

MORSES CLUB SCHEME LIMITED
IN FAVOUR OF
MORSES CLUB PLC
AND
OTHERS

DEED OF INDEMNITY AND CONTRIBUTION

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THIS DEED OF INDEMNITY AND CONTRIBUTION is made on 12 December 2022

BY

- (1) **MORSES CLUB SCHEME LIMITED**, a limited liability company incorporated in England and Wales with registered number 14066120 and whose registered address is at Building 1 The Phoenix Centre, Colliers Way, Nottingham, United Kingdom, NG8 6AT (the "**Company**").

IN FAVOUR OF:

- (2) **MORSES CLUB PLC**, a public limited company incorporated in England and Wales with registered number 06793980 and whose registered address is at Building 1 The Phoenix Centre, Colliers Way, Nottingham, United Kingdom, NG8 6AT ("**Morses Club**");
- (3) the **REDRESS CREDITORS** (as defined below); and
- (4) the **FINANCIAL OMBUDSMAN SERVICE LIMITED**, a private company limited by guarantee, with company number 03725015 and with its registered address at Exchange Tower, Harbour Exchange Square, London, E14 9SR (the "**FOS**").

RECITALS:

- (A) Morses Club, regulated by the Financial Conduct Authority, is a regulated provider of short-term loans to customers in the United Kingdom.
- (B) As a regulated provider of consumer credit, Morses Club is required to ensure that its lending meets certain minimum standards. In certain cases, Morses Club may have fallen below these standards and issued loans to customers in situations where it should not have done so, entitling such customers to seek redress payments against it.
- (C) Due to the increasing volume of customer redress claims against Morses Club (for loans it may have wrongly issued) and Morses Club's difficult financial position (meaning that it would be unable to pay the compensation owing in respect of such redress claims in full), it is proposed that a scheme of arrangement pursuant to Part 26 of the Companies Act 2006 be implemented to, amongst other things, assess, settle and release such redress claims (and certain sums owing to the FOS) in a manner which best serves the interests of Morses Club, the Redress Creditors and the FOS (the "**Scheme**").
- (D) Morses Club Scheme Limited, a wholly owned subsidiary of Morses Club, has been established for the sole purpose of proposing and implementing the Scheme and is entering into this deed of indemnity and contribution (the "**Deed Poll**") in order to enable it to do so.

THIS DEED WITNESSES as follows:

1. **DEFINITIONS**

1.1 **Definitions**

In this Deed Poll:

"**Ascertained Scheme Liability**" means the total cash payment owing to a Redress Creditor in respect of its valid Redress Claim or the FOS in respect of the FOS Fees Claim as determined under the Scheme.

"**Beneficiaries**" means:

- (a) each Redress Creditor;
- (b) the FOS; and
- (c) Morses Club.

"**Business Day**" means any day (other than a Saturday or Sunday) on which banks are open for general business in London.

"**Contribution Payment**" means a payment that the Company is obliged to make to Morses Club pursuant to a Demand issued in accordance with Clause 3 (*Contribution*).

"**Demand**" has the meaning given to that term in Clause 3.1 (*Contribution*).

"**Designated Bank Account**" has the meaning given to that term in Clause 4.1.1(a) (*Payment Instruction*).

"**FOS Fees**" means the fees owing to the FOS for its review of Redress Claims made by Redress Creditors against Morses Club on or after 11 August 2022 and then subsequently referred to the FOS.

"**FOS Fees Claim**" means a claim made by the FOS for the FOS Fees.

"**Indemnity**" means the obligations of the Company pursuant to sub-Clause 2.1 (*Indemnity*).

"**Liability**" means any liability of a person, whether it is present, future, prospective or contingent, whether its amount is fixed or undetermined, whether or not it involves the payment of money and whether it arises at common law, in equity or by statute, in England or in any other jurisdiction, or in any other manner whatsoever.

"**Loan**" means (i) a loan issued by Morses Club (or issued by a third party but for which Morses Club is otherwise legally liable for) between 1 April 2014 and 2 August 2022.

