

**SCHULDSCHEIN**  
**(Certificate of Indebtedness)**

**Morgan Stanley Europe Holding SE**  
a company incorporated in the Federal Republic of Germany whose registered office is at  
Große Gallusstraße 18, 60312 Frankfurt am Main, Federal Republic of Germany

confirms to have received from

**Morgan Stanley International Limited**  
a company incorporated in the United Kingdom whose registered office is at 25 Cabot Square,  
Canary Wharf, London E14 4QA, United Kingdom


on 27 October 2020  
(the "Disbursement Date"),

a Schuldschein loan in the principal amount of  
**EUR 1,000,000,000**  
(in words: Euro one billion)

(the "Schuldschein Loan")

subject to the terms and conditions of the  
Schuldschein Loan Agreement attached hereto.

Frankfurt am Main, 27 October 2020

By: 

By: 

Attachment: Schuldschein Loan Agreement

27 October 2020

**MORGAN STANLEY EUROPE HOLDING SE**

as Borrower

and

**MORGAN STANLEY INTERNATIONAL LIMITED**

as Lender

**EUR 1,000,000,000 Floating Rate Tier 2 Schuldschein Loan  
Agreement due 2031**

**THIS SCHULDSCHEIN LOAN AGREEMENT** is dated 27 October 2020 and made among:

- (1) **Morgan Stanley Europe Holding SE**, Große Gallusstraße 18, 60312 Frankfurt am Main, Germany as borrower (the "**Borrower**");
- (2) **Morgan Stanley International Limited**, 25 Cabot Square, Canary Wharf, London E14 4QA, United Kingdom as lender (the "**Lender**"); and
- (3) **Morgan Stanley Europe SE**, Große Gallusstraße 18, 60312 Frankfurt am Main, Germany as calculation agent (the "**Calculation Agent**"),

each a "**Party**" and together the "**Parties**".

## **1 Certain Definitions**

### **1.1 In this Agreement:**

**"Agreement"** means this Schuldschein Loan agreement as evidenced by the Schuldschein;

**"Applicable Supervisory Regulations"** means the provisions of bank supervisory laws and any regulations and other rules thereunder applicable from time to time (including, but not limited to, the BRRD, the CRD, the CRR and the guidelines and recommendations of the European Banking Authority and/or the European Central Bank, the administrative practice of any competent authority, any applicable decision of a court and any applicable transitional provisions) relating to capital adequacy, solvency, other prudential requirements and/or resolution and applicable to the Borrower and/or the banking group to which the Borrower belongs from time to time.

**"BRRD"** means Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014, as amended or replaced from time to time; to the extent that any provisions of the BRRD are amended or replaced, the reference to provisions of the BRRD as used in this Agreement shall refer to such amended provisions or successor provisions from time to time.

**"Business Day"** means a day which is a day (other than a Saturday or a Sunday) on which commercial banks in Frankfurt am Main and London are open for business and on which the Trans-European Automated Real-time Gross settlement Express Transfer (TARGET2) system is open for the settlement of payments in Euro;

**"Calculation Agent"** shall have the meaning given to such term in Clause 10.1;

**"CRD"** means Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013, as amended or replaced from time to time; to the extent that any provisions of the CRD are amended or replaced, the reference to provisions of the CRD as used in this Agreement shall refer to such amended provisions or successor provisions from time to time

**"CRR"** means Regulation (EU) No 575/2013 of the European Parliament and the Council of 26 June 2013, as amended or replaced from time to time; to the extent that any provisions of the CRR are amended or replaced, the reference to provisions of the CRR as used in this Agreement shall refer to such amended provisions or successor provisions from time to time.

**"Disbursement Amount"** means EUR 1,000,000,000 (i.e. 100 per cent. of the Principal Amount);

**"Disbursement Date"** means 27 October 2020;

**"Germany"** means the Federal Republic of Germany.

"Joining Lender" shall have the meaning given to such term in Clause 9.1;

"Maturity Date" means the Interest Payment Date falling in the month of October 2031;

"Principal Amount" shall have the meaning given to such term in Clause 2.1;

"Schuldschein" means a Schuldschein (Certificate of Indebtedness) substantially in the form attached hereto as Schedule 1 and signed by the Borrower on the Disbursement Date and delivered to the Lender;

"Schuldschein Loan" shall have the meaning given to such term in Clause 2.1; in case of a transfer of the Schuldschein Loan in part, but not in whole, each of the balance transferred and the balance not transferred will be treated as a separate Schuldschein Loan;

"Specified Currency" means Euro;

"TARGET Business Day" means a day on which the Trans-European Automated Real-time Gross settlement Express Transfer system 2 (TARGET) is operating.

- 1.2 The term "Lender" will include any person to whom all or part of the Schuldschein Loan has been transferred in whole or in part in accordance with Clause 9.
- 1.3 All references to clauses if not further specified, are references to clauses in this agreement (each a "Clause").
- 1.4 Terms not defined in Clause 1.1 above shall, unless the context requires otherwise, bear the meaning given to them in the Schedules hereto.
- 1.5 All Schedules hereto shall form an integral part of this Agreement and shall constitute the rights and obligations of the parties provided herein.

## **2 Schuldschein Loan, Disbursement**

- 2.1 The Lender will grant to the Borrower a Schuldschein loan (the "Schuldschein Loan") in the principal amount of EUR 1,000,000,000 (in words Euro one billion) (the "Principal Amount").
- 2.2 On the Disbursement Date, the Lender will disburse the Schuldschein Loan to the Borrower. The Lender will credit the Disbursement Amount on order of the Borrower to an account separately agreed between the Lender and the Borrower.
- 2.3 The Schuldschein Loan will be evidenced by the Schuldschein signed by the Borrower on the Disbursement Date and delivered to the Lender.

