

***PARI PASSU* AGREEMENT**

dated [*], 2010

between

The Depositors' and Investors' Guarantee Fund of Iceland

and

The Dutch Central Bank

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This **PARI PASSU AGREEMENT**, dated [**], 2010 (this "*Pari Passu Agreement*"), between **THE DEPOSITORS' AND INVESTORS' GUARANTEE FUND OF ICELAND** (*Tryggingarsjóður Innstæðueigenda og Fjárfesta*), a private foundation incorporated under the laws of Iceland (the "*Guarantee Fund*"), and **THE DUTCH CENTRAL BANK** (*De Nederlandsche Bank N.V.*), a limited liability company (*naamloze vennootschap*) incorporated under the laws of the Netherlands with its corporate seat in Amsterdam, the Netherlands, ("*DNB*" and, together with the Guarantee Fund collectively, the "*Parties*").

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WHEREAS, the Guarantee Fund, Iceland and the State of the Netherlands have entered into the Reimbursement and Indemnity Agreement.

WHEREAS, it is a condition precedent to the effectiveness of the Reimbursement and Indemnity Agreement that Guarantee Fund and DNB shall have entered into the this *Pari Passu* Agreement.

ARTICLE I DEFINITIONS

Section 1.1 *Certain Defined Terms.* (a) As used in this *Pari Passu* Agreement, the terms defined in Schedule I shall have the meaning set out in that Schedule.

Section 1.2 *Other Interpretative Provisions.* (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) In this *Pari Passu* Agreement (i) references to agreements (including this *Pari Passu* Agreement) and other documents shall be deemed to include all subsequent amendments and other modifications thereto and (ii) references to any Applicable Law are to be construed as including all statutory and regulatory provisions or rules consolidating, amending, replacing, supplementing, interpreting or implementing such Applicable Law.

ARTICLE II PARI PASSU TREATMENT

Section 2.1 *Pari passu treatment.* For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

(a) to the extent that, following the assignment by DNB to the Guarantee Fund of all claims of the Landsbanki Amsterdam Depositors against Landsbanki (both as defined in the Reimbursement and Indemnity Agreement) assigned to DNB in connection with its payment of compensation in respect of those claims, as recorded in the DNB Assignment Agreement, DNB retains any part of any claim (due to the fact that such claim exceeds the amount assigned to the Guarantee Fund), then the part of the claim which has been assigned to the Guarantee Fund shall, to the fullest extent permitted by Applicable Law, rank *pari passu* in all respects with the part of that claim retained by DNB;

(b) in the event that, for any reason whatsoever (including, without limitation, any preferential status accorded to the Guarantee Fund under any Applicable Law of Iceland), following the assignment of a part of any given claim to the Guarantee Fund, either the Guarantee Fund or DNB experiences a greater *pro rata* level of recovery in respect of such claim, than that experienced by the other, the Guarantee Fund or DNB (as appropriate) shall, as soon as practicable, unless paragraph (c) below applies, make such balancing payment to DNB or the Guarantee Fund, as the case may be, as is necessary to ensure that each of the Guarantee Fund's and DNB's *pro rata* level of recovery in respect of such claim is the same as the other's; and

(c) if (i) a court of Iceland gives a final and non-appealable order or judgment which (A) determines that all or part of any claim assigned to the Guarantee Fund, or the rights retained by DNB, as the case may be, shall be entitled to receive distributions in the Landsbanki estate on a preferential basis relative to other claims originating from the same deposits, and (B) is not in conflict with an advisory opinion obtained from the Court of the European Free Trade Area on that preferential status, or (ii) the Winding-up Board of Landsbanki determines that all or part of any claim assigned to the Guarantee Fund, or the rights retained by DNB, as the case may be, shall be entitled to receive distributions in the Landsbanki estate on a preferential basis relative to the other claims originating from the same deposits but such ruling is not challenged in a court of Iceland by any depositor or creditor and such failure to challenge is not the result of a change of Applicable Law made after the Commencement Date which renders such a challenge more difficult or impossible, then, unless that preferential status results from any revocation, withdrawal, withholding or other ceasing to be in full force and effect, or any modification or amendment of any Applicable Law effected or made after the Commencement Date, the obligation described in paragraph (b) above for the Guarantee Fund or DNB, as the case may be, to make balancing payments shall not apply.

