

This **CRYPTO ASSET SECURITY AGREEMENT** (the "**Agreement**") is made on 25 February 2025

**BETWEEN:**

- (1) **NXTASSETS GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Neue Mainzer Straße 66-68, 60311, Frankfurt am Main, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under 134562 (the "**Issuer**"); and
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED**, a private limited company incorporated under the laws of England and Wales and having its registered office at 4thFloor, 140 Aldersgate Street, London EC1A 4HY, United Kingdom and registered with Companies House under no. 00239726 in its capacity as collateral trustee under the Security Trust Agreement (as defined below) (the "**Collateral Trustee**").

**WHEREAS:**

- (A) The Issuer has published a base prospectus dated 13 February 2025 which is intended to be at least annually updated (such base prospectus and any successor of such base prospectus if not materially different to its pre-successor base prospectus, the "**Base Prospectus**") for Crypto Asset linked Exchange Traded Notes. Under this Base Prospectus, the Issuer may, from time to time, issue series of German law governed debt securities (*Schuldverschreibungen*) linked to and collateralised with a Crypto Asset as specified in the final terms for the respective series of debt securities.
- (B) The Issuer intends to issue a series of debt securities in bearer form (collateralised tracker Notes (open end) (ISIN: DE000NXTA026) under the Base Prospectus (the "**Notes**") linked to and collateralised with Ethereum (ETH)). The Notes will be governed by its terms and conditions (the "**Terms and Conditions**").
- (C) The Issuer entered into an institutional custodial services agreement with the Crypto Custodian on or about the date hereof (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Crypto Asset Custodian Agreement**") pursuant to which the Crypto Custodian has agreed to open and maintain a segregated custody account for the Issuer including one or more crypto asset wallet(s) and to provide custody services for certain Crypto Assets including Ethereum.
- (D) On or about the date hereof, the Issuer has entered or will enter into an agreement with the Administrator, the Collateral Trustee and the Crypto Custodian for the purpose of granting to the Collateral Trustee control over the Custodian Account, the Crypto Asset Wallet(s) and the Deposited Crypto Assets (each as defined below) (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Crypto Asset Wallet Control Agreement**").
- (E) It is the understanding of the Issuer and the Collateral Trustee that Crypto Assets, are objects of value (*Vermögensgegenstände*) which can be held and used as security for debt obligations and similar rights and claims and that it is legally and factually possible to grant security over the rights in and/or relating to such Crypto Assets.

- (F) The Issuer has agreed to grant a security interest in the Assigned Rights (as defined below) to the Collateral Trustee as security for the Secured Parties' (as defined below) respective claims against the Issuer under or in connection with the Note Documents (as defined below).
- (G) The security created by or pursuant to this Agreement is to be held and administered by the Collateral Trustee for and on behalf of the Secured Parties (as defined below) pursuant to a security trust agreement dated on or about the date hereof between the Issuer and the Collateral Trustee (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Security Trust Agreement**").

**NOW IT IS HEREBY AGREED** as follows:

## 1. DEFINITIONS AND LANGUAGE

### 1.1 Definitions

In this Agreement:

"**Administrator**" means Apex Fund Services (Malta) Limited, a private limited liability company registered under the laws of Malta with registration number C 42646 and having its registered office at Quad Central, Q3 Level 9, Triq L-Esportaturi, Zone 1, Central Business District, Birkirkara CBD 1040 Malta.

"**Crypto Asset**" means Ethereum (also referred to as "ETH"), a cryptocurrency based on an open-source, blockchain-based, decentralised software platform (also called Ethereum) and displayed on <https://ethereum.org/en/eth>.

"**Crypto Asset Wallet**" means one or more cryptocurrency wallet(s) in relation to the Crypto Asset associated with the wallet identifier(s): [REDACTED] opened and maintained by the Crypto Custodian on behalf of the Issuer pursuant to the Crypto Asset Custodian Agreement for the receipt, safekeeping and maintenance of the Crypto Asset, and any successor wallet(s) to such wallet(s) which have a reference to the Crypto Assets of Noteholders and are pledged pursuant to the Crypto Asset Security Agreement.

"**Crypto Custodian**" means Crypto Finance (Deutschland) GmbH, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, or such other financial institution(s) that the Issuer, from time to time, has designated as the Crypto Custodian for its holdings of the Crypto Asset, subject to the provisions of Condition § 6 (2) of the Terms and Conditions of the Notes.

"**Custodian Account**" means the portfolio account with ID-number [REDACTED] (NxtAssets ETH Product DE000NXTA026) opened and maintained by the Crypto Custodian on behalf of the Issuer pursuant to the Crypto Asset Custodian Agreement and any successor account(s) to such account(s), whether maintained by the initial Crypto Custodian or by any successor thereof.

"**Deposited Crypto Assets**" means the Deposited Cryptocurrency and all other digital assets held on the Crypto Asset Wallet at any given time.

**"Deposited Cryptocurrency"** means the number of units of the Crypto Asset held on the Crypto Asset Wallet(s) with the Crypto Custodian at any given time.

**"Event of Default"** means any event of default (*Kündigungsgrund*) listed in § 10 (1) (Events of Default) of the Terms and Conditions.

**"Liabilities"** means all present and future liabilities and obligations at any time of the Issuer to any Noteholder under the Note Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution or unjust enrichment; and
- (d) any claim as a result of any recovery by the Issuer of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

**"Note Documents"** means the Notes (including the Terms and Conditions), the Security Trust Agreement, any security documents relating to the Notes, any fee letter relating to the Notes and any other document that may be entered into pursuant to any of the foregoing in relation to the Notes.

**"Noteholders"** means the holders of the Notes and shall include those persons who are the beneficiaries of Secured Redemption Obligations or Secured Settlement Obligations and **"Noteholder"** means any of them.

**"Noteholders' Representative"** means any joint representative (*gemeinsamer Vertreter*) of the Noteholders which may be appointed under the German Act on Issues of Debt Securities of 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*).

**"Secured Obligations"** means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by the Issuer to any Secured Party under the Note Documents, including the parallel debt obligations arising under sub-clause 2.2 (*Parallel debt*) of the Security Trust Agreement and including any obligations based on unjust enrichment (*ungerechtfertigte Bereicherung*) or tort (*Delikt*), both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

**"Secured Parties"** means the Noteholders, any Noteholders' Representative (if appointed) and the Collateral Trustee.

## 1.2 Construction

In this Agreement:

- 1.2.1 Capitalised terms used but not defined in this Agreement have the meanings ascribed thereto in the Terms and Conditions; and
  - 1.2.2 any reference in this Agreement to a "**Clause**", a "**sub-clause**" or a "**Schedule**" shall, subject to any contrary indication, be construed as a reference to a Clause, a sub-clause or a Schedule in this Agreement.
- 1.3 This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

## 2. ASSIGNMENT

- 2.1 The Issuer hereby assigns to the Collateral Trustee (a) all its present and future, actual and contingent rights and claims against the Crypto Custodian (i) arising under or in connection with the Crypto Asset Wallet Control Agreement or (ii) arising in relation to the Custodian Account, the Crypto Asset Wallet(s) or the Deposited Crypto Assets under or in connection with the Crypto Asset Custodian Agreement or any other underlying contractual or other relationship (if any) under which the Crypto Custodian provides custodial services to, or maintains the Crypto Asset Wallet(s) for, the Issuer, including in each case without limitation monetary claims for damages and unilateral rights (*Gestaltungsrechte*) of the Issuer, and (b) any other present and future, actual and contingent rights or title to the Deposited Crypto Assets which the Issuer currently has, or will acquire in the future, or otherwise is or will be entitled to (together the "**Assigned Rights**").
- 2.2 The Collateral Trustee hereby accepts such assignment.
- 2.3 The existing Assigned Rights shall pass over to the Collateral Trustee on execution of this Agreement, and any future Assigned Rights shall pass over to the Collateral Trustee at the date such Assigned Rights come into existence, and in each case at the earliest at the time at which the Issuer acquires such Assigned Rights.
- 2.4 The Issuer shall without undue delay (*unverzüglich*), upon the written request of the Collateral Trustee and at the sole expense of the Issuer, duly execute and deliver any and all such further instruments and documents and take such further actions as the Collateral Trustee may, in its reasonable judgement, deem desirable to obtain the full benefits of this Agreement and of the rights and powers herein granted (including to create and maintain in favour of the Collateral Trustee, to the extent legally possible, a first priority perfected security interest in and, as applicable, control of, the Deposited Crypto Assets), including without limitation transferring Deposited Crypto Assets to the Collateral Trustee's possession if a security interest in such Deposited Crypto Assets can be perfected only by possession.

### 3. TRANSFER OF ANCILLARY RIGHTS

The Assigned Rights are assigned to the Collateral Trustee together with all accessory security rights (*akzessorische Sicherheiten*) and ancillary rights (*Neben-, Hilfs- und Vorzugsrechte*), whether granted to the Issuer prior to or after the Assigned Rights pass over to the Collateral Trustee, pursuant to (including by way of analogy) section 401 German Civil Code (*Bürgerliches Gesetzbuch*, "BGB"). In case of present or future security rights and ancillary rights pertaining to the Assigned Rights and which are not assigned and transferred to the Collateral Trustee by operation of law pursuant to section 401 BGB (the "**Independent Ancillary Rights**"), the Collateral Trustee may request at any time and at its sole discretion the assignment and/or transfer (as the case may be) of such Independent Ancillary Rights.

