

EXECUTION VERSION

AMENDED AND RESTATED

ASSET MONITOR AGREEMENT

ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND
as the Fund

and

ARION BANK HF.
as the Issuer and the Cash Manager

and

KPMG ehf.
as the Asset Monitor

and

DEUTSCHE TRUSTEE COMPANY LIMITED
as the Representative

20 January 2012

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THIS AGREEMENT is dated 20 January, 2012

BETWEEN:

- (1) **ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND**, ID number 570106-9610, an institutional investment fund established under the laws of Iceland, whose registered office is at Borgartun 19, 105 Reykjavik, Iceland (in its capacity as the **Fund**);
- (2) **ARION BANK HF.**, ID number 581008-0150, a public limited company incorporated under the laws of Iceland, whose registered office is at Borgartun 19, 105 Reykjavik, Iceland (acting in its capacities as the **Issuer** and the **Cash Manager**);
- (3) **KPMG ehf.** acting through its offices at Borgartun 27, 105 Reykjavik, Iceland, (acting in its capacity as the **Asset Monitor**); and
- (4) **DEUTSCHE TRUSTEE COMPANY LIMITED**, a company incorporated under the laws of England and Wales whose registered office is at Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom (acting in its capacity as the **Representative**).

WHEREAS:

- (A) By resolutions of Covered Bondholders of each Series of the Covered Bonds issued pursuant to the Programme (the **Bondholders' Resolutions**) passed on or around the date hereof, the Covered Bondholders' authorised the Representative, on behalf of the Covered Bondholders, to, *inter alia*, amend and restate this Agreement in accordance with the provisions set out below.
- (B) The Fund is an institutional investment fund established pursuant to Article 4 of Act No. 30/2003 on Undertaking for Collective Investment in Transferable Securities and Investment Funds, to be replaced by Article 4 of Act No. 128/2011 on Undertaking for Collective Investment in Transferable Securities and Investment Funds and Institutional Investor Funds with effect from 1 November, 2011. The day-to-day operations of the Fund are managed by Stefnir hf. formerly Kaupthing Asset Management Company hf. (the **Management Company**). The Management Company shall execute this Agreement on behalf of the Fund in accordance with the terms of the Articles of Association of the Fund, but in doing so it is hereby acknowledged and agreed that the Management Company shall not assume or have any obligations or liabilities to any other party under this Agreement.
- (C) Pursuant to the terms of the Cash Management Agreement, the Cash Manager has agreed to perform certain calculations in relation to the Asset Coverage Test.
- (D) The Asset Monitor has agreed to be appointed by the Fund to carry out various testing and notification duties in relation to the calculations performed by the Cash Manager in relation to the Asset Coverage Test subject to and in accordance with the terms of this Agreement.
- (E) This Agreement replaces the Asset Monitor Agreement dated 29 March, 2006.

IT IS HEREBY AGREED as follows:

1. **DEFINITIONS AND CONSTRUCTION**

1.1 In this Agreement:

Adjusted Aggregate Loan Amount has the meaning given in Clause 10.2 of the Fund Deed;

Asset Coverage Test has the meaning given in Clause 10 of the Fund Deed;

Asset Monitor Fee has the meaning given in Clause 6.1 of this Agreement;

Asset Monitor Report means a report substantially in the form contained in Schedule 2 and prepared by the Asset Monitor on the basis of and in accordance with the calculations and procedures set out in Schedule 3;

Bank Account Agreement means the bank account agreement entered into on or around the date hereof between the Fund, the Account Bank, the Cash Manager, the GIC Provider and the Representative (as amended and/or supplemented and/or restated from time to time);

Business Day means a day (other than a Saturday or Sunday) on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in Reykjavik;

Calculation Date means the third Business Day prior to each Fund Payment Date;

Cash Management Agreement means the cash management agreement entered into on or around the date hereof between the Fund, the Cash Manager, the Seller, the Servicer and the Representative (as amended and/or supplemented and/or restated from time to time);

Covered Bond means each covered bond issued or to be issued pursuant to the Programme Agreement;

Dealers means the dealers appointed from time to time in accordance with the Programme Agreement;

Fund Accounts means the GIC account and any additional or replacement accounts opened in the name of the Fund;

Fund Deed means the deed entered into on or around the date hereof between the Fund, Arion Bank hf. in its capacities as the seller, the cash manager and the holder, the Management Company and the Representative, a copy of which is attached as Schedule 1 to this Agreement (as amended and/or supplemented and/or restated from time to time);

Fund Event of Default has the meaning given in Condition 10.2 (*Events of Default, Acceleration and Enforcement – Fund Events of Default*) of the Terms and Conditions;

Fund Payment Date means the 15th day of each month or if not a Business Day the next following Business Day;

Intercompany Loan Agreement means the term loan agreement entered into on or around the date hereof between the Issuer, the Fund, the Cash Manager and the Representative (as amended and/or supplemented and/or restated from time to time);

ISK or Icelandic Krona means the lawful currency of Iceland;

ISK Equivalent means, in relation to a Term Advance or a Series of Covered Bonds (including any calculations of the Required Redemption Amount of such Series of Covered Bonds) which is denominated in: (a) a currency other than ISK, the ISK equivalent of such amount ascertained using the relevant spot rate of exchange; and (b) ISK, the applicable amount in ISK;

Issue Date means each date on which the Issuer issues Covered Bonds to the holders for the time being of the Covered Bonds;

Issuer Event of Default means any of the conditions, events or acts provided in Condition 10.1 (*Events of Default, Acceleration and Enforcement – Issuer Events of Default*) of the Terms and Conditions;

Monthly Report means a monthly report provided by the Servicer to the Fund, the Representative and investors in Covered Bonds pursuant to the Servicing Agreement;

Mortgage Sale Agreement means the mortgage sale agreement entered into on 29 March, 2006 as amended and restated on or around the date hereof and made between Arion Bank hf. in its capacity as the Seller, the Fund and the Representative (as amended and/or supplemented and/or restated from time to time);

Notice to Pay has the meaning given to it in Condition 10.1 (*Events of Default, Acceleration and Enforcement – Issuer Events of Default*) of the Terms and Conditions;

Principal Amount Outstanding means in respect of a Covered Bond, the principal amount of that Covered Bond on the relevant Issue Date thereof less principal amounts received by the relevant Covered Bondholder in respect thereof on or prior to that day;

Priorities of Payments means the orders of priority for the allocation and distribution of amounts standing to the credit of the Fund Accounts in different circumstances;

Programme means the covered bond programme established on the Programme Date;

Programme Agreement means the agreement entered into on or around the Programme Date between the Issuer, the Fund and the Dealers named therein (or deemed named therein) concerning the purchase of Covered Bonds to be issued pursuant to the Programme together with any agreement for the time being in force amending, replacing, novating or modifying such agreement and any accession letters and/or agreements supplemental thereto;

Programme Date means 29 March, 2006;

Representative and Agency Agreement means the representative and agency agreement entered into on or around the date hereof and made between the Issuer, the Fund, the Representative, the Principal Paying Agent and the other Paying Agents (as amended and/or supplemented and/or restated from time to time);

Servicer means Arion Bank hf. in its capacity as servicer under the Servicing Agreement or any successor servicer appointed from time to time;

Servicing Agreement means the servicing agreement entered into on or around the date hereof between the Fund, the Servicer, the Seller, the Representative and Verdis hf. formerly Arion Custody Services hf. (as amended and/or supplemented and/or restated from time to time);

Term Advance means each term advance made by the Issuer to the Fund from the proceeds of Covered Bonds pursuant to the Intercompany Loan Agreement;

Terms and Conditions means the terms and conditions of the Covered Bonds as set out in Schedule 1 to the Representative and Agency Agreement; and

Wages Index means the wages index published monthly at www.statice.is and based on the data collected through the Statistics Iceland Icelandic survey on wages, earnings and labour costs (ISWEL), or such other index as may replace it from time to time, prepared and published by Statistics Iceland (or by any government department or successor body upon which duties in connection with such index are devolved) pursuant to the Act on the Wage Index No. 89/1989.

1.2 The recitals to this Agreement shall constitute integral parts of this Agreement and shall be read with it for all their purposes and intents.

2. SERVICES OF THE ASSET MONITOR

2.1 Subject to Clauses 2.2 and 2.5 below, if the Calculation Date immediately preceding an anniversary of the Programme Date falling after the date hereof falls prior to service of a Notice to Pay or a Fund Acceleration Notice, and subject to receipt of the information to be provided to it by the Cash Manager

in accordance with Clause 3 below in relation to the calculations performed by the Cash Manager regarding the relevant Asset Coverage Test, the Asset Monitor shall as soon as reasonably practicable (and in any event not later than 10 Business Days following receipt of such information from the Cash Manager), test the arithmetic accuracy of the calculations performed by the Cash Manager in relation to the Asset Coverage Test on the Calculation Date immediately preceding each anniversary of the Programme Date, with a view to confirmation of the arithmetical accuracy or otherwise of such calculations.

- 2.2 Following the service of an Asset Coverage Test Breach Notice (which has not been revoked), and subject to receipt of the information to be provided to the Asset Monitor in accordance with Clause 3 below, the Asset Monitor shall conduct the tests of the Cash Manager's calculations referred to in Clause 2.1 above in respect of every Calculation Date, as applicable, as soon as reasonably practicable (and in any event not later than 10 Business Days following receipt of the relevant information from the Cash Manager). Following revocation or withdrawal of an Asset Coverage Test Breach Notice the tests of the Cash Manager's calculations will be conducted by the Asset Manager annually in accordance with Clause 2.1 above.
- 2.3 If the tests conducted by the Asset Monitor in accordance with Clauses 2.1 and 2.2, as applicable, reveal errors in the relevant calculations performed by the Cash Manager such that:
- (a) the Asset Coverage Test has been failed on the relevant Calculation Date (where the Cash Manager had recorded it as being satisfied); or
 - (b) the reported Adjusted Aggregate Loan Amount is mis-stated by the Cash Manager by an amount exceeding one per cent. of the Adjusted Aggregate Loan Amount (as at the date of the relevant Asset Coverage Test), as calculated by the Asset Monitor based on the figures supplied by the Cash Manager,

and subject to receipt of the information to be provided to the Asset Monitor in accordance with Clause 3 below, for a period of six months thereafter the Asset Monitor shall conduct the tests of the Cash Manager's calculations referred to in Clause 2.1 in respect of every Calculation Date occurring during that six month period. The Asset Monitor shall perform those tests as soon as reasonably practicable and in any event not later than 10 Business Days following receipt of the relevant information from the Cash Manager.

- 2.4 Subject to receipt of information to be provided to it by the Cash Manager in accordance with Clause 3 below in relation to the calculations performed by the Cash Manager, as soon as reasonably practicable (and in any event before the expiry of the relevant 10 Business Day period referred to in, as applicable, Clauses 2.1 to 2.3 (inclusive) above), the Asset Monitor shall notify, on a confidential basis, the parties to this Agreement, in writing, of the relevant calculations performed by the Cash Manager and of the results of its tests of the arithmetical accuracy of the Cash Manager's calculations, attached to a copy of the relevant calculations performed by the Cash Manager. If the calculations performed by the Cash Manager are not arithmetically accurate, the written notification by the Asset Monitor shall notify on a confidential basis, the parties to this Agreement in writing of the discrepancies identified in the Asset Monitor Report which is required to be delivered pursuant to Clause 2.7.
- 2.5 Other than in relation to the testing by the Asset Monitor of the arithmetic accuracy of the calculations performed by the Cash Manager in accordance with the provisions of this Agreement, the Asset Monitor is entitled, subject to Clause 2.6, to assume that all information provided to the Asset Monitor in accordance with Clause 3.1 is true and correct and is complete and not misleading and is not required to conduct an audit or other similar examination in respect of or otherwise take steps to verify the accuracy or completeness of such information or of any sources from which such information has been extracted by the Cash Manager, save that the Asset Monitor will be required to advise the Cash Manager if it has not been provided with any of those figures referred to in Clause 3.1. Furthermore, the Asset Monitor shall not be required to confirm whether the information provided to it by the Cash Manager: (i) has been accurately extracted from the sources identified therein or agrees with any

underlying accounting or other information; or (ii) is presented in compliance with any relevant accounting or other definitions as to its elements and composition.