## **3 Status**

- 3.1 The payment obligations under the Schuldschein Loan constitute direct, unsecured and subordinated obligations of the Borrower. In the event of resolution measures imposed on the Borrower and in the event of the insolvency, dissolution, liquidation, composition or other proceedings for the avoidance of insolvency of, or against, the Borrower,
  - (a) the obligations under the Schuldschein Loan rank *pari passu* with all other present or future subordinated obligations of the Borrower under instruments which, pursuant to their terms or mandatory provisions of law rank *pari passu* with the obligations of the Borrower under this Schuldschein Loan;

- (b) the obligations under the *Schuldschein* Loan rank senior to all present or future subordinated obligations of the Borrower that pursuant to their terms or mandatory provisions of law rank subordinated to the *Schuldschein* Loan, including the obligations of the Borrower under any Additional Tier 1 instruments of the Borrower pursuant to Article 52 *et seq.* CRR, if any; and
- (c) the obligations under the *Schuldschein* Loan will be fully subordinated to the present or future Borrower's Senior Ranking Obligations (as defined below), so that in any such event the claims of the Lender in respect of the *Schuldschein* Loan (in particular the claims for payment of principal and interest, if any) will only be satisfied if all of the Borrower's Senior Ranking Obligations have first been satisfied in full.

**"Borrower's Senior Ranking Obligations" means**

- (i) the unsubordinated obligations of the Borrower (including obligations of the Borrower under its non-preferred unsubordinated debt instruments within the meaning of § 46f(6) sentence 1 of the German Banking Act (*Kreditwesengesetz* – "KWG") or any successor provision thereto);
- (ii) the legally subordinated obligations of the Borrower within the meaning of § 39(1) Nos. 1-5 of the German Insolvency Code (*Insolvenzordnung* – "InsO") or any successor provision thereto;
- (iii) the contractually subordinated obligations of the Borrower within the meaning of § 39(2) InsO or any successor provision thereto that, at the relevant point in time, do not result from an own funds item of the Borrower; and
- (iv) any other obligations of the Borrower which, pursuant to their terms or mandatory provisions of law, rank senior to the *Schuldschein* Loan.

**3.2** The Lender may not set off his claims arising under the *Schuldschein* Loan against any claims that the Borrower may have against it.

**3.3** No security or guarantee of whatever kind is, or shall at any time be, provided by the Borrower or any other person securing rights of the Lender under the *Schuldschein* Loan.

**3.4** § 489 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall be excluded.

**3.5** Prior to any insolvency or liquidation of the Borrower, under bank resolution laws applicable to the Borrower from time to time, the competent resolution authority may write down (including to zero) the obligations of the Borrower under the *Schuldschein* Loan, convert them into shares or other instruments of ownership of the Borrower or apply any other resolution measure, including (but not limited to) any transfer of the obligations to another entity, an amendment of this Agreement or a cancellation of the *Schuldschein* Loan. The Lender shall not have any claim against the Borrower for any negative consequences in connection with or arising out of any such measures.

#### **4 Interest**

**4.1** The *Schuldschein* Loan will bear interest on the Principal Amount from and including 27 October 2020 (the "Interest Commencement Date") to but excluding the first Interest Payment Date and thereafter from and including each Interest Payment Date to but excluding the next following Interest Payment Date (each such period, an "Interest Period") at the relevant Rate of Interest (as defined below) for the relevant Interest Period.

- 4.2** Interest on the Schuldschein Loan will be payable quarterly in arrear on 27 January, 27 April, 27 July and 27 October (each an "Interest Payment Date") in each year, commencing on 27 January 2021. If the relevant Interest Payment Date is not a Business Day, the Interest Payment Date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event the Interest Payment Date shall be brought forward to the immediately preceding Business Day (modified following business day convention adjusted).
- 4.3** The rate of interest (the "Rate of Interest") for the relevant Interest Period shall be equal to the sum of the Reference Rate and the Margin (as defined below), which sum shall be subject to a minimum Rate of Interest of zero (0) per cent. *per annum*, all as determined by the Calculation Agent on the relevant Interest Determination Date.
- 4.4** The "Reference Rate" for each Interest Period will be determined as follows:
- 4.4.1** For each Interest Period beginning prior to the occurrence of the relevant Effective Date (as defined below), the Reference Rate will be equal to the Original Benchmark Rate on the relevant Interest Determination Date.
- If the Original Benchmark Rate does not appear on the Screen Page as at such time on the relevant Interest Determination Date, the "Reference Rate" will be equal to the Reference Bank Rate on that Interest Determination Date.
- If the Reference Bank Rate cannot be determined in accordance with the definition of such term, the "Reference Rate" shall be equal to the Original Benchmark Rate on the Screen Page on the last day preceding the Interest Determination Date on which such Original Benchmark Rate was displayed.
- 4.4.2** For each Interest Period commencing on or after the relevant Effective Date, the "Reference Rate" will be determined in accordance with Clause 4.7.
- 4.5** Definitions
- "Euro-Zone" means the region comprised of those member states of the European Union that have adopted, or will have adopted from time to time, the single currency in accordance with the Treaty establishing the European Community (signed in Rome on 25 March 1957), as amended by the Treaty on European Union (signed in Maastricht on 7 February 1992) and the Amsterdam Treaty of 2 October 1997, as further amended from time to time.
- "Interest Determination Date" means the means the second TARGET Business Day prior to the commencement of the relevant Interest Period.
- "Margin" means 1.6 per cent. *per annum*.
- "Original Benchmark Rate" means the three-month Euro Interbank Offered Rate (expressed as a percentage rate *per annum*) fixed at, and appearing on, the Screen Page as of 11:00 a.m. (Brussels time) on the relevant Interest Determination Date.
- "Reference Bank Rate" means the rate (expressed as a percentage rate *per annum*) at which the Reference Banks (as defined below) offer to prime banks in the Euro-Zone interbank market and in a Representative Amount, assuming an Actual/360 day count basis, deposits in Euro at approximately 11:00 a.m. (Brussels time) on the relevant Interest Determination Date for the relevant Interest Period determined as follows: The Calculation Agent shall request each of the Reference Banks (as defined below) to provide the Calculation Agent with its offered quotation. If two or more of the Reference Banks provide

the Calculation Agent with such offered quotations, the Reference Rate for such Interest Period shall be the arithmetic mean (rounded, if necessary, to the nearest one thousandth of a percentage point, with 0.0005 being rounded upwards) of such offered quotations, all as determined by the Calculation Agent.