### 4. PURPOSE OF THE ASSIGNMENT

The assignment hereunder is constituted in order to secure the prompt and complete satisfaction of any and all Secured Obligations. The assignment shall also cover any future extension of the Secured Obligations and the Issuer herewith expressly agrees that the assignment shall secure the Secured Obligations as extended or increased from time to time.

### 5. NOTICE OF ASSIGNMENT

- 5.1 The Issuer shall, without undue delay, notify the Crypto Custodian by registered mail (*Einschreiben mit Rückschein*) of the assignment constituted hereunder essentially in the form set out in Schedule 1 (*Form of Notice of Assignment*) and send a copy of the dispatched notification letter together with the return receipt (*Rückschein*) to the Collateral Trustee.
- 5.2 The Issuer shall use its best endeavours to procure that the Crypto Custodian acknowledges the notice of assignment and accepts the terms of the assignment essentially as set out in Schedule 1 (*Form of Notice of Assignment*) without undue delay. The Issuer shall provide evidence to the Collateral Trustee of such acknowledgement.
- 5.3 Such notification about, and acknowledgement of, the assignment constituted hereunder can also be made as part of any agreement to which the Crypto Custodian is a party.

### 6. RESTRICTIONS ON OPERATIONS WITH DEPOSITED CRYPTO ASSETS

The Issuer may only transfer Deposited Crypto Assets out of the Crypto Asset Wallet(s) if such transfer is approved by the Administrator to the Crypto Custodian in accordance with the operational procedures set out in the Crypto Asset Wallet Control Agreement. The Issuer may only give instructions to the Crypto Custodian with respect to the exercise of any other rights in relation to the Custodian Account, the Crypto Asset Wallet(s) or the Deposited Crypto Assets if the Administrator has approved such instructions in accordance with operational procedures established between the Issuer and the Administrator.

## 7. ENFORCEMENT

- 7.1 Subject to it being indemnified and/or secured and/or prefunded to its satisfaction, the Collateral Trustee (acting on the instructions of the Noteholders' Representative) shall be entitled to enforce its rights under this Agreement and to realise (*verwerten*) the Assigned Rights by collecting, selling, transferring or assigning the Assigned Rights and/or the Deposited Crypto Assets and/or availing itself of all other rights and remedies a security grantee (*Sicherungsnehmer*) is entitled to under the laws of Germany.
- 7.2 On becoming entitled to enforce the security interests created hereunder in accordance with sub-clause 7.1 above, or at any time upon the occurrence of an Event of Default which is continuing for the purpose of protecting the Secured Parties' legitimate interests, the Collateral Trustee may take exclusive control of the Custodian Account, the Crypto Asset Wallet(s) and the Deposited Crypto Assets pursuant to the Crypto Asset Wallet Control Agreement by delivering to the Crypto Custodian a Notice of Exclusive Control (as defined therein). Until the Collateral Trustee will be able to collect, sell, transfer, or assign the Assigned Rights and/or the Deposited Crypto Assets, the Collateral Trustee shall have the right to hold and use the Assigned Rights and the Deposited Crypto Assets, or any part thereof, to the extent that it deems appropriate for the purpose of preserving the Deposited Crypto Assets or their value or for any other purpose deemed appropriate by the Collateral Trustee.
- 7.3 The Collateral Trustee will notify the Issuer in writing at least five (5) business days prior to the enforcement of the security interests created hereunder. No such notice shall be required if (i) the Issuer has generally ceased to make payments, (ii) an application for the institution of insolvency proceedings is filed by or against the Issuer or (iii) the Collateral Trustee has reasonable grounds to believe that observance of the notice period would adversely affect the legitimate interests (*berechtigte Interessen*) of any Secured Party.
- 7.4 On becoming entitled to enforce the security interests created hereunder in accordance with sub-clause 7.1 above, the Collateral Trustee may realise the Assigned Rights and/or the Deposited Crypto Assets in total or in part to the extent necessary to satisfy any outstanding Secured Obligations, it being understood that the Collateral Trustee shall apply the proceeds of such realisation towards the Secured Obligations in accordance with the Security Trust Agreement.
- 7.5 For the purpose of realising the Deposited Crypto Assets (wholly or partly), the Issuer shall, unless already provided, promptly furnish the Collateral Trustee with all relevant documents, information and any and all IDs, passwords, hints, personal identification numbers (PINs), API keys, YubiKeys, other security or confirmation information or hardware, and any other codes that the Issuer uses to access the Custodian Account or the Crypto Asset Wallet(s) and the custody services provided by the Crypto Custodian. The Issuer shall render at its own cost all reasonable assistance which is necessary or expedient in respect of the prompt realisation of the Deposited Crypto Assets or exercise by the Collateral Trustee of any right it may have as a security grantee. The Collateral Trustee may take all measures and enter into all agreements, in particular seek advice from accountants, other experts, other counsel and/or legal advice whenever at the sole discretion of the Collateral Trustee (acting reasonably) it seems advisable to enforce this Agreement with respect to such Deposited Crypto Assets.

- 7.6 Notwithstanding sub-clause 7.4 above, the Collateral Trustee may, in its sole discretion, determine which of several security interests (created under this or other security agreements) shall be used to satisfy the Secured Obligations.

## **8. BOOKKEEPING AND DATA-PROCESSING**

- 8.1 The Issuer hereby assigns to the Collateral Trustee, who accepts such assignment, any right it has against any third party (other than the Crypto Custodian) (in particular any bookkeeping firm or tax consultant) in respect of the return of any proof or documents which the Issuer has handed over to such third party and which are necessary to identify the Deposited Crypto Assets. The Issuer undertakes to instruct such third party, upon the occurrence of an Event of Default which is continuing, to provide the Collateral Trustee upon demand with such information, proof and documents which are necessary to check, assess or enforce the Deposited Crypto Assets.
- 8.2 The Issuer hereby assigns to the Collateral Trustee, who accepts such assignment, all its rights against any third party which handles the electronic processing of data concerning the Deposited Crypto Assets (other than the Crypto Custodian) and undertakes to instruct such third party, upon a respective demand of the Collateral Trustee following the occurrence of an Event of Default which is continuing, to handle the processing of data for the Collateral Trustee as it did for the Issuer provided that the Issuer shall continue to be given access to any data it requires in its ordinary course of business.
- 8.3 The Collateral Trustee authorises the Issuer to exercise the rights assigned to the Collateral Trustee pursuant to sub-clause 8.1 and 8.2 above at all times prior to the occurrence of an Event of Default which is continuing.

## **9. POWER OF ATTORNEY**

The Issuer, by way of security for its obligations under this Agreement, irrevocably appoints the Collateral Trustee to be its attorney (*Stellvertreter*) to do anything which the Issuer is required to do under this Agreement but has failed to do after having been requested to do so by the Collateral Trustee (and the Collateral Trustee may delegate that power on such terms as it sees fit). For this purpose, the Issuer relieves the Collateral Trustee from the restrictions set out in section 181 BGB.

The Issuer and the Collateral Trustee agree that the powers granted under this Clause 9 to the Collateral Trustee may only be exercised upon and following the occurrence of an Event of Default.

## **10. INDEMNITY**

- 10.1 The Collateral Trustee shall not be liable for any loss or damage suffered by the Issuer under this Agreement, save in respect of such loss or damage which is suffered as a direct result of the wilful misconduct or gross negligence of the Collateral Trustee.
- 10.2 The Issuer will indemnify the Collateral Trustee and keep the Collateral Trustee indemnified against any and all damages, losses, actions, claims, expenses, demands and liabilities which may be incurred by or made against the Collateral Trustee for anything done or omitted in the exercise or purported exercise of the powers contained

herein or occasioned by any breach of the Issuer of any of its obligations or undertakings contained herein other than to the extent that such damages, losses, actions, claims, expenses, demands and liabilities are incurred by or made against the Collateral Trustee as a result of the gross negligence or wilful misconduct of the Collateral Trustee.

This Clause 10.2 shall continue in full force and effect notwithstanding the termination of this Agreement or any other Note Document and whether or not the Collateral Trustee is the collateral trustee under this Agreement or any other Note Document.

## 11. LEGAL SUCCESSOR

The Collateral Trustee may transfer its rights and obligations under this Agreement at any time including by way of assumption of contract (*Vertragsübernahme*) in accordance with the terms of the Security Trust Agreement. The Issuer hereby irrevocably grants its consent to the relevant third party becoming a party hereto in lieu of and as successor to the Collateral Trustee upon the transfer by way of assumption of contract becoming effective.

## 12. DURATION AND INDEPENDENCE

12.1 This Agreement shall create a continuing security and no change, amendment, or supplement whatsoever in the Note Documents or in any document or agreement relating to any of the Note Documents shall affect the validity or the scope of this Agreement nor the obligations which are imposed on the Issuer pursuant to it.

12.2 This Agreement is independent from any other security or guarantee which may have been or will be given to the Secured Parties or the Collateral Trustee. None of such other security shall prejudice, or shall be prejudiced by, or shall be merged in any way with this Agreement.

12.3 Waiving section 418 BGB (applied by analogy), the Issuer hereby agrees that the security created hereunder shall not be affected by any transfer or assumption of the Secured Obligations to, or by, any third party.

