

MORSES CLUB PLC

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TRUST DEED

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**THIS DEED** is dated 16<sup>th</sup> September 2022 and made by:

**MORSES CLUB PLC**, a company registered in England and Wales with company number 06793980 whose registered office is at Building 1 The Phoenix Centre, Colliers Way, Nottingham, United Kingdom, NG8 6AT ("**Morses Club**" or the "**Trustee**").

**WHEREAS:**

- (A) Morses Club has decided to pursue the potential use of a Scheme of Arrangement under Part 26 of the Companies Act 2006 to deal with customer Redress Claims. On 11 August 2022, Morses Club announced that it had taken steps to pause the processing of all new Redress Claims with immediate effect in order to allow it to further develop the detail regarding a Scheme (the "**Complaints Processing Pause**").
- (B) Pending implementation of the Scheme, customers are expected to continue to make repayments to Morses Club on their Outstanding Loan(s).
- (C) In light of this, Morses Club has agreed to place all amounts paid by Affected Customers, on or after 11 August 2022 (the "**Complaints Processing Pause Date**"), in respect of their Outstanding Loans into trust. This is to ensure that if any of those customers are subsequently determined to have a Valid Redress Claim (whether in the Scheme otherwise), they are not prejudiced by having made those repayments.
- (D) Morses Club has opened an account in its name with the Account Holding Bank (as defined below) (account number 10771217, sort code 09-02-22) (the "**Trust Account**") and has agreed to hold the Trust Property on trust in accordance with the terms of this Deed.
- (E) Morses Club intends this document to take effect as a deed.

**IT IS AGREED** as follows:

1. **DEFINITIONS**

In this Deed, the following expressions mean the following:

"**Account Holding Bank**" means Santander Bank.

"**Affected Customer**" means any customer who makes a Redress Claim after the Complaints Processing Pause Date.

"**Beneficiary**" means an Affected Customer who makes one or more Relevant Payments and subsequently becomes entitled to a Refund Amount.

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

"**Compensation Fund**" means the balance from time to time standing to the credit of any bank account established in, and for the purposes of, the payment of Valid Redress Claims in the Scheme.

**"Complaints Processing Pause Date"** has the meaning given to that term in recital (C).

**"Court"** means the High Court of Justice of England and Wales.

**"Effective Date"** means the date of execution of this Deed.

**"Insolvency Event"** means, in respect of a company, any of the following events:

- (a) the making of an order by a court to wind up the company pursuant to the Insolvency Act 1986;
- (b) the passing of a resolution under s.84 of the Insolvency Act 1986 to wind up the company;
- (c) the appointment of an administrator of the company pursuant to the Insolvency Act 1986;
- (d) the appointment of a provisional liquidator of the company pursuant to the Insolvency Act 1986; or
- (e) the equivalent or an analogous event in any jurisdiction.

**"Insolvency Practitioner"** means any administrator, liquidator or any other insolvency practitioner appointed to Morses Club pursuant to the Insolvency Act 1986.

**"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.

**"Loan"** means a loan made by Morses Club to any person (whether resident in the United Kingdom or elsewhere) between 1 April 2014 and 29 August 2020 (inclusive).

**"Outstanding Loan"** means any Loan in respect of which any amount remains due and payable by a customer to Morses Club (whether such amount relates to principal, interest, fees or otherwise).

**"Redress Claim"** means a:

- (a) claim made by a customer against Morses Club in relation to its assessment of:
  - (i) that customer's creditworthiness in respect of a Loan; or
  - (ii) the sustainability, suitability and/or affordability of a Loan made to that customer, and/or
- (b) a claim of irresponsible lending made against Morses Club by a customer in respect of a Loan.

**"Refund Amount"** means, in respect of a Beneficiary, the lower of its Valid Redress Claim and any Relevant Payments made by it.