If on the relevant Interest Determination Date only one or none of the Reference Banks provides the Calculation Agent with such offered quotations as provided in the preceding paragraph, the Reference Bank Rate for the relevant Interest Period shall be the rate *per annum* which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the nearest one thousandth of a percentage point, with 0.0005 being rounded upwards) of the rates, as communicated at approximately 11:00 a.m. (Brussels time) at the request of the Calculation Agent to the Calculation Agent by major banks in the Euro-Zone interbank market, selected by the Calculation Agent, at which such banks offer, on the relevant Interest Determination Date, loans in Euro for the relevant Interest Period and in a Representative Amount to leading European banks.

"Reference Banks" means the principal Euro-Zone office of four major banks in the Euro-Zone interbank market, in each case selected by the Borrower.

"Representative Amount" means an amount that is representative for a single transaction in the relevant market at the relevant time.

"Screen Page" means the Reuters screen page EURIBOR01 or such other screen page of Reuters or such other information service which is the successor to the Reuters screen page EURIBOR01.

- 4.6** The Calculation Agent will, on or as soon as practicable after each time at which the Rate of Interest is to be determined, determine the Rate of Interest and calculate the amount of interest (the "Interest Amount") payable on the Schuldschein Loan in respect of the Principal Amount for the relevant Interest Period. Each Interest Amount shall be calculated by applying the Rate of Interest and the Day Count Fraction (as defined below) to the Principal Amount and rounding the resulting figure to the nearest 0.01 Euro, 0.005 Euro being rounded upwards.

"Day Count Fraction" means, in respect of the calculation of an amount of interest on the Schuldschein Loan for any period of time (from and including the first day of such period to but excluding the last day of such period) (the "Calculation Period"), the actual number of days in the Calculation Period divided by 360 (Actual/360).

**4.7 Benchmark Event**

If a Benchmark Event (as defined below) occurs in relation to the Original Benchmark Rate, the relevant Reference Rate and the interest on the Schuldschein Loan in accordance with this Clause 4 will be determined as follows

- 4.7.1** *Calculation Agent Determination.* The Borrower shall, as soon as this is (in the Borrower's view) required following the occurrence of the Benchmark Event and prior to the next Interest Determination Date, instruct the Calculation Agent to determine a New Benchmark Rate (as defined below), the Adjustment Spread (as defined below) and any Benchmark Amendments (in accordance with Clause 4.7.4).
- 4.7.2** *Fallback rate.* If, prior to the 10<sup>th</sup> Business Day prior to the relevant Interest Determination Date, the Calculation Agent has not determined a New Benchmark Rate, has not determined the Adjustment Spread and/or has not determined the

Benchmark Amendments (if required) in accordance with this Clause 4.7, the Reference Rate applicable to the immediately following Interest Period shall be the Reference Rate determined on the last Interest Determination Date immediately preceding the relevant Effective Date.

If the fallback rate determined in accordance with this Clause 4.7.2 is to be applied, Clause 4.7 will be operated again to determine the Reference Rate applicable to the next subsequent (and, if required, further subsequent) Interest Period(s).

**4.7.3** *Successor Benchmark Rate or Alternative Benchmark Rate.* If the Calculation Agent determines in its reasonable discretion that:

- (i) there is a Successor Benchmark Rate, then such Successor Benchmark Rate shall subsequently be the New Benchmark Rate; or
- (ii) there is no Successor Benchmark Rate but that there is an Alternative Benchmark Rate, then such Alternative Benchmark Rate shall subsequently be the New Benchmark Rate.

In either case the "Reference Rate" for the immediately following Interest Period and all following Interest Periods, subject to Clause 4.7.9, will then be (x) the New Benchmark Rate on the relevant Interest Determination Date plus (y) the Adjustment Spread.

**4.7.4** *Benchmark Amendments.* If any relevant New Benchmark Rate and the applicable Adjustment Spread are determined in accordance with this Clause 4.7, and if the Calculation Agent determines that amendments to this Agreement are necessary to ensure the proper operation of such New Benchmark Rate and the applicable Adjustment Spread (such amendments, the "Benchmark Amendments"), then the Calculation Agent will determine the Benchmark Amendments and the Borrower will give notice thereof in accordance with Clause 4.7.5.

The Benchmark Amendments may include, without limitation, the following conditions of this Agreement:

- (i) the Reference Rate including the "Screen Page" and/or (in replacement of the second and third paragraphs of the definition of the term "Reference Rate" in Clause 4.4.1) the method for determining the fallback rate in relation to the Reference Rate, including the Reference Bank Rate; and/or
- (ii) the definitions and terms relating to "Business Day", "Interest Payment Date", "business day convention", "Interest Period", "Day Count Fraction" and/or "Interest Determination Date" (including the determination whether the Reference Rate will be determined on a forward-looking or a backward-looking basis); and/or
- (iii) the payment business day condition in Clause 6.4.