Section 2.2 *Payments.* (a) All payments of any amounts to be made by any Party under this *Pari Passu* Agreement shall be made in the currency in which the relevant amount has been received by such Party, in immediately available funds, without deduction, set-off or counterclaim, to such account in the Netherlands (in the case of DNB) or Iceland (in the case of the Guarantee Fund) as the other Party may have notified to such Party at not less than five Business Days prior notice.

(b) All payments of any amounts payable by any Party under this *Pari Passu* Agreement shall be made free and clear of and without reduction or liability for or on account of any Taxes, *provided* that if any Party shall be required by Applicable Law to deduct any Taxes from such payments, then the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 2.2) the other Party receives an amount equal to the sum it would have received had no such deductions been made.

(c) If any amount has fallen due for payment by a Party under this *Pari Passu* Agreement but remains unpaid in breach of the terms of this *Pari Passu* Agreement, such Party shall pay to other Party compensation on such amount at the Arrears Rate. Any such compensation shall be compounded on each Payment Date with the amount in respect of which it has accrued.

**ARTICLE III
OTHER MATTERS**

Section 3.1 Super-priority. The Guarantee Fund may, at any time, seek to argue that its claim or claims in the winding-up of Landsbanki should enjoy a higher priority in the payment of distributions from the Landsbanki estate than the remaining claims of DNB (any such argument a "*Higher Priority Argument*") and DNB may bring objections to any such Higher Priority Argument raised by the Guarantee Fund, both with the Winding-up Board of Landsbanki, in any court proceedings, in any mediation process which may precede any such court proceeding or otherwise. Neither the Guarantee Fund nor DNB may, however, bring any argument as to the validity, quantum or (save for any Higher Priority Argument) priority of any claim of the other in the Landsbanki winding-up.

Section 3.2 Existing arguments. The Guarantee Fund shall, no later than on the date on which this *Pari Passu* Agreement becomes effective, withdraw any argument it has raised, whether with the Winding-up Board of Landsbanki, in any court proceedings or otherwise, against the validity or quantum or (save for any Higher Priority Argument) priority of any claim of DNB in the Landsbanki winding-up and shall use its best efforts to ensure that process or proceedings instigated by it, whether with Winding-up Board of Landsbanki or in any court or other body with judicial authority, shall be terminated to the extent that they relate to such validity or quantum.

**ARTICLE IV
CONDITIONS PRECEDENT**

Section 4.1 Conditions Precedent. The effectiveness of this *Pari Passu* Agreement is subject to the conditions precedent that:

- (a) the DNB Assignment Agreement shall have been executed by all the parties thereto; and
- (b) the Reimbursement and Indemnity Agreement shall have become effective in accordance with Section 5.1 thereof.

**ARTICLE V
MISCELLANEOUS**

Section 5.1 Notices. All notices, requests, instructions, directions and other communications provided for in this *Pari Passu* Agreement shall be given or made in writing in English by personally delivered letter or by fax (and may be copied, but not validly served, by e-mail) delivered to the intended recipient as follows:

- (a) if to the Guarantee Fund, to it at Borgartun 26, 3rd floor, 105 Reykjavik, Iceland, Fax: +354 590 2606, Attn.: Managing Director, with a copy to Iceland, at Ministry of Finance, Arnarhvoli Lindargötu, 150 Reykjavík, Iceland, Fax: +354 5628280, Attn.:Permanent Secretary;
- (b) if to DNB, to it at Westeinde 1, P.O. Box 98, 1000 AB Amsterdam, The Netherlands, Fax +31 20 524 2517, Attn: Jan Reinder de Carpentier and Sander Timmerman,

Division legal affairs, with a copy to The Netherlands at Ministerie van Financiën, Korte Voorhout 7, 2511 CW The Hague, The Netherlands, P.O. Box 20201, 2500 EE The Hague, The Netherlands, Fax: +31 70 342 79 03, Attn.:Treasurer-General (*Thesaurier-generaal*).

Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given, (i) when personally delivered at the address of the person to be served, at the time when it is so left (or, if left on a day that is not a Business Day, at 8:15am (local time) on the next following Business Day), and (ii) when sent by facsimile transmission, when confirmation of receipt is received from the receiving facsimile machine (or, if sent on a day that is not a Business Day, at 8:15am (local time) on the next following Business Day), *provided* that, in proving the giving of notice under or in connection with this Agreement, it shall be sufficient to prove that the notice was delivered to the address for service.

Section 5.2 Amendments, Etc. Any provision of this *Pari Passu* Agreement may be modified, supplemented or waived only in writing.

Section 5.3 Successors and Assigns. (a) This *Pari Passu* Agreement shall be binding upon and inure to the benefit of the Parties. No Party may assign, transfer or encumber any of its rights or obligations under this *Pari Passu* Agreement (any attempt to do so being null and void *ab initio*).

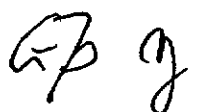
(b) This *Pari Passu* Agreement is made and entered into for the sole protection and legal benefit of the Parties and no other person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this *Pari Passu* Agreement under the Contracts (Rights of Third Parties) Act 1999.

Section 5.4 Captions. The captions and section headings appearing in this *Pari Passu* Agreement are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this *Pari Passu* Agreement.

Section 5.5 Counterparts. This *Pari Passu* Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the Parties may execute this *Pari Passu* Agreement by executing any such counterpart. Each counterpart shall be an original copy of this *Pari Passu* Agreement, but they shall together constitute one and the same instrument.

Section 5.6 Governing Law and Jurisdiction. THIS *PARI PASSU* AGREEMENT AND ANY MATTER, CLAIM OR DISPUTE ARISING OUT OF OR IN CONNECTION WITH IT, WHETHER CONTRACTUAL OR NON-CONTRACTUAL, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF ENGLAND.

Section 5.7 Arbitration. (a) ANY DISPUTE, LEGAL ACTION OR PROCEEDING BY OR AGAINST ANY PARTY TO THIS *PARI PASSU* AGREEMENT WITH RESPECT TO OR ARISING OUT OF THIS *PARI PASSU* AGREEMENT, WHETHER CONTRACTUAL OR NON-CONTRACTUAL AND INCLUDING, WITHOUT LIMITATION, ANY DISPUTE, LEGAL ACTION OR PROCEEDING REGARDING THE EXISTENCE, VALIDITY, FORMATION OR TERMINATION OF THIS *PARI PASSU* AGREEMENT (A "*DISPUTE*")



SHALL BE SETTLED BY FINAL AND BINDING ARBITRATION IN ACCORDANCE WITH THE PCA RULES WHICH RULES ARE DEEMED INCORPORATED BY REFERENCE INTO THIS CLAUSE EXCEPT TO THE EXTENT THAT THEY RELATE TO THE NATIONALITY OF THE ARBITRATOR.

- (b) In any arbitral proceedings as referred to in paragraph (a) above:
- (i) the number of arbitrators shall be three;
 - (ii) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration;
 - (iii) the place of arbitration shall be The Hague, Peace Palace (*Vredespaleis*), the Netherlands;
 - (iv) the language to be used in the arbitral proceedings shall be English;
 - (v) the IBA Rules on the Taking of Evidence in International Arbitration of 29 May 2010 shall apply;
 - (vi) the arbitral tribunal shall use its best efforts to make a final award within twelve months of the appointment of the third arbitrator who acts as the presiding arbitrator of the arbitral tribunal, and shall conduct the arbitral proceedings accordingly;
 - (vii) the arbitral tribunal shall rule in accordance with the laws of England (and not, for the avoidance of doubt, as *amiable compositeur* or *ex aequo et bono*); and
 - (viii) both Parties, the arbitrators and the Secretary-General and the International Bureau of the Permanent Court of Arbitration shall protect the confidentiality of the existence of the arbitral proceedings and of any information received by them in connection with such proceedings.