## 13. COSTS AND EXPENSES

13.1 The Issuer shall bear all costs, charges, fees and expenses triggered by this Agreement and reimburse the Collateral Trustee for the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred in connection with:

(a) its negotiation, preparation, execution and amendments; and

(b) in the exercise of any of the rights, remedies, and powers conferred on the Collateral Trustee by this Agreement or any other documents referred to in this Agreement.

13.2 The Issuer shall pay to the Collateral Trustee the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred in connection with the enforcement of, or the preservation of any rights under, this Agreement and any action, step or proceedings instituted or taken by or against the Collateral Trustee as a consequence of taking or holding the security created by this Agreement over the Deposited Crypto Assets or enforcing these rights.





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Proof of posting or dispatch of any notice or communication to the Issuer shall be deemed (*widerlegbare Vermutung*) to be proof of receipt in case of a letter, on the second business day in the country of receipt after posting.

16.5 Any notice or other communication under or in connection with this Agreement shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

17. **APPLICABLE LAW; JURISDICTION**

17.1 This Agreement is governed by the laws of the Federal Republic of Germany (including any non-contractual obligation arising out of or in connection with this Agreement). The laws of the Federal Republic of Germany shall apply irrespective of the law governing any Assigned Right, including when an Assigned Right is governed by a law other than that of the Federal Republic of Germany.

17.2 The place of jurisdiction for any and all disputes arising under or in connection with this Agreement shall be the courts in Frankfurt am Main. The Collateral Trustee, however, shall also be entitled to take action against the Issuer in any other court of competent jurisdiction. Further, the taking of proceedings against the Issuer in any one or more jurisdictions shall not preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.

18. **CONCLUSION OF THIS AGREEMENT (VERTRAGSSCHLUSS)**

18.1 The parties to this Agreement may choose to conclude this Agreement by an exchange of signed signature page(s), transmitted by any means of telecommunication (*telekommunikative Übermittlung*) such as by way of fax or electronic photocopy.

18.2 If the parties to this Agreement choose to conclude this Agreement pursuant to sub-clause 18.1 above, they will transmit the signed signature page(s) of this Agreement to Clifford Chance Partnerschaft mit beschränkter Berufshaftung, attention to ██████████ ██████████ or ██████████ ██████████ (each a "Recipient"). The Agreement will be considered concluded once one Recipient has actually received the signed signature page(s) (*Zugang der Unterschriftsseite(n)*) from all parties to this Agreement (whether by way of fax, electronic photocopy or other means of telecommunication) and at the time of the receipt of the last outstanding signature page(s) by such one Recipient.

18.3 For the purposes of this Clause 18 (*Conclusion of this Agreement (Vertragsschluss)*) only, the parties to this Agreement appoint each Recipient as their attorney (*Empfangsvertreter*) and expressly allow (*gestatten*) each Recipient to collect the signed signature page(s) from all and for all parties to this Agreement. For the

avoidance of doubt, each Recipient will have no further duties connected with its position as Recipient. In particular, each Recipient may assume the conformity to the authentic original(s) of the signature page(s) transmitted to it by means of telecommunication, the genuineness of all signatures on the original signature page(s) and the signing authority of the signatories.

**SCHEDULE 1  
FORM OF NOTICE OF ASSIGNMENT**

[To be printed off on letterhead of the Issuer]

Absender/From: [Name and address of Issuer]

An/To: [Crypto Custodian]

Kopie an / Copy to: [Collateral Trustee]

Datum/Date: [•]

[Datum und Ort einfügen]	[insert date and place]
<p>Hiermit teilen wir Ihnen mit, dass wir mit einem Sicherheitenvertrag vom 25. Februar 2025 sämtliche bestehenden und künftigen Rechte und Ansprüche, die uns im Zusammenhang mit dem Portfolio-Konto mit ID-Nummer [REDACTED] (NxtAssets ETH Product DE000NXTA026) (das "Portfolio") sowie den diesem zugeordneten Kryptowährungs-Wallet(s) (die "Wallet(s)") und aller darauf zu jeder Zeit gehaltenen Kryptowerte (die "Hinterlegten Kryptowerte") gegen Sie zustehen, mit allen dazugehörigen Rechten an Apex Corporate Trustees (UK) Limited, 4thFloor, 140 Aldersgate Street, London EC1A 4HY, Vereinigtes Königreich (der "Sicherheitentreuhänder") abgetreten haben.</p>	<p>We hereby give you notice that pursuant to a security agreement entered into between us and Apex Corporate Trustees (UK) Limited, 4thFloor, 140 Aldersgate Street, London EC1A 4HY, United Kingdom (the "Collateral Trustee") dated 25 February 2025, we have assigned to the Collateral Trustee all our present and future rights and claims against you arising in relation to the portfolio account with ID-number [REDACTED] (NxtAssets ETH Product DE000NXTA026) (the "Portfolio") and the cryptocurrency wallet(s) included therein (the "Wallet(s)") and all digital assets held therein at any given time (the "Deposited Crypto Assets") together with all ancillary rights pertaining to them.</p>
<p>Zudem haben wir sämtliche bestehenden und künftigen Rechte und Ansprüche gegen Sie, die uns im Zusammenhang mit dem auf die Wallet(s) bezogenen Crypto Asset Wallet Control Agreement zwischen Ihnen, uns und dem Sicherheitentreuhänder zustehen, mit allen dazugehörigen Rechten an den Sicherheitentreuhänder abgetreten.</p>	<p>We have further assigned to the Collateral Trustee all our present and future rights and claims against you arising from or in connection with the Crypto Asset Wallet Control Agreement relating to the Wallet(s) entered into between you, us and the Collateral Trustee, together with all ancillary rights pertaining to them.</p>
<p>Als Anlage erhalten Sie eine Kopie des Sicherheitenvertrags.</p>	<p>Please see attached as annex a copy of the security agreement.</p>
<p>Bevor eine Mitteilung über Ausschließliche Kontrolle (<i>Notice of Exclusive Control</i>), wie im Crypto Asset Wallet Control Agreement</p>	<p>Prior to the service of a Notice of Exclusive Control (as defined in, and in accordance with, the Crypto Asset Wallet Control</p>

<p>definiert, übermittelt wurde, sind wir, das heißt die Emittentin, befugt die Rechte und Ansprüche bezüglich des Portfolios sowie der Wallet(s) nur mit der Zustimmung von Apex Fund Services (Malta) Limited, als Administrator oder mit Zustimmung des Sicherheitentreuhänders ausüben und insbesondere Transaktionen bezüglich der Hinterlegten Kryptowerte nur mit Zustimmung von Apex Fund Services (Malta) Limited, als Administrator ausführen.</p> <p>Nach Übermittlung einer Mitteilung über Ausschließliche Kontrolle (<i>Notice of Exclusive Control</i>), darf nur noch der Sicherheitentreuhänder (und nicht die Emittentin oder der Administrator) Rechte und Ansprüche bezüglich des Portfolios sowie der Wallet(s) ausüben (und, insbesondere, Hinterlegte Kryptowerte veräußern oder die Veräußerung anweisen).</p>	<p>Agreement), we, being the Issuer are authorised to exercise the rights and claims relating to the Portfolio and the Wallet(s) (and, in particular, to dispose over any Deposited Crypto Assets) only with the consent of Apex Fund Services (Malta) Limited, as Administrator.</p> <p>Following the service of a Notice of Exclusive Control, only the Collateral Trustee (and not the Issuer or the Administrator) is authorised to exercise the rights and claims relating to the Portfolio and the Wallet(s) (and, in particular, to dispose or direct disposal over any Deposited Crypto Assets).</p>
<p>Wir verzichten hiermit in Bezug auf das Portfolio, die Wallet(s) und die Hinterlegten Kryptowerte zu Gunsten des Sicherheitentreuhänders auf unser Recht auf Vertraulichkeit und beauftragen und ermächtigen Sie hiermit, dem Sicherheitentreuhänder auf sein Verlangen jede gewünschte Information im Hinblick auf das Portfolio, die Wallet(s) und die Hinterlegten Kryptowerte zu geben.</p>	<p>We herewith waive all rights of confidentiality in relation to the Portfolio, the Wallet(s) and the Deposited Crypto Assets held with you for the benefit of the Collateral Trustee. We hereby instruct and authorise you to provide the Collateral Trustee with any information requested by it in respect of the Portfolio, the Wallet(s) and the Deposited Crypto Assets.</p>
<p>Diese Abtretungsanzeige unterliegt deutschem Recht.</p>	<p>This notice of assignment shall be construed in accordance with German law.</p>
<p>In Zweifelsfällen gilt die deutsche Fassung dieser Verpfändungsanzeige.</p>	<p>In cases of doubt the German version of this notice of pledge shall prevail.</p>
<p>Wir bitten Sie, die dieser Abtretungsanzeige beigefügte Empfangsbestätigung als Zeichen Ihres Einverständnisses mit den hierin und in der Empfangsbestätigung genannten Bestimmungen unterzeichnet sowohl an uns als auch an den Sicherheitentreuhänder zu senden. Die Adresse des Sicherheitentreuhänders ist die folgende:</p> <p>[Adresse des Collateral Trustee]</p>	<p>Please sign the enclosed Acknowledgement of Notice of Assignment in order to acknowledge receipt of this notice and your agreement to the terms set out herein and in the enclosed Acknowledgement and return the same to us and to the Collateral Trustee. The address of the Collateral Trustee is the following:</p> <p>[Address of Collateral Trustee]</p>

Mit freundlichen Grüßen/Yours faithfully

*[Insert full name of the Issuer/]*

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**Name(s):**  
**(Geschäftsführer/Managing Director(s))**

**Annex / Anlage**  
**Copy of the security agreement / Kopie des Sicherheitenvertrages**

[Letterhead of Crypto Custodian]

Absender/From: [Crypto Custodian]

An/To: [Collateral Trustee] und/and [Issuer]

Datum/Date: [•]

**Bestätigung des Empfangs einer  
Abtretungsanzeige**

**Acknowledgement of Notice of  
Assignment**

Betrifft: Portfolio-Konto mit ID-Nummer [REDACTED] (NxtAssets ETH Product DE000NXTA026) (das "Portfolio") und dazugehörige Wallet(s) (die "Wallet(s)")

Re: Portfolio account with ID-number [REDACTED] (NxtAssets ETH Product DE000NXTA026) (the "Portfolio") and wallet(s) included therein (the "Wallet(s)")

Wir bestätigen hiermit den Erhalt der Abtretungsanzeige vom [Datum] sowie der Kopie des Sicherheitenvertrags vom 25. Februar 2025 und unser Einverständnis mit den darin enthaltenen Bestimmungen.

We hereby acknowledge receipt of the notice of assignment dated [date] and of a copy of the security agreement dated 25 February 2025 and confirm our agreement with the terms set out therein.

Wir versichern, dass wir keine Abtretungsanzeige bzgl. des Portfolios oder der Wallet(s) erhalten haben und uns auch sonst keine Rechte Dritter an den Wallet(s) oder den darauf hinterlegten Kryptowerten bekannt sind.

We confirm that we have neither received any notice of assignment relating to the Portfolio or the Wallet(s) or the digital assets held therein, nor are we aware of any other third-party rights in relation to the Wallet(s) or the digital assets held therein.

Wir verpflichten uns hiermit, sowohl im eigenen Namen als auch für unsere jeweiligen Rechtsnachfolger, die in der obengenannten Abtretungsanzeige enthaltenen Bestimmungen und Anweisungen zu befolgen.

We hereby confirm on behalf of ourselves and our legal successors in title that we will act in accordance with the terms and instructions set out in the notice of assignment referred to above.

Wir verzichten hiermit auf jegliche Sicherungsrechte und verpflichten uns keine uns gegebenenfalls zustehenden gegenwärtigen und zukünftigen gesetzlichen oder vertraglichen Zurückbehaltungs- oder Aufrechnungsrechte in Bezug auf das Portfolio, die Wallet(s) und die darauf hinterlegten Kryptowerte auszuüben.

We hereby irrevocably and unconditionally waive any lien in respect of and agree not to exercise any actual or future legal or contractual retention right or right to set-off in relation to the Portfolio, the Wallet(s) and the digital assets held therein.

Dieses Schreiben unterliegt deutschem Recht.

This letter shall be construed in accordance with German law.

In Zweifelsfällen gilt die deutsche Fassung dieses Schreibens.

In cases of doubt the German version of this letter shall prevail.



This **CRYPTO ASSET WALLET CONTROL AGREEMENT** (the "**Agreement**") is made on 25 February 2025

**BETWEEN:**

- (1) **NXTASSETS GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Neue Mainzer Straße 66-68, 60311, Frankfurt am Main, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 134562 (the "**Issuer**");
- (2) **CRYPTO FINANCE (DEUTSCHLAND) GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Bockenheimer Anlage 46, 60322 Frankfurt am Main, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 117999 (the "**Crypto Custodian**"); and
- (3) **APEX CORPORATE TRUSTEES (UK) LIMITED**, a private limited company incorporated under the laws of England and Wales and having its registered office at 4thFloor, 140 Aldersgate Street, London EC1A 4HY and registered with Companies House under no. 00239726 in its capacity as Collateral Trustee for the secured parties under the Security Trust Agreement (as defined below) (the "**Collateral Trustee**").

**WHEREAS:**

- (A) The Issuer has published a base prospectus dated 13 February 2025 which is intended to be at least annually updated (such base prospectus and any successor of such base prospectus if not materially different to its pre-successor base prospectus, the "**Base Prospectus**") for Crypto Asset linked Exchange Traded Notes. Under this Base Prospectus, the Issuer may, from time to time, issue series of German law governed debt securities (*Schuldverschreibungen*) linked to and collateralised with a Crypto Asset as specified in the final terms for the respective series of debt securities.
- (B) The Issuer intends to issue a series of debt securities in bearer form (collateralised tracker Notes (open end) (ISIN: DE000NXTA026) under the Base Prospectus (the "**Notes**") linked to and collateralised with Ethereum (ETH) (the "**Crypto Asset**"). The Notes will be governed by its terms and conditions (the "**Terms and Conditions**").
- (C) Pursuant to a custodial services agreement between the Crypto Custodian and the Issuer dated on or about 25 February 2025 (as amended, varied, novated, supplemented, superseded, or extended from time to time, the "**Crypto Asset Custodian Agreement**"), the Crypto Custodian has agreed to provide custody services to the Issuer for Ethereum (ETH).
- (D) Pursuant to a security assignment agreement entered into between the Issuer and the Collateral Trustee on or about the date hereof (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Crypto Asset Security Agreement**"), the Issuer has assigned to the Collateral Trustee all its rights and claims arising in relation to the Crypto Asset Wallet (as defined below) maintained by the Crypto Custodian in accordance with the Crypto Asset Custodian Agreement and the

digital assets held therein to secure certain payment obligations of the Issuer under the Notes and related documents.

- (E) The security created by or pursuant to the Crypto Asset Security Agreement is to be held and administered by the Collateral Trustee for and on behalf of, *inter alia*, the holders of the Notes pursuant to a security trust agreement entered into between the Issuer and the Collateral Trustee on or about the date hereof (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Security Trust Agreement**").
- (F) The Collateral Trustee, the Issuer and the Crypto Custodian are entering into this Agreement to provide the Collateral Trustee, upon the Collateral Trustee becoming entitled to enforce the security granted pursuant to the Crypto Asset Security Agreement, with control over the Crypto Asset Wallet (as defined below) maintained by the Crypto Custodian in accordance with the Crypto Asset Custodian Agreement and the digital assets held therein.

**NOW IT IS HEREBY AGREED** as follows:

1. **DEFINITIONS AND LANGUAGE**

1.1 Definitions

In this Agreement:

"**Administrator**" means Apex Fund Services (Malta) Limited, a private limited liability company registered under the laws of Malta with registration number C 42646 and having its registered office at Quad Central, Q3 Level 9, Triq L-Esportaturi, Zone 1, Central Business District, Birkirkara CBD 1040 Malta.

"**Assigned Rights**" means (a) all present and future, actual and contingent rights and claims of the Issuer against the Crypto Custodian (i) arising under or in connection with this Crypto Asset Wallet Control Agreement or (ii) arising in relation to the Crypto Asset Wallet or the Deposited Crypto Assets under or in connection with the Crypto Asset Custodian Agreement or any other underlying contractual or other relationship (if any) under which the Crypto Custodian provides custodial services to, or maintains the Crypto Asset Wallet for, the Issuer, including in each case without limitation monetary claims for damages and unilateral rights (*Gestaltungsrechte*) of the Issuer, and (b) any other present and future, actual and contingent rights or title to the Deposited Crypto Assets which the Issuer currently has, or will acquire in the future, or otherwise is or will be entitled to.

"**Authorised Person**" has the meaning given to such term in Clause 4 (*Instructions by the Collateral Trustee*)."

"**Crypto Asset**" means Ethereum (also referred to as "ETH"), a cryptocurrency based on an open-source, blockchain-based, decentralised software platform (also called Ethereum) and displayed on <https://ethereum.org/en/eth>.

"**Crypto Asset Wallet**" means one or more cryptocurrency wallet(s) in relation to the Crypto Asset associated with the wallet identifier(s):  
[REDACTED] opened and maintained by the

Crypto Custodian on behalf of the Issuer pursuant to the Crypto Asset Custodian Agreement for the receipt, safekeeping and maintenance of the Crypto Asset, and any successor wallet(s) to such wallet(s) which have a reference to the Crypto Assets of Noteholders and are pledged pursuant to the Crypto Asset Security Agreement.

**"Deposited Crypto Assets"** means the Deposited Cryptocurrency and all other digital assets held on the Crypto Asset Wallet at any given time.

**"Deposited Cryptocurrency"** means the number of units of the Crypto Asset held on the Crypto Asset Wallet with the Crypto Custodian at any given time and on behalf of Noteholders.

**"Noteholders"** means the holders of the Notes and includes those persons who are the beneficiaries of secured redemption obligations or secured settlement obligations and

**"Noteholder"** means any of them.

**"Noteholders' Representative"** means any joint representative (*gemeinsamer Vertreter*) of the Noteholders which may be appointed under the German Act on Issues of Debt Securities of 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*).

**"Notice of Exclusive Control"** means a written notice substantially in the form set out in Schedule 1 (*Form of Notice of Exclusive Control*), which written notice shall be signed by an Authorised Person, subject to the satisfaction of the Crypto Custodian as to the authenticity of the signature in accordance with Clause 4 (*Instructions by the Collateral Trustee*), confirming to the Crypto Custodian that the Collateral Trustee is, as of the time of receipt of such written notice by the Crypto Custodian, exercising its rights pursuant to the terms of this Agreement to exercise sole and exclusive control over the Crypto Asset Wallet and the Deposited Crypto Assets held therein.