"**Payment Instruction**" means an instruction in the form set out at Schedule 1 (*Form of Payment Instruction*).

"**Redress Claim**" means a claim in respect of a Redress Liability made on or after 11 August 2022.

"**Redress Creditor**" means any person with a Redress Claim.

"**Redress Liability**" means a Liability of Morses Club arising in connection with its assessment of the sustainability, suitability and/or affordability of a Loan issued by it or otherwise in respect of irresponsible lending, where a claim is made in respect of such Liability on or after 11 August 2022.

"**Scheme**" means the compromise or arrangement to be proposed by the Company pursuant to Part 26 of the Companies Act 2006 for the purpose of, amongst other things, assessing, agreeing, determining, settling and releasing Scheme Creditors' Scheme Claims against the Company and Morses Club.

"**Scheme Claims**" means:

- (a) Redress Claims; and
- (b) FOS Fees Claims.

"**Scheme Creditors**" means:

- (a) Redress Creditors in respect of their Redress Claims; and
- (b) the FOS in respect of the FOS Fees Claims.

"**Security**" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Termination Date**" means:

- (a) the date falling two years after the date of this Deed Poll; or
- (b) in the event that the Scheme becomes effective, the date that the Scheme terminates under, and in accordance with, its terms.

"**Website**" means www.morsesclubscheme.com.

2. INDEMNITY

2.1 Indemnity

2.1.1 Subject to sub-Clauses 2.1.2, 2.5 (*Application of Proceeds – Redress Creditors*), 2.6 (*Application of Proceeds – FOS*) and Clause 5 (*Limits on Indemnity*), the Company irrevocably and unconditionally agrees as a primary obligation:

- (a) in favour of each Redress Creditor, to pay to that Redress Creditor all sums from time to time due and payable to it by Morses Club in respect of any Redress Liability owing by Morses Club to the Redress Creditor. Where any Redress Liability that the Company would otherwise be required to pay under this Deed is instead paid by Morses Club after the date of this Deed, then the equivalent obligation of the Company under this clause will be discharged in an amount equal to such payment; and
- (b) in favour of the FOS, to pay to the FOS all FOS Fees due and payable to it by Morses Club. Where any part of the FOS Fees that the Company would otherwise be required to pay under this Deed is instead paid by Morses Club after the date of this Deed, then the equivalent obligation of the Company under this clause will be discharged in an amount equal to such payment.

2.1.2 The undertaking by the Company pursuant to sub-Clause 2.1.1 is given on the condition that the payment by the Company of:

- (a) any Redress Liability to a Redress Creditor will, to the extent of such payment, discharge the equivalent obligation of Morses Club to pay such Redress Liability to the relevant Redress Creditor; and
- (b) the FOS Fees to the FOS will, to the extent of such payment, discharge the equivalent obligation of Morses Club to pay the FOS Fees to the FOS.

2.2 Continuing obligations

The obligations of the Company under the Indemnity are continuing and will extend, subject to Clause 5 (*Limits on Indemnity*), to the ultimate balance of all Redress Liabilities and the FOS Fees regardless of any intermediate payment or discharge in whole or in part (save any payment made, or discharge given to the Company, in accordance with the Scheme).

2.3 Company Intent

The Company expressly confirms that the Indemnity shall extend to any (however fundamental and of whatsoever nature and whether or not more onerous) variation, increase, extension or addition of the Redress Liabilities and/or FOS Fees.

2.4 Immediate recourse

The Company waives any right it may have of first requiring the FOS or any Redress Creditor (or any trustee or agent on their behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Company under the Indemnity. This waiver applies irrespective of any law or any provision of any document to the contrary.

2.5 Application of Proceeds – Redress Creditors

2.5.1 All monies received or recovered by a Redress Creditor pursuant to the Indemnity shall be applied in discharge of that Redress Creditor's Ascertained Scheme Liability.

2.5.2 For the avoidance of doubt and in accordance with sub-Clause 2.5.1 above, a Redress Creditor who receives monies from the Company pursuant to the Indemnity irrevocably and unconditionally agrees to apply such monies in discharge of its Ascertained Scheme Liability.

