

**KAUPTHING HF.**

and

**KAUPSKIL EHF.**

and

**ARION BANKI HF.**

and

**ICELANDIC STATE FINANCIAL INVESTMENTS**

**SHAREHOLDERS' AGREEMENT AMENDMENT AGREEMENT**

relating to

**ARION BANKI HF.**

**January 2016**

THIS AGREEMENT (the "**Agreement**") is entered into on January 2016

BETWEEN

- (1) Icelandic State Financial Investments (registered id. 620909-0170), whose principal office is at Borgartún 3, 105 Reykjavík (hereinafter referred to as "**ISFI**");
- (2) Kaupskil ehf. (registered id. 580609-0150), whose registered office is at Borgartún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupskil**");
- (3) Kaupthing hf. (registered id. 560882-0419), whose registered office is at Borgartún 26, 105 Reykjavik, Iceland (hereinafter referred to as "**Kaupthing**"); and
- (4) Arion Banki hf. (registered id. 581008-0150), whose registered office is at Borgartún 19, 105 Reykjavik, Iceland (hereinafter referred to as "**Arion**", formerly known as New Kaupthing Bank hf.).

WHEREAS:

- (A) as at the date of this Agreement, ISFI holds 260,000,000 ordinary shares with an aggregate nominal value of ISK 260,000,000.00 in Arion (representing 13% of the issued share capital of Arion as at the date of this Agreement) and Kaupskil holds 1,740,000,000 ordinary shares with an aggregate nominal value of ISK1,740,000,000.00 in Arion (representing 87% of the issued share capital of Arion as at the date of this Agreement);
- (B) Kaupskil is a wholly owned subsidiary of Kaupthing;
- (C) the Ministry of Finance (registered id. 550169-2829), on behalf of the Government of Iceland (hereinafter referred to as the "**Government**"), Arion and Kaupskil entered into a shareholders' agreement relating to Arion on 3 September 2009;
- (D) By virtue of Act 88/2009, with effect from when the Act came into force, the Governments holding of 260,000,000 ordinary shares in Arion with an aggregate nominal value of ISK 260,000,000.00 is managed by the ISFI. Accordingly, with effect from when the Act came into force, the management of all rights and obligations of the Government with respect to the holding in Arion including, without limitation, voting rights at shareholders meetings and other rights under the shareholders agreement has been transferred to the ISFI; and
- (E) the Parties (as hereinafter defined) agree to enter into this Agreement amending the terms of that shareholders' agreement on the terms set out herein.

**NOW THE PARTIES HAVE AGREED AS FOLLOWS:**

## **1 DEFINITIONS AND INTERPRETATION**

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

"**Arion Stake**" means Kaupthing's ownership interest in the Qualifying Shares, which as at the date of this Agreement, is held indirectly by means of its holding of 100% of the share capital in Kaupskil, which, in turn, holds the Qualifying Shares;

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

"**Final Monetisation**" means the Monetisation as a result of which Kaupthing no longer holds any portion of the Arion Stake;

**“Group”** means Kaupskil, any New Holding Company, Arion and any other undertaking which is a subsidiary undertaking of Kaupskil from time to time and references to **“Group Company”** and **“member of the Group”** shall be construed accordingly;

**“IPO”** means an initial public offering with subsequent listing and trading of shares on a regulated market of the whole or any part of the issued share capital of Arion or of any class of the issued share capital of any Group Company (including any New Holding Company);

**“ISFI Stake”** means ISFI’s ownership interest in any of the Shares, which as at the date of this Agreement constitutes ISFI’s holding of 260,000,000 ordinary shares with an aggregate nominal value of ISK 260,000,000.00 in Arion (representing 13% of the issued share capital of Arion as at the date of this Agreement);

**“ISK”** means Icelandic krona;

**“Kaupskil Shares”** means the ordinary shares with an aggregate nominal value of ISK 10,168,667,173 in Kaupskil held by Kaupthing as at the date of this Agreement and **“Kaupskil Share”** means any one of them (as the context may require);

**“Monetisation”** means any transaction (other than any Reorganisation Transaction) in which Kaupthing, directly or indirectly, sells, assigns, transfers or otherwise disposes of (including by way of any Sale or IPO) all or any of the Arion Stake and **“Monetised”** shall be construed accordingly;