- 2.6 As soon as reasonably practicable following receipt of information from the Cash Manager in accordance with Clause 3.1, the Asset Monitor shall check that information against the information contained in the latest Monthly Report prepared by the Servicer for any obvious errors or inconsistencies and, if it detects any such obvious errors or inconsistencies, shall notify the other parties to this Agreement of them. Following such notification, and within three Business Days of receipt of such notification, the Cash Manager shall provide such further or amended information to the Asset Monitor as is necessary to remedy such obvious errors or inconsistencies or shall confirm the accuracy of the information provided in accordance with Clause 3.1. The 10 Business Day period referred to in, as applicable, Clauses 2.1 to 2.3 (inclusive) above, shall commence on and from the date that the Asset Monitor has received such further or amended information from the Cash Manager.
- 2.7 On completion of its calculations and procedures in respect of a Calculation Date for the purposes of this Clause 2, the Asset Monitor will deliver the Asset Monitor Report to the Cash Manager, the Fund, the Issuer and the Representative (in their respective capacities, collectively referred to in this Agreement as the **Recipients**).
- 2.8 Each Asset Monitor Report and any advice the Asset Monitor provides to the Recipients in connection with this Agreement are for the exclusive use of the Recipients (in their respective capacities in which they contract as parties to this Agreement) in the context of the Programme and is provided subject to and in accordance with the terms of this Agreement. Each Asset Monitor Report and such advice should not be used for any other purpose, recited or referred to in any document, copied or made available (in whole or in part) to any person other than the parties to this Agreement, without the Asset Monitor's prior written express consent. The Recipients acknowledge that were they to do so (and without limitation) this could expose the Asset Monitor to a risk that a third party who otherwise would not have access to any such Asset Monitor Reports or advice might claim to have relied upon such Asset Monitor Report or advice to its detriment and might bring or threaten to bring an action, claim or proceedings against the Asset Monitor. Save as expressly provided by this Agreement, no person other than the Recipients may rely on the Asset Monitor Report, or any advice and/or information derived from them. The Asset Monitor has no responsibility or liability to any other party (including, without limitation, any Dealer) who is shown or gains access to any Asset Monitor Report or advice.
- 2.9 Nothing in this Agreement precludes the Asset Monitor from taking such steps as are necessary in order to comply with any legal or regulatory requirement or any professional or ethical rules of any relevant professional body of which the Asset Monitor or any of its partners or employees is, at the time, a member.
- 2.10 The Asset Monitor has no responsibility to update any Asset Monitor Report or advice for events occurring after its completion (which, unless provided otherwise in this Agreement, will be the date on which the final Asset Monitor Report is delivered or signed), nor to monitor its continuing relevance or suitability for the purposes of any Recipient.

3. **PROVISION OF INFORMATION TO THE ASSET MONITOR**

- 3.1 In accordance with paragraph (k) of Schedule 1 to the Cash Management Agreement, the Cash Manager shall provide the Asset Monitor with (as applicable):
- (a) the figures derived and used by the Cash Manager for items A, B, C, D and W described in Clause 10 (Asset Coverage Test) of the Fund Deed in its calculation of the Adjusted Aggregate Loan Amount on the relevant Calculation Date;
 - (b) the constituent figures used in the calculation of item A described in Clause 10 (Asset Coverage Test) of the Fund Deed in order to test the arithmetical accuracy of the figures used by the Cash Manager for item A provided in accordance with Clause 3.1(a) above; and

- (c) the ISK Equivalent of the Principal Amount Outstanding of the Covered Bonds as calculated by the Cash Manager on the relevant Calculation Date for the purposes of Clause 10 (Asset Coverage Test) of the Fund Deed.
- 3.2 The Fund shall procure that the Servicer provides each Monthly Report to the Asset Monitor on its publication.
- 3.3 The Asset Monitor may rely on any instructions, request or representation made, notices given or information supplied, whether orally or in writing, by any person known or reasonably believed by the Asset Monitor to be authorised from time to time by the Fund and/or the Cash Manager in connection with the provision by the Fund and/or the Cash Manager of information pursuant to the terms of this Agreement.
- 3.4 In the preparation of a final Asset Monitor Report, the Asset Monitor may comment or provide advice to any Recipient on information provided to it by the Cash Manager or show the Recipients drafts of the Asset Monitor Report for comment. The Asset Monitor does this on the basis that the Recipients will not rely on any drafts or oral comments or advice. Accordingly, the Asset Monitor will not be responsible if the Recipients choose to act, or refrain from acting, on the basis of any drafts or oral comments or advice. If the Recipients want to rely or want to act on oral comments, they will inform the Asset Monitor in order that it may deal with them in its final Asset Monitor Report. Furthermore, for the convenience of the Recipients, the Asset Monitor Reports, or any advice, may be made available to the Recipients in draft or in electronic as well as hard copy format. Multiple copies and versions of documents may therefore exist in different media. In the case of any discrepancy, the signed hard copy of the final Asset Monitor Report is definitive.
- 3.5 The Asset Monitor will own and retain ownership of its working papers in respect of Asset Monitor Reports and any advice. Any papers retained by the Asset Monitor on termination of this Agreement (including documents legally belonging to the Recipients) may routinely be destroyed in accordance with the Asset Monitor's internal policies.

4. **UNDERTAKINGS OF THE ASSET MONITOR**

Without prejudice to any of its specific obligations under this Agreement, the Asset Monitor undertakes with the Fund and the Representative that it shall:

- (a) exercise reasonable skill and care in the performance of its obligations hereunder; and
- (b) comply with all material legal and regulatory requirements applicable to the conduct of its business so that it can lawfully attend to the performance of its obligations under this Agreement.

5. **TERMINATION**

- 5.1 The Asset Monitor may, at any time, resign from its appointment under this Agreement upon providing the Fund and the Representative with 90 days' prior written notice. The Asset Monitor may resign from its appointment immediately on written notice if any action taken by the Recipients causes a professional conflict of interest for the Asset Monitor under the rules of the professional and/or regulatory bodies regulating the activities of the Asset Monitor. The Asset Monitor will inform the Recipients as soon as reasonably practicable of any action of which the Asset Monitor is aware that may cause a professional conflict of interest for the Asset Monitor which could result in termination under this Clause 5.1.
- 5.2 Any costs, charges, fees or expenses incurred by the Asset Monitor as a result of its resignation under Clause 5.1 above shall be payable in full by the Asset Monitor and will not be liable for reimbursement by the Fund save that the Asset Monitor shall remain entitled to payment for any costs, charges, fees or

expenses payable to the Asset Monitor in accordance with this Agreement incurred or accruing prior to such resignation.

- 5.3 Following any receipt of any notice of resignation by the Asset Monitor in accordance with Clause 5.1 above, the Fund shall immediately use all reasonable endeavours to appoint a substitute asset monitor to provide the services set out in this Agreement, provided that:
- (a) the appointment of such substitute asset monitor is approved by the Representative; and
 - (b) the substitute asset monitor enters into an agreement substantially on the same terms as the terms of this Agreement (or on such terms as are satisfactory to the Representative).

If a substitute asset monitor is not appointed by the date which is 90 days prior to the date when tests are to be carried out in accordance with the terms of this Agreement, then the Fund shall use all reasonable endeavours to appoint an accountancy firm of national standing to carry out the relevant tests on a one-off basis, provided that such appointment is approved by the Representative. The Representative will not be obliged to act as Asset Monitor in any circumstances.

- 5.4 The Fund may, at any time but subject to the prior written consent of the Representative, terminate the appointment of the Asset Monitor hereunder upon providing the Asset Monitor with 30 days' prior written notice, provided that such termination may not be effected unless and until a replacement asset monitor approved by the Representative has been found by the Fund (such replacement to be approved by the Representative if the replacement is an accountancy firm of national standing) which agrees to perform the duties (or substantially similar duties) of the Asset Monitor set out in this Agreement.
- 5.5 Any costs, charges, fees or expenses incurred by the Asset Monitor as a result of its appointment being terminated under Clause 5.4 above (together with the Asset Monitor's rights under Clause 6 in relation to moneys owing to the Asset Monitor for the period up to and including the date of the termination of the Asset Monitor's appointment becoming effective) shall be payable in full by the Fund.
- 5.6 Unless otherwise terminated in accordance with Clauses 5.1 and 5.4, the Asset Monitor's appointment under this Agreement will terminate upon the earlier of the occurrence of a Fund Event of Default or the repayment in full of all amounts outstanding in relation to all Covered Bonds.
- 5.7 On and after termination or resignation of the appointment of the Asset Monitor under this Agreement pursuant to this Clause 5, all authority and power of the Asset Monitor under this Agreement shall be terminated and be of no further effect and the Asset Monitor shall not thereafter hold itself out as having power or authority as Asset Monitor pursuant to this Agreement.

6. FEES

- 6.1 The Fund shall (subject to Clauses 6.2 and 6.3 below) pay to the Asset Monitor for its services hereunder an annual fee (the **Asset Monitor Fee**) in an amount of ISK 3,300,000 excluding VAT for the year 2012, which fee shall include the test that the Asset Monitor is required to perform pursuant to Clause 2.1 of this Agreement. The annual Asset Monitor Fee shall be in an amount of ISK 2,200,000 excluding VAT for each year thereafter and will be reviewed annually and adjusted if applicable by reference to the then current Wages Index provided that the base Wages Index for reference shall be as it is at the date of the Agreement. In addition the Asset Monitor shall be entitled to receive an additional fee in the amount of ISK 1,000,000 excluding VAT for each additional test it is required to perform pursuant to Clauses 2.2 and 2.3 of this Agreement (the **Additional Test Fee**). The Asset Monitor Fee and the Additional Test Fee shall be payable on a Fund Payment Date in accordance with Clause 6.2 below.
- 6.2 Notwithstanding Clause 6.1 above, the parties agree that neither the Asset Monitor Fee nor the Additional Test Fee shall become due for payment unless and until the Fund has received (in accordance with Clause 12 below) a duly completed invoice, addressed to the Fund and copied to the

Issuer and the Cash Manager, at least 28 days prior to the relevant Fund Payment Date, in which case the invoice shall be due and payable on that Fund Payment Date. In the event that the Fund fails to receive a duly completed invoice at least 28 days prior to the relevant Fund Payment Date, the Asset Monitor Fee shall become due and payable on the next Fund Payment Date.