2.6 Application of Proceeds – FOS

2.6.1 All monies received or recovered by the FOS pursuant to the Indemnity shall be applied in discharge of the FOS' Ascertained Scheme Liability.

2.6.2 For the avoidance of doubt and in accordance with sub-Clause 2.6.1 above, where the FOS receives a payment from the Company pursuant to the Indemnity,

it irrevocably and unconditionally agrees to apply such monies in discharge of its Ascertained Scheme Liability.

3. CONTRIBUTION

- 3.1 If Morses Club makes payment of any Redress Liability or FOS Fees, then the Company irrevocably and unconditionally agrees to pay to Morses Club by way of contribution a sum equal to 50% or more (as shall be determined by Morses Club) of such amount paid by Morses Club upon receipt of a written demand (the "**Demand**") from Morses Club.
- 3.2 Payments made by the Company pursuant to this Clause 3 shall be made in good time and in accordance with the Payment Instruction accompanying the Demand.
- 3.3 This Clause 3 is subject to Clause 5 (*Limits on Indemnity*).

4. PAYMENT INSTRUCTION

4.1 Morses Club to provide a Payment Instruction to the Company

- 4.1.1 If Morses Club serves a Demand on the Company for a Contribution Payment, it shall, at the time of serving such Demand, also provide the Company with a Payment Instruction specifying:
- (a) whether the payment is to be made by cheque or electronic bank transfer and, where payments are to be made by way of:
 - (i) electronic bank transfer, its bank account details (the "**Designated Bank Account**"); or
 - (ii) cheque, the address to which the cheque should be sent to (the "**Specified Postal Address**"); and
 - (b) the date by which the Contribution Payment must be made (the "**Payment Deadline**").

4.2 Company to pay Contribution Payment

- 4.2.1 Upon receipt by the Company of:
- (a) a valid Demand; and
 - (b) a Payment Instruction in respect of such Demand,

the Company shall pay the Contribution Payment to Morses Club in accordance with the manner of payment specified in the Payment Instruction and by the Payment Deadline.

5. LIMITS ON INDEMNITY

5.1 General

The liability of the Company under any Indemnity claim by:

5.1.1 a Redress Creditor will be capped at an amount that is equal to a Redress Creditor's Ascertained Scheme Liability; and

5.1.2 the FOS will be capped at an amount equal to the FOS Fees.

5.2 **Time limitation**

With effect from the Termination Date and without the requirement for any further action from the Company or any other person, this Deed shall terminate and the rights, claims, entitlements or interests of the Beneficiaries under this Deed shall cease with immediate effect.

6. **BENEFIT OF DEED**

6.1 **Deed poll**

This Deed Poll is executed as, and shall take effect as, a deed poll on the part of the Company for the benefit of the Beneficiaries from time to time.

6.2 **Benefit**

This Deed shall endure to the benefit of each Beneficiary and its successors, each of which shall be entitled severally to enforce this Deed against the Company.

6.3 **Right to enforce Contribution Payment**

Morses Club may enforce the Company's obligation to make the Contribution Payment under, and in accordance with, Clause 4.2 (*Company to pay Contribution Payment*) above.

6.4 **No Assignment**

6.4.1 The Company shall not be entitled to assign or transfer all or any of its rights, benefits and obligations hereunder.

6.4.2 The rights, interests, benefits and entitlements of each Redress Creditor under this Deed Poll is irrevocably and unconditionally linked to that Redress Creditor's rights, interests, benefits, entitlements and obligations under the Loan.

6.4.3 Where a Redress Creditor (the "**Transferor**") assigns, novates or otherwise transfers some or all of its rights, interests, benefits or entitlements (the "**Transferred Interests**") under the relevant Loan (including any associated Redress Claim) to another person (the "**Transferee**"), the Transferor shall cease to be a Beneficiary in respect of the Transferred Interests, and the Transferee shall become a Beneficiary in respect of the Transferred Interests.

6.4.4 The rights, interests, benefits and entitlements of the FOS under this Deed Poll are irrevocably and unconditionally linked to the FOS' right to receive payment for the FOS Fees.