**4.7.5** *Notices, etc.* The Borrower will notify any New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this Clause 4.7 to the Lender as soon as such notification is (in the Borrower's view) required following the determination thereof, but in any event not later than on the 10<sup>th</sup> Business Day prior to the relevant Interest Determination Date. Such notice shall be irrevocable and shall specify the Effective Date.



The New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any), each as specified in such notice, will be binding on the Borrower and the Lender. This Agreement shall be deemed to have been amended by the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments with effect from the Effective Date.

**4.7.6 Definitions.** As used in this Clause 4.7:

The "Adjustment Spread", which may be positive, negative or zero, will be expressed in basis points and means either (a) the spread, or (b) the result of the operation of the formula or methodology for calculating the spread, which

- (1) in the case of a Successor Benchmark Rate, is formally recommended in relation to the replacement of the Original Benchmark Rate with the Successor Benchmark Rate by any Relevant Nominating Body; or
- (2) (if no such recommendation has been made, or in the case of an Alternative Benchmark Rate) is customarily applied to the New Benchmark Rate in the international debt capital markets to produce an industry-accepted replacement Benchmark rate for the Original Benchmark Rate, provided that all determinations will be made by the Calculation Agent in its reasonable discretion; or
- (3) (if the Calculation Agent in its reasonable discretion determines that no such spread is customarily applied and that the following would be appropriate for the *Schuldschein* Loan) is recognised or acknowledged as being the industry standard for over-the-counter derivative transactions which reference the Original Benchmark Rate, where the Original Benchmark Rate has been replaced by the New Benchmark Rate, provided that all determinations will be made by the Calculation Agent in its reasonable discretion.

"Alternative Benchmark Rate" means an alternative Benchmark or screen rate which is customarily applied in the international debt capital markets for the purpose of determining floating rates of interest in the Specified Currency, provided that all determinations will be made by the Calculation Agent.

A "Benchmark Event" occurs if:

- (1) the Original Benchmark Rate ceases to be published on a regular basis or ceases to exist; or
- (2) a public statement by the administrator of the Original Benchmark Rate is made that it has ceased or that it will cease publishing the Original Benchmark Rate permanently or indefinitely (in circumstances where no successor administrator has been appointed that will continue the publication of the Original Benchmark Rate); or
- (3) a public statement by the supervisor of the administrator of the Original Benchmark Rate is made that the Original Benchmark Rate has been or will be permanently or indefinitely discontinued; or
- (4) a public statement by the supervisor of the administrator of the Original Benchmark Rate is made as a consequence of which the Original Benchmark Rate will be prohibited from being used either generally, or in respect of the *Schuldschein* Loan; or

- (5) it has become unlawful for any Paying Agent, the Calculation Agent, the Borrower or any other party to calculate any payments due to be made to the Lender using the Original Benchmark Rate; or
- (6) a public statement by the supervisor for the administrator of the Original Benchmark Rate is made announcing that the Original Benchmark Rate is no longer representative; or
- (7) the methodology for the determination of the Original Benchmark Rate is materially altered compared to the methodology as used by the administrator of the Original Benchmark Rate at the Interest Commencement Date.

**"Successor Benchmark Rate"** means a successor to or replacement of the Original Benchmark Rate which is formally recommended by any Relevant Nominating Body.

**"New Benchmark Rate"** means the Successor Benchmark Rate or, as the case may be, the Alternative Benchmark Rate determined in accordance with this Clause 4.7.

**"Relevant Nominating Body"** means, in respect of the replacement of the Original Benchmark Rate:

- (1) the central bank for the currency to which the Benchmark or screen rate (as applicable) relates, or any central bank or other supervisory authority which is responsible for supervising the administrator of the Benchmark or screen rate (as applicable); or
- (2) any working group or committee sponsored by, chaired or co-chaired by or constituted at the request of (a) the central bank for the currency to which the Benchmark or screen rate (as applicable) relates, (b) any central bank or other supervisory authority which is responsible for supervising the administrator of the Benchmark or screen rate (as applicable), (c) a group of the aforementioned central banks or other supervisory authorities or (d) the Financial Stability Board or any part thereof.

4.7.7 The effective date for the application of the New Benchmark Rate, the Adjustment Spread and the Benchmark Amendments (if any) determined under this Clause 4.7 (the "Effective Date") will be the Interest Determination Date falling on or after the earliest of the following dates:

- (i) if the Benchmark Event has occurred as a result of clauses (1), (6) or (7) of the definition of the term "Benchmark Event", the date of the occurrence of the Benchmark Event, or
- (ii) if the Benchmark Event has occurred as a result of clauses (2) or (3) of the definition of the term "Benchmark Event", the date of cessation of publication of the Original Benchmark Rate or of the discontinuation of the Original Benchmark Rate, as the case may be; or
- (iii) if the Benchmark Event has occurred as a result of clauses (4) or (5) of the definition of the term "Benchmark Event", the date from which the prohibition applies.

4.7.8 If a Benchmark Event occurs in relation to any New Benchmark Rate, this Clause 4.7 shall apply *mutatis mutandis* to the replacement of such New Benchmark Rate by any new Successor Benchmark Rate or Alternative Benchmark Rate, as the case

may be. In this case, any reference in this Clause 4 to the term Original Benchmark Rate shall be deemed to be a reference to the New Benchmark Rate that last applied.

- 4.7.9 Any adjustments to the Schuldschein Loan in accordance with this Clause 4.7 in case of a Benchmark Event will only be made if and to the extent that the Schuldschein Loan would cease qualify as a Tier 2 instrument of the Borrower pursuant to Article 63 CRR as a result of such adjustment.

If this Clause 4.7.9 is to be applied on any Interest Determination Date, the Reference Rate applicable to the next and each subsequent Interest Period shall be the Original Benchmark Rate determined on the last preceding Interest Determination Date.