**"Refund Repayment Date"** means the date on which:

- (a) all Valid Redress Claims have been agreed or otherwise fully and finally determined;
- (b) all Refund Amounts of all Beneficiaries have been calculated; and
- (c) all Refund Amounts are paid to the relevant Beneficiaries (or reserved for in full for the relevant Beneficiaries).

**"Relevant Payments"** means, in respect of an Affected Customer, the total payments (whether of principal, interest, fees or otherwise) made by that Affected Customer to Morses Club in relation to any Outstanding Loan(s) during the Relevant Period.

**"Relevant Period"** means, in relation to an Affected Customer, the period commencing on the date on which the Affected Customer makes a Redress Claim to the earlier of:

- (a) the Scheme Effective Date;
- (b) the date an Insolvency Event occurs in respect of Morses Club; or
- (c) the date on which the Complaints Processing Pause is no longer in effect and neither of the events set out in (a) or (b) have occurred.

**"Scheme"** means a scheme of arrangement, made in accordance with Part 26 of the Companies Act 2006 for the purpose of making, assessing and paying Redress Claims.

**"Scheme Effective Date"** means the date on which the order of the Court sanctioning the Scheme is delivered to the Registrar of Companies in England and Wales for registration.

**"Termination Date"** means the date:

- (a) upon which the Trust Property is transferred to the Compensation Fund in accordance with Clause 4.5(b); or
- (b) upon which the Trust Property becomes the sole property of Morses Club in accordance with Clause 4.6; and
- (c) no further amounts are held on trust in accordance with Clause 4.7.

**"Trust"** has the meaning given to it in Clause 4.2.

**"Trust Account"** has the meaning given to that term in recital (D).

**"Trust Property"** means all amounts standing to the credit of the Trust Account from time to time.

**"Valid Redress Claim"** means a Redress Claim which has been agreed between a customer and Morses Club (or any of its relevant successors, assignees or transferees) or otherwise fully and finally determined in a manner that is binding on the customer and Morses Club (or any of its relevant successors, assignees or transferees) (including but not limited to, in accordance with the Scheme). For the avoidance of doubt, the

Valid Redress Claim shall be calculated net of any Liability owed by the customer to Morses Club.

## 2. CONSTRUCTION

### 2.1 In this Deed:

- (a) except where the context otherwise requires, references to a person include a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assignees;
- (b) a reference to a "Clause" is, unless indicated to the contrary, a reference to a clause of this Deed; and
- (c) "includes", "including" and similar words used in this Deed shall be deemed to have "without limitation to the generality of the foregoing" after them.

## 3. EFFECTIVENESS

This Deed is delivered and takes effect upon the date of its execution.

## 4. TRUST ACCOUNT

### 4.1 Morses Club hereby unconditionally and irrevocably agrees and undertakes to pay into the Trust Account:

- (a) within 5 Business Days of the Effective Date, all Relevant Payments made on or prior to the Effective Date (to the extent not paid prior to the date of this Deed); and
- (b) by no later than 2nd Business Day following each week ended Saturday, all Relevant Payments made in the previous week,

until the earliest to occur of:

- (i) the Scheme Effective Date;
- (ii) an Insolvency Event in respect of Morses Club; and
- (iii) the FCA giving written notice to Morses Club.

### 4.2 Morses Club declares that it shall hold all Trust Property on trust (the "**Trust**") for:

- (a) the exclusive benefit of the Beneficiaries (and to be applied in accordance with Clause 4.5(a)) from the Effective Date until the Refund Repayment Date; and
- (b) thereafter, in the event that as at the Refund Repayment Date a Scheme is in effect and continuing, on trust for the exclusive benefit of each person that is entitled to receive a payment from the Compensation Fund (pending the payment of the balance of the Trust Property into the Compensation Fund in accordance with Clause 4.5(b)).