**“New Holding Company”** means any new parent undertaking of Kaupskil and/or Arion, which is formed for the purpose of facilitating: (i) a Reorganisation Transaction; or (ii) a Monetisation;

**“Parties”** means the parties to this Agreement and **“Party”** means each of them;

**“Qualifying Shares”** means the 1,740,000,000 ordinary shares with an aggregate nominal value of ISK 1,740,000,000.00 in Arion held by Kaupskil as at the date of this Agreement, representing 87% of the issued share capital of Arion as at the date of this Agreement (and, in any event, excluding any additional Shares acquired by Kaupthing or any Group Company from ISFI or any other person after the date of this Agreement whether pursuant to any additional issue of Shares or pursuant to clause 9 (*Kaupthing Holdco’s Option*) of the Shareholders’ Agreement or otherwise) and all other (if any) Shares directly resulting from any sub-division, consolidation or re-classification of such Shares and **“Qualifying Share”** means any one of them;

**“Reorganisation Transaction”** means any reorganisation of the Group by any means including the acquisition of any shares in, or any assets of, Arion by a New Holding Company or any other reorganisation of the Group involving any Group Company’s share capital (including the conversion, consolidation, sub-division or redesignation (as appropriate) of any Shares) in preparation for a Monetisation, in each case in respect of which Kaupthing has given its prior written consent and the overall effect of such reorganisation is not to alter the proportionate direct and indirect economic ownership interests (calculated as percentages) in Arion at that time as between (i) Kaupthing and Kaupskil on the one hand; and (ii) the Government and ISFI on the other hand;

**“Sale”** means any sale of (a) all or any of the Qualifying Shares by Kaupskil; (b) all or any of the Kaupskil Shares by Kaupthing; and/or (c) all or any shares in any New Holding Company by Kaupthing or Kaupskil;

**"Shareholders' Agreement"** means the shareholders' agreement relating to Arion between Arion, the Government and Kaupskil dated 3 September 2009 in the form in effect as of the date of this Agreement and as amended and varied pursuant to this Agreement and as further amended, modified or supplemented from time to time but only to the extent that Kaupthing has given its prior written consent to such amendments, modifications and supplements;

**"Shares"** means shares in Arion from time to time and **"Share"** means any one of them; and

**"Surviving Shareholders' Agreement Provisions"** means clauses 14 (*Confidentiality*) and 17.4 (*Announcements*) of the Shareholders' Agreement and, for the purposes of interpreting such clauses, clause 1 (*Definitions and Interpretation*) of the Shareholders' Agreement.

- 1.2 References in this Agreement to a procuring obligation of the ISFI or of any Group Company or any other person shall include that person or the ISFI (as applicable) exercising all of its voting rights and using any and all powers vested in it from time to time as a holder of any Shares or any other interest in any Group Company and/or under the Shareholders' Agreement and/or any of the articles of association of any Group Company to ensure compliance with the underlying obligation to which that procurement obligation relates so far as it is reasonably able to do so, whether that means acting alone or (to the extent that it is lawfully able to do so) acting with others.
- 1.3 In this Agreement, an undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if it holds a majority of the voting rights in it.
- 1.4 In this Agreement:
- (A) general words introduced by the word "other" or "including" or "include" shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things; and
  - (B) general words shall not be given a restrictive meaning by reason of the fact that they are followed by particular examples intended to be embraced by the general words.

## **2 AGREEMENTS IN RESPECT OF THE SHAREHOLDERS' AGREEMENT**

- 2.1 Each of the Parties agrees that clauses 3.3, 3.4, 6.1 (*Permitted transfer*), 6.4 (*Tag-Along Option*), 8 (*New Shareholders*) and 17.4.1 of the Shareholders' Agreement shall be irrevocably waived for the purposes of, and shall not apply to, any Reorganisation Transaction or any other agreement, arrangement or transaction, which is approved in writing by Kaupthing and is entered into by any party to the Shareholders' Agreement in connection with, or for the purpose of, any Monetisation or any Reorganisation Transaction.
- 2.2 Each of the Parties (other than Arion) agrees that upon 50% or more of the Arion Stake being Monetised by way of one or more than one IPO, Arion shall be irrevocably and unconditionally released from its obligations pursuant to and arising under the Shareholders' Agreement.
- 2.3 Each of the Parties agrees that without prejudice to the accrued rights of any party to the Shareholders' Agreement, clauses 2.2, 2.4, 2.6, 3.3 and 3.4 of the Shareholders' Agreement shall terminate at such time as:

