

ACCOUNT CONTROL AGREEMENT

This ACCOUNT CONTROL AGREEMENT dated a of 2 February 2022 (“**Agreement**”), is made by and among ETC ISSUANCE GMBH, a limited liability company organized and existing under the laws of the Federal Republic of Germany, having its corporate seat at Thurn- und Taxis-Platz 6, 60313 Frankfurt am Main, Germany, which is registered in the commercial register of the local court of Frankfurt am Main under number HRB 11660 (the “**Grantor**”), APEX CORPORATE TRUSTEES (UK) LIMITED, a private limited company incorporated under the laws of England and Wales and having its registered seat at 6th Floor, 140 London Wall, London EC2Y 5DN and registered with the Companies House under no. 00239726, in its capacity as security trustee on behalf of the Secured Creditors identified below (the “**Secured Party**”), and COINBASE CUSTODY TRUST COMPANY, LLC, a New York limited purpose trust company (the “**Custodian**”).

Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Uniform Commercial Code as in effect in the State of New York (the “**UCC**”), and if defined in more than one article of the UCC shall have the meanings set forth in Articles 8 and 9 thereof.

WHEREAS, the Grantor has published a base prospectus dated 23 November 2021 (as amended and supplemented, the “**Base Prospectus**”) qualifying the future issue of bonds which are issuable in series, as described in the Base Prospectus. This Agreement relates to one specific series of bonds (the “**Specific Series**”, bearing the name, the primary ticker symbol and the other features described in **Exhibit A**). The Specific Series is expected to be issued in the form of a global note with the terms and conditions (the “**Terms and Conditions**”, which for avoidance of doubt relate to the Specific Series) attached thereto. The Grantor has engaged the Secured Party to serve as security trustee for the benefit of the holders of the Specific Series (the “**Bondholders**”), the joint representative of the Bondholders (the “**Bondholder’s Representative**”) (if appointed) and the Secured Party (the Bondholders, the Bondholders' Representative (if appointed) and the Secured Party, as such beneficiaries, the “**Secured Creditors**”) pursuant to a German Security and Security Trust Agreement dated 2 February 2022 (as amended, the “**Security Trust Agreement**”);

WHEREAS, certain payment obligations of the Grantor under the Specific Series and the Security Trust Agreement are secured by a first priority security interest in certain digital currency (the “**Digital Currency**”) or other digital assets (the “**Digital Assets**”) owned by the Grantor, and such additional assets as may be derived therefrom (the “**Collateral**”), which security interest is created and granted to the Secured Party pursuant to the terms of a Cryptocurrency Security Agreement entered into between Grantor and the Secured Party dated 2 February 2022 (as amended, the “**Cryptocurrency Security Agreement**”), as well as the Security Trust Agreement;

WHEREAS, pursuant to a custodial services agreement between the Custodian and the Grantor dated 13 September 2021 (as amended, the “**Custodial Services Agreement**”), the Custodian acts as custodian for Grantor and has established one or more separate, segregated custodial accounts in the name of the Grantor as the entitlement holder into which the Grantor has deposited and will continue to deposit the Collateral (each such account subject to the Custodial Services Agreement, whether there is only one or whether there is more than on such account, for

all purposes under this Agreement, shall be referred to on a collective and combined basis as the “*Account*”); and

WHEREAS, Secured Party, Grantor and the Custodian are entering into this Agreement to provide for the control of the Collateral in the Account and to perfect the security interest of Secured Party in such Collateral including any and all funds, deposits or assets, including Digital Currency and Digital Assets, from time to time credited thereto and remaining therein.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties hereto mutually agree as follows:

1. The Account. The Custodian represents and warrants and covenants to the Secured Party that:

- (a) The Custodian qualifies as a “securities intermediary,” as defined in NY UCC § 8-102 with respect to the Account and agrees that, for the purposes of this Agreement, its “jurisdiction” (as determined by the rules set forth in NY UCC § 8-110(e)) shall be the State of New York.
- (b) The Custodian maintains the Account solely in the Grantor’s name. The Account is a “securities account” as defined in NY UCC § 8-501(a). The Grantor is the Custodian’s customer with respect to the Account.
- (c) As of the date of this Agreement, the Custodian does not know of any claim to, security interest in or lien upon the Account, except for claims and interests of the parties hereto.
- (d) The Custodian has not entered into any currently effective agreement with any person under which the Custodian may be obligated to comply with an Order (as defined below) originated by a person other than the Grantor or the Secured Party and will not enter into any such agreement during the effectiveness of this Agreement.

2. "Financial Assets" Election. Each party hereby agrees that each item of property (whether investment property, financial asset, security or instrument (each as defined in the UCC) or cash) credited to the Account on or after the date of the Agreement shall be treated as a “financial asset” within the meaning of NY UCC § 8-102(a)(9).

3. Control of Account by Secured Party; Grantor’s Rights in Account. During the effectiveness of this Agreement, the Grantor hereby instructs and the Custodian agrees that:

- (a) Upon receipt of a Notice of Sole Control in the form attached hereto as **Exhibit B** (“**Notice of Sole Control**”), the Custodian shall comply with written instructions and entitlement orders (as such term is defined in the UCC) (“**Orders**”) originated by the Secured Party concerning the Account without further consent from the Grantor or any other person and without regard to any inconsistent or conflicting Orders given to

Custodian by the Grantor or any other person. The Custodian shall have a reasonable period of time not to exceed two (2) business days to comply with any Order.

- (b) Custodian shall not be responsible for any loss, liability or expense arising out of Custodian's compliance with any Order or other instruction from Grantor prior to Custodian's receipt and acknowledgment of such Order or instruction from Secured Party in accordance with Sections 3 and 17.
- (c) Prior to receipt of a Notice of Sole Control, the Custodian shall accept and comply with Orders from the Grantor without the prior written consent of the Secured Party, in accordance with the procedures established under and set out in the Custodial Services Agreement, in particular Approved by the Administrator. The Custodian shall honor instructions from the Grantor with respect to the exercise of voting, governance or other rights related to the financial assets custodied in the Account at any time unless Custodian has received a written notice from the Secured Party that the Grantor shall no longer be entitled to exercise such voting rights.



- (d) Upon receipt of a Notice of Sole Control in accordance with this Section 3 of this Agreement, the Custodian shall neither accept nor comply with any Order from the Grantor regarding the Account.
- (e) The Custodian shall not comply with any Orders or other instructions concerning the Account from any third party without the prior written consent of the Secured Party and, prior to the Custodian's receipt of a Notice of Sole Control, the Grantor.

Notwithstanding anything to the contrary contained herein, before the Secured Party gives the Custodian any Orders concerning the Account, the Secured Party shall deliver to the Custodian such documentation as the Custodian may from time to time reasonably request to evidence the authority of those partners, officers, employees or agents whom the Secured Party may designate to give Orders, and Custodian shall be entitled to assume without further inquiry that the person(s) so named shall have the authority to give Orders. The Secured Party shall also provide the Custodian with any information as the Custodian may require in order to make a transfer in compliance with an Order, including the name and routing numbers of the Secured

Party's bank and the related accounts and account numbers, and/or a public blockchain address controlled by the Secured Party. The Grantor and the Secured Party understand that a transfer of financial assets by the Custodian may be delayed or not made if the transfer would cause the Custodian to violate any applicable law or regulation.

- 4. Priority of Secured Party's Security Interest; Rights Reserved by Custodian.** All of the Custodian's present and future rights against the Account are subordinate to the Secured Party's security interest therein; provided, however, that the Secured Party agrees that nothing herein subordinates or waives, and that the Custodian expressly reserves, all of its present and future rights, including (i) a security interest prior to that of Secured Party in the Account to the extent necessary to secure the Custodian for the payment of any usual and customary commissions or fees owing to the Custodian with respect to the Account and (ii) the Custodian's and its affiliates' rights of set-off with respect to the Account.
- 5. Statements; Notices of Adverse Claims.** At the Secured Party's expense and request, to the extent the Custodian has the operational ability to do so, the Custodian agrees to send copies of all statements with respect to the Account to the Secured Party. The Custodian is authorized to disclose to the Secured Party such other information concerning the Account as the Secured Party may from time to time request; provided, however, that the Custodian shall have no duty or obligation to comply with any such request. Except as otherwise required by law, the Custodian will use reasonable efforts to promptly notify the Secured Party and the Grantor if the Custodian receives a notice that any other person claims that it has a security or property interest in or lien upon the Account. The Grantor and the Secured Party shall have thirty (30) days after receipt of a statement of the Account to notify the Custodian of an error in such statement. The Custodian's liability for any such error is limited in accordance with Section 7 hereof.
- 6. Secured Party Entitled to Benefit of Security Trust Agreement.** The Grantor acknowledges that notwithstanding anything else in this Agreement or in any other Loan Document (as such term is defined in the Cryptocurrency Security Agreement), in acting hereunder, the Secured Party will act at all times and in all circumstances in accordance with, and with the benefit of the protections set out in, the Security Trust Agreement, provided however, that the Secured Party's obligations under this Agreement remains unchanged.
- 7. Custodian's Responsibility.**
 - (a) The Custodian shall not be liable to the Secured Party for complying with Orders from the Grantor that are received by the Custodian before the Custodian receives and has a reasonable opportunity to act on a Notice of Sole Control or any contradictory Order from the Secured Party.
 - (b) The Custodian shall not be liable to the Grantor for complying with Orders originated by the Secured Party, even if the Grantor notifies the Custodian that the Secured Party is not legally entitled to issue Orders, unless the Custodian takes the action after being

served with an injunction, restraining order, or other legal process enjoining it from doing so, issued by a court of competent jurisdiction, and has had a reasonable opportunity to act on the injunction, restraining order or other legal process.

- (c) This Agreement does not create any obligation of the Custodian except for those expressly set forth in this Agreement. In particular, the Custodian will have no fiduciary duties under this Agreement to any other party, whether as trustee, agent, bailee or otherwise. The Custodian may rely on notices and communications it believes are given by the appropriate party.
- (d) The Custodian shall have no duty to notify the Grantor or make any inquiry into or investigate whether or not an event of default exists under any agreement between the Grantor and the Secured Party or the Secured Party's right or authority to deliver a Notice of Sole Control or any Orders or instructions.
- (e) In no event will the Custodian have any liability to the Grantor or the Secured Party in connection herewith for any (i) consequential, special, punitive or indirect loss or damage whether or not any claim for such damages is based on tort or contract or whether the Custodian knew or should have known the likelihood of such damages in any circumstances, (ii) failure to comply with Orders or delay in complying with Orders if such failure or delay is due to strikes, lockouts or other labor disturbances, riots, fire, earthquake, floods, lightning, pandemics, epidemics, other acts of God, or circumstances beyond the Custodian's reasonable control, (iii) failure to act by the Grantor or the Secured Party or (iv) failure to act due to its determination that such action would result in the Custodian failing to comply with a statute, rule or regulation, binding upon the Custodian; except to the extent, in each case, such losses, liabilities and damages directly result from Custodian's gross negligence or willful misconduct.
- (f) In the event that the Custodian is liable to the Grantor or the Secured Party under this Agreement, the Custodian's liability shall be limited to the lesser of (i) the actual direct and provable amount of money damages suffered by the claiming party or (ii) the amount maintained in the Account at the time the claim for such liability arose.

8. Indemnity.

- (a) The Grantor shall indemnify and hold harmless the Custodian, its affiliates, and their officers, directors, employees, and agents against all claims, demands, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and disbursements and the reasonable estimate of the allocated costs and expenses of the Custodian's in-house legal counsel and staff) arising out of this Agreement or the Custodian following any Order or other instruction or request of the Grantor or the Secured Party in connection with this Agreement, except to the extent the claims, liabilities, costs and expenses are caused by the Custodian's gross negligence or willful misconduct.

- (b)
 - (i) The Secured Party shall indemnify the Custodian, its affiliates and their officers, directors, employees, and agents against claims, demands, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and disbursements and the reasonable estimate of the allocated costs and expenses of the Custodian's in-house legal counsel and staff), solely arising out of the Custodian following any Order or other instruction or request of the Secured Party in connection with this Agreement, except to the extent the claims, liabilities, costs and expenses are caused by the Custodian's gross negligence or willful misconduct.
 - (ii) To the extent any amount demanded of the Grantor from the Custodian is not paid within ten (10) days, the Secured Party will pay such amount as may be due to the Custodian under this indemnity within twenty (20) days of demand on the Secured Party by the Custodian; provided, however, that if the Custodian is stayed from making such demand upon the Grantor as a result of a bankruptcy or similar proceeding, then the Custodian shall be deemed to have made such demand upon the Grantor at the commencement of such proceeding.

9. Termination; Survival.

- (a) None of the Grantor, the Custodian or the Secured Party will close the Account prior to termination of this Agreement.
- (b) The Grantor may not terminate this Agreement. The Secured Party may terminate this Agreement by notice to the Custodian and the Grantor in the form of **Exhibit C** attached hereto (a "*Notice of Termination*"), expressly stating that the Secured Party is terminating this Agreement and no longer claims any security interest in the Account.
- (c) The Custodian may terminate this Agreement upon thirty (30) days' notice to the Secured Party and the Grantor; provided, however, that this Agreement may be terminated immediately by notice from the Custodian to the Secured Party and the Grantor, should the Secured Party or Grantor fail to make any payment when due to the Custodian.
- (d) The Grantor may terminate this Agreement by written notice signed by both the Grantor and the Secured Party, and delivered to the Custodian not less than thirty (30) days prior to the effective termination date.
- (e) The termination of this Agreement will not affect any rights created or obligations incurred under this Agreement before termination. Section 7, "Custodian's Responsibility," and Section 8, "Indemnity," will survive termination of this Agreement.

10. Governing Law.

- (a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND

INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. The parties further agree that the law applicable to all the issues in Article 2(1) of *The Hague Convention on the Law Applicable to Certain Rights in Respect of Securities Held with a Custodian* shall be the law of the State of New York.

- (b) The Custodian may not change the law governing the Account without the Secured Party's express written consent, which consent shall not be unreasonably withheld.

11. Waiver of Jury Trial. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

12. Entire Account Control Agreement. This Agreement is the entire agreement and supersedes any prior digital assets account control agreements and contemporaneous oral agreement of the parties concerning its subject matter.

13. Amendments; Waivers. This Agreement may be amended or modified only in writing signed by all parties hereto, and no waiver of any right under this Agreement will be binding unless it is in writing and signed by the party to be charged.

14. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and in the Security Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. The parties hereto shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

15. Other Agreements. For so long as this Agreement remains in effect, transactions involving the Account shall be subject, except to the extent inconsistent herewith, to the provisions of such digital assets account agreements, disclosures, and fee schedules as are in effect from time to time with respect to the Account.

16. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Grantor may not assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of the Secured Party. If the Secured Party assigns its interests to an affiliate, it must give the Grantor and the Custodian ten (10) business days' advance notice in writing.

17. Notices. All orders, notices, requests and demands which any party gives to any other party under any provision of this Agreement must be in writing (unless otherwise specifically provided) and delivered to such party at the address or to the email address set forth below, or to such other address as any party may designate by written notice to all other parties. Each such Order, notice, request or demand shall be effective when delivered in person, or when sent by electronic means and electronic confirmation of error free receipt is received, or two days after being sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the party at the address set forth below.

If to the Secured Party: **APEX CORPORATE TRUSTEES (UK)
LIMITED**
6th Floor, 140 London Wall
London EC2Y 5DN
United Kingdom



If to the Custodian: Coinbase Custody Trust Company LLC
Via Email at



If to the Grantor: **ETC ISSUANCE GMBH**
Thurn- und Taxis-Platz 6
60313 Frankfurt am Main
Germany



18. Counterparts. This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts (including by electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

19. Electronic Execution and Notices. The words “signed, “writing,” execution,” “execute”, “signature,” and words of like import in this Agreement are deemed to include electronic signatures and the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act or any similar state laws.