## 1.2 Construction

Any reference in this Agreement to a **"Clause"**, a **"sub-clause"** or a **"Schedule"** shall, subject to any contrary indication, be construed as a reference to a Clause, a sub-clause or a Schedule in this Agreement.

- 1.3 This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

## 2. NOTIFICATION OF SECURITY ASSIGNMENT

- 2.1 The Issuer hereby notifies the Crypto Custodian that it has assigned the Assigned Rights to the Collateral Trustee pursuant to the Crypto Asset Security Agreement. The Crypto Custodian hereby acknowledges such notification and confirms that it has (i) given its prior written consent to the assignment of the Assigned Rights pursuant to the Crypto Asset Security Agreement and (ii) received a copy of the Crypto Asset Security Agreement. The Crypto Custodian makes no representation or warranty with respect to the creation or enforceability of any security interest in the Assigned Rights.

2.2 The Crypto Custodian hereby irrevocably and unconditionally waives all liens and encumbrances (including, for the avoidance of doubt, any lien it may have as a result of, or arising out of, extensions of credit in the form of advances to the Issuer under the Crypto Asset Custodian Agreement) relating to the Crypto Asset Wallet or the Deposited Crypto Assets and agrees that it will not exercise any actual or future legal or contractual retention right or right to set-off against the Crypto Asset Wallet or any Deposited Crypto Assets (including without limitation any right of set-off pursuant to clause 10.1 of the Crypto Asset Custodian Agreement).

### 3. CONTROL OVER CRYPTO ASSET WALLET

3.1 Until such time as the Collateral Trustee shall deliver to the Crypto Custodian a Notice of Exclusive Control, withdrawals from, or deposits into, the Crypto Asset Wallet by the Issuer may only take place upon receipt by the Crypto Custodian of a respective instruction from the Issuer in accordance with the procedures established under the terms of the Crypto Asset Custodian Agreement which is authenticated as to the Issuer in accordance with the procedures set forth in the Crypto Asset Custodian Agreement and (ii) an approval of such transaction by the Administrator by way of a written notice or other written instrument in text form and/or in accordance with operational procedures established between the Administrator and the Crypto Custodian.

3.2 After the Collateral Trustee has delivered to the Crypto Custodian a Notice of Exclusive Control, the following shall apply:

(a) The Crypto Custodian shall provide the custody services pursuant to the Crypto Asset Custodian Agreement for the Collateral Trustee as it previously did for the Issuer and shall perform all obligations expressed to be assumed by the Crypto Custodian under the Crypto Asset Custodian Agreement to the Collateral Trustee in accordance with the terms of the Crypto Asset Custodian Agreement. The latter only applies to Crypto Asset Wallet(s) which contain Deposited Crypto Assets of Noteholders. Crypto Asset Wallets of the Issuer which do not contain any Crypto Assets of Noteholders are excluded from the scope of the Notice of Exclusive Control. In particular, but without limitation, the Crypto Custodian shall permit the Collateral Trustee to hold the Crypto Asset in the Crypto Asset Wallet and to withdraw Deposited Crypto Assets from the Crypto Asset Wallet to public blockchain addresses and accounts owned by the Collateral Trustee or to another address in accordance with the terms of the Crypto Asset Custodian Agreement. The Crypto Custodian shall grant the Collateral Trustee access to the brokerage and custody service (each as defined in the Crypto Asset Custodian Agreement) for the purpose of withdrawing or otherwise disposing over the Deposited Crypto Assets.

(b) Only the Collateral Trustee shall be entitled to give instructions to the Crypto Custodian with respect to the Crypto Asset Wallet or Deposited Crypto Assets. The Crypto Custodian shall execute such instructions in accordance with the procedures established under the terms of the Crypto Asset Custodian Agreement.

3.3 Without limitation of the provisions set forth in this Agreement, the Collateral Trustee agrees that it will not deliver a Notice of Exclusive Control unless it has become entitled to enforce the security granted pursuant to the Crypto Asset Security Agreement. In the

event that the Collateral Trustee delivers a Notice of Exclusive Control, it will use such control to realise (*verwerten*) the Deposited Crypto Assets in accordance with the provisions of the Crypto Asset Security Agreement and the Security Trust Agreement. The foregoing sentence is solely for the benefit of the Issuer and will not be deemed to constitute a limitation on the Collateral Trustee's rights hereunder, including (as between the Crypto Custodian and the Collateral Trustee) the Collateral Trustee's right to deliver a Notice of Exclusive Control.

#### **4. INSTRUCTIONS BY THE COLLATERAL TRUSTEE**

- 4.1 In a written notice to the Crypto Custodian, the Collateral Trustee may designate persons authorised to act on behalf of the Collateral Trustee with respect to this Agreement and the Crypto Asset Custodian Agreement (each an "**Authorised Person**"). Upon such designation, the Crypto Custodian may rely on the validity of such appointment until such time as the Crypto Custodian receives instructions from the Collateral Trustee revoking such appointment or designating a new Authorised Person.
- 4.2 The Crypto Custodian may act upon instructions received from any Collateral Trustee's Authorised Person and rely on any instructions, notice or other communication given by any Collateral Trustee's Authorised Person in accordance with the same standards and provisions that apply under the terms of the Crypto Asset Custodian Agreement with respect to any Issuer's Authorized Representative (as defined in the Crypto Asset Custodian Agreement).

#### **5. THE CRYPTO CUSTODIAN**

##### **5.1 Obligations of the Crypto Custodian**

- (a) Deposited Crypto Assets in the Crypto Asset Wallet shall (i) be segregated from the assets held by the Crypto Custodian as principal and the assets of other customers of the Crypto Custodian, (ii) not be treated as general assets of the Crypto Custodian, and (iii) constitute custodial assets and the Issuer's property.
- (b) The Crypto Custodian will open and maintain the Crypto Asset Wallet in the manner set forth in paragraph (a) above until this Agreement is terminated and will not change the name or wallet identifier of the Crypto Asset Wallet without the prior written consent of the Issuer and the Administrator.
- (c) If any person asserts any lien, encumbrance or adverse claim (including any writ, garnishment, judgment, attachment, execution or similar process) against the Crypto Asset Wallet or any asset credited thereto, the Crypto Custodian will promptly notify the Issuer and the Collateral Trustee thereof.
- (d) The Crypto Custodian shall not without the prior written consent of the Issuer and the Administrator deposit or hold any Deposited Crypto Assets with any third-party depository, custodian, clearance system or wallet. The Issuer acknowledges, that the Crypto Custodian partially outsources services to its parent entity Crypto Finance AG.

- (e) The Crypto Custodian is not permitted to do any speculation or trading or similar decentralised finance activity with the Deposited Crypto Assets and is not entitled to transfer the Deposited Crypto Assets from the Crypto Asset Wallet to any other cryptocurrency address(es) other than in accordance with sub-clauses 3.1 and 3.2.
- (f) The Crypto Custodian shall provide the Collateral Trustee with all information requested by it in respect of the Deposited Crypto Assets which the Issuer would be entitled to under the terms of the Crypto Asset Custodian Agreement and to that extent the Issuer hereby releases the Crypto Custodian from any obligation to maintain confidentiality.
- (g) The Crypto Custodian will promptly notify the other Parties of any security breach of its accounts, systems or networks as soon as possible. The Crypto Custodian will reasonably cooperate with the other Parties in the investigation of any suspected, attempted or completed unauthorised transfers of Deposited Crypto Assets using the Issuer's (or, as the case may be, the Collateral Trustee's) account credentials or private keys and will provide the other Parties with the results of any third-party forensic investigation that it may undertake.

## 5.2 Representations and Warranties of the Crypto Custodian

The Crypto Custodian represents and warrants the following:

- (a) It is a legal person or other undertaking qualifying as a crypto-asset service provider pursuant to Article 3 (1.) no. 15 Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets (MiCAR) and crypto-asset service providers that are licensed in Germany under the KWG and that provided their services in accordance with applicable law before 30 December 2024, and are continuing to do so in accordance with the transitional measure set out in Article 143 (3.) of the MiCAR and is licensed to custody the Issuer's Crypto Asset in trust on the Issuer's behalf.
- (b) It has the full power, authority, and capacity to enter into and be bound by this Agreement.
- (c) This Agreement is its legal, valid and binding obligation, enforceable against it in accordance with its terms.
- (d) It has not entered into, and until the termination of this Agreement will not enter into, any agreement with any other person or entity not party hereto relating to the Crypto Asset Wallet or any asset credited thereto under which it has agreed to comply with instructions of such other person or entity.
- (e) Except for the claims and interests of the Collateral Trustee and the Issuer, the Crypto Custodian does not know of any claim to, or interest in, the Crypto Asset Wallet or any asset credited thereto.

## 5.3 Compensation of the Crypto Custodian

The Crypto Custodian will be compensated by the Issuer for services rendered hereunder in accordance with the Crypto Asset Custodian Agreement.

#### 5.4 Responsibility of the Crypto Custodian

- (a) The Crypto Custodian will not be liable for the acts or omissions of an Authorised Person of the Collateral Trustee. This also applies for the acts or omissions of the Collateral Trustee. As between the Crypto Custodian and the Issuer, the terms of the Crypto Asset Custodian Agreement will apply with respect to any losses or liabilities of such parties arising out of this Agreement. As between the Crypto Custodian and the Collateral Trustee, the Crypto Custodian will not be liable for any act or omission taken by the Crypto Custodian in good faith and without negligence or wilful misconduct on its part. For the avoidance of doubt, absent negligence or wilful misconduct, the Crypto Custodian, in its capacity as Crypto Custodian, shall have no responsibility or liability to the Collateral Trustee for complying with a Notice of Exclusive Control or complying with instructions concerning the Crypto Asset Wallet originated by the Collateral Trustee.
- (b) The Issuer hereby agrees to indemnify and hold harmless the Crypto Custodian from and against any loss, expense, damage, liability or claim (including documented reasonable attorney's fees) which may be suffered or incurred by the Crypto Custodian as a result of the Crypto Custodian's compliance with (i) the Collateral Trustee's Notice of Exclusive Control; or (ii) any instructions (including instructions concerning the Crypto Asset Wallet) issued by the Collateral Trustee following the Crypto Custodian's receipt of such Notice of Exclusive Control, except as may be caused by the Crypto Custodian's negligence or wilful misconduct. This indemnity shall be a continuing obligation of the Issuer and its successors and assigns, notwithstanding the termination of this Agreement.
- (c) The Collateral Trustee hereby agrees to release and discharge the Crypto Custodian from and against any loss, expense, damage, liability or claim (including attorney's fees) which may be suffered or incurred by the Collateral Trustee as a result of the Crypto Custodian's compliance with the Collateral Trustee's Notice of Exclusive Control and any instructions (including instructions concerning the Crypto Asset Wallet) issued by the Collateral Trustee following the Crypto Custodian's receipt of such Notice of Exclusive Control, except as may be caused by the Crypto Custodian's negligence or wilful misconduct.
- (d) In no event shall any party be liable for special, indirect or consequential damages, or lost profits or loss of business, arising in connection with this Agreement unless caused by gross negligence or wilful misconduct of such party.

#### 6. **BENEFIT OF THE SECURITY TRUST AGREEMENT**

Notwithstanding anything else in this Agreement or in any other Note Document (as such term is defined in the Crypto Asset Security Agreement), in acting hereunder, the Collateral Trustee acts at all times and in all circumstances in accordance with, and with the benefit of the protections set out in, the Security Trust Agreement. Any references within this Agreement to the Collateral Trustee providing approval or consent or acting in its discretion or making a request, or to an item or a person or a course of action

being acceptable to, satisfactory to, to the satisfaction of or approved by or considered appropriate in the opinion of the Collateral Trustee, are to be construed as references to the Collateral Trustee so acting or refraining from acting or coming to such an opinion or determination on the instructions of the Noteholders' Representative, and references in this Agreement to (i) the Collateral Trustee acting reasonably, (ii) a matter being in the reasonable opinion of the Collateral Trustee, (iii) the Collateral Trustee's approval or consent not being unreasonably withheld or delayed or (iv) any document, report, confirmation or evidence being required to be reasonably satisfactory to the Collateral Trustee, are to be construed as the Collateral Trustee acting on the instructions of the Noteholders' Representative which is acting reasonably or not unreasonably withholding or delaying its consent (as the case may be). Where the Collateral Trustee is obliged to consult under the terms of this Agreement, the Collateral Trustee shall carry out that consultation in accordance with the instructions it receives from the Noteholders' Representative provided that such instructions are in accordance with the terms of the Security Trust Agreement.

## **7. PARTIAL INVALIDITY; WAIVER**

- 7.1 The parties agree that should at any time, any provisions of this Agreement be or become void (*nichtig*), invalid or due to any reason ineffective (*unwirksam*) in any respect or with respect to any party, this will indisputably (*unwiderlegbar*) not affect the validity or effectiveness of the remaining provisions or with respect to any other party or parties hereto, and this Agreement will remain valid and effective, save for the void, invalid or ineffective provisions, without any party having to argue (*darlegen*) and prove (*beweisen*) the parties' intent to uphold this Agreement even without the void, invalid or ineffective provisions, respectively to uphold this Agreement as between the other parties.
- 7.2 The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the parties intended or would have intended in accordance with the purpose of this Agreement if they had considered the point at the time of conclusion of this Agreement.
- 7.3 No failure to exercise, nor any delay in exercising, on the part of the Collateral Trustee, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided hereunder are cumulative and not exclusive of any rights or remedies provided by law.

## **8. LEGAL SUCCESSOR**

Neither the Issuer nor the Crypto Custodian may transfer its rights and obligations under this Agreement without the prior written consent of the other Parties. The Collateral Trustee may transfer its rights and obligations under this Agreement at any time by way of assumption of contract (*Vertragsübernahme*) in accordance with the terms of the Security Trust Agreement. Each of the Issuer and the Crypto Custodian hereby irrevocably grants its consent to the relevant third party becoming a party hereto in lieu of and as successor to the Collateral Trustee upon the transfer by way of assumption of contract becoming effective and the Parties, including without limitation the Collateral Trustee, shall execute any document necessary to assign and transfer the rights and obligations of the Collateral Trustee to the successor Collateral Trustee.



## 9. TERMINATION

- 9.1 This Agreement shall continue in effect until the Collateral Trustee has notified the Crypto Custodian that (i) this Agreement is to be terminated or (ii) the obligations secured under the Crypto Asset Security Agreement (the "**Secured Obligations**") have been satisfied in full. The Collateral Trustee agrees to promptly notify the Crypto Custodian in writing of the full satisfaction of the Secured Obligations. Upon receipt by the Crypto Custodian of such notice, the Collateral Trustee shall have no further right to originate instructions concerning the Crypto Asset Wallet and the Issuer shall be entitled to originate instructions concerning the Crypto Asset Wallet for any purpose and without limitation except as may be provided in the Crypto Asset Custodian Agreement.
- 9.2 This Agreement may also be terminated following ninety (90) days' prior written notice by any Party to the other Parties, provided however that the status of the security interest in any Assigned Rights in favour of the Collateral Trustee at the time of such notice shall not be affected by such termination until the release of such security interest pursuant to the terms of the Security Trust Agreement. In the event of a termination of this Agreement prior to the termination of the Collateral Trustee's security interest in the Assigned Rights, all assets of the Issuer held in the Crypto Asset Wallet shall be transferred out of the Crypto Asset Wallet to a successor custodian specified by the Issuer. In the event no successor is agreed upon at the end of the ninety (90)-day period, the Crypto Custodian shall be entitled to petition a court of competent jurisdiction to appoint a successor custodian and shall be indemnified by the Issuer for any documented, reasonable costs and expenses relating thereto.

## 10. AMENDMENTS

- 10.1 Changes and amendments to this Agreement including this Clause 10 (*Amendments*) shall be made in writing.
- 10.2 The Crypto Custodian and the Issuer shall not amend, vary, novate, supplement, or replace the Crypto Asset Custodian Agreement other than with the written consent of the Administrator and the Collateral Trustee (acting on the instructions of the Noteholder Representative, provided that if at the relevant time, no Noteholder Representative has been appointed, the Collateral Trustee shall agree to any such amendment, variation, supplement or replacement if it receives a certificate signed by a director of the Issuer certifying that such amendment, variation, supplement or replacement is not materially prejudicial to the interests of the Noteholders or any of the other Secured Parties upon which the Collateral Trustee shall be entitled to rely absolutely without any liability to any Noteholder or Secured Party or any other person, provided further that the Collateral Trustee shall not be obliged to agree to or approve any such amendment, variation, supplement or replacement which, in the sole opinion of the Collateral Trustee, would (i) impose more onerous obligations upon the Collateral Trustee or expose it to any additional duties, responsibilities or liabilities or reduce or amend the rights and/or protective provisions afforded to the Collateral Trustee in this Agreement, any replacement, amendment or supplement of this Agreement, the Security Documents or the other Note Documents in any way or (ii) expose it to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction.

10.3 For the avoidance of doubt, in case the Crypto Custodian amends, varies, novates, supplements or replaces the Crypto Asset Custodian Agreement, it is the Issuer's responsibility to get written consent of the Administrator, or, as the case may be, the Collateral Trustee.

**11. NOTICES AND THEIR LANGUAGE**

11.1 All notices and communications under or in connection with this Agreement shall be in writing and shall be delivered by letter or posted or delivered by hand (with a copy by electronic mail), except where any party specifically requires in writing (including by electronic mail) otherwise, by electronic mail or other electronic means.

11.2 Any electronic communication made between two parties will be effective only when actually received in readable form.

11.3 Any electronic communication which becomes effective, in accordance with sub-clause 11.2 above, after 5:00 p.m. in the place in which the party to whom the relevant communication is sent has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

11.4 Each notice or communication shall be given to the relevant party at the address, fax number or electronic mail address and marked for the attention of the person(s) or department from time to time specified in writing by that party to the other. The initial address, fax number, electronic mail address and person(s) or department so specified by each party are set out below:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

11.5 Proof of posting or dispatch of any notice or communication to any Party shall be deemed (*widerlegbare Vermutung*) to be proof of receipt in case of a letter, on the second business day in the country of receipt after posting.

11.6 Any notice or other communication under or in connection with this Agreement shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

**12. APPLICABLE LAW; JURISDICTION**

12.1 This Agreement is governed by the laws of the Federal Republic of Germany (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "Dispute").

12.2 The courts in Frankfurt am Main shall have exclusive jurisdiction for any and all Disputes.

**13. CONCLUSION OF THIS AGREEMENT (*VERTRAGSSCHLUSS*)**

13.1 The parties to this Agreement may choose to conclude this Agreement by an exchange of signed signature page(s), transmitted by any means of telecommunication (*telekommunikative Übermittlung*) such as by way of fax or electronic photocopy.

13.2 If the parties to this Agreement choose to conclude this Agreement pursuant to sub-clause 13.1 above, they will transmit the signed signature page(s) of this Agreement to Clifford Chance, attention to [REDACTED] [REDACTED] or [REDACTED] [REDACTED] (each a "Recipient"). The Agreement will be considered concluded once one Recipient has actually received the signed signature page(s) (*Zugang der Unterschriftsseite(n)*) from all parties to this Agreement (whether by way of fax, electronic photocopy or other means of telecommunication) and at the time of the receipt of the last outstanding signature page(s) by such one Recipient.

13.3 For the purposes of this Clause 13 (*Conclusion of this Agreement (Vertragsschluss)*) only, the parties to this Agreement appoint each Recipient as their attorney (*Empfangsvertreter*) and expressly allow (*gestatten*) each Recipient to collect the signed signature page(s) from all and for all parties to this Agreement. For the avoidance of doubt, each Recipient will have no further duties connected with its

position as Recipient. In particular, each Recipient may assume the conformity to the authentic original(s) of the signature page(s) transmitted to it by means of telecommunication, the genuineness of all signatures on the original signature page(s) and the signing authority of the signatories.

**SCHEDULE 1  
FORM OF NOTICE OF EXCLUSIVE CONTROL**

From: *[Collateral Trustee]*

To: *[Crypto Custodian]*

Dated: *[date]*

**Crypto Asset Wallet Control Agreement between  
nxtAssets GmbH as Issuer,**

**Apex Corporate Trustees (UK) Limited as Collateral Trustee  
and Crypto Finance (Deutschland) GmbH as Crypto Custodian  
dated [•] (the "Wallet Control Agreement")**

1. We refer to the Wallet Control Agreement. This is a Notice of Exclusive Control. Terms defined in the Wallet Control Agreement have the same meaning in this Notice of Exclusive Control unless given a different meaning in this Notice of Exclusive Control.
2. We hereby confirm to you that we are exercising our rights pursuant to the terms of the Wallet Control Agreement to exercise sole and exclusive control over the Crypto Asset Wallet and the Deposited Crypto Assets held therein.
3. For the avoidance of doubt, "Crypto Asset Wallet" means the cryptocurrency wallet(s) associated with the wallet identifier(s):  
[REDACTED] opened and maintained by you on behalf of the Issuer pursuant to the Crypto Asset Custodian Agreement for the receipt, safekeeping and maintenance of Ethereum (ETH), and any successor wallet(s) to such wallet(s).

.....  
Authorised Person for and on behalf of  
*[insert name of Collateral Trustee]*



This **SECURITY TRUST AGREEMENT** (the "**Agreement**") is dated 25 February 2025 and made between:

- (1) **NXTASSETS GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Neue Mainzer Straße 66-68, 60311, Germany which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 134562 (the "**Issuer**"); and
- (2) **APEX CORPORATE TRUSTEES (UK) LIMITED**, a private limited company incorporated under the laws of England and Wales and having its registered office at 4<sup>th</sup>Floor, 140 Aldersgate Street, London EC1A 4HY and registered with Companies House under no. 00239726, as Collateral Trustee for all present and future Secured Parties (as defined below) (the "**Collateral Trustee**").

The Issuer and the Collateral Trustee are hereinafter also referred to as the "**Parties**" and each as a "**Party**".

## **WHEREAS**

- (A) The Issuer has published a base prospectus dated 13 February 2025 which is intended to be at least annually updated (such base prospectus and any successor of such base prospectus if not materially different to its pre-successor base prospectus, the "**Base Prospectus**") for Crypto Asset linked Exchange Traded Notes. Under this Base Prospectus, the Issuer may, from time to time, issue series of German law governed debt securities (*Schuldverschreibungen*) linked to and collateralised with a Crypto Asset as specified in the final terms for the respective series of debt securities.
- (B) The Issuer intends to issue a series of debt securities in bearer form (collateralised tracker Notes (open end)) (ISIN: DE000NXTA026) under the Base Prospectus (the "**Notes**") linked to and collateralised with Ethereum (ETH). The Notes will be governed by its terms and conditions (the "**Terms and Conditions**").
- (C) The Collateral Trustee is authorised under the Terms and Conditions to represent the Noteholders (as defined below) in relation to this Agreement.
- (D) The Issuer has agreed to grant certain security to the Collateral Trustee which shall be held and/or administered for the Secured Parties (as defined below) pursuant to the terms of this Agreement.

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

Capitalised terms used and not otherwise defined herein shall have the meaning as defined in the Terms and Conditions (directly or by reference to another document). In addition, in this Agreement (including the preamble):

"**Administrator**" means Apex Fund Services (Malta) Limited, a private limited liability company registered under the laws of Malta with registration number C 42646 and

having its registered office at Quad Central, Q3 Level 9, Triq L-Esportaturi, Zone 1, Central Business District, Birkirkara CBD 1040 Malta.

**"Appointee"** means any delegate, agent, custodian, nominee, attorney or co-trustee appointed by the Collateral Trustee.

**"Charged Property"** means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security.

**"Crypto Asset"** means Ethereum (also referred to as "ETH"), a cryptocurrency based on an open-source, blockchain-based, decentralised software platform (also called Ethereum) and displayed on <https://ethereum.org/en/eth>.

**"Crypto Asset Security Documents"** means (i) a crypto asset security agreement between the Issuer and the Collateral Trustee and (ii) a crypto asset wallet control agreement between the Issuer, the Collateral Trustee and the Crypto Custodian, each entered into on or about the date hereof in relation to the Crypto Asset Wallet(s) and the Deposited Crypto Assets and/or the Issuer's rights and claims relating thereto (the **"Crypto Asset Wallet Control Agreement"**).

**"Crypto Asset Wallet Control Agreement"** means an agreement between the Issuer, the Crypto Custodian and the Collateral Trustee entered into on or about the date hereof to provide for the control of the relevant Crypto Asset Wallet(s) (as amended, varied, novated, supplemented, superseded or extended from time to time).

**"Crypto Asset Wallet"** means one or more cryptocurrency wallet(s) in relation to the Crypto Asset associated with the wallet identifier(s): [REDACTED] opened and maintained by the Crypto Custodian on behalf of the Issuer pursuant to the Crypto Asset Custodian Agreement for the receipt, safekeeping and maintenance of the Crypto Asset, and any successor wallet(s) to such wallet(s) which have a reference to the Crypto Assets of Noteholders and are pledged pursuant to the Crypto Asset Security Agreement.

**"Crypto Custodian"** means Crypto Finance (Deutschland) GmbH, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, or such other financial institution(s) that the Issuer, from time to time, has designated as the Crypto Custodian for its holdings of the Crypto Asset, subject to the provisions of Condition § 6 (2) of the Terms and Conditions of the Notes.

**"Depository Account"** means the portfolio account with ID-number [REDACTED] (NxtAssets ETH Product DE000NXTA026) opened and maintained by the Crypto Custodian on behalf of the Issuer pursuant to an institutional custodial services agreement and any successor account(s) to such account(s), whether maintained by the initial Crypto Custodian or by any successor thereof.

**"Deposited Crypto Assets"** means the Deposited Cryptocurrency and all other digital assets held on the Crypto Asset Wallet at any given time.

**"Deposited Cryptocurrency"** means the number of units of the Crypto Asset held on the Crypto Asset Wallet(s) with the Crypto Custodian at any given time.



**"Event of Default"** means any event of default (*Kündigungsgrund*) listed in § 10 (1) (Events of Default) of the Terms and Conditions.

**"Issuance Account Control Agreement"** means an agreement between the Issuer, the Collateral Trustee and the Issuing Agent entered into on or about the date hereof to provide for the control of the Issuer-Held Notes in the Issuance Account (as amended, varied, novated, supplemented, superseded or extended from time to time).

**"Liabilities"** means all present and future liabilities and obligations at any time of the Issuer to any Noteholder under the Note Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution or unjust enrichment; and
- (d) any claim as a result of any recovery by the Issuer of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

**"Note Documents"** means this Agreement, the Notes (including the Terms and Conditions), the Security Documents, any fee letter relating to the Notes and any other document that may be entered into pursuant to any of the foregoing in relation to the Notes.

**"Noteholders"** means the holders of the Notes and shall include those persons who are the beneficiaries of Secured Redemption Obligations or Secured Settlement Obligations and **"Noteholder"** means any of them.

**"Noteholders' Representative"** means any joint representative (*gemeinsamer Vertreter*) of the Noteholders which may be appointed under the German Act on Issues of Debt Securities of 2009 (*Gesetz über Schuldverschreibungen aus Gesamtemissionen*, "SchVG").