- 6.3 Interest shall accrue on any amount due and payable to the Asset Monitor in respect of the Asset Monitor Fee in accordance with this Clause 6 from (but excluding) the relevant Fund Payment Date on which payment is due and payable (but remains unpaid in accordance with Clause 6.2 above) in accordance with penalty rates decided at the relevant time by the Central Bank of Iceland.
- 6.4 For the avoidance of doubt, the Representative will not be responsible for payment of fees, costs and expenses due to or incurred by the Asset Monitor pursuant to its appointment and performance of its duties hereunder.
- 6.5 The Asset Monitor hereby agrees that it shall not take any steps for the purpose of recovering any amounts payable to it under this Clause 6 (including, without limitation, by exercising any rights of set-off) or procuring the winding up, administration or liquidation of the Fund in respect of any of its liabilities whatsoever unless a Fund Acceleration Notice shall have been served.
- 6.6 The Asset Monitor agrees to be bound by the terms of the Priorities of Payment set out in the Cash Management Agreement. Without prejudice to Clause 6.5 above, the Asset Monitor further agrees that, notwithstanding any other provision contained herein, it will not demand or receive payment of, or any distribution in respect of or on account of, any amounts payable by the Fund (or the Cash Manager on its behalf) or the Representative, as applicable, to the Asset Monitor under the Asset Monitor Agreement, in cash or in kind, and will not apply any money or assets in discharge of any such amounts payable to it (whether by set off or by any other method), unless all amounts then due and payable by the Fund to all other creditors ranking higher in the relevant Priorities of Payments have been paid in full.
- 6.7 Without prejudice to Clause 6.6 above, whether in the liquidation of the Fund or of any other party to the Transaction Documents or otherwise, if any payment or distribution is received by the Asset Monitor in respect of any amount payable by the Fund (or the Cash Manager on its behalf) or the Representative, as applicable, to the Asset Monitor under this Agreement at a time when, by virtue of the provisions of this Agreement and the Cash Management Agreement no payment or distribution should have been made, the amount so received shall be held by the Asset Monitor as agent for the entity from which such payment was received and shall be returned by the Asset Monitor to such entity forthwith upon receipt (whereupon the relevant payment or distribution shall be deemed not to have been made or received).
- 6.8 Without prejudice to Clause 6.5 above, the Asset Monitor shall not claim, rank, prove or vote as a creditor of the Fund or its estate in competition with any creditors ranking higher in the relevant Priorities of Payments, or claim a right of set-off until all amounts then due and payable to creditors who rank higher in the relevant Priorities of Payments have been paid in full.
- 6.9 Neither the Fund nor the Representative shall pay or repay, or make any distribution in respect of, any amount owing to the Asset Monitor under this Agreement (in cash or in kind) unless and until all amounts then due and payable by the Fund or the Representative to all other creditors ranking higher in the relevant Priorities of Payments have been paid in full.

7. **ASSIGNMENTS AND TRANSFERS**

- 7.1 This Agreement does not make any of the parties an agent or legal representative of any of the other parties, nor does it create a partnership or joint venture.
- 7.2 Subject to Clause 7.3 no party to this Agreement may assign, novate, transfer or sub-contract any of its rights or obligations under this Agreement other than with the prior written consent of the other parties

to this Agreement, which consent may not be unreasonably withheld or delayed. In addition, no party to this Agreement will either directly or indirectly agree to assign or transfer any claim against any other party to this Agreement arising out of this Agreement to any other party.

- 7.3 The parties hereto acknowledge and agree that the Fund is permitted to assign its rights hereunder to the Representative pursuant to the Representative and Agency Agreement. The parties further acknowledge that the Asset Monitor may delegate the performance of its obligations under this Agreement to any other Asset Monitor Party, provided that it shall nevertheless remain responsible for the performance of those duties.

8. **CONFIDENTIALITY**

- 8.1 Each party agrees to keep confidential all information of any kind whatsoever provided to it by any other party pursuant to this Agreement save for:

- (a) information (including Asset Monitor Reports) that it is expressly authorised to provide to any other party or any Dealer under the terms of this Agreement;
- (b) information that is public knowledge otherwise than as a result of the wrongful conduct of such party;
- (c) information that such party is required to disclose pursuant to any law or order of any court or pursuant to any direction, request or requirement (whether or not having the force of law) of any central bank or any governmental or other regulatory or taxation authority;
- (d) information that such party wishes to disclose to its professional indemnity insurers or advisers where such insurers or advisers receive the same under a duty of confidentiality;
- (e) information that such party is required to disclose to the relevant authorities on a public interest disclosure basis or in order to comply with its statutory obligations relating to money laundering and the proceeds of crime;
- (f) information disclosed to professional advisers of the such party or, if such party is the Asset Monitor, to any Asset Monitor Party to whom the Asset Monitor has delegated the performance of its duties under this Agreement, who, in each case, receives the same under a duty of confidentiality in substantially the same terms as this Clause 8; and
- (g) information disclosed with the prior written consent of the other party.

- 8.2 The parties agree that the Asset Monitor shall not be required to disclose to any other party any information which is confidential to any other client of the Asset Monitor and any information received by the Asset Monitor other than by reason of, or in its capacity as, Asset Monitor pursuant to the terms of this Agreement.

- 8.3 The Asset Monitor agrees that it shall have recourse only to sums paid to or received by (or on behalf of) the Fund from time to time.

9. **PROVISION OF INFORMATION TO THE REPRESENTATIVE**

The Cash Manager, the Fund and the Asset Monitor shall each provide to the Representative, or procure the provision to the Representative of, such information and evidence available to that party, or of which that party is or becomes aware, in respect of any dealing between that relevant party or its officers, employees, attorneys or agents and the Issuer, the Cash Manager, the Fund and the Asset Monitor (as applicable) under or in relation to this Agreement as the Representative may reasonably request (subject to client confidentiality requirements).

10. **LIABILITY**

- 10.1 To the fullest extent permitted by law, the Asset Monitor shall not have liability hereunder to the extent that liability would (but for this Clause 10.1) be imposed upon the Asset Monitor by reason of it having relied upon any statement or information made or provided by any person (including information provided in accordance with Clause 3 above) which was untrue, inaccurate, incomplete or misleading, other than in respect of the activities that the Asset Monitor will conduct under Clause 2.6 and the arithmetical accuracy of the calculations performed by the Cash Manager in respect of the Asset Coverage Test which the Asset Monitor has been appointed to test in accordance with the provisions of this Agreement.
- 10.2 To the fullest extent permitted by law, the Asset Monitor shall not be liable or responsible to any other party hereto for any loss, cost, damage or expense which results from the fraud of any other party or a breach by any of the other parties hereto of any provision of any Transaction Document.
- 10.3 The aggregate liability of the Asset Monitor to the other parties to this Agreement in contract or tort or under statute or otherwise for any loss or damage (including loss of profits) suffered by the other parties to this Agreement arising from or in connection with the performance by the Asset Monitor of its obligations under this Agreement, however such loss or damage is caused, including the negligence, wilful misconduct or default but not the fraud or other deliberate breach of duty of the Asset Monitor, shall be limited to ISK 200,000,000.
- 10.4 The aggregate liability of the Asset Monitor to the other parties to this Agreement pursuant to Clause 10.3 above shall be allocated between the parties to this Agreement. It is agreed that such allocation will be entirely a matter for such other parties, who shall be under no obligation to inform the Asset Monitor of it, provided always that if (for whatever reason) no such allocation is agreed, no party shall dispute the validity, enforceability or operation of the limit of liability set out in Clause 10.3 on the grounds that no such allocation was agreed.
- 10.5 The liability of the Asset Monitor to the other parties to this Agreement in contract or tort or under statute or otherwise for any indirect or consequential economic loss or damage (including loss of profits) suffered by the other parties to this Agreement arising from or in connection with the performance by the Asset Monitor of its obligations under this Agreement, however such loss or damage is caused, including the negligence, wilful misconduct or default but not the fraud or other deliberate breach of duty of the Asset Monitor, shall be excluded.
- 10.6 Any clauses in this Agreement which operate or which may operate to exclude or limit the liability of the Asset Monitor or any other person in any respects shall not operate to exclude or limit any liability which cannot lawfully be excluded or limited.
- 10.7 The Asset Monitor will not be liable for any losses arising out of the use by the Recipients of any Asset Monitor Report for a purpose other than the purposes of the Programme.

11. **FURTHER PROVISIONS**

- 11.1 Except as specified herein the respective rights of the parties under this Agreement are cumulative, and may be exercised as often as they consider appropriate and are in addition to their respective rights under the general law. The respective rights of the Fund, the Representative and the Asset Monitor in relation to this Agreement (whether arising under this Agreement or under the general law) shall not be capable of being waived or varied otherwise than by an express waiver or variation in writing. In particular, any failure to exercise or any delay in exercising of any such rights shall not operate as a waiver or variation of that or any other such right; any defective or partial exercise of any of such rights shall not preclude any other or further exercise of that or any other such right. No act or course of conduct or negotiation on their part or on their behalf shall in any way preclude them from exercising any such right or constitute a suspension or any variation of any such right.

- 11.2 If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

12. NOTICES

- 12.1 Any notices to be given pursuant to this Agreement to any of the parties hereto shall be sufficiently served if sent by prepaid first class post, by hand or facsimile transmission and shall be deemed to be given (in the case of facsimile transmission) when received by the recipient or (where delivered by hand) on the day of delivery if delivered before 17.00 hours on a Business Day or on the next Business Day if delivered thereafter or on a day which is not a Business Day or (in the case of first class post) when it would be received in the ordinary course of the post and shall be sent:

- (a) in the case of the Fund, to Arion Bank Mortgages Institutional Investor Fund at Borgartun 19, 105 Reykjavik, Iceland (facsimile number: +(354) 444 7489 and email: info@stefnir.is) for the attention of Stefnir hf. – Arion Bank Mortgages Institutional Investor Fund;
- (b) in the case of the Issuer and the Cash Manager, to Arion Bank hf. at Borgartun 19, 105 Reykjavik, Iceland (facsimile number: +(354) 444 6229 and email: mtndesk@arionbanki.is) for the attention of the Funding Department;
- (c) in the case of the Asset Monitor, to KPMG ehf. at Borgartun 27, 105 Reykjavik, Iceland (facsimile number: +(354) 545 6003 and email: hhardardottir@kpmg.is) for the attention of Helga Hardardottir; and
- (d) in the case of the Representative, to Deutsche Trustee Company Limited at Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom (facsimile number: +(44) 20 7547 6149 and email: TSS-GDS.EUR@db.com) for the attention of the Managing Director,

or to such other address or facsimile number or for the attention of such other person or entity as may from time to time be notified by any party to the others by written notice in accordance with the provisions of this Clause 12.

- 12.2 Notwithstanding Clause 12.1 above and provided that each give their prior consent to such delivery, any party to this Agreement may send notice to or otherwise communicate with any of the other parties to this Agreement by electronic mail. However, the electronic transmission of information cannot be guaranteed to be secure or virus or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Each of the parties to this Agreement shall be deemed: (i) to have received any electronic mail sent by the any other party to this Agreement pursuant to the terms of this Clause 12.2 subject to the risks (including the security risks of interception, unauthorised access, corruption or viruses) of communications via electronic mail; and (ii) to have performed reasonable virus checks required in connection with the receipt of electronic mail. Each party to this Agreement shall be responsible for protecting its own systems and interests in relation to electronic communications and each party to this Agreement (in each case including their respective directors, partners, employees, agents or servants) shall have no liability to each other on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any error, damage, loss or omission arising from or in connection with the electronic communication of information between such parties and any party's reliance on such information. The exclusion of liability in the previous clause shall not apply to the extent that any liability arises out of acts, omissions or misrepresentations which are in any case criminal, dishonest or fraudulent on the part of their respective directors, partners, employees, agents or servants.

13. COUNTERPARTS

This Agreement may be executed in any number of counterparts (manually or by facsimile), and by the parties on separate counterparts, but shall not be effective until each party has executed at least one

counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

14. THE REPRESENTATIVE

14.1 If there is any change in the identity of the Representative in accordance with the Representative and Agency Agreement, the parties to this Agreement shall execute such documents and take such action as the successor Representative and the outgoing Representative may reasonably require for the purpose of vesting in the successor Representative the rights and obligations of the outgoing Representative under this Agreement and releasing the outgoing Representative from any future obligations under this Agreement. The Fund shall indemnify the Asset Monitor for all reasonable costs incurred by the Asset Monitor in relation to such change.

