day delivery post service;

20.1.2 delivered by hand (including courier) to or left at the relevant party's address between the hours of 09.00 and 17.00 on a Business Day; or

20.1.3 sent by email.

The details of where notices are to be sent are set out below and may be changed by the relevant party giving at least seven (7) Business Days' notice in accordance with this **Condition 20**.

### Us

AFFINITY FOR BUSINESS (RETAIL) LIMITED

Alchemy, Bessemer Road,

Welwyn Garden City,

Hertfordshire, AL7 1HE

enquiries@affinityforbusiness.co.uk

### You

NAME REGISTERED ON **OUR** BILLING SYSTEM

ADDRESS REGISTERED ON **OUR** BILLING SYSTEM

20.2 Any notice or communication given in accordance with **Condition 20.1** will be assumed to have been received and read by the receiving party:

20.2.1 if given as set out in **Condition 20.1.1**, at the later of actual receipt and 09.00 on the first Business Day after the date of posting if posted on a Business Day, or if not posted on a Business Day, the later of actual receipt or 09.00 on the second Business Day after posting;

20.2.2 if given as set out in **Condition 20.1.2**, at the time the notice or communication is delivered to or left at that party's address if within the hours of 09.00 and 17.00 on a Business Day or 09.00 the following Business Day if delivered outside of those hours; or

20.2.3 if given as set out in **Condition 20.1.3**, at the time it is received if sent on a Business Day and if it is not sent on a Business Day, it is received on the following Business Day.

20.3 To prove a notice or communication has been received it will be enough to prove that delivery was made, or that the envelope containing the notice was properly addressed and posted.

## 21. CONFIDENTIALITY

21.1 Each party will, subject to **Condition 21.2**:

21.1.1 only use the other party's confidential information for the purpose of performing its obligations and exercising its rights under the Deemed Contract; and

- 21.1.2 not disclose the other party's confidential information to any other person.
- 21.2 Each party may disclose the other party's confidential information:
  - 21.2.1 if required by law or any court of competent jurisdiction or the rules of any governmental or regulatory body; and
  - 21.2.2 to those of its officers, directors, employees and professional advisers and, in **our** case, Wholesalers, **our** agents and sub-contractors, who need access to that confidential information so that it can perform its obligations and exercise its rights under the Deemed Contract. Each party will ensure that its employees, officers, representatives, subcontractors and advisers comply with this **Condition 21.2.2** where the confidential information has been disclosed to them.
- 21.3 Neither party will use the other party's confidential information for any purpose other than to perform the obligations contained in this Deemed Contract.

## **22. COMPLAINTS HANDLING PROCESS**

- 22.1 If **you** have an issue or complaint relating to the Services, **you** agree to contact **us** in the first instance to make **us** aware of **your** concerns in accordance with the Complaints Handling Procedure.
- 22.2 If **you** are not happy with the way **your** complaint is dealt with **you** can refer the complaint to the Redress Scheme.

## **23. DATA PROTECTION**

- 23.1 **We** will, comply with the data protection principles and with Data Protection Laws in respect of any Personal Data relating to **you**.
- 23.2 **You** consent to **us** processing **your** Personal Data for the purpose of providing **you** with the Services under the Deemed Contract. **You** also consent to **us** contacting **you** from time to time with information about Affinity for Business and the services **we** can provide; if **you** are ever unhappy with **us** doing this **you** can tell **us** and **we** will stop contacting **you** in this way.
- 23.3 **We** will deal promptly and properly with any enquiry **you** have regarding **our** processing of Data and will not transfer any Data to a country or territory outside of the European Economic Area without ensuring an adequate level of protection in accordance with Data Protection Laws.
- 23.4 **We** will have in place appropriate technical and organisation measures to ensure that **your** Data is kept confidential and secure.

## **24. BANKRUPTCY OR INSOLVENCY**

If **you** enter into any formal insolvency procedure, including a debt relief order, **we** may apportion any Charges on a daily basis up to the date immediately before the date the relevant insolvency procedure becomes effective (the "**insolvency date**").

## **25. SECURITY DEPOSITS**

- 25.1 If **we** consider **you** to have a poor credit rating **we** may require that **you** provide a security deposit:
  - 25.1.1 If **you** are billed monthly **you** will be required to provide the equivalent of three months average Charges as security;

- 25.1.2 If **you** are billed six monthly **you** will be required to provide the equivalent of eight months average Charges as security;
- 25.1.3 Average Charges will normally be based upon those payable in respect of the Premises in the previous Billing Year or in the case of new customers based on a reasonable estimate of Charges to be paid in the current Billing Year.
- 25.2 **You** may ask **us** to review the requirement for security if **your** credit rating has improved. If **your** credit rating has improved **we** may cancel the security deposit and if **we** do **we** will repay the deposit to **you**.
- 26. GENERAL**
- 26.1 The Deemed Contract makes up the entire agreement between **you** and **us** and overrules any prior agreement or arrangement in respect of its subject matter and:
- 26.1.1 neither **you** nor **us** has entered into the Deemed Contract in reliance upon, and will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made to the first party or any other person) which is not expressly set out in the Deemed Contract;
- 26.1.2 nothing in this **Condition 26.1** will be interpreted as limiting or excluding the liability of any person for fraud or fraudulent misrepresentation.
- 26.2 **We** have the right to ask other companies or selected third party providers to perform all or any part of **our** obligations under the Deemed Contract without **your** prior permission. The use of any third-party provider will not relieve **us** of any of **our** responsibilities to **you** under the Deemed Contract.
- 26.3 **You** will not be entitled to assign, transfer, charge, hold on trust for any person or deal in any other way with any of **your** rights under the Deemed Contract.
- 26.4 A delay in exercising or failure to exercise a right or remedy under or in connection with the Deemed Contract will not be a waiver of, or prevent or restrict future exercise of, that or any other right or remedy, nor will the single or part exercise of a right or remedy prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it and only in the circumstances and for the purpose for which it was given and will not be a waiver of any other right, remedy, breach or default.
- 26.5 If any term of the Deemed Contract (including any exclusion from, or limitation of, liability set out in **Condition 15**) is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, that term will be assumed to be removed from the Deemed Contract and this will not affect the remainder of the Deemed Contract which will continue in force.
- 26.6 **We** may from time to time vary this Scheme but shall ensure that where **we** do this **we** publish the new Scheme at least one month before it takes effect. If **you** are an Interim Supply Customer **we** will not make any change within three months of **your** supply being transferred to **us**.
- 26.7 There may be other terms and conditions relating to how **we** carry out any ancillary services which **you** from time to time ask **us** to carry out and where this is the case **we** will inform **you** of them at the time **you** request the service and will ensure that **you** are happy with them before **we** carry out the service.
- 26.8 Nothing in the Deemed Contract and no action taken by the parties in connection with it or them will create a partnership or joint venture between the parties or give either party the power to act on behalf of the other party or present itself as being entitled to do so.

- 26.9 Each party agrees that it is an independent contractor and is entering into the Deemed Contract as principal and not as agent for or for the benefit of any other person.
- 26.10 The parties do not intend that any term of the Deemed Contract will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.
- 26.11 **Our** rights and remedies set out in these Conditions are in addition to and do not exclude any rights and remedies provided by law.
- 26.12 Where there is more than one occupier who occupies the Premises each occupier is jointly and severally liable for payment of the Charges.
- 27. GOVERNING LAW AND JURISDICTION**
- 27.1 The Deemed Contract and any non-contractual obligations arising out of or in connection with it will be governed by the law of England and Wales.
- 27.2 The courts of England and Wales have exclusive jurisdiction to decide any dispute between **us** in relation to the Deemed Contract (including in relation to any non-contractual obligations).



## SCHEDULE 1

### DUE DATE IN RESPECT OF WATER SUPPLY CHARGES AND SEWERAGE CHARGES

#### Metered Charges

1. The Due Date by which payment is due varies according to the payment method as follows:

Billing frequency	Payment method	Due
Half-Yearly	Direct Debit	As and when billed, or in 12 equal monthly instalments to be made on 1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> of each month.
Half-Yearly	Other than by Direct Debit	Either (i) As and when billed, or (ii) by multi-instalments as agreed with the Company (excluding Credit Cards)
Monthly	Direct Debit	As and when billed – 1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> of each month.
Monthly	Other than by Direct Debit	As and when billed.

#### Non-Metered Charges

2. **Non-Metered Charges** are due on demand in advance on 1 April but **you** have a choice of annual or 10 installment payment frequencies as set out in the table below.

Frequency	Payment Method	Due
Annual	Direct Debit	1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> April.
Annual	Other than by Direct Debit	By 1 <sup>st</sup> April.
Half-Yearly* <small>*only available if <b>you</b> are a legacy Affinity Water customer who paid <b>your</b> bill over this frequency on the Exit Date.</small>	Direct Debit	1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> April and 1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> October.
Half-Yearly* <small>*only available if <b>you</b> are a legacy Affinity Water customer who paid <b>your</b> bill over this frequency on the Exit Date.</small>	Other than by Direct Debit	First payment by 1 <sup>st</sup> April and second by 1 <sup>st</sup> October.
10 Instalments	Direct Debit	Payments to commence on 1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> April. Last payment on 1 <sup>st</sup> , 8 <sup>th</sup> , 15 <sup>th</sup> or 22 <sup>nd</sup> January as appropriate.
10 Instalments	Other than by Direct Debit	1 <sup>st</sup> April to 1 <sup>st</sup> January.
Multi-Instalments	Other than by Direct Debit or Credit/Debit Card	As agreed with the Company