Section 5.8 *Waiver of Sovereign Immunity*. Each of the Parties consents generally to the issue of any process in connection with any Dispute and to the giving of any type of relief or remedy against it, including, without limitation, the making, enforcement or execution against any of its Property or assets (regardless of its or their use or intended use) of any order, judgment or award (including, for the avoidance of doubt, any arbitral award made in arbitral proceedings pursuant to Section 4.7). If any Party or any of its Property or assets is entitled in any jurisdiction to any immunity from service of process or of other documents relating to any Dispute, or to any immunity from jurisdiction, suit, judgment, award, execution, attachment (whether before judgment, in aid of execution or otherwise) or other legal process, this is irrevocably waived to the fullest extent permitted by the law of that jurisdiction. Each of the Parties also irrevocably agrees not to claim any such immunity for themselves or their respective property or assets.

[Signatures Follow.]

IN WITNESS WHEREOF, the Parties have caused this *Pari Passu* Agreement to be duly executed and delivered as of the day and year first above written.

The Depositors' and Investors' Guarantee Fund of
Iceland (*Tryggingarsjóður Innstæðueigenda og
Fjárfesta*)

By: _____

Name: [*]

Title: [*]

The Dutch Central Bank (*De Nederlandsche Bank
N.V.*)

By: _____

Name: [*]

Title: [*]

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SCHEDULE I
to *Pari Passu* Agreement

“*Applicable Law*” means any applicable statute, law, regulation, ordinance, rule, judgment, rule of common law, order, decree, approval, concession, grant, franchise, license, agreement, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by (or any interpretation or administration of any of the foregoing by), any Governmental Authority, whether in effect as of the date of this *Pari Passu* Agreement or thereafter.

“*Arrears Rate*” means, in relation to any amount and as at any day, a rate *per annum* equal to the sum of (a) the Commercial Interest Reference Rate for the currency in which that amount is expressed as applicable as at that day and as published by the Organisation for Economic Co-operation and Development for a loan with shortest duration for which such rate is available (or, if no such rate is published by that organization, a comparable rate reasonably agreed between the Parties or, if the Parties fail to agree such comparable rate within four weeks after the time when it should be determined, as determined by arbitration in accordance with Section 4.7), and (b) 0.5 per cent. *per annum*.

“*Business Day*” means a day (other than Saturday or Sunday) on which commercial banks are not authorized or required to close in Reykjavik (Iceland) or Amsterdam (The Netherlands).

“*Commencement Date*” means 5 June 2009.

“*DNB*” has the meaning set forth in the introduction to this *Pari Passu* Agreement.

“*DNB Assignment Agreement*” means the Assignment Agreement to be entered into between the Parties in the form agreed between the parties to the Reimbursement and Indemnity Agreement before the date of the Reimbursement and Indemnity Agreement and which complies with Section 6.2 of the Reimbursement and Indemnity Agreement.

“*Guarantee Fund*” has the meaning set forth in the introduction to this *Pari Passu* Agreement.

“*Higher Priority Argument*” has the meaning set forth in Section 3.1.

“*Parties*” has the meaning set forth in the introduction to this *Pari Passu* Agreement.

“*Governmental Authority*” means any nation or government, any state or municipality, any multi-lateral or similar organization or any other agency, instrumentality or political subdivision thereof and any entity exercising executive, legislative, judicial, monetary, regulatory or administrative functions of or pertaining to government.

“*Guarantee Fund*” has the meaning set forth in the introduction to this *Pari Passu* Agreement.

“*Payment Date*” means January 1, April 1, July 1 and September 1 of any year.

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“Reimbursement and Indemnity Agreement” means the Reimbursement and Indemnity Agreement between the Guarantee Fund, Iceland and the State of the Netherlands dated on or about the date of this *Pari Passu Agreement*.

“Taxes” means all present and future income, stamp, registration and other taxes and levies, imposts, deductions, charges and withholdings whatsoever, and all interest, penalties or similar amounts with respect thereto or with respect to the non-payment thereof, now or hereafter imposed, assessed, levied or collected by any authority, on or in respect of this *Pari Passu Agreement*, any payment under this *Pari Passu Agreement* or the recording, registration, notarization or other formalization of any thereof.

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