- 4.8 The Schuldschein Loan shall cease to bear interest from the beginning of the day on which it is due for repayment. If the Borrower shall fail to repay the Schuldschein Loan when due, interest shall continue to accrue on the outstanding principal amount of the Schuldschein Loan from and including the due date to but excluding the date of the actual repayment of the Schuldschein Loan at the default rate of interest established by law<sup>1</sup>.

## 5 Repayment

- 5.1 The Borrower will repay the Schuldschein Loan to the Lender at the Principal Amount on the Maturity Date.

After the full and complete repayment of the Schuldschein Loan (including interest and fees payable under this Agreement) in accordance with this Clause 5, the Lender will return the Schuldschein to the Borrower without undue delay.

- 5.2 The Borrower may, subject to the Conditions to Repayment pursuant to Clause 5.5 being met, repay the Schuldschein Loan, in whole but not in part, on the next Interest Payment Date upon giving notice in accordance with Clause 5.6, if there is a change in the regulatory classification of the Schuldschein Loan that would be likely to result in its exclusion in full or in part from own funds or reclassification as own funds of lower quality (in each case, on an individual basis of the Borrower and/or on a sub-consolidated basis of the Borrower) compared to the Disbursement Date.

If the Borrower exercises its call right in accordance with this Clause 5.2, and if the Conditions to Repayment pursuant to Clause 5.5 are fulfilled on the date fixed for repayment, the Borrower will repay the Schuldschein Loan at the Principal Amount together with interest (if any) accrued to but excluding the date fixed for repayment on the date fixed for repayment.

- 5.3 If the tax treatment of the Schuldschein Loan, due to a change in applicable legislation, including a change in any fiscal or regulatory legislation, rules or practices, which takes effect after the Interest Commencement Date, changes (i.e. any changes to the tax deductibility of interest payable on the Schuldschein Loan or any changes in the tax treatment of the Schuldschein Loan resulting in a withholding or deduction of taxes on amounts on interest payable in respect of the Schuldschein Loan) and the Borrower determines, in its own discretion, that such change has a material adverse effect on the Borrower, the Borrower may, subject to the Conditions to Repayment pursuant to Clause 5.5 being met, repay the

<sup>1</sup> Pursuant to §§ 288(1), 247 of the German Civil Code (BGB), the default rate of interest per year established by law is five percentage points above the basic rate of interest published by Deutsche Bundesbank from time to time.

Schuldschein Loan, in whole but not in part, on the next Interest Payment Date upon giving notice in accordance with Clause 5.6.

If the Borrower exercises its call right in accordance with this Clause 5.3, and if the Conditions to Repayment pursuant to Clause 5.5 are fulfilled on the date fixed for repayment, the Borrower will repay the Schuldschein Loan at the Principal Amount together with interest (if any) accrued to but excluding the date fixed for repayment on the date fixed for repayment.

- 5.4** The Borrower may, subject to the Conditions to Repayment pursuant to Clause 5.5 being met, repay the Schuldschein Loan, in whole but not in part, upon giving notice in accordance with Clause 5.6 with effect as of 27 October 2025 and with effect as of each Interest Payment Date thereafter (each a "Repayment Date").

If the Borrower exercises its call right in accordance with this Clause 5.4, and if the Conditions to Repayment pursuant to Clause 5.5 are fulfilled on the Repayment Date, the Borrower will repay the Schuldschein Loan at the Principal Amount together with interest (if any) accrued to but excluding the Repayment Date on the Repayment Date.

- 5.5** Any early repayment pursuant to Clauses 5.2, 5.3 and 5.4 shall be subject to the following conditions (the "Conditions to Repayment"):

**5.5.1** The Borrower has obtained the prior consent of the competent supervisory authority and or the competent resolution authority for the repayment in accordance with Articles 77 *et seqq.* CRR (or any successor provision). At the time of the issuance of the Schuldschein Loan, any prior consent pursuant to Article 78 CRR requires, amongst others, that either of the following condition is met:

- (i) before or at the same time as the repayment, the Borrower replaces the Schuldschein Loan with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the Borrower; or
- (ii) the Borrower demonstrates to the satisfaction of the competent supervisory authority that the own funds and eligible liabilities of the Borrower would, following such repayment, exceed the requirements laid down in the CRR, the CRD and the BRRD by a margin that the competent authority considers necessary.

**5.5.2** In addition to Clause 5.5.1, in respect of a repayment prior to the fifth anniversary of the Disbursement Date of the Schuldschein Loan:

- (i) In the case of repayment for regulatory reasons pursuant to Clause 5.2, the competent supervisory authority considers the change in the regulatory classification to be sufficiently certain and the Borrower demonstrates to the satisfaction of the competent supervisory authority that the regulatory reclassification of the Schuldschein Loan was not reasonably foreseeable on the Disbursement Date.
- (ii) In the case of repayment for reasons of taxation pursuant to Clause 5.3, the Borrower demonstrates to the satisfaction of the competent authority that the change in the applicable tax treatment of the Schuldschein Loan is material and was not reasonably foreseeable on the Disbursement Date.

A repayment of the Schuldschein Loan prior to the fifth anniversary of the Disbursement Date of the Schuldschein Loan that does not meet the conditions set forth under (i) and (ii) requires that before or at the same time of the repayment the

Borrower replaces the Schuldschein Loan with own funds instruments of equal or higher quality at terms that are sustainable for the income capacity of the Borrower and the competent authority has permitted the repayment on the basis of the determination that it would be beneficial from a prudential point of view and justified by exceptional circumstances.

Notwithstanding the above conditions, if, at the time of any repayment, the Applicable Supervisory Regulations permit the repayment only after compliance with one or more alternative or additional pre-conditions to those set out above, the Borrower shall comply with such other and/or, as appropriate, additional pre-conditions, if any.

