

**DATED March 23, 2016**

**LBI ehf.**

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**SECURITIES ESCROW DECLARATION**

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**MORRISON | FOERSTER**

A LIMITED LIABILITY PARTNERSHIP

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**THIS SECURITIES ESCROW DECLARATION**, dated March, 23 2016, is made by:

**LBI ehf.**, a company incorporated and operating in Iceland with register number 540291-2259, whose registered office is at Álheimar 74,104 Reykjavík, Republic of Iceland. In its capacity as holding the Escrowed Assets on the terms set out below, LBI ehf. is referred to as the “**Escrow Agent**”.

**RECITALS:**

- (A) LBI ehf. has issued Bonds and Shares pursuant to the Composition (in such capacity, the “**Issuer**”);
- (B) for various reasons detailed in Section 2.1 of this Agreement, certain Bonds and Shares will not, at the time of their issuance, be issued to certain Creditors;
- (C) pursuant to Article 103a paragraph 6 of the Act No. 161/2002 on Financial Undertakings, such Bonds and Shares may be held in escrow including in the circumstances set out in Section 2.1 of this Agreement;
- (D) the terms of the Composition and the Transaction Documents provide for such Bonds and Shares to be issued and held in the name of the Escrow Agent;
- (E) in accordance with the provisions of Article 103a paragraph 6 of the Act No. 161/2002 on Financial Undertakings, the Composition and the Transaction Documents, the Escrow Agent wishes to declare that it shall hold the Escrowed Assets in accordance with the terms of this Agreement and will act as Escrow Agent on the terms set out in this Agreement.

LBI declares itself to be Escrow Agent in relation to the Escrowed Assets on the terms set out below. This Securities Escrow Declaration shall be referred to herein as “**this Agreement**”. This Agreement constitutes the Securities Escrow Agreement (as defined in the Composition and the Transaction Documents) and the Escrow Agent constitutes the Securities Escrow Agent (as defined in the Composition and the Transaction Documents).

**1. DEFINITIONS**

In this Agreement (including the Recitals):

“**113 Claim**” has the meaning given to it in the Conditions;

“**Account Bank**” means any bank at which the Escrowed Distribution Account is held from time to time;

“**Alternative Settlement**” has the meaning given to it in the Conditions;

“**Alternative Settlement Instruction**” has the meaning given to it in the Conditions;

“**Articles of Association**” means the amended articles of association of the Issuer adopted as part of the fulfilment of the Composition, as the same may be subsequently amended in accordance with their terms and applicable law;

“**Bond Interests**” has the meaning given to it in the Conditions;

“**Bonds**” means the convertible bonds due 2035 issued by the Issuer pursuant to the Composition;

“**Business Day**” means a day on which:

- a) commercial banks and foreign exchange markets settle payments generally in each of Reykjavík, Republic of Iceland, London, England; and
- b) in relation to any payment to be made in euros, the Trans European Automated Real Time Gross Settlement Express Transfer (TARGET2) System, or any successor thereof, is open for the settlement of payments;

“**Claim(s)**” has the meaning given to it in the Conditions;

“**Class A Shares**” has the meaning given to it in the Articles of Association;

“**Clearing System**” has the meaning given to it in the Conditions;

“**Composition**” has the meaning given to it in the Conditions;

“**Conditions**” means the terms and conditions of the Bonds;

“**Confirmation of Release**” means a notice from the Escrow Agent confirming the release of certain Escrowed Assets in the form set out in the Schedule to this Agreement;

“**Contingent Claim**” means any 113 Claim that is subject to conditions or otherwise contingent to the extent that its validity is subject to events that have not yet occurred;

“**Contingent Assets**” has the meaning given to it in Section 2.1;

“**Creditor**” means a person holding a 113 Claim who, but for the reasons listed in Section 2.1, is or may be entitled to receive an Escrowed Asset pursuant to the terms of the Composition (including the holder of a Contingent Claim or a Disputed Claim);

“**Creditor Sub-ledgers**” has the meaning given to it in Section 4.1.

“**Definitive Certificates**” has the meaning given to it in the Conditions;

“**Disputed Claim**” has the meaning given to it in the Conditions;

“**Disputed Assets**” has the meaning given to it in Section 2.1;

“**Distributions**” means any distributions of cash on the Bonds, Bond Interests or Shares held by the Escrow Agent, including distributions in the form of:

- a) payments of principal on Bonds or Bond Interests held in escrow;
- b) dividend payments on any Shares held in escrow;

- c) any interest accrued on amounts in the Escrowed Distributions Account; and
- d) any payment or distribution resulting from a right to share in a consolidation, reconstruction, reorganisation, amalgamation or merger in relation to a Share or Bond;

**“Escrowed Distributions Account”** means an account in the name of the Escrow Agent, held with the Account Bank on such terms as shall be agreed between the Escrow Agent and the Account Bank for the purpose of receipt of Distributions;

**“Escrowed Assets”** has the meaning given to it in Section 2.1;

**“Ledger”** has the meaning given to it in the Paying, Transfer and Conversion Agency Agreement;

**“Paying, Transfer and Conversion Agency Agreement”** means the paying, transfer and conversion agency agreement dated March 23, 2016 between, among others, U.S. Bank National Association as principal paying transfer and conversion agent and the Issuer;

**“Principal Paying, Transfer and Conversion Agent”** means U.S. Bank National Association acting in its capacity as principal paying, transfer and conversion agent for the Bonds under the Paying, Transfer and Conversion Agency Agreement, or any successor principal paying, transfer and conversion agent for the time being so appointed;

**“Proceedings”** has the meaning given to it in Section 7.1;

**“Register”** has the meaning given to it in the Conditions;

**“Registrar”** means U.S. Bank National Association acting in its capacity as registrar under the Paying, Transfer and Conversion Agency Agreement, or any successor or additional Registrar for the time being so appointed;

**“Restricted Assets”** has the meaning given to it in Section 2.1;

**“Shares”** means:

- a) any Class A Shares issued under the Composition;
- b) on the conversion of the Bonds into Class A Shares pursuant to the Conditions, the resulting Class A Shares;

**“Share Register”** means the register of members of the Issuer;

**“Transaction Documents”** has the meaning given to it in the Conditions;

**“Unrestricted Assets”** has the meaning given to it in Section 2.1; and

**“Voting Rights”** means any voting rights attached to a Bond, Bond Interest or a Share.

## 2. **DECLARATION OF ESCROW**

2.1 The Escrow Agent declares itself to hold in escrow for the benefit of the Creditors in accordance with (i) Article 103a paragraph 6 of the Act No. 161/2002 on Financial Undertakings, (ii) the Composition and (iii) the Transaction Documents:

- (i) any Bonds or Bond Interests (as applicable), Shares and Distributions that have not been issued or made by the Issuer to the relevant Creditor because the Issuer is not satisfied, in its absolute discretion, that such issuance or distribution would not breach any applicable securities laws, or other applicable laws relating to such distribution (the “**Restricted Assets**”);
  - (ii) any Bonds or Bond Interests (as applicable) and Distributions that have not been issued or made by the Issuer to the relevant Creditor because the Creditor has not provided:
    - (a) adequate instructions and/or information to the Issuer and/or the Registrar to enable it to issue or distribute such Bonds or Bond Interests (as applicable) or Distributions to such Creditor; and/or
    - (b) any applicable know-your-client information to the Issuer and/or the Registrar to enable it to issue or register such Bonds or Bond Interests (as applicable) in the Register in the name of such Creditor
- (the “**Unrestricted Assets**”);
- (iii) Bonds or Bond Interests (as applicable) issued for the purpose of satisfying all Disputed Claims, following the final resolution of or judgment on any Disputed Claims, together with any Distributions made thereon (the “**Disputed Assets**”); and
  - (iv) Bonds or Bond Interests (as applicable) issued for the purpose of satisfying all Contingent Claims, following the occurrence of, or satisfaction of, the relevant contingencies, together with any Distributions made thereon (the “**Contingent Assets**”)

(together the “**Escrowed Assets**”).

2.2 The Escrow Agent shall hold the Escrowed Assets in accordance with the terms and conditions of this Agreement and any applicable statutory requirements pursuant to Icelandic law.

2.3 The Escrow Agent declares that it shall hold the Escrowed Assets on behalf of the Creditors which may become entitled to receive them, until their release under Clause 6 of this Agreement. Until such release the Escrowed Assets will not at any time be treated as assets of the Escrow Agent. The Escrow Agent declares that it shall keep the Escrowed Assets clearly separate from any other assets of the Escrow Agent, by establishing and maintaining the Creditor Sub-ledgers in accordance with Clause 4 of this Agreement.

2.4 The Escrow Agent shall make this Agreement available on the Bondholder Website (as defined in the Transaction Documents) and use its reasonable endeavours to notify each Creditor that Escrowed Assets are held for the benefit or potential benefit of such Creditor. The Escrow Agent shall also provide such information as any such Creditor may reasonably request as to the circumstances in which the relevant Escrowed Assets could be delivered or transferred to such Creditor.

2.5 The Escrow Agent may, at any time, enter into an agreement or arrangement with a third party entity pursuant to which such third party will be appointed as a successor escrow agent on such terms as shall be agreed by the escrow agreement and such third party but always in compliance with the provisions of Article 103a paragraph 6 of the Act No. 161/2002 on Financial Undertakings, the Composition and the Transaction Documents.

### 3. **ESCROWED ASSETS**

3.1 Upon the issuance of the Bonds, the Issuer shall direct the Registrar to register the Escrow Agent as the holder of each of the Bonds (or if applicable, the Bond Interests in respect of each of the Bonds) that is an Escrowed Asset in the Ledger established and maintained by the Registrar on the date of this Agreement.

3.2 Upon delivery of the Shares, the Issuer shall register in the Share Register any Shares which are regarded as or otherwise constitute Escrowed Assets, and such registration shall correspond with the registration of Bonds in the Ledger as set out in Section 3.1 above so that any Stapling Requirement (as defined in the Composition and the Transaction Documents) is met.

3.3 In the event that an Alternative Settlement occurs in relation to the Bonds pursuant to condition 7 of the Conditions, the Escrow Agent shall, in connection with such Alternative Settlement, take steps to have itself registered as the holder of the relevant Bond Interests in the relevant Clearing System(s) and to provide Alternative Settlement Instructions in connection therewith.

3.4 In the event that Definitive Certificates are issued in relation to the Bonds pursuant to the Conditions, the Escrow Agent shall take steps to have the Registrar register the Escrow Agent as the holder of the relevant Bonds in the Register and to provide all necessary instructions to the Registrar in connection therewith.

3.5 All Distributions will be held in the Escrowed Distributions Account at the Account Bank, including interest accruing on amounts in the Escrowed Distributions Account. Amounts standing to the credit of the Escrowed Distributions Account shall be held for the benefit of Creditors and the Issuer pro rata to their respective entitlement to Bonds or Bond Interests pending release in accordance with Section 6 of this Agreement. Any losses in respect of the Escrowed Distributions Account shall be applied pro rata to Creditors and the Issuer on the same basis. It is currently envisaged that the initial Account Bank will be U.S. Bank National Association, subject to the Escrow Agent agreeing satisfactory terms with such entity.

3.6 Pending the release of any Escrowed Assets by the Escrow Agent in accordance with Section 6 below, the Escrow Agent shall:

- (i) hold the Escrowed Assets in accordance with the terms of this Agreement;
- (ii) safeguard the Escrowed Assets (including taking any actions a reasonable legal title holder would to protect the value of such assets); and
- (iii) not dispose of or encumber the Escrowed Assets.

#### 4. MAINTENANCE OF SUB-LEDGERS

4.1 The Escrow Agent shall create and keep up-to-date a sub-ledger for each Creditor (together, the “**Creditor Sub-ledgers**”) to whom the Escrowed Assets are (subject to the terms of this Agreement) to be released which records details of all:

- (i) Bonds or Bond Interests (as applicable);
- (ii) Shares; and
- (iii) dates and amounts of any Distributions, including any interest accrued on Distributions in the Escrowed Distributions Account which then form part of the Distributions,

held on behalf of such Creditor upon the terms of this Agreement, as well as all releases of Escrowed Assets to such Creditor.