14.2 The Representative has agreed to become a party to this Agreement for the better preservation and enforcement of its rights under this Agreement but shall not assume any obligations or liabilities to the Issuer, the Cash Manager, the Asset Monitor or the Fund hereunder. Any liberty or right which may be exercised or any determination which may be made under this Agreement by the Representative may be exercised or made in the Representative's absolute discretion without any obligation to give reasons therefor and the Representative shall not be responsible for any liability occasioned by so acting but subject always to the terms of the Representative and Agency Agreement.

15. MODIFICATION

No amendment, modification or variation of this Agreement shall be effective unless it is in writing and signed by (or by some person duly authorised by) each of the parties hereto.

16. CONTINUING PROVISIONS

Clauses 5.2, 5.5, 6, 8, 10, 16, 18 and 19 of this Agreement shall survive the expiry or termination of this Agreement.

17. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the parties hereto in relation to the services to be performed hereunder and supersedes any prior agreements, understandings, arrangements, statements or representations relating to such services. Nothing in this Clause 17 or Agreement shall operate to limit or exclude any liability for fraud.

18. GOVERNING LAW

This Agreement is governed by, and shall be construed in accordance with, the laws of Iceland.

19. SUBMISSION TO JURISDICTION

19.1 Each party to this Agreement hereby irrevocably agrees that any dispute arising out of this Agreement shall be subject to the exclusive jurisdiction of the District Court of Reykjavik (*Héraðsdómur Reykjavíkur*).

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE FUND DEED

AMENDED AND RESTATED

FUND DEED

ARION BANK HF.
as the Seller, the Cash Manager and a Holder

and

ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND
as the Fund

and

STEFNIR HF.
formerly KAUPTHING ASSET MANAGEMENT COMPANY HF.
as the Management Company

and

DEUTSCHE TRUSTEE COMPANY LIMITED
as the Representative

20 January 2012

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THIS FUND DEED is made on 20 January, 2012 between:

- (1) **ARION BANK HF.**, ID number 581008-0150, a public limited company incorporated under the laws of Iceland whose registered office is at Borgartun 19, 105 Reykjavik, Iceland (in its capacity as the Seller, the Cash Manager and a Holder and referred to as **Arion**, the **Seller**, the **Cash Manager** and a **Holder**, respectively);
- (2) **ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND**, ID number 570106-9610, an institutional investment fund established under the laws of Iceland whose registered office is at Borgartun 19, 105 Reykjavik, Iceland (in its capacity as the **Fund**);
- (3) **STEFNIR HF., formerly KAUPTHING ASSET MANAGEMENT COMPANY HF.**, ID number 700996-2479, a public limited company incorporated under the laws of Iceland whose registered office is at Borgartun 19, 105 Reykjavik, Iceland (in its capacity as the **Management Company**); and
- (4) **DEUTSCHE TRUSTEE COMPANY LIMITED**, a company incorporated under the laws of England and Wales whose registered office is at Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom (in its capacity as the **Representative**).

WHEREAS:

- (A) By resolutions of Covered Bondholders of each Series of the Covered Bonds issued pursuant to the Programme (the **Bondholders' Resolutions**) passed on or around the date hereof, the Covered Bondholders' authorised the Representative, on behalf of the Covered Bondholders, to, *inter alia*, amend and restate this Deed in accordance with the provisions set out below.
- (B) The Fund is an institutional investment fund established pursuant to Article 4 of Act No. 30/2003 on Undertaking for Collective Investment in Transferable Securities and Investment Funds, to be replaced by Article 4 of Act No. 128/2011 on Undertaking for Collective Investment in Transferable Securities and Investment Funds and Institutional Investor Funds with effect from 1 November, 2011. The day-to-day operations of the Fund are managed by the Management Company. The Management Company shall execute this Deed on behalf of the Fund in accordance with the terms of the Articles of Association of the Fund, but in doing so it is hereby acknowledged and agreed that the Management Company shall not assume or have any obligations or liabilities to any other party under this Deed other than the obligations or liabilities expressly stated herein to be performed or incurred by the Management Company.
- (C) The parties have agreed to comply with the terms and subject to the conditions set out in this fund deed (this **Deed**) in relation to their duties, powers and rights *inter se*.
- (D) This Deed replaces the Fund Deed dated 29 March, 2006.

NOW THIS DEED WITNESSES:

1. DEFINITIONS AND CONSTRUCTION

- 1.1 The master definitions and construction agreement made between, *inter alios*, the parties to this Deed on 20 January, 2012 (as the same may be amended, varied and/or supplemented from time to time, the **Master Definitions and Construction Agreement**) is expressly and specifically incorporated into this Deed and, accordingly, the expressions defined in the Master Definitions and Construction Agreement (as so amended, varied and/or supplemented) shall, except where the context otherwise requires and save where otherwise defined herein, have the same meanings in this Deed, including the recitals hereto and this Deed shall be construed in accordance with the interpretation provisions set out in Clause 2 of the Master Definitions and Construction Agreement.
- 1.2 The recitals to this Deed shall constitute integral parts of this Deed and shall be read with it for all their purposes and intents.

2. **COMMENCEMENT OF DEED AND ESTABLISHMENT AND BUSINESS OF THE FUND**

2.1 This Deed shall have effect from and including the Programme Date.

2.2 The Fund is an institutional investment fund and has been established and notified to the Financial Supervisory Authority in Iceland pursuant to Act No. 30/2003 (the **Act**) and any change which may occur in the particulars to be furnished thereunder (by reason of this Deed or otherwise) shall forthwith be notified by the Management Company to the Financial Supervisory Authority in Iceland.

2.3 Arion and the Management Company have agreed with effect from the Programme Date that the business of the Fund shall be the acquisition, management and sale of Loans and their Related Security, the borrowing of monies to fund the acquisition of such assets, the acquisition, management and sale of Substitution Assets and Authorised Investments, the giving of guarantees and any other business as Arion and the Management Company shall decide (with the prior written consent of the Representative whilst any Covered Bonds are outstanding).

3. **REGISTERED OFFICE**

The Fund shall at all times have a registered office in Iceland. The location of such registered office in Iceland may be determined from time to time by the Management Company and shall be registered with the Financial Supervisory Authority in Iceland in accordance with Act 30/2003.

4. **REGISTRATION**

The Management Company shall ensure that the Fund complies with the notification and registration requirements under Act 30/2003 as required from time to time.

5. **MANAGEMENT COMPANY**

5.1 At all times there shall be a management company.

5.2 The Management Company shall have such duties as are specified in the Articles of Association of the Fund, the Act or otherwise at law and in this Deed.

5.3 The appointment of the Management Company may be terminated and a successor management company appointed pursuant to Clause 12.12 of the Representative and Agency Agreement.

6. **FUND PROPERTY**

6.1 From time to time the Issuer shall make Term Advances to the Fund pursuant to and in accordance with the terms of the Intercompany Loan Agreement. A Term Advance to the Fund shall not constitute an Equity Contribution to the Fund.

6.2 From time to time the Seller shall sell Loans and their Related Security to the Fund pursuant to the terms of the Mortgage Sale Agreement. An Equity Contribution in Kind may constitute the whole or a part of the consideration for the sale of such Loans and Related Security to the Fund, as set out in Clause 8 below.

7. **CASH EQUITY CONTRIBUTIONS**

7.1 Arion may from time to time make Cash Equity Contributions to the Fund.

7.2 Prior to making any Cash Equity Contribution to the Fund, Arion shall deliver to the Fund and the Representative a solvency certificate signed by an authorised signatory of Arion dated the date of the making of the Cash Equity Contribution in a form which is acceptable to the Fund and the Representative, such acceptance to not be unreasonably withheld.

7.3 Cash Equity Contributions will be credited to the Revenue Ledger of the GIC Account and be applied as Available Receipts.

8. **EQUITY CONTRIBUTIONS IN KIND**

Each sale of Loans and their Related Security by the Seller to the Fund in accordance with the terms of the Mortgage Sale Agreement shall constitute an Equity Contribution in Kind by the Seller (in its capacity as a Holder) of those Loans and their Related Security in an amount equal to: (a) the Outstanding Principal Balance of those Loans as at the relevant Assignment Date; minus (b) any cash payment made by the Fund for the Loans and their Related Security on that Assignment Date. Any such Equity Contribution in Kind shall be reduced in an amount equal to any Unit Distribution made to the Seller on any Issue Date where the proceeds of a Term Advance are applied by the Fund to make a Unit Distribution to the Seller (in its capacity as a Holder) pursuant to Clause 3.1(b) (Application of Term Advances by Fund) of the Intercompany Loan Agreement.

9. **CALCULATION OF EQUITY CONTRIBUTIONS**

9.1 There shall be no limit on the amount of Equity Contributions the Seller (in its capacity as a Holder) may make to the Fund from time to time (whether Cash Equity Contributions or Equity Contributions in Kind).

9.2 The Equity Contributions made or deemed to be made by each Holder from time to time shall be credited to its separate Unit Account Ledger and Unit Distributions made to each Holder will be debited to its Unit Account Ledger. The Equity Contribution Balance of each Holder shall represent its interest in the Fund. The Fund (or the Cash Manager on its behalf) shall maintain the Unit Account Ledgers. Any increase or decrease in the Equity Contribution Balance of a Holder shall be credited or debited to its Unit Account Ledger on each Calculation Date.

9.3 On each Calculation Date or on the date that the Fund is wound up, the Equity Contribution Balance of the Seller (in its capacity as a Holder) in respect of the immediately preceding Calculation Period will be recalculated. The Equity Contribution Balance of the Seller will be an amount calculated in ISK (to the extent that there is any amount denominated in a currency other than ISK, converted into ISK at the then prevailing spot rate of exchange) as follows:

$$A + B - C$$

where:

A = the Outstanding Principal Balance of the Loans in the Portfolio as at the last day of the preceding Calculation Period;

B = the Revenue Receipts standing to the credit of the Revenue Ledger of the GIC Account and the principal amount of Substitution Assets and Authorised Investments as at the last day of the preceding Calculation Period; and

C = the ISK Equivalent of the aggregate Principal Amount Outstanding under the Covered Bonds as at the last day of the preceding Calculation Period.

9.4 Any Equity Contributions credited to the Unit Account Ledger of the Seller under this Clause 9 shall not be a debt owed by the Fund to the Seller but shall increase the Seller's equity interest in the Fund.

9.5 The Seller agrees that it will amend the calculation in Clause 9.3 if Equity Contributions are made or deemed made by Holders other than the Seller.

10. **ASSET COVERAGE TEST**

10.1 For so long as the Covered Bonds remain outstanding, the Fund shall procure that on each Calculation Date, the Adjusted Aggregate Loan Amount (as defined below) shall be in an amount at least equal to the ISK Equivalent of the Principal Amount Outstanding of the Covered Bonds as calculated on the relevant Calculation Date (the **Asset Coverage Test**).

10.2 The **Adjusted Aggregate Loan Amount** means the amount calculated on each Calculation Date as follows:

$$\alpha A + B + C + D - W$$

where:

A = the sum of the **Adjusted Outstanding Principal Balance** of each Loan in the Portfolio as at the relevant Calculation Date, which shall be the lower of:

- (a) the actual Outstanding Principal Balance of the relevant Loan in the Portfolio (but, for this purpose, not including any principal payment relating to any such Loan which is scheduled for repayment at any time after the date on which there are no outstanding Covered Bonds), as adjusted for changes in the Icelandic consumer price index, as calculated on the relevant Calculation Date; and
- (b) the Collateral Valuation relating to that Loan multiplied by M (where for all Loans that are not in default, M = 0.80, for all Loans that have been in default for less than 30 days and have a Outstanding Principal Balance to Collateral Valuation ratio of less than or equal to 80 per cent., M = 0.60, for all Loans that have been in default for more than 30 days but less than 90 days and have an Outstanding Principal Balance to Collateral Valuation ratio of less than or equal to 80 per cent., M = 0.35) and for all other Loans, M = 0,

minus

the aggregate sum of the following deemed reductions to the aggregate Adjusted Outstanding Principal Balance of the Loans in the Portfolio if any of the following occurred during the previous Calculation Period:

- (i) a Loan or its Related Security was, in the immediately preceding Calculation Period, in breach of the Representations and Warranties contained in the Mortgage Sale Agreement or subject to any other obligation of the Seller to repurchase the relevant Loan and its Related Security, and in each case the Seller has not repurchased the Loan or Loans of the relevant Borrower and its or their Related Security to the extent required by the terms of the Mortgage Sale Agreement. In this event, the aggregate Adjusted Outstanding Principal Balance of the Loans in the Portfolio (as calculated on the relevant Calculation Date) will be deemed to be reduced by an amount equal to the Adjusted Outstanding Principal Balance of the relevant Loan or Loans (as calculated on the relevant Calculation Date) of the relevant Borrower; and/or
- (ii) the Seller, in the preceding Calculation Period, was in breach of any other material warranty under the Mortgage Sale Agreement and/or the Servicer was, in the preceding Calculation Period, in breach of a material term of the Servicing Agreement. In this event, the aggregate Adjusted Outstanding Principal Balance of the Loans in the Portfolio (as calculated on the relevant Calculation Date) will be deemed to be reduced by an amount equal to the resulting financial loss incurred by the Fund in the immediately preceding Calculation Period (such financial loss to be calculated by the Cash Manager without double counting and to be reduced by any amount paid (in cash or in kind) to the Fund by the Seller to indemnify the Fund for such financial loss);

- B = the aggregate amount of any Revenue Receipts on the Loans in the Portfolio up to the end of the immediately preceding Calculation Period (as recorded in the Revenue Ledger) which have not been applied as at the relevant Calculation Date to acquire further Loans and their Related Security or otherwise applied in accordance with this Deed and/or the other Transaction Documents (including, for the avoidance of doubt, any amount then standing to the credit of the GIC Account and any Authorised Investments (but without double counting));
- C = the aggregate amount of any Cash Equity Contributions made by the Holders (as recorded in the Unit Account Ledger of each Holder) or proceeds of Term Advances which have not been applied as at the relevant Calculation Date to acquire further Loans and their Related Security or otherwise applied in accordance with this Deed and/or the other Transaction Documents;
- D = the aggregate principal amount of any Substitution Assets as at the relevant Calculation Date;
- W = 100 per cent. of an amount equal to the aggregate cash deposits held in the name of any Borrower with the Issuer. Such amount shall be calculated by reference to the aggregate cash deposits held in the name of any Borrower with the Issuer on the 15th calendar day in the month preceding the relevant Calculation Date; and
- α = the Asset Percentage as determined pursuant to Clause 10.3 below.

- 10.3 On each Calculation Date, the Fund (or the Cash Manager on its behalf) shall calculate the over-collateralisation asset percentage (the **Asset Percentage**). The Asset Percentage may not, at any time, exceed 95 per cent.
- 10.4 If on any Calculation Date the Adjusted Aggregate Loan Amount is less than the ISK Equivalent of the aggregate Principal Amount Outstanding of the Covered Bonds as calculated on the relevant Calculation Date, then the Fund (or the Cash Manager on its behalf) shall immediately notify in writing the Seller, the Holders and the Representative and the Seller shall use all reasonable endeavours to sell sufficient further Loans and their Related Security to the Fund in accordance with the Mortgage Sale Agreement and/or the Holders shall use all reasonable endeavours to make Equity Contributions to the Fund in an aggregate amount sufficient to ensure that the Asset Coverage Test is met on the next following Calculation Date.
- 10.5 If on the next following Calculation Date, the Adjusted Aggregate Loan Amount is less than the aggregate Principal Amount Outstanding of all Covered Bonds, the Asset Coverage Test will be breached and the Fund (or the Cash Manager on its behalf) must notify the Representative. Following receipt of such notification, the Representative must serve an Asset Coverage Test Breach Notice on the Fund.
- 10.6 Provided that neither a Notice to Pay nor a Fund Acceleration Notice has been served, the Representative shall revoke an Asset Coverage Test Breach Notice if, on any Calculation Date falling on or prior to the second Calculation Date after an Asset Coverage Test Breach Notice has been served, the Fund gives notice to the Representative that the Asset Coverage Test is subsequently satisfied.
- 10.7 Following service by the Representative of an Asset Coverage Test Breach Notice (which has not been revoked):
- (a) the Fund will be required to sell Selected Loans in accordance with Clause 14.1 and in the manner set out in Clause 15;
 - (b) prior to the occurrence of an Issuer Event of Default and service of an Issuer Acceleration Notice or, if earlier, the occurrence of a Fund Event of Default and service of a Fund Acceleration Notice, Clause 12 shall apply; and
 - (c) the Issuer will not be permitted to make to the Fund, and the Fund will not be permitted to borrow from the Issuer, any new Term Advances under the Intercompany Loan Agreement.

11. **ALLOCATION AND DISTRIBUTION OF AVAILABLE RECEIPTS PRIOR TO SERVICE ON THE FUND OF AN ASSET COVERAGE TEST BREACH NOTICE (WHICH HAS NOT BEEN REVOKED), A NOTICE TO PAY OR A FUND ACCELERATION NOTICE**

11.1 Subject to Clause 17 below, prior to service on the Fund of an Asset Coverage Test Breach Notice (which has not been revoked), a Notice to Pay or a Fund Acceleration Notice and whilst amounts are outstanding in respect of the Covered Bonds, Available Receipts shall be applied in accordance with this Clause 11.

11.2 On the Calculation Date immediately prior to each Fund Payment Date, the Fund (or the Cash Manager on its behalf) shall calculate the amount of Available Receipts available for distribution or the amount of any provision required to be made on the immediately following Fund Payment Date and the Reserve Fund Required Amount (if applicable).

11.3 On each Fund Payment Date, the Fund (or the Cash Manager on its behalf) will transfer Available Receipts from the Revenue Ledger and the Reserve Ledger, as applicable, to the Payment Ledger on the GIC Account, in an amount equal to the lower of: (a) the amount required to make the payments set out in Clause 11.4 below; and (b) the amount of Available Receipts standing to the credit of the GIC Account.

11.4 On each Fund Payment Date (except for the amounts for which provision is made, which shall be paid when due), the Fund (or the Cash Manager on its behalf) will apply Available Receipts to make the following payments and provisions in the following order of priority (the **Pre-Acceleration Priority of Payments**) (in each case only if and to the extent that payments or provisions of a higher priority have been paid in full):

(a) *first*, in or towards payment of any amounts due and payable by the Fund to the Representative, each Agent, the Management Company, the Custody Agent and to other third parties and incurred without breach by the Fund of the Transaction Documents to which it is a party (and for which payment has not been provided for elsewhere in this Pre-Acceleration Priority of Payments) and to provide for any such amounts expected to become due and payable by the Fund in the immediately succeeding Fund Payment Period and to discharge any liability of the Fund for taxes and/or other official levies;

(b) *second*, in or towards payment *pro rata* and *pari passu* according to the respective amounts thereof of:

(i) any remuneration then due and payable to the Servicer and any costs, charges, liabilities and expenses then due or to become due and payable to the Servicer under the provisions of the Servicing Agreement in the immediately succeeding Fund Payment Period, together with applicable amounts in respect of taxes thereon as provided therein;

(ii) amounts due and payable to the Asset Monitor pursuant to the terms of the Asset Monitor Agreement, together with applicable amounts in respect of taxes thereon as provided therein;

(iii) any remuneration then due and payable to the Cash Manager and any costs, charges, liabilities and expenses then due or to become due and payable to the Cash Manager under the provisions of the Cash Management Agreement in the immediately succeeding Fund Payment Period, together with applicable amounts in respect of taxes thereon as provided therein; and

(iv) amounts (if any) due and payable to the Account Bank (including any costs, charges, liabilities and expenses) pursuant to the terms of the Bank Account Agreement, together with applicable amounts in respect of taxes thereon as provided therein;

- (c) *third*, in or towards payment of any amounts due or to become due and payable on such Fund Payment Date (whether in respect of principal, interest or any other amount due) under the Intercompany Loan Agreement, *pro rata* and *pari passu* in respect of each relevant Term Advance;
 - (d) *fourth*, if a Servicer Event of Default has occurred, all remaining Available Receipts to be credited to the GIC Account (with a corresponding credit to the Revenue Ledger) until such Servicer Event of Default is either remedied or waived by the Representative or a new servicer is appointed to service the Portfolio (or the relevant part thereof);
 - (e) *fifth*, in or towards a credit to the Reserve Ledger on the GIC Account of an amount required to ensure that the Reserve Fund is funded to the Reserve Fund Required Amount as calculated on the immediately preceding Calculation Date; and
 - (f) *sixth*, towards payment *pro rata* and *pari passu* to the Holders of any remaining sums which are to be allocated and paid to each Holder in proportion to their respective Equity Contribution Balances as at the relevant Calculation Date, as a Unit Distribution for their respective interests as Holders.
- 11.5 If the Fund requires any Available Receipts to be exchanged into a currency other than ISK, then the Fund (or the Cash Manager on its behalf) shall perform all necessary currency conversions at the then prevailing spot rate of exchange.
12. **ALLOCATION AND DISTRIBUTION OF AVAILABLE RECEIPTS AFTER SERVICE ON THE FUND OF AN ASSET COVERAGE TEST BREACH NOTICE (WHICH HAS NOT BEEN REVOKED)**
- At any time after the service on the Fund of an Asset Coverage Test Breach Notice (which has not been revoked) but prior to the service on the Fund of a Notice to Pay or a Fund Acceleration Notice and for so long as any Covered Bonds remain outstanding, the Fund (or the Cash Manager on its behalf) will apply Available Receipts in accordance with Clause 11.4 above save that no monies will be applied under subparagraph (f) of Clause 11.4.
13. **ALLOCATION AND DISTRIBUTION OF MONIES FOLLOWING SERVICE OF A NOTICE TO PAY**
- 13.1 On and from the service of a Notice to Pay on the Fund, but prior to the service of a Fund Acceleration Notice, all Available Receipts shall be applied in accordance with this Clause 13.
- 13.2 On each Fund Payment Date, the Fund or the Cash Manager on its behalf shall transfer Available Receipts from the Revenue Ledger, the Reserve Ledger or the Unit Account Ledger, as the case may be, to the Payment Ledger on the GIC Account, in an amount equal to the lower of: (a) the amount required to make the payments set out in the Guarantee Priority of Payments; and (b) the amount of all Available Receipts standing to the credit of such ledgers of the GIC Account.
- 13.3 The Fund shall create and maintain ledgers for each Series of Covered Bonds and record amounts allocated to such Series of Covered Bonds in accordance with paragraphs (d) and (e) of Clause 13.4, and such amounts, once allocated, will only be available to pay amounts due under the Covered Bond Guarantee on the scheduled payment dates therefor.
- 13.4 On each Fund Payment Date on and from the date that a Notice to Pay is served on the Fund, but prior to the occurrence of a Fund Event of Default and service of a Fund Acceleration Notice, the Fund (or the Cash Manager on its behalf) will apply moneys standing to the credit of the Payment Ledger on the GIC Account to make the following payments and provisions in the following order of priority (the **Guarantee Priority of Payments**) (in each case only if and to the extent that payments or provisions of a higher priority have been paid in full):

- (a) *first*, in or towards payment *pro rata* and *pari passu* according to the respective amounts thereof of all amounts due and payable or to become due and payable to the Representative in the immediately succeeding Fund Payment Period under the provisions of the Representative and Agency Agreement together with interest and applicable amounts in respect of taxes thereon as provided therein;
- (b) *second*, in or towards payment *pro rata* and *pari passu* according to the respective amounts thereof of:
 - (i) any remuneration then due and payable to the Agents under or pursuant to the Representative and Agency Agreement together with applicable amounts in respect of taxes thereon as provided therein; and
 - (ii) any amounts then due and payable by the Fund to third parties (including, for the avoidance of doubt, amounts due and payable to the Management Company and the Custody Agent) and incurred without breach by the Fund of the Transaction Documents to which it is a party (and for which payment has not been provided for elsewhere in this Guarantee Priority of Payments) and to provide for any such amounts expected to become due and payable by the Fund in the immediately succeeding Fund Payment Period and to pay or discharge any liability of the Fund for taxes and other official levies;
- (c) *third*, in or towards payment *pro rata* and *pari passu* according to the respective amounts thereof of:
 - (i) any remuneration then due and payable to the Servicer and any costs, charges, liabilities and expenses then due or to become due and payable to the Servicer in the immediately succeeding Fund Payment Period under the provisions of the Servicing Agreement together with applicable amounts in respect of taxes thereon as provided therein;
 - (ii) amounts due and payable to the Asset Monitor pursuant to the terms of the Asset Monitor Agreement, together with applicable amounts in respect of taxes thereon as provided therein;
 - (iii) any remuneration then due and payable to the Cash Manager and any costs, charges, liabilities and expenses then due or to become due and payable to the Cash Manager in the immediately succeeding Fund Payment Period under the provisions of the Cash Management Agreement, together with applicable amounts in respect of taxes thereon as provided therein; and
 - (iv) amounts (if any) due and payable to the Account Bank (including any costs, charges, liabilities and expenses) pursuant to the terms of the Bank Account Agreement as the case may be, together with applicable amounts in respect of taxes thereon as provided therein;
- (d) *fourth*, in or towards payment on the Fund Payment Date or to provide for payment on such date in the future of such proportion of the relevant payment falling due in the future as the Cash Manager may reasonably determine, of Scheduled Interest that is Due for Payment (or that will become Due for Payment) under the Covered Bond Guarantee in respect of each Series of Covered Bonds to the Representative or (if so directed by the Representative) the Principal Paying Agent on behalf of the Covered Bondholders *pro rata* and *pari passu* in respect of each Series of Covered Bonds;
- (e) *fifth*, in or towards payment on the Fund Payment Date or to provide for payment prior to the next Fund Payment Date, of Scheduled Principal that is Due for Payment (or that will become

Due for Payment in the immediately succeeding Fund Payment Period) under the Covered Bond Guarantee in respect of each Series of Covered Bonds to the Representative Trustee or (if so directed by the Representative) the Principal Paying Agent on behalf of the Covered Bondholders *pro rata* and *pari passu* in respect of each Series of Covered Bonds;

- (f) *sixth*, to deposit the remaining moneys in the GIC Account for application on the next following Fund Payment Date in accordance with the priority of payments described in paragraphs (a) to (e) (inclusive) above, until the Covered Bonds have been fully repaid or repayment in full of the Covered Bonds has been provided for (such that the Required Redemption Amount has been accumulated in respect of each outstanding Series of Covered Bonds);
- (g) *seventh*, in or towards payment of any amounts due or to become due and payable in the immediately succeeding Fund Payment Period (whether in respect of principal, interest or any other amount) under the Intercompany Loan Agreement, *pro rata* and *pari passu* in respect of each relevant Term Advance; and
- (h) *eighth*, thereafter any remaining moneys will be applied in accordance with Clause 17 of this Deed.

13.5 If the Fund requires any available funds to be exchanged into a currency other than ISK, then the Fund (or the Cash Manager on its behalf) shall perform all necessary currency conversions at the then prevailing spot rate of exchange.

14. **SALE OF SELECTED LOANS**

14.1 After service of an Asset Coverage Test Breach Notice (which has not been revoked) on the Fund but prior to service of a Notice to Pay, the Fund shall sell Selected Loans in the Portfolio and their Related Security in accordance with Clause 15 below, subject to any right of pre-emption in favour of the Seller pursuant to Clause 10 of the Mortgage Sale Agreement and subject to any Cash Equity Contributions made by the Holders. The proceeds from any such sale shall be credited to the GIC Account and applied in accordance with Clause 12 above.

14.2 After service of a Notice to Pay on the Fund but prior to service of a Fund Acceleration Notice, the Fund shall sell Selected Loans in the Portfolio and their Related Security in accordance with Clause 15 below, subject to any right of pre-emption in favour of the Seller pursuant to Clause 10 of the Mortgage Sale Agreement. The proceeds from any such sale shall be credited to the GIC Account and applied in accordance with Clause 13 above.

15. **METHOD OF SALE OF SELECTED LOANS**

15.1 This Clause 15 shall apply if the Fund is required to sell Selected Loans in the Portfolio and their Related Security in accordance with Clause 14 above.

15.2 Before offering Selected Loans and their Related Security for sale in accordance with this Clause 15, the Fund shall ensure that:

- (a) the Selected Loans have been selected from the Portfolio on a Random Basis; and
- (b) the Selected Loans have an aggregate Outstanding Principal Balance in an amount (the **Required Outstanding Principal Balance Amount**) which is as close as possible to the amount calculated as follows:
 - (i) following the service of an Asset Coverage Test Breach Notice (but prior to service of a Notice to Pay), such amount that would ensure that, if the Selected Loans were sold at their Outstanding Principal Balance plus the Arrears of Interest and Accrued Interest thereon, the Asset Coverage Test would be satisfied on the next Calculation

Date taking into account the payment obligations of the Fund on the Payment Date following that Calculation Date (assuming for this purpose that the Asset Coverage Breach Test Notice is not revoked on the next Calculation Date); or

(ii) following service of a Notice to Pay:

$$N \quad \times \quad \frac{\text{Outstanding Principal Balance of all the Loans in the Portfolio}}{\text{the ISK Equivalent of the Required Redemption Amount in respect of each Series of Covered Bonds then outstanding}}$$

where N is an amount equal to the ISK Equivalent of the Required Redemption Amount of the Earliest Maturing Covered Bonds less amounts standing to the credit of the GIC Account and the principal amount of any Substitution Assets or Authorised Investments (excluding all amounts to be applied on the next following Fund Payment Date to repay higher ranking amounts in the Guarantee Priority of Payments and those amounts that are required to repay any Series of Covered Bonds which mature prior to or on the same date as the relevant Series of Covered Bonds).

For the purposes hereof:

Required Redemption Amount means, in respect of a Series of Covered Bonds, the amount calculated as follows:

$$\text{the Principal Amount Outstanding of the relevant Series of Covered Bonds} \quad \times \quad 1 + \text{Negative Carry Factor} \times (\text{days to maturity of the relevant Series of Covered Bonds}/365)$$

15.3 The Fund will offer the Selected Loans and their Related Security for sale to Purchasers for the best price reasonably available but in any event:

- (a) following the service of an Asset Coverage Test Breach Notice (but prior to service of a Notice to Pay), for an amount not less than the Outstanding Principal Balance of the Selected Loans plus the Arrears of Interest and Accrued Interest thereon; and
- (b) following service of a Notice to Pay, for an amount not less than the Required Redemption Amount.

15.4 Following service of a Notice to Pay, if Selected Loans have not been sold (in whole or in part) in an amount equal to the Required Redemption Amount within six months following the date of the service of a Notice to Pay but not later than the date which is six months prior to the Final Maturity Date of the Earliest Maturing Covered Bonds, then the Fund will offer the Selected Loans for sale for the best price reasonably available notwithstanding that such amount may be less than the Required Redemption Amount.

15.5 Following service of a Notice to Pay, in addition to offering Selected Loans for sale to Purchasers in respect of the Earliest Maturing Covered Bonds, the Fund (subject to the right of pre-emption in favour of the Seller pursuant to Clause 10 of the Mortgage Sale Agreement) is permitted to offer for sale a portfolio of Selected Loans, in accordance with this Clause 15, in respect of other Series of Covered Bonds.

15.6 The Fund is permitted to offer for sale to Purchasers part of any portfolio of Selected Loans (a **Partial Portfolio**). Where a Notice to Pay has been served, except in circumstances where the portfolio of Selected Loans is being sold within six months of the Final Maturity Date of the Earliest Maturing Covered Bonds, the sale price of the Partial Portfolio (as a proportion of the Required Redemption Amount) shall be at least equal to the proportion that the Partial Portfolio bears to the relevant portfolio of Selected Loans.

- 15.7 The Management Company on behalf of the Fund will appoint a portfolio manager of recognised standing on a basis intended to incentivise the portfolio manager to achieve the best price for the sale of the Selected Loans (if such terms are commercially available in the market) to advise it in relation to the sale of the Selected Loans to Purchasers (except where the Seller is buying the Selected Loans in accordance with its right of pre-emption in the Mortgage Sale Agreement). The terms of the agreement giving effect to the appointment in accordance with such tender shall be approved by the Representative.
- 15.8 In respect of any sale of Selected Loans and their Related Security following service on the Fund of an Asset Coverage Test Breach Notice (which has not been revoked) or a Notice to Pay, the Fund will instruct the portfolio manager to use all reasonable endeavours to procure that Selected Loans are sold as quickly as reasonably practicable (in accordance with the recommendations of the portfolio manager) taking into account the market conditions at that time and, where relevant, the scheduled repayment dates of the Covered Bonds and the terms of this Deed.
- 15.9 The terms of any sale and purchase agreement with respect to the sale of Selected Loans and their Related Security (which shall give effect to the recommendations of the portfolio manager) will be subject to the prior written approval of the Representative.
- 15.10 Following service of a Notice to Pay, if Purchasers accept the offer or offers from the Fund so that some or all of the Selected Loans and their Related Security shall be sold prior to the Final Maturity Date of the Earliest Maturing Covered Bonds, then the Fund will, subject to Clause 15.9, enter into a sale and purchase agreement with the relevant Purchasers which will require *inter alia* a cash payment from the relevant Purchasers. Any such sale will not include any representations and warranties from the Fund or the Seller (or the applicable New Seller) in respect of the Loans and the Related Security unless expressly agreed by the Representative or otherwise agreed with the Fund and the Seller (or the applicable New Seller). The Seller (or the applicable New Seller) and the Fund will enter into such documentation as is required under such sale and purchase agreement to enable the Purchaser to obtain valid title to the Selected Loans and their Related Security to be sold thereunder.

16. **ALLOCATION AND DISTRIBUTION OF MONIES RECEIVED BY THE REPRESENTATIVE FOLLOWING SERVICE OF A FUND ACCELERATION NOTICE**

- 16.1 From and including the time when the Representative serves a Fund Acceleration Notice on the Fund no amount may be withdrawn from the Fund Accounts without the prior written consent of the Representative.
- 16.2 All moneys received or recovered by the Representative or any receiver after the service of a Fund Acceleration Notice shall be held by it in the Fund Accounts to be applied (save to the extent required otherwise by law) in the following order of priority (the **Post-Enforcement Priority of Payments**) (in each case only if and to the extent that payments or provisions of a higher priority have been made in full):
- (a) *first*, in or towards satisfaction *pro rata* and *pari passu* according to the respective amounts thereof all amounts due and payable or to become due and payable to the Representative under the provisions of the Representative and Agency Agreement together with interest and applicable amounts in respect of taxes thereon as provided therein;
 - (b) *second*, in or towards satisfaction of any remuneration then due and payable to the Agents under or pursuant to the Representative and Agency Agreement, the Management Company and the Custody Agent together with applicable taxes thereon as provided therein;
 - (c) *third*, in or towards satisfaction *pro rata* and *pari passu* according to the respective amounts thereof of:

- (i) any remuneration then due and payable to the Servicer and any costs, charges, liabilities and expenses then due or to become due and payable to the Servicer under the provisions of the Servicing Agreement, together with applicable amounts in respect of taxes thereon as provided therein;
 - (ii) any remuneration then due and payable to the Cash Manager and any costs, charges, liabilities and expenses then due or to become due and payable to the Cash Manager under the provisions of the Cash Management Agreement, together with applicable amounts in respect of taxes thereon as provided therein; and
 - (iii) amounts due to the Account Bank (including any costs, charges, liabilities and expenses) pursuant to the terms of the Bank Account Agreement, together with applicable amounts in respect of taxes thereon as provided therein;
- (d) *fourth*, in or towards satisfaction of the amounts due and payable under the Covered Bond Guarantee, to the Representative or (if so directed by the Representative) the Principal Paying Agent on behalf of the Covered Bondholders *pro rata* and *pari passu* in respect of interest and principal due and payable on each Series of Covered Bonds, provided that if the amount available for distribution under this paragraph (d) would be insufficient to pay the ISK Equivalent of the amounts due and payable under the Covered Bond Guarantee in respect of each Series of Covered Bonds, the shortfall shall be divided amongst all such Series of Covered Bonds on a *pro rata* basis;
 - (e) *fifth*, in or towards payment of all amounts outstanding under the Intercompany Loan Agreement *pro rata* and *pari passu* in respect of each relevant Term Advance; and
 - (f) *sixth*, in or towards payment to the Holders (as specified in the Fund Deed).

17. APPLICATION AND DISTRIBUTION OF MONIES WHEN COVERED BONDS REPAID

From the date when either: (a) the Covered Bonds have been fully repaid; or (b) the Representative is satisfied that the Fund has an amount in cash standing to the credit of the GIC Account equal to the Required Redemption Amount in respect of each Series of Covered Bonds outstanding, all remaining monies standing to the credit of the GIC Account (excluding all amounts required to repay higher ranking amounts in the relevant Priority of Payments) shall be allocated and paid:

- (a) *first*, to apply any such monies which constitute Receipts towards payment *pro rata* and *pari passu* to each Holder by way of a Unit Distribution in an amount equal to any remaining Available Receipts; and
- (b) *second*, to pay all remaining monies to the Holders by way of Unit Distributions (being a distribution of that Holder's equity interest in the Fund) *pro rata* and *pari passu* to their respective Equity Contribution Balances as calculated on the immediately preceding Calculation Date.

18. WITHDRAWAL OF EQUITY CONTRIBUTIONS

Until such time as the Fund's obligations under the Covered Bond Guarantee are satisfied (or provided for) in full and except as expressly set out in this Deed and the other Transaction Documents, the Holder may not draw out or receive back any part of its Capital Contributions.

19. LIMIT ON INVESTING IN SUBSTITUTION ASSETS AND AUTHORISED INVESTMENTS

- 19.1 Prior to the service of an Asset Coverage Test Breach Notice (if not revoked) or a Notice to Pay on the Fund, the Fund shall be permitted to invest Available Receipts and the proceeds of Term Advances in Substitution Assets, provided that the aggregate amount so invested shall not exceed 10 per cent. of the

total assets of the Fund at any one time and provided that such investments are made in accordance with the terms of the Cash Management Agreement.

- 19.2 Following the service of an Asset Coverage Test Breach Notice (if not revoked) or a Notice to Pay on the Fund, all Substitution Assets shall be sold by the Fund (or the Cash Manager on its behalf) as quickly as reasonably practicable and the proceeds credited to the GIC Account.
- 19.3 The Fund shall at any time (prior to and following service of a Notice to Pay) be permitted to invest all available moneys in Authorised Investments without limitation, provided that such investments are made in accordance with the terms of the Cash Management Agreement.
- 19.4 Nothing in this Clause 19 shall limit the amount that the Fund (or the Cash Manager on its behalf) may credit to the GIC Account from time to time.

20. **GIC ACCOUNT**

The Fund shall open the GIC Account with the Account Bank prior to the Programme Date, subject to and in accordance with the terms of the Bank Account Agreement.

21. **STATUTORY ACCOUNTS**

- 21.1 The Management Company shall ensure that the accounts of the Fund are, unless otherwise required by law, prepared in accordance with generally accepted accounting principles in Iceland. The accounts of the Fund shall be made up with the accounts of the Management Company.
- 21.2 A profit and loss account shall be taken in every year on the annual accounting date and a balance sheet as at the same date shall be prepared.
- 21.3 The Management Company shall, in compliance with the Act, appoint the auditors as the auditors for each fiscal period of the Fund and shall have the power to fix their remuneration.
- 21.4 The Management Company shall ensure that the accounts of the Fund are drawn up in the format and giving the information required in the Act and are audited by external independent auditors.
- 21.5 The Management Company shall ensure that all the necessary and proper financial records of accounts shall be kept to enable the accounts of the Fund to be made up as required under the Act and retained for such periods of time as required by law at the registered office of the Fund in compliance with the Act and such records shall be available for inspection by each Holder and by the auditors for the time being at all times. The Management Company shall be responsible for ensuring that full and proper entries of all transactions entered into by it on account of the Fund are made.

22. **LEDGERS**

The Fund shall maintain, or shall procure that there are maintained, the following Ledgers:

- (a) the Revenue Ledger, which shall record all receipts of Revenue Receipts and distribution of Revenue Receipts in accordance with the terms of this Deed;
- (b) the Unit Account Ledger for each Holder, which shall record the balance of each Holder's Equity Contributions and distribution of those Equity Contributions;
- (c) the Reserve Ledger, which shall record the crediting of Revenue Receipts and (if so directed by the Seller) Cash Equity Contributions to the Reserve Fund and the debiting of such Reserve Fund; and
- (d) the Payment Ledger, which shall record the credits and debits of Available Receipts for application in accordance with the relevant Priority of Payments.

23. **TRANSFERS**

Subject to the terms of the Transaction Documents, Arion covenants with and undertakes to the Fund and the Representative that it shall not, and shall not purport to, sell, transfer, convey, create or permit to arise any security interest on, declare a trust over, create any beneficial interest in, or otherwise dispose of its interest in the Fund and/or its rights under this Deed without the prior written consent of the Fund and, whilst the Covered Bonds are outstanding, the Representative.

24. **DUTIES AND COVENANTS OF THE FUND**

24.1 The Fund shall comply with all statutory duties imposed on it from time to time and do all such things as may be reasonably necessary to maintain the status of any legal or regulatory approvals granted to it from time to time.

24.2 Subject to the terms of the relevant Priorities of Payments, the Fund shall indemnify the Management Company (or their agents, directors, officers, employees and other delegates) in respect of payments made and liabilities incurred by them (save for liabilities in respect of taxes and/or official levies):

- (a) in the ordinary and proper conduct of the Fund Business; or
- (b) in or about anything necessarily done for the preservation of the Fund Business,

within the scope of the authority conferred by this Deed, save where such payments and/or personal liabilities are incurred through fraud, wilful default, gross negligence or breach of the terms of this Deed by the Management Company.

24.3 Save with the prior written consent of the Representative, for so long as the Covered Bonds are outstanding, or as provided in or envisaged by or pursuant to this Deed and/or the other Transaction Documents and/or its Articles of Association, the Fund shall not:

- (a) create or permit to subsist any mortgage, standard security, assignation, pledge, lien, charge or other security interest whatsoever (unless arising by operation of law), upon the whole or any part of its assets (including any uncalled capital) or its undertakings, present or future;
- (b) dispose of, or deal with, or grant any option or present or future right to acquire any of its assets or undertakings or any interest, estate, right, title or benefit therein or thereto or agree or attempt or purport to do so;
- (c) have an interest in any bank account;
- (d) incur any indebtedness in respect of borrowed money whatsoever or give any guarantee or indemnity in respect of any such indebtedness;
- (e) consolidate or merge with any other person or convey or transfer its properties or assets substantially as an entirety to any other person;
- (f) have any employees or premises or subsidiaries;
- (g) acquire any assets;
- (h) engage in any activities in the United States (directly or through agents) or derive any income from United States sources as determined under United States income tax principles or hold any property if doing so would cause it to be engaged or deemed to be engaged in a trade or business within the United States as determined under United States tax principles;
- (i) enter into any contracts, agreements or other undertakings;

- (j) compromise, compound or release any debt due to it; or
- (k) commence, defend, settle or compromise any litigation or other claims relating to it or any of its assets.

25. **SUBORDINATION AND NON-PETITION**

25.1 Whilst any amounts are outstanding in respect of the Covered Bonds or the Covered Bond Guarantee, each of the Management Company and each Holder agrees that it shall not:

- (a) dissolve or purport to dissolve the Fund; or
- (b) institute any winding-up, administration, insolvency or other similar proceedings against the Fund.

25.2 Each of the Management Company and each Holder hereby agrees to be bound by the terms of the Priorities of Payment set out in this Deed. Without prejudice to Clause 25.1, each of the Management Company and each Holder further agrees with each other party to this Deed that, notwithstanding any other provision contained herein or in any other Transaction Document:

- (a) it will not demand or receive payment of, or any distribution in respect of or on account of, any amounts payable by the Fund (or the Cash Manager on its behalf) or the Representative, as applicable, to it under the Transaction Documents, in cash or in kind, and will not apply any money or assets in discharge of any such amounts payable to it (whether by set off or by any other method), unless all amounts then due and payable by the Fund to all other creditors ranking higher in the relevant Priorities of Payments have been paid in full or appropriate provisions have been made for their payment;
- (b) without prejudice to the foregoing, whether in the liquidation of the Fund or any other party to the Transaction Documents or otherwise, if any payment or distribution is received by it in respect of any amount payable by the Fund (or the Cash Manager on its behalf) or the Representative, as applicable, to it under the relevant Transaction Document at a time when, by virtue of the provisions of the relevant Transaction Document and this Deed, no payment or distribution should have been made, the amount so received shall be held by it for the entity from which such payment was received and shall be paid over to such entity forthwith upon receipt (whereupon the relevant payment or distribution shall be deemed not to have been made or received); and
- (c) it shall not claim, rank, prove or vote as creditor of the Fund or its estate in competition with any prior ranking creditors in the relevant Priorities of Payments, the Representative, as applicable, or claim a right of set-off until all amounts then due and payable to creditors who rank higher in the relevant Priorities of Payments have been paid in full.

25.3 Neither the Fund nor the Representative shall pay or repay, or make any distribution in respect of, any amount owing to a creditor under the relevant Transaction Documents (in cash or in kind) unless and until all amounts then due and payable by the Fund or the Representative to all other creditors ranking higher in the relevant Priorities of Payments have been paid in full or appropriate provisions have been made for their payment.

26. **FURTHER ASSURANCES**

The parties agree that they will co-operate fully to do all such further acts and things and execute any further documents as may be necessary or desirable to give full effect to the arrangements contemplated by this Deed.

27. **AMENDMENTS**

27.1 No amendment or waiver of any provision of this Deed nor consent to any departure by any of the parties therefrom shall in any event be effective unless the same shall be in writing and signed by each of the parties to this Deed. In the case of a waiver or consent, such waiver or consent shall be effective only in the specific instance and as against the party or parties giving it for the specific purpose for which it is given.

27.2 This Deed contains a final and complete integration of all prior expressions by the parties with respect to the subject matter of this Deed and constitutes the entire agreement among the parties with respect to the subject matter of this Deed, superseding all prior oral or written understandings other than the other Transaction Documents.

28. **CALCULATIONS**

In the absence of manifest error, any determination or calculation made by or on behalf of the Fund in connection with the provisions of this Deed shall be deemed to be conclusive.

29. **NO WAIVER; REMEDIES**

No failure on the part of any party to this Deed to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The remedies in this Deed are cumulative and not exclusive of any remedies provided by law.