For the avoidance of doubt, any refusal of the competent supervisory authority of the Borrower to grant prior consent in accordance with Articles 77 et seqq. CRR shall not constitute a default for any purpose.

- 5.6** Notices pursuant to Clauses 5.2, 5.3 and 5.4 shall be given not less than 30 and not more than 60 days' prior to the date fixed for repayment in accordance with Clause 8. Such notice shall state the date fixed for repayment and, in the case of a notice pursuant to Clause or 5.3, the reason for the repayment.

## **6 Payments**

- 6.1** The Borrower will make all payments due under this Agreement to an account as advised by the Lender by giving at least thirty (30) calendar days' prior notice.
- 6.2** Payments will be subject in all cases to any fiscal or other laws, rules and regulations applicable thereto. In particular, without limitation, the Borrower shall only be obliged to make any payments to any Joining Lender, after it has been able to comply with any know-your-customer requirements or anti money laundering regulations or sanctions pursuant to any applicable laws, rules, regulations, internal guidelines or otherwise.
- 6.3** The Lender may from time to time be requested by the Borrower to provide certain information required by applicable law (including know-your-customer requirements and anti-money-laundering regulations) in order to receive any payments hereunder, provided that such request must be made by the Borrower at least 30 Business Days prior to the respective due date.
- 6.4** If the due date for payment of any amount of principal is not a Business Day, such due date shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event the due date shall be brought forward to the immediately preceding Business Day (modified following business day convention adjusted).

## **7 No Taxes Gross-Up**

- 7.1** All payments in respect of the Schuldschein Loan will be made with deduction or withholding of taxes or other duties if any such deduction or withholding is required by law.

**The Borrower will not be obliged to pay any additional amounts of principal and/or interest as a result of any such deduction or withholding.**

## **8 Notices**

- 8.1** All communications under this Agreement will be made by letter or facsimile.

8.2 Unless a change of address, email address or fax number has been notified in writing, any communication under this Agreement will be made to the following addresses:

8.2.1 If made to the Borrower to it at:

**Morgan Stanley Europe Holding SE**  
Große Gallusstraße 18  
60312 Frankfurt am Main  
Germany

[REDACTED]  
[REDACTED]

8.2.2 If made to the Calculation Agent, to it at:

**Morgan Stanley Europe SE**  
Große Gallusstraße 18  
60312 Frankfurt am Main  
Germany

[REDACTED]  
[REDACTED]

8.2.3 If made to the Lender, to it at:

**Morgan Stanley International Limited**  
25 Cabot Square  
Canary Wharf  
London E14 4QA  
United Kingdom

[REDACTED]  
[REDACTED]  
[REDACTED]

## 9 Transfer

9.1 At its own cost the Lender may, with the prior written consent of the Borrower, transfer its rights, claims and obligations under this Agreement in whole or in part in a minimum amount of at least EUR 5,000,000 and integral multiples thereof to any credit institution within the meaning of Article 4 para. 1 subpara. 1 CRR (the "Joining Lender"). The Lender may not transfer an amount of principal and the amount of interest accrued thereon separately.

9.1.1 A transfer by the Lender of its rights, claims and obligations under this Agreement will be effected by way of (partial) assumption of contract (*teilweise Vertragsübernahme*). The Lender will deliver to the Borrower a copy of a duly completed and duly signed agreement substantially in the form set out in **Schedule 2** ("Transfer Agreement") of this Agreement.

9.1.2 The Lender will promptly notify the Borrower of any envisaged transfer pursuant to this Clause 9.1 and the date on which such transfer should become effective (the "Transfer Date") in a facsimile letter substantially in the form of the Attachment to the form of Transfer Agreement in **Schedule 2** hereto.

9.1.3 Upon the execution of the Transfer Agreement, the Borrower and the Lender, to the extent provided in such Transfer Agreement and to the extent the Schuldschein Loan

is transferred, shall each be released from further obligations to each other under the Schuldschein Loan and their respective rights against each other will be cancelled.

9.1.4 Following any effective transfer to a Joining Lender, such Joining Lender shall constitute a "Lender" for the purposes of this Agreement and any reference to "the Lender", "a Lender" or "any Lender" shall be deemed to include such Joining Lender.

9.2 At its own cost the Lender shall be authorized transfer its rights, claims and obligations under this Agreement in whole or in part (directly or indirectly) to any central bank of the European Central Bank ("ECB") system as security for refinancing purposes. For the validity of such transfer expressly no formal requirements and obligations to inform the Borrower shall be required. Likewise, in case of such transfers being made by any central bank of the ECB system expressly no formal requirements and obligations to inform the Borrower shall be required. In case of the liquidation of any rights arising out of this Agreement by any central bank of the ECB system, the restrictions under Clause 9.1 shall not apply.

9.3 If the Lender transfers its claims under this Agreement to a Joining Lender pursuant to Clause 9.1, and such transfer is notified to the Borrower no later than ten (10) Business Days prior to a relevant payment date, the Borrower will be discharged from its respective payment obligation only by making payment to the Joining Lender or a bank or other institution or person designated by it. Such transfer is notified in any case by the Lender to the Borrower in accordance with the **Attachment to Schedule 2** (*Form of notice from the Lender to Borrower*) on the Transfer Date. Such notification is not permissible during the period from, and including, the tenth (10th) Business Day prior to the relevant payment date. Solely after such due notification, a Joining Lender may claim payments under the Schuldschein Loan.

## 10 Calculation Agent

10.1 The Borrower appoints Morgan Stanley Europe SE as Calculation Agent ("Calculation Agent"). The Calculation Agent hereby accepts such appointment.