4.2 The Escrow Agent shall provide an updated copy of the Creditor Sub-ledgers to the Registrar and the Account Bank on the first Business Day of each month.

#### 5. NON-EXERCISE OF VOTING RIGHTS

The Escrow Agent may not exercise any Voting Rights in relation to any Escrowed Assets and shall have no liability whatsoever for not exercising such rights.

#### 6. RELEASE OF ESCROWED ASSETS

6.1 The Escrow Agent will promptly release and deliver:

- (i) any Restricted Asset to a Creditor if such Creditor provides the Escrow Agent with:
  - (a) such evidence as the Escrow Agent may reasonably require to satisfy itself that such Creditor is entitled to receive such Restricted Asset and is able to receive it without breaching any applicable laws, including securities laws. Such evidence may, at the discretion of the Escrow Agent, include a legal opinion satisfactory to the Escrow Agent; and
  - (b) such information as the Escrow Agent may reasonably require to release such Restricted Asset to such Creditor, including but not limited to adequate instructions, know-your-client information and account information to enable it to distribute such Bonds or Bond Interests (as applicable), Shares or Distributions to such Creditor and such further information as would be required by the Registrar or the

Issuer in relation to registering relevant Bonds or Bond Interests for the benefit of such Creditor. The failure to provide such required information shall mean that the Escrowed Asset shall, subject to compliance with paragraph (a) above, be retained by the Escrow Agent as an Unrestricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger;

- (ii) any Unrestricted Asset to a Creditor if such Creditor provides appropriate instructions, know-your-client information, account information (in the case of Distributions) and any other information:
  - (a) in the case of Unrestricted Assets that are Bonds, to the Registrar as required to enable it to transfer such Bonds or Bond Interests (as applicable) to such Creditor;
  - (b) in the case of Unrestricted Assets that are Shares, to the Issuer to enable it to transfer such Shares to such Creditor;
  - (c) in the case of Unrestricted Assets that are Distributions, to the Escrow Agent as required to enable it to transfer such Distributions to such Creditor; and
  - (d) in each case, providing such evidence as the Escrow Agent may reasonably require to satisfy itself (which may, at the discretion of the Escrow Agent, include a legal opinion satisfactory to the Escrow Agent) that such Creditor is entitled to receive the Unrestricted Asset and is able to receive it without breaching any applicable laws, including securities laws. The failure to provide such evidence that no applicable laws will be breached shall mean that such Escrowed Asset will be deemed to be a Restricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger;
- (iii) Disputed Assets to a Creditor, in the event that either (A) a judgment of the courts of Iceland establishes the validity of a Disputed Claim in favour of such Creditor to the extent that such Disputed Assets reflect such Creditor's entitlement as determined pursuant to such judgment and either (i) such judgment cannot be appealed or (ii) the Issuer confirms that it will not appeal such judgment, or (B) the Issuer accepts the validity of a Disputed Claim in favour of such Creditor to the extent that such Disputed Assets reflect such Creditor's entitlement as accepted by the Issuer and in either case the relevant Creditor provides:
  - (a) such information as the Escrow Agent may reasonably require to release such Disputed Asset to such Creditor, including but not limited to adequate instructions, know-your-client information and account information to enable it to distribute such Bonds or Bond Interests (as applicable) or Distributions to such Creditor. The failure to provide such required information shall mean that, subject to compliance with paragraph (b) below, the Escrowed Asset shall be retained by the



Escrow Agent as an Unrestricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger; and