6.4.5 Where the FOS assigns, novates or otherwise transfers some or all of its rights in respect of the FOS Fees Claim (the "**FOS Transferred Interests**") to another

party (the "**FOS Transferee**"), the FOS shall cease to be a Beneficiary in respect of the FOS Transferred Interests, and the FOS Transferee shall become a Beneficiary in respect of the FOS Transferred Interests.

- 6.4.6 Subject to sub-Clauses 6.4.3 and 6.4.5 above, no Beneficiary shall be entitled to assign, transfer, declare a trust over, or create any Security in favour of any other person over, all or any of its rights and benefits hereunder.

6.5 **Purported disclaimer**

For the avoidance of doubt, Morses Club's rights of contribution under Clauses 3 (*Contribution*) and 4 (*Payment Instruction*) of this Deed shall survive any purported disclaimer of any provision of this Deed by a Beneficiary.

7. **PARTIAL INVALIDITY**

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby.

8. **NOTICES**

8.1 **Address for notices**

All notices, demands and other communications to the Company hereunder shall be made in writing (by letter or email) and shall be sent to the Company at:

Attention: Scheme of Arrangement Team

Address: Morses Club Scheme Limited, Building 1, The Phoenix Centre, 1 Colliers Way, Nottingham NG8 6AT

E-mail: contact@morsesclub.com

or to such other address, email address or for the attention of such other person or department as the Company shall notify to the Beneficiaries by publication on the Website.

8.2 **Effectiveness**

Every notice, demand or other communication sent in accordance with Clause 8.1 (*Address for notices*) shall be effective upon receipt by the Company, provided that any such notice, demand or other communication which would otherwise take effect:

8.2.1 on a day which is not a Business Day; or

8.2.2 before 9.00 a.m. or after 4.00 p.m. (London time) on a Business Day,

shall not take effect until 9.00 a.m. (London time) on the immediately succeeding Business Day.

9. **GOVERNING LAW AND JURISDICTION**

9.1 **Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

9.2 **English courts**

The courts of England and Wales shall have exclusive jurisdiction to settle any dispute (a "**Dispute**") arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) or the consequences of its nullity.

9.3 **Service of process**

The Company agrees that the documents which start any Dispute and any other documents required to be served in relation to those Dispute may be served on it by being delivered to the Company at its registered office. Nothing in this Clause 9.3 will affect the right of any Beneficiary to serve process in any other manner permitted by law.

IN WITNESS whereof this Deed has been executed by the Company and is intended to be, and is hereby, delivered on the date first before written.

**SCHEDULE 1
FORM OF PAYMENT INSTRUCTION**

To: Morses Club Scheme Limited (the "Company")

From: Morses Club PLC

Date: [●]

Dear Sir / Madam

Deed poll dated 12 December 2022 (the "Deed Poll") issued by Morses Club Scheme Limited in favour of, amongst others, Morses Club PLC and each of the Scheme Creditors

1. We refer to the Deed Poll
2. Unless otherwise defined, capitalised terms used in this payment instruction have the meaning given to them in the Deed Poll.
3. This is a Payment Instruction.
4. We have paid an amount of [●] to [●]. In accordance with clauses 3 (*Contribution*) and 4 (*Payment Instruction*) of the Deed Poll, we hereby demand that you pay us the Contribution Payment [*by way of electronic bank transfer to the Designated Bank Account / by way of cheque to be sent to the Specified Postal Address*] set out at paragraph 5 below, such payment to [*be received in freely disposable funds / posted*] by no later than the Payment Deadline.
5. [*The Designated Bank Account is: [insert bank account details] / The Specified Postal Address is [insert postal address]*]
6. The Payment Deadline is [●].
7. This Payment Instruction and any non-contractual obligations arising out of or in connection with it are governed by English law.

Yours sincerely

Morses Club PLC

SIGNATURE TO THE DEED POLL

Executed as a deed by Morses Club Scheme Limited:

Signature of Director: 

Name of Director: Gary Marshall

Signature of Director: 

Name of Director: Graeme Campbell