10.2 The Parties agree that there will at all times be a Calculation Agent. The Borrower (without the prior approval of the Lender) is entitled to terminate the appointment of the Calculation Agent and/or to appoint another bank of international standing as Calculation Agent. Any such appointment or termination will be notified to the Lender without undue delay in accordance with Clause 8.

10.3 The Calculation Agent (if at any time and for so long as different from the Borrower) acting in such capacity, acts as agent of the Borrower. The Calculation Agent (if at any time and for so long as different from the Borrower) is hereby granted exemption from the restrictions of § 181 of the German Civil Code (*Bürgerliches Gesetzbuch*) and any similar restrictions of the applicable laws of any other jurisdiction.

10.4 The calculations and determinations of the Calculation Agent shall be final and binding upon the parties (save in the case of manifest error). The Calculation Agent shall act in good faith in the calculation of any amounts as provided herein. Any price, number, currency amount or percentage calculated by the Calculation Agent under the Schuldschein Loan will be rounded to such number of decimal places and in such a manner as the Calculation Agent determines in its absolute discretion.

## **11 Recognition of the U.S. Special Resolution Regime**

**11.1** In the event that any Lender that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Lender of this Schuldschein Loan, and any interest and obligation in or under this Schuldschein Loan, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Schuldschein Loan, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

**11.2** In the event that any Lender that is a Covered Entity or a Covered Affiliate of any such Lender becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Schuldschein Loan that may be exercised against such Lender are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Schuldschein Loan was governed by the laws of the United States or a state of the United States.

**11.3** In this Clause 11:

"Covered Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.Code § 1841(k).

"Covered Entity" means any of the following:

- (i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 Code of Federal Regulation § 252.82(b);
- (ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 Code of Federal Regulation § 47.3(b); or
- (iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 Code of Federal Regulation § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 Code of Federal Regulation §§ 252.81, 47.2 or 382.1, as applicable.

"U.S. Special Resolution Regime" means each of (i) the U.S. Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

## **12 Miscellaneous**

**12.1** The general terms of business of the Lender and the Borrower will not apply to this Agreement.

**12.2** Should any provision of this Agreement be or become wholly or partly invalid or ineffective or should this Agreement contain an unintentional omission, this shall not affect the validity or effectiveness of the remaining provisions hereof. In lieu of the invalid or ineffective provision or to fill the unintentional gap a legally valid provision shall apply which corresponds to the extent possible to the economic intention of the parties, respectively to what the parties would have intended in terms of the aim and purpose of this Agreement, had they recognised the gap.

**12.3** Any provision of this Agreement, including this Clause 12.3, may be amended or supplemented only if all parties thereto agree in writing.



- 12.4** The form and content of this Agreement and all rights and obligations arising hereunder will be governed exclusively by, and construed in accordance with the laws of Germany.
- 12.5** Place of performance will be Frankfurt am Main, Germany.
- 12.6** Any action or other legal proceedings arising out of or in connection with the Agreement will be brought in the District Court (*Landgericht*) in Frankfurt am Main, Germany.

**Schedule 1**  
**Form of Schuldschein (Certificate of Indebtedness)**

**SCHULDSCHEIN**  
**(Certificate of Indebtedness)**

**Morgan Stanley Europe Holding SE**  
a company incorporated in the Federal Republic of Germany whose registered office is at  
Große Gallusstraße 18, 60312 Frankfurt am Main, Federal Republic of Germany

confirms to have received from

**Morgan Stanley International Limited**  
a company incorporated in the United Kingdom whose registered office is at 25 Cabot Square,  
Canary Wharf, London E14 4QA, United Kingdom

on 27 October 2020  
(the "Disbursement Date"),

a Schuldschein loan in the principal amount of  
**EUR 1,000,000,000**  
(in words: Euro one billion)

(the "Schuldschein Loan")

subject to the terms and conditions of the  
Schuldschein Loan Agreement attached hereto.

Frankfurt am Main, 27 October 2020

By: \_\_\_\_\_

By: \_\_\_\_\_

Attachment: Schuldschein Loan Agreement

**Schedule 2**  
**Form of Transfer Agreement**

**Transfer Agreement**

**This Transfer Agreement is dated [•] and made between**

**Morgan Stanley International Limited (the "Lender")**

**and**

**[Joining Lender] (the "Joining Lender")**

**Morgan Stanley Europe Holding SE (the "Borrower")**

**EUR 1,000,000,000 Floating Rate Tier 2 Schuldschein Loan Agreement due 2031,  
dated 27 October 2020 evidenced by the Schuldschein, dated 27 October 2020  
(the "Schuldschein")**

**Introduction:**

- (A) On 27 October 2020, Morgan Stanley International Limited as the initial Lender has disbursed to Morgan Stanley Europe Holding SE (the "Borrower") a Schuldschein loan in the amount of EUR 1,000,000,000 (the "Schuldschein Loan") upon the terms set forth in the Schuldschein loan agreement, dated 27 October 2020 (the "Agreement"), and evidenced by the Schuldschein.
- (B) Pursuant to Clause 9.1 of the Agreement, the Lender has the right to transfer in whole or in part to a third party its legal position as Lender.
- (C) The Lender is desirous of transferring [part of] its legal position by way of assumption of contract (*Vertragsübernahme*) in the amount of [•] to the Joining Lender, and the Joining Lender is desirous of assuming this legal position of the Lender, including all rights and obligations.

**1 Definitions**

Capitalised terms will have the meaning as defined in the Agreement.

**2 Purchase; Transfer and Assumption**

- 2.1** The Joining Lender purchases from the Lender the Assumed Claims (as defined below) at the purchase price separately agreed between the Lender and the Joining Lender.
- 2.2** With effect as from [the date of this Transfer Agreement] / [enter date] (the "Transfer Date"), the Lender assigns to the Joining Lender [all][part] of its rights under the Agreement [in a principal amount of EUR [•],000,000], including the claims for payment of principal and interest under the Schuldschein Loan and all other rights by contract and by operation of law, as against the Borrower (the "Assumed Claims").
- 2.3** The Joining Lender assumes all of the obligations of the Lender pursuant to the Agreement, as against the Borrower.