- 4.3 Morses Club declares that as Trustee, it shall give notice of such trust arrangements to the Account Holding Bank.
- 4.4 Any interest accruing on the funds standing to the credit of the Trust Account from time to time shall be deemed to form part of the Trust Property and shall be held on trust for the parties specified in Clause 4.2 and be available to be used for the purposes contemplated in Clause 4.5.
- 4.5 The Trust Property shall be applied:
- (a) first, in payment of the Refund Amount owing to a Beneficiary (as soon as reasonably practicable following determination of that Refund Amount); and
  - (b) in the event that there is a surplus following the Refund Repayment Date (and providing that a Scheme is effective and continuing on such date), in payment to the Compensation Fund.
- 4.6 For the avoidance of doubt, in the event that a Scheme is not in effect and continuing as at the Refund Repayment Date, any remaining Trust Property shall be released from the Trust and become the property of Morses Club.
- 4.7 In the event that, as at the Refund Repayment Date, a Refund Amount has been calculated, reserved for, but not paid to the relevant Beneficiary, that amount shall continue to be held on trust for that relevant Beneficiary on the terms of this Deed and shall not form part of the Trust Property paid into the Compensation Fund in accordance with Clause 4.5(b) or released from the Trust in accordance with Clause 4.6.
- 4.8 Until the Termination Date, the Trust Property shall:
- (a) be ring-fenced and kept separate from other monies of Morses Club; and
  - (b) not be subject to any set-off or netting arrangements with any other party.

## 5. **SURVIVAL**

For the avoidance of doubt and subject to Clause 7, the provisions of this Deed shall survive the occurrence of an Insolvency Event in respect of Morses Club and shall be capable of being relied upon and enforced against any Insolvency Practitioner.

## 6. **EXCLUSION OF THE TRUSTEE ACT 2000**

To the fullest extent permitted by law, none of Parts I, II, III or IV of the Trustee Act 2000 nor the requirement to discharge the duty of care set out in Section 1(1) of the Trustee Act 2000 in exercising any of its powers shall apply to the trust constituted by this Deed or Morses Club's role as trustee of such trust. The disapplication of those parts or sections of the Trustee Act 2000 shall constitute an exclusion of the relevant parts or sections of the Trustee Act 2000 for the purposes of that Act.

## 7. **TERMINATION**

With effect from the Termination Date, this Deed shall terminate and be of no further force or effect, and any and all Liabilities arising hereunder shall be discharged and released.

**8. EXECUTION**

This Deed has been executed as a deed and is delivered and takes effect on the Effective Date.

**9. THIRD PARTY RIGHTS**

9.1 Subject to Clause 9.2, a person who is not a party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.

9.2 Each Beneficiary may enforce any of the terms of this Deed under the Third Parties Act.

**10. SEVERABILITY**

Where any provision in or obligation under this Deed shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations under this Deed, or of such provision or obligation in any other jurisdiction, shall not be affected or impaired thereby.

**11. COUNTERPARTS**

This Deed may be executed on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

**12. GOVERNING LAW AND JURISDICTION**

12.1 This Deed and all matters (including any contractual or non-contractual obligation) arising out of or in connection with it, its subject matter or formation shall be governed by and construed in accordance with English law.

12.2 All disputes arising out of or in connection with this Deed, including, without limitation, disputes relating to any non-contractual obligations arising out of or in connection with this Deed, shall be submitted to the exclusive jurisdiction of the English courts.

**13. ASSIGNMENT**

Morses Club may not assign any of its rights under or in connection with this Deed or declare a trust over or with respect to any of its rights under or in connection with this Deed.

**IN WITNESS** whereof Morses Club has caused this Deed to be duly executed on the date first written above.



**SIGNATORIES**

**EXECUTED** as a **DEED** by

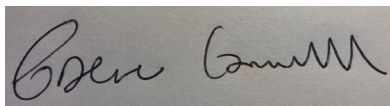
**MORSES CLUB PLC** acting by two directors



Signed:

Print name: Gary Marshall

Director CEO



Signed:

Print name: Graeme Campbell

Director CFO