- 2.3.1 50% or more of the Arion Stake is Monetised by way of one or more than one Sale or by way of a combination of one or more than one Sale and IPO; or
  - 2.3.2 70% or more of the Arion Stake is Monetised by way of one or more than one IPO.
- 2.4 Each of the Parties agrees that without prejudice to the accrued rights of any party to the Shareholders' Agreement, the Shareholders' Agreement (other than the Surviving Shareholders' Agreement Provisions) shall terminate automatically and with immediate effect at such time as the Final Monetisation has completed.
- 2.5 Each of the Parties agrees that:
  - 2.5.1 clauses 3.3 and 3.4 of the Shareholders' Agreement shall not apply to a new shareholder which acquires all or any part of the ISFI Stake pursuant to clause 6.1 of the Shareholders' Agreement or otherwise; and
  - 2.5.2 such new shareholder shall have no veto rights in respect of any resolution put before a meeting of the board of directors of Arion.

### **3 FURTHER ASSURANCES**

Each of the Parties agrees that it shall, to the extent commercially reasonable, co-operate fully with the other Parties to do all such further acts and things and execute any further documents as may be necessary to give full effect to the arrangements contemplated by this Agreement, including passing any board or shareholder resolutions of any Group Company, making any amendments to any of the articles of association of any Group Company and submitting any registrations, as may be necessary.

### **4 MISCELLANEOUS**

- 4.1 The provisions of clauses 1.2, 1.3, 1.4, 1.5, 1.6, 11 (*Representations and Warranties*), 14 (*Confidentiality*), 15 (*Conflicts and Further Covenants*), 16 (*Notices*) and 17 (*Miscellaneous*) of the Shareholders' Agreement shall apply on a mutatis mutandis basis in this Agreement as if those provisions had been set out expressly in this Agreement.
- 4.2 This Agreement (and each variation or waiver in respect of any provision of it) may be executed in any number of counterparts, and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart of this Agreement.

### **5 LAW AND JURISDICTION**

- 5.1 This Agreement is governed by and construed in accordance with Icelandic law. Any matter, claim or dispute arising out of, or in connection with, this Agreement, whether contractual or non-contractual, is to be governed by and determined in accordance with Icelandic law.
- 5.2 The Parties irrevocably agree that the courts of Iceland are to have exclusive jurisdiction to settle any dispute which arises out of, or in connection with, this Agreement and each Party irrevocably submits and agrees to submit to the jurisdiction of the Icelandic courts in accordance with this Clause 5.2.

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



## Signature Pages

Signed by )

for and on behalf of Icelandic State Financial )  
Investments (*acting on behalf of the Icelandic*  
*Government pursuant to Act no. 88/2009*)

Signed by )

for and on behalf of Kaupskil ehf. )

) Reynir Karlsson  
) Johnna A. Sanders  
) [Signature]

Signed by )

for and on behalf of Kaupthing hf. )

) Feidis L. Oskarsd.  
) Snoderi Sigurður  
Johannes Pinar Johnson

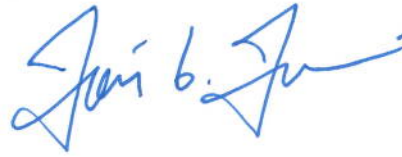
Signed by )

for and on behalf of Arion Banki hf. )

) [Signature]  
) Þinnir Skulason

**Signature Pages**

Signed by )  
for and on behalf of Icelandic State Financial )  
Investments (*acting on behalf of the Icelandic*)  
*Government pursuant to Act no. 88/2009*)



Signed by )  
for and on behalf of Kaupskil ehf. )

Signed by )  
for and on behalf of Kaupthing hf. )

Signed by )  
for and on behalf of Arion Banki hf. )