- 2.4 Upon the Transfer Date, the Lender will be released from the relevant obligations to the Borrower under the Agreement.
- 2.5 The Borrower has granted its prior consent to the transfer in accordance with Clause 9 of the Agreement.

### **3 Confirmations and Assurances**

- 3.1 The Joining Lender confirms that it has received a copy of the Agreement and the Schuldschein and all other documentation and information required by it in connection with the execution of this Transfer Agreement.
- 3.2 The Joining Lender confirms that it has made, and will continue to make, its own credit assessment of the Borrower and its own assessment of the validity and enforceability of the Agreement, the Schuldschein and the Transfer Agreement and has not relied on the Lender or any statements made by the Lender in that respect.
- 3.3 The Lender represents and warrants that:
- 3.3.1 the Lender is the legal and beneficial owner of the Assumed Claims;
  - 3.3.2 the Assumed Claims currently exist and are free from any encumbrances and rights of any third party; and
- 3.4 The Lender hereby confirms that it has fulfilled its obligations under the Agreement with respect to the transferred position until the date hereof. The Lender gives no representation or warranty and assumes no responsibility with respect to the validity or enforceability of the Agreement or any document related thereto and assumes no responsibility for the financial conditions of the Borrower or for the performance by the Borrower of any of its obligations under the Agreement and any representations and warranties, whether contractual or implied by law or otherwise, are hereby excluded.

### **4 Miscellaneous**

- 4.1 The Lender will notify on the Transfer Date the Borrower of the transfer pursuant to this Transfer Agreement in a letter substantially in the form of the Attachment hereto. The Joining Lender acknowledges that solely after such notification the Joining Lender may claim payments under the Schuldschein Loan and that such notification is not permissible during the period from, and including, the tenth (10th) Business Day prior to the relevant payment date.
- 4.2 Any provision of this Transfer Agreement, including this paragraph 4.2 may be amended or supplemented only if the parties hereto so agree in writing.
- 4.3 This Transfer Agreement will be governed by, and construed in accordance with the laws of Germany.
- 4.4 Place of performance and place of jurisdiction will be Frankfurt am Main, Germany.
- 4.5 If any of the provisions of this Transfer Agreement is invalid or unenforceable such invalidity or unenforceability will not affect the validity of the remaining provisions. In these cases, and in the event that this Transfer Agreement is incomplete, it will be read such that the incompleteness or the provision which is invalid or not capable of performance will be replaced by a new provision which comes closest to the desired commercial result of the provision it replaces and which will apply instead.

**4.6** This Transfer Agreement is executed in two originals, one executed original being provided to each party.

\_\_\_\_\_  
[place]                      [date]

**Morgan Stanley International Limited**

by: \_\_\_\_\_

by: \_\_\_\_\_

[The Joining Lender]

\_\_\_\_\_  
[place]                      [date]

by: \_\_\_\_\_

by: \_\_\_\_\_

**Schedule**  
**to Transfer Agreement**

**Transfer Date** [•]

**Last Interest Payment Date** [•]

**Next Interest Payment Date** [•]

**Contact Details of Joining Lender**

**Name:** [•]

**Address:** [•]

**Phone:** [•]

**Fax:** [•]

**[Email:** [•]]

**Attn.:** [•]

**Account Details of Joining Lender**

**Bank:** [•]

**Account Number/IBAN:** [•]

**Bank Sorting Code/Swift:** [•]

**Account Name:** [•]

**Reference:** [•]

**Attachment**  
**[Form of notice from the Lender to Borrower]**

**Morgan Stanley Europe Holding SE**

Große Gallusstraße 18  
60312 Frankfurt am Main  
Germany

**Morgan Stanley Europe Holding SE (the "Borrower")**  
**EUR 1,000,000,000 Floating Rate Tier 2 Schuldschein Loan Agreement due 2031,**  
**dated 27 October 2020 evidenced by the Schuldschein, dated 27 October 2020**  
**(the "Schuldschein")**

We hereby inform you that we have transferred by way of assumption of contract to [•] (the "Joining Lender") [part][all] of our rights under the Agreement, in particular including the claim for payment of principal and interest and all other rights by contract and by operation of law, as against the Borrower pursuant to the Transfer Agreement, dated [•], attached hereto.

**Transfer Date** [•]  
**Last Interest Payment Date** [•]  
**Next Interest Payment Date** [•]

**Contact Details of Joining Lender** [•]

**Name:** [•]  
**Address:** [•]  
**Phone:** [•]  
**Fax:** [•]  
**[Email** [•]]  
**Attn.:** [•]



**Account Details of Joining Lender**

Bank: [•]  
Account Number: [•]  
Bank Sorting Code [•]  
Account Name: [•]  
Reference: [•]

Sincerely yours,

**Morgan Stanley International Limited**

By:

Attachment:

**Signature Page  
to the Schuldschein Loan Agreement**

This Schuldschein Loan Agreement has been entered into on the date first stated above.

**MORGAN STANLEY EUROPE HOLDING SE**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

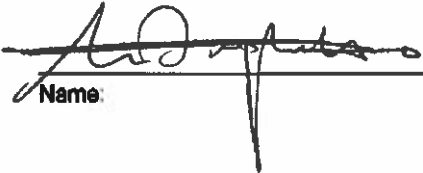
**MORGAN STANLEY INTERNATIONAL LIMITED**

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

**MORGAN STANLEY EUROPE SE**

as Calculation Agent

  
\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name: