

THE GOVERNMENT OF ICELAND

- and -

LANDSBANKI ISLANDS


AND

NBI HF.

CAPITALISATION AGREEMENT

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A. Einarsson

THIS AGREEMENT is made on 15 December 2009

BETWEEN:

- (1) **THE ICELANDIC GOVERNMENT**, acting through the Ministry of Finance, (registered ID. 550169-2829), whose registered office is at Arnarhvoll, 150 Reykjavik; ("**Government**"); and
- (2) **NBI H.F.**, (registered ID. 471008-0280), whose registered office is at Austurstraeti 11, 155 Reykjavik, Iceland ("**NBI**"); and
- (3) **LANDSBANKI ÍSLANDS HF.**, (registered ID. 540291-2259, whose registered offices are at Austurstræti 16, 155 Reykjavík ("**LBI**")

WHEREAS:

- (A) On 7 October 2008 the Government incorporated NBI;
- (B) On 9 October 2008 the FME decided on the basis of the Act on Financial Undertakings no. 161/2002, as amended, to transfer certain assets and liabilities from LBI to NBI;
- (C) LBI has the legal obligation and aim to maximise the value of LBI's assets and to safeguard the interests of LBI's creditors;
- (D) The Government is working towards ensuring a stable and functioning banking system in Iceland;
- (E) As at the date of this Agreement, the Government owns 100% of the issued shares in the capital of NBI, being 775,000,000 ordinary shares which it subscribed for on or around 7 October 2008 for an aggregate subscription price of ISK 775,000,000. The Government paid for the shares on October 8, 2008, with payment rendered in the form of cash at a price per share of ISK 1.0;
- (F) The Parties have agreed to carry out and implement certain transactions, with reference to the abovementioned, where LBI will be compensated for the transferred assets moved to NBI according to the FME decisions, and where NBI will be fully capitalized;
- (G) As a part of the abovementioned transactions, the Government, NBI and LBI have agreed to enter into this Capitalisation Agreement (the "**Agreement**");

IT IS AGREED:

1. **Definitions and Interpretation:**

"**Business Day**" means a day except a Saturday or Sunday, on which banks in Reykjavik are open for business generally;

"**Completion**" means the completion of the capitalisation of NBI in accordance with this Agreement;

"**Completion Date**" means the date on which Completion occurs;

"**Encumbrance**" means all security interests, options, equities, claims, or other third party rights including rights of pre-emption of any nature whatsoever;

"**FME**" means The Financial Supervisory Authority of Iceland;

"**Government Bond/Bonds**" means the ISK 121.225.000.000 Government Bonds which will be issued to NBI as consideration for the Government's subscription for Government Subscription Shares;

"**Government Subscription Shares**" has the meaning given in Clause 2.1;

"**Parties**" means the parties to this Agreement, and "**Party**" means each of them;

"**Register of Enterprises**" means the register of enterprises in Iceland;

"**Resolution Committee**" means the resolution committee of LBI from time to time;

"**Signing Date**" means the date of this Agreement;

"**Transaction Documents**" means this Agreement together with to be completed with reference to transaction documents between the parties to this Agreement..

2. GOVERNMENT CAPITALISATION

- 2.1 Immediately following the execution of this Agreement¹ In consideration for the issue by the Government to NBI of the Government Bonds, NBI agrees at Completion to issue 18.745.000.000 ordinary shares in the capital of NBI (the "**Government Subscription Shares**") to the Government at a price per share of ISK 6,4670579..
- 2.2 NBI warrants that the Government Subscription Shares are issued fully paid and free from any Encumbrances.
- 2.3 On December 15, 2009, or shortly thereafter the following items will occur:
 - (a) The board of directors of NBI shall procure that a shareholders' meeting is held where the share capital of NBI shall be increased to allow for the issue of the Government Subscription Shares. NBI and the Government undertake to duly convene and hold the shareholders' meeting in accordance with law.
 - (b) The Government shall transfer the Government Bonds to NBI as consideration to NBI for the Government Subscription Shares;
 - (c) NBI shall issue the Government Subscription Shares to the Government;
 - (d) NBI shall procure (i) the entry of the Government in the register of members of NBI as the holder of the Government Subscription Shares; and (ii) that the increased share capital is duly notified to the Register of Enterprises;
 - (e) a meeting of the board of directors of NBI shall be held at which the business referred to in paragraphs (a) to (d) above shall be transacted as required by law and all ancillary documents and forms thereto shall be executed and signed;
 - (f) NBI shall deliver to the Government certified copies of the share register of NBI immediately following Completion;