30. **EXECUTION IN COUNTERPARTS; SEVERABILITY**

30.1 This Deed may be executed in any number of counterparts each of which when so executed and delivered (manually or by facsimile) is an original, but all the counterparts together constitute the same document.

30.2 Where any provision in or obligation under this Deed shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations under this Deed, or of such provision or obligation in any other jurisdiction, shall not be affected or impaired thereby.

31. **CONFIDENTIALITY**

31.1 Unless otherwise required by applicable law, and subject to Clause 31.2 below, each of the parties agrees not to disclose to any person any information relating to the business, finances or other matters of a confidential nature of or relating to any other party to this Deed or any of the Transaction Documents which it may have obtained as a result of having entered into this Deed or otherwise.

31.2 The provisions of Clause 31.1 above shall not apply:

- (a) to the disclosure of any information to any person who is a party to any of the Transaction Documents as expressly permitted by the Transaction Documents;
- (b) to the disclosure of any information which is or becomes public knowledge otherwise than as a result of the wrongful conduct of the recipient;
- (c) to the extent that the recipient is required to disclose the same pursuant to any law or order of any court or pursuant to any direction or requirement (whether or not having the force of law) of any central bank or any governmental or other regulatory or taxation authority;
- (d) to the disclosure of any information to professional advisers who receive the same under a duty of confidentiality;

- (e) to the disclosure of any information with the consent of the parties to this Deed; or
- (f) to any disclosure for the purposes of collecting in or enforcing any claims against the Fund's property or any of it.

32. ADDRESSES FOR NOTICES

32.1 Any notices to be given pursuant to this Deed will be sufficiently served if sent by prepaid first class post, by hand or facsimile transmission and will be deemed to be given (in the case of facsimile transmission) when despatched (if delivered by hand) on the day of delivery if delivered before 5.00 p.m. on a Business Day or on the next Business Day if delivered thereafter or (if by first class post) when it would be received in the ordinary course of the post and shall be sent:

- (a) in the case of Arion, to Arion Bank hf. at Borgartun 19, 105 Reykjavik, Iceland (facsimile number +(354) 444 6229 and email mtndesk@arionbanki.is) for the attention of the Funding Department;
- (b) in the case of the Fund, to Arion Bank Mortgages Institutional Investor Fund at Borgartun 19, 105 Reykjavik, Iceland (facsimile number +(354) 444 7489 and email info@stefnir.is) for the attention of Stefnir hf. – Arion Bank Mortgages Institutional Investor Fund;
- (c) in the case of the Management Company, to Stefnir hf. formerly Kaupthing Asset Management Company hf. at Borgartun 19, 105 Reykjavik, Iceland (facsimile number +(354) 444 7489 and email info@stefnir.is) for the attention of Þorkell Magnússon and Heiðar Ingi Ólafsson; and
- (d) in the case of the Representative, to Deutsche Trustee Company Limited at Winchester House, 1 Great Winchester Street, London EC2N 2DB, United Kingdom (facsimile number +(44) 20 7547 6149 and email TSS-GDS.EUR@db.com) for the attention of the Managing Director,

or to such other address or facsimile number or for the attention of such other person or entity as may from time to time be notified by any party to the others by written notice in accordance with the provisions of this Clause 32.1.

32.2 Notwithstanding Clause 32.1 above and provided that each give their prior consent to such delivery, any party to this Deed may send notice to or otherwise communicate with any of the other parties to this Deed by electronic mail. However, the electronic transmission of information cannot be guaranteed to be secure or virus or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Each of the parties to this Deed shall be deemed: (i) to have received any electronic mail sent by the any other party to this Deed pursuant to the terms of this Clause 32.2 subject to the risks (including the security risks of interception, unauthorised access, corruption or viruses) of communications via electronic mail; and (ii) to have performed reasonable virus checks required in connection with the receipt of electronic mail. Each party to this Deed shall be responsible for protecting its own systems and interests in relation to electronic communications and each party to this Deed (in each case including their respective directors, partners, employees, agents or servants) shall have no liability to each other on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any error, damage, loss or omission arising from or in connection with the electronic communication of information between such parties and any party's reliance on such information. The exclusion of liability in the previous clause shall not apply to the extent that any liability arises out of acts, omissions or misrepresentations which are in any case criminal, dishonest or fraudulent on the part of their respective directors, partners, employees, agents or servants.

33. GOVERNING LAW AND SUBMISSION TO JURISDICTION

33.1 This Deed is governed by, and shall be construed in accordance with, the laws of Iceland.

33.2 Each of the parties to the Deed irrevocably agrees that any dispute arising out of this Deed shall be subject to the exclusive jurisdiction of the District Court of Reykjavik (*Héraðsdómur Reykjavíkur*).

34. **CHANGE OF REPRESENTATIVE**

34.1 If there is any change in the identity of the Representative in accordance with the Representative and Agency Agreement, Arion, the Fund and the Management Company shall execute such documents and take such action as the successor Representative and the outgoing Representative may reasonably require for the purpose of vesting in the successor Representative the rights of the outgoing Representative under this Deed.

34.2 It is hereby acknowledged and agreed that by its execution of this Deed the Representative shall not assume or have any obligations or liabilities under this Deed to any other party to this Deed notwithstanding any provision herein and that the Representative has agreed to become a party to this Deed for the purpose only of taking the benefit of this Deed and agreeing to amendments to this Deed pursuant to Clause 27. It is further acknowledged and agreed that the Representative shall not at any time assume any obligations of the Management Company under this Deed or under the Articles of Association of the Fund. For the avoidance of doubt, the parties to this Deed acknowledge that the rights and powers of the Representative are governed by the Representative and Agency Agreement. Any liberty or right which may be exercised or determination which may be made under this Deed by the Representative may be exercised or made in the Representative's absolute discretion without any obligation to give reasons therefor and the Representative shall not be responsible for any liability occasioned by so acting but subject always to the provisions of Clause 12.6 of the Representative and Agency Agreement.

35. **SURVIVAL OF CERTAIN CLAUSES**

Clauses 25, 31 and 33 of this Deed shall survive any termination of this Deed.

THIS DEED has been entered into on the date stated at the beginning of this Deed.

SIGNATORIES

The Seller, the Cash Manager and a Holder

ARION BANK HF.

By: _____

The Fund

ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND

By: _____

The Management Company

STEFNIR HF. formerly KAUPTHING BANK ASSET MANAGEMENT COMPANY HF.

By: _____

The Representative

DEUTSCHE TRUSTEE COMPANY LIMITED

By: _____

By: _____

SCHEDULE 2

FORM OF ASSET MONITOR REPORT

ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND
in its capacity as the Fund

and

ARION BANK HF.
in its capacity as the Issuer and the Cash Manager

and

DEUTSCHE TRUSTEE COMPANY LIMITED
in its capacity as the Representative

[addressees as provided for in the Asset Monitor Agreement]

[Date]

Dear Sirs

Asset Monitor Agreement

We refer to the Asset Monitor Agreement (the **Asset Monitor Agreement**) dated 20 January, 2012 (as may be amended, varied, supplemented or novated from time to time) between Arion Bank Mortgages Institutional Investor Fund (the **Fund**), Arion Bank hf. (the **Issuer** and the **Cash Manager**), Deutsche Trustee Company Limited (the **Representative**) (collectively referred to herein as the **Recipients**) and KPMG ehf. (the **Asset Monitor**) under which we, as the Asset Monitor, are required to provide the Recipients with this Asset Monitor Report in respect of the calculation of the Asset Coverage Test by the Cash Manager in respect of the Calculation Date falling on [*insert date*].

The Cash Manager has prepared a statement of calculations in relation to the above Asset Coverage Test (the **Statement**), a copy of which is appended to this letter.

This report is provided pursuant to, and must be read in conjunction with, the Asset Monitor Agreement and is subject to the terms and limitations set out therein.

Basis of report

We have read the attached Statement prepared by the Cash Manager. Our work was based on obtaining an understanding of the Statement by enquiry of the Cash Manager, reference to the Fund Deed where the calculation is set out, and a recomputation of the calculations in the Statement in order to report on their arithmetical accuracy in accordance with the Asset Monitor Agreement. For the purpose of providing the Recipients with this Asset Monitor Report, other than as set out herein, we have not carried out any work by way of audit, review or verification of the financial information nor of the management accounts, accounting records or other sources from which that information has been extracted. Furthermore, we have not considered whether the information provided to us by the Cash Manager has been accurately extracted from the sources identified therein or agrees with any underlying accounting or other information. Furthermore, we have not considered whether the information provided to us by the Cash Manager is presented in compliance with any relevant accounting or other definitions as to its elements and composition.

Report

Either:

[Based solely on the procedures described above and in the Asset Monitor Agreement, we confirm that the calculations of the Asset Coverage Test in respect of the Calculation Date falling on [insert date] shown in the Statement are arithmetically accurate.]

or:

[Based solely on the procedures described above and in the Asset Monitor Agreement, we calculated a result of [describe result] [in respect of the Asset Coverage Test in respect of the Calculation Date falling on [insert date], and hence do not concur that the calculations in the Statement are arithmetically accurate] and/or [in respect of the Adjusted Aggregate Loan Amount, which exceeds the reported Adjusted Aggregate Loan Amount in the Statement by more than one per cent].]

Based on the procedures performed, we draw your attention to the following:

Use of Report

Our report as set out herein is confidential to the Recipients of this Asset Monitor Report, solely in their respective capacities under which they have contracted under the Asset Monitor Agreement and should not be made available to any other person without our prior written consent. It is provided solely for the purpose of the assessment of the Cash Manager's calculations in relation to the Asset Coverage Test in the context of the Programme, and is provided subject to and in accordance with the terms of the Asset Monitor Agreement. We accept no responsibility or liability to any other person (including, without limitation, any Dealer) who is shown or gains access to this Report. We accept no responsibility or liability to any such person for any reliance that may be placed on this Report for any purpose.

Yours faithfully

KPMG ehf.

cc [xxx]

SCHEDULE 3

CALCULATIONS AND PROCEDURES

Asset Coverage Test

The Asset Monitor test of arithmetical accuracy of the Asset Coverage Test will comprise the following steps:

1. Ensure that the Cash Manager has provided, in accordance with Clause 3.1 of the Asset Monitor Agreement:
 - figures A, B, C, D and W described in the Asset Coverage Test; the constituent figures used in the calculations of item A. Specifically, for each Loan:
 - (i) outstanding principal balance and scheduled principal payments;
 - (ii) latest valuation;
 - (iii) collateral valuation; and
 - (iv) whether the Loan is in default including full details thereof;
 - a value for:
 - (i) Asset Percentage; and
 - (ii) any "deemed" reductions as specified in the details after "minus";
 - the ISK Equivalent of the Principal Amount Outstanding of the Covered Bonds as calculated by the Cash Manager on the relevant Calculation Date; and
 - a nil balance where applicable.
2. For A:
 - determine the lower of A(a) and A(b).
3. Re-perform the calculation $\alpha A + B + C + D - W$ [*the Adjusted Aggregate Loan Amount*]
4. Compare this calculation to that provided by the Cash Manager.
5. Complete the Asset Monitor Report substantially in the form as set out in Schedule 2.

SIGNATORIES

The Fund

ARION BANK MORTGAGES INSTITUTIONAL INVESTOR FUND

By: _____
Name:
Title:

Name:
Title:

The Issuer and the Cash Manager

ARION BANK HF.

By: _____
Name:
Title:

Name:
Title:

The Asset Monitor

KPMG ehf.

By: _____
Name: **Helga Harðardóttir**
Title: **Partner**

The Representative

DEUTSCHE TRUSTEE COMPANY LIMITED

By: Angeline Geney
Name:
Title: **Associate Director**

S Ferguson
Name:
Title: **Associate Director**