- (b) such evidence as the Escrow Agent may reasonably require to satisfy itself (which may, at the discretion of the Escrow Agent, include a legal opinion satisfactory to the Escrow Agent) that such Creditor is entitled to receive such Disputed Asset and is able to receive it without breaching any applicable laws, including securities laws. The failure to provide such evidence that no applicable laws will be breached shall mean that the Escrowed Asset will be deemed to be a Restricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger;
- (iv) Contingent Assets to a Creditor, in the event that such Creditor provides the Escrow Agent with either (A) evidence satisfactory to the Escrow Agent that the relevant contingency has occurred to the extent that such Contingent Assets reflect such Creditor's entitlement as determined by the Escrow Agent or (B) a judgment of the courts of Iceland establishes the occurrence of such contingency in favour of such Creditor to the extent that such Contingent Assets reflect such Creditor's entitlement as determined pursuant to such judgment and either (i) such judgment cannot be appealed or (ii) the Issuer confirms that it will not appeal such judgment or (C) the Issuer accepts the validity of such Contingent Claim in favour of such Creditor to the extent that such Contingent Assets reflect such Creditor's entitlement as accepted by the Issuer and, in any such case, such Creditor provides:
  - (a) such information as the Escrow Agent may reasonably require to release such Contingent Asset to such Creditor, including but not limited to adequate instructions, know-your-client information and account information to enable it to distribute such Bonds or Bond Interests (as applicable) or Distributions to such Creditor. The failure to provide such required information shall mean that, subject to compliance with paragraph (b) below, the Escrowed Asset shall be retained by the Escrow Agent as an Unrestricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger; and
  - (b) such evidence as the Escrow Agent may reasonably require to satisfy itself (which may, at the discretion of the Escrow Agent, include a legal opinion satisfactory to the Escrow Agent) that such Creditor is entitled to receive such Contingent Asset and is able to receive it without breaching any applicable laws, including securities laws. The failure to provide such evidence that no applicable laws will be breached shall mean that the Escrowed Asset will be deemed to be a Restricted Asset, and this shall be reflected in the relevant Creditor Sub-ledger;

6.2 If, and to the extent that, the Escrow Agent determines at any time in relation to a Creditor that the conditions specified in Sections 6.1(iii) or (iv) cannot be satisfied in favour of such Creditor, the Escrow Agent shall, subject always to Condition 8 of the Bonds, release and deliver Disputed Assets and/or Contingent Assets for the benefit of itself to the extent that such Disputed Assets and/or Contingent Assets reflect the

portion of the relevant Disputed Claim and/or Contingent Claim that the Escrow Agent so determines cannot be satisfied in favour of the relevant Creditor.

- 6.3 Promptly after the Escrow Agent has released and delivered Escrowed Assets in accordance with Sections 6.1 or 6.2 above, the Escrow Agent shall send the Registrar, the Account Bank and the relevant Creditor a Confirmation of Release, confirming that the specified Escrowed Assets have been released and delivered to the Creditor or to the Issuer in accordance with either Section 6.1 or 6.1 above.

## 7. **JURISDICTION AND GOVERNING LAW**

- 7.1 ***Jurisdiction:*** In relation to any legal action or proceedings arising out of or in connection with this Agreement (“**Proceedings**”), the Escrow Agent irrevocably submits to the jurisdiction of the courts of Iceland and waives any objection to Proceedings in such courts, whether on the grounds that the Proceedings have been brought in an inconvenient forum or otherwise.

- 7.2 ***Governing Law:*** This Agreement shall be governed by, and construed in accordance with, the laws of Iceland.

[Signature page overleaf]

**IN WITNESS WHEREOF**, the Escrow Agent agrees to be bound by the terms of this Agreement.

**LBI ehf. in its capacity as Escrow Agent**

By: Halldor H. Backman (sign.)

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Name:

Title: Director

By: Kristinn Bjarnason (sign.)

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Name:

Title: Director

By: Herdis Hallmarsdottir (sign.)

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Name:

Title: Director

**SCHEDULE**  
**CONFIRMATION OF RELEASE FROM ESCROW**

Date: [•]

**Confirmation of Release from Escrow**

We refer to the securities escrow declaration (the “**Escrow Agreement**”) dated March 23 2016 by LBI ehf. in its capacity as Escrow Agent. Terms used herein and not otherwise defined herein shall have the meanings given to them in the Escrow Agreement.

Pursuant to Section 6.2 of the Escrow Agreement, the Escrow Agent hereby confirms that the Escrowed Assets listed below have been transferred to [the Creditor/the Issuer] as specified below, free of all liens and encumbrances.

[Bonds:]

[Shares:]

[Cash:]

Transferee:

[Creditor/Issuer details]

**LBI ehf.**

By:

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