(together points (a) – (f) constitute, the "**Government Capitalisation**").

¹ On the „Signing Date" as defined in the Framework and Bond Issuance Agreement („FABIA") entered into by the parties to this Agreement on 15 December 2009.

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3. CAPITALISATION BY LBI AS A PART OF A COMPENSATION ARRANGEMENT

- 3.1 When certain assets of LBI were transferred to NBI by the FME decision described under section (B) of the preface of this Agreement, LBI became a creditor of NBI to an amount equal to the net asset value transferred to NBI, now mutually agreed by the parties to amount to ISK 260 billion bonds, 28 billion cash claim, plus a contingent entitlement as described under 4.2 (b) below.
- 3.2 According to the Framework and Bond Issuance Agreement ("FABIA"), NBI has agreed to compensate LBI for the transferred assets by:
- (a) issuing bonds in the aggregate amount of ISK 260 billion; and
 - (b) agreeing to identify certain assets as "Reference Assets", and paying an additional compensation at a later date if the value of those assets is determined as at 31st December 2012 to be higher than the present NBI valuation.
- 3.3 Furthermore the parties to this Agreement and LBI have agreed to convert a part of LBI's compensation claim described under Art. 3.1. into share capital of NBI, in accordance with Section VI of the Act on Public Limited Liability Companies no. 2/1995.
- 3.4 LBI's conversion amount will be ISK 28 billion for which NBI will issue 4.480.000.000 new ordinary shares to LBI in the share capital of NBI ("LBI Shares") at a price of ISK 6.25 per share. Subsequent to the conversion LBI's claim against NBI will have decreased by ISK 28 billion. The LBI Shares will have the same status as the Government Shares but relations between the Government and LBI as shareholders are defined in a Shareholders Agreement of even date herewith and furthermore those LBI Shares will be subject to special arrangements relating to the additional compensation provided for in clause 3.2 (b).
- 3.5 When the capitalisation of NBI has been completed according to this Agreement, the total equity of NBI (on the share capital and share premium accounts) will be ISK 150.000.000.000. The total number shares issued by NBI will be 24.000.000.000.
- 3.6 The LBI Shares will be issued on LBI Equity Completion Date (as defined in the FABIA) and will otherwise be subject to the same procedure as set out in clause 2.3 of this Agreement.

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4. COSTS AND EXPENSES

- 4.1 Except as expressly provided otherwise, each party shall pay its own costs and expenses in connection with the negotiation, preparation and performance of this Agreement and the other Transaction Documents.

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5. NOTICES

- 5.1 Any notice or other communication to be given under or in connection with this Agreement ("Notice") shall be in the English language in writing and signed by or on behalf of the party giving it and marked for the attention of the other party.

6. **GOVERNING LAW AND JURISDICTION**

- 6.1 This Agreement shall be governed by and construed in accordance with Icelandic law.
- 6.2 The parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement and proceedings in respect of any dispute may be brought in such courts.

IN WITNESS WHEREOF each party has executed this Agreement, or caused this Agreement to be executed by its duly authorised representatives.

Haukur Halldórsson
Þorvaldur Stefánsson

Signed by)
for and on behalf of **NBI hf.**)
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Steinunn Þórunn

Signed by)
for and on behalf of **the Government**)
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Ólafur Þór

Signed by)
for and on behalf of **Landsbanki Islands hf.**)
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