**"Payment"** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

**"Sales Proceeds Cash Account Control Agreement"** means an agreement between the Issuer, the Collateral Trustee and the Issuing Agent entered into on or about the date hereof to provide for the control of the proceeds of a sale of Crypto Asset in the Sales

Proceeds Cash Account (as amended, varied, novated, supplemented, superseded or extended from time to time).

**"Sales Proceeds Cash Account"** means a bank account maintained by the Issuing Agent on behalf of the Issuer where in case of a redemption of the Notes any relevant proceeds of a sale of Crypto Asset are credited until payment to the Noteholder in accordance with the Terms and Conditions.

**"Secured Obligations"** means all the Liabilities and all other present and future liabilities and obligations at any time due, owing or incurred by the Issuer to any Secured Party under the Note Documents, including the parallel debt obligations arising under sub-clause 2.2 (*Parallel debt*) and including any obligations based on unjust enrichment (*ungerechtfertigte Bereicherung*) or tort (*Delikt*), both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

**"Secured Parties"** means the Noteholders, any Noteholders' Representative and the Collateral Trustee.

**"Security"** means a land charge, mortgage, charge, pledge, lien, assignment or transfer for security purposes, retention and extended retention of title or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Documents"** means the the Crypto Asset Security Documents and this Agreement.

**"Security Property"** means:

- (a) the Transaction Security expressed to be granted in favour of the Collateral Trustee for its own account and as trustee for the Secured Parties and all proceeds of that Transaction Security;
- (b) all obligations expressed to be undertaken by the Issuer to pay amounts in respect of the Liabilities to the Collateral Trustee as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by the Issuer in favour of the Collateral Trustee as trustee for the Secured Parties;
- (c) any other amounts or property, possessions (*Besitz*), ownership (*Eigentum*), rights, entitlements, or otherwise, actual or contingent, which the Collateral Trustee is required by the terms of the Note Documents to hold as trustee on trust for the Secured Parties.

**"Transaction Parties"** means the parties to the Security Documents.

**"Transaction Security"** means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Security Documents.

## 1.2 Construction

- (a) Unless a contrary indication appears, a reference in this Agreement to:

- (i) any "**Party**", "**Issuer**" or the "**Collateral Trustee**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Note Documents;
  - (ii) "**assets**" includes present and future properties, objects, revenues and rights of every description;
  - (iii) a "**Note Document**" or any other agreement or instrument is a reference to that Note Document, or other agreement or instrument, as amended, novated, supplemented, extended or restated as permitted by this Agreement;
  - (iv) "**enforcing**" (or any derivation) the Transaction Security includes:
    - (A) the appointment of an administrator (or any analogous officer in any jurisdiction) of the Issuer by the Collateral Trustee; and
    - (B) the making of a demand under sub-clause 2.2 (*Parallel debt*) by the Collateral Trustee;
  - (v) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
  - (vi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (vii) references to this Agreement and any document or agreement defined herein shall be construed as references to this Agreement or such document or agreement as the same may be amended, supplemented, restated or novated from time to time; and
  - (viii) a provision of law is a reference to that provision as amended or re-enacted from time to time.
- (b) Section, Clause and Schedule headings are for ease of reference only.
  - (c) Nothing in this Agreement shall be construed so as to exclude the liability of any person for its own wilful misconduct (*Vorsatz*).

### 1.3 Third party rights

- (a) This Agreement constitutes a genuine contract for the benefit of third parties (*echter Vertrag zugunsten Dritter*) pursuant to paragraph 1 of section 328 German Civil Code (*Bürgerliches Gesetzbuch*, "**BGB**") in respect to the obligations of the Collateral Trustee contained herein to act as trustee (*Treuhänder*) for the benefit of present and future Secured Parties. The rights of

the Collateral Trustee pursuant to sub-clause 2.2 (*Parallel Debt*) in the event of an enforcement of the Parallel Debt shall remain unaffected.

- (b) Notwithstanding any term of this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

#### 1.4 Language

This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

## 2. THE COLLATERAL TRUSTEE

### 2.1 Collateral Trustee as trustee

- (a) Subject to paragraph (g) below the Collateral Trustee declares that it holds the Security Property on trust for the Secured Parties on the terms contained in this Agreement.
- (b) Each of the Parties agrees that the Collateral Trustee shall have only those duties, obligations and responsibilities specified in this Agreement or in the Note Document to which the Collateral Trustee is a party.
- (c) It is hereby agreed that, in relation to any jurisdiction the courts of which would not recognise or give effect to the trust (*Treuhandverhältnis*) expressed to be created by this Agreement, the relationship of the Noteholders to the Collateral Trustee shall be construed as one of principal and trustee but, to the extent permissible under the laws of such jurisdiction, all the other provisions of this Agreement shall have full force and effect between the Parties hereto.
- (d) For the avoidance of doubt, the Collateral Trustee shall not constitute a common representative (*gemeinsamer Vertreter*) within the meaning of the SchVG.
- (e) This Agreement and any other Note Document to which the Collateral Trustee is party is without prejudice to any other trust or fiduciary relationship established or Security created by other instruments, agreements or documents, whether under German law or otherwise.
- (f) The Issuer authorises the Collateral Trustee, without any implied or otherwise obligation, to take any steps and collect all information necessary or desirable for the preparation and perfection of the security interests granted by this Agreement or under the other Security Documents and, where necessary, to engage on behalf of the Issuer a German public notary for the execution of any documents required in notarial form.
- (g) The Collateral Trustee shall:
  - (i) hold and administer as trustee (*treuhänderisch*) any Transaction Security governed by German law which Security is an assignment or transfer for security purposes

(*Sicherungsabtretung/Sicherungsübereignung*) or otherwise granted as a non-accessory security right (*nicht-akzessorische Sicherheit*) to it for the benefit of the Secured Parties; and

- (ii) administer as agent any Transaction Security governed by German law which is a pledge (*Verpfändung*) or otherwise granted to it as an accessory security right (*akzessorische Sicherheit*);
  - (iii) acquire, hold, administer, and enforce any Charged Property which cannot be held on trust for the benefit of the Secured Parties as a principal; and
  - (iv) act in relation to the Charged Property in accordance with the terms and subject to the conditions of this Agreement and the relevant Security Document. In case of any inconsistency between this Agreement and the relevant Security Document, this Agreement shall prevail.
- (h) The Collateral Trustee shall not be obliged, until a Noteholder Representative is appointed in accordance with Condition § 15 (6) of the Terms and Conditions, to enforce the Transaction Security and/or perform any of its other functions expressly contemplated by this Agreement or the other Note Documents.

## 2.2 Parallel debt

- (a) In this sub-clause 2.2 (*Parallel debt*):

"**Parallel Debt**" means the payment undertaking granted by the Issuer under sub-clause 2.2(b) and any of its obligations arising vis-à-vis the Collateral Trustee under or in connection with that undertaking; and

"**Underlying Obligations**" means the Secured Obligations, excluding the Parallel Debt.

- (b) The Issuer irrevocably and unconditionally undertakes vis-à-vis the Collateral Trustee by means of an abstract promise of debt "*abstraktes Schuldversprechen*" to pay to the Collateral Trustee at any time sums equal to, and in the currency of, each amount payable by the Issuer to any Secured Party (other than the Collateral Trustee) under any Underlying Obligations as and when the same fall due for payment under the relevant Note Document.
- (c) The Parallel Debt:
- (i) shall be, on its merits "*dem Grunde nach*", separate and independent from, and without prejudice to, the relevant Underlying Obligations;
  - (ii) represents, as to the person of its creditor, the Collateral Trustee's own separate and independent claim(s) to receive payment, with the Collateral Trustee in this regard solely acting in its own name and not as agent for any other party; and

- (iii) shall cover, in an anticipatory manner as to its scope "*dem Umfang nach*", any future changes in the respective Underlying Obligations.
- (d) To the extent (i) the Collateral Trustee has received or recovered any amount in full or partial discharge of the Parallel Debt, regardless of whether due to the Issuer rendering any performance owed by it thereunder or as a result of the enforcement of the relevant Parallel Debt by the Collateral Trustee and (ii) the Parallel Debt is, as a result of that receipt or recovery, effectively and finally discharged, the Underlying Obligations towards any Secured Party which is entitled to a share in that amount pursuant to Clause 4 (*Application of Proceeds*) shall be automatically reduced by the amount of the respective share.
- (e) To the extent (i) the other Secured Parties have received or recovered any amount in full or partial discharge of any of the Underlying Obligations, regardless of whether due to the Issuer rendering any performance owed by it thereunder or as a result of the enforcement of the relevant Underlying Obligations and (ii) the relevant Underlying Obligation is, as a result of that receipt or recovery, effectively and finally discharged, the Parallel Debt shall be automatically reduced by the amount of the respective share.

### 2.3 Instructions

- (a) The Collateral Trustee shall:
  - (i) subject to paragraph (c) below, exercise or refrain from exercising any right, power, authority or discretion vested in it as Collateral Trustee in accordance with any instructions given to it by the Noteholders' Representative; and
  - (ii) not be liable for any act (or omission) if it acts (or refrains from acting) in accordance with paragraph (i) above.
- (b) The Collateral Trustee shall be entitled to request instructions, or clarification of any instruction, from the Noteholders' Representative as to whether, and in what manner, it should exercise or refrain from exercising any right, power, authority or discretion and the Collateral Trustee may refrain from acting unless and until it receives those instructions or that clarification.
- (c) Paragraph (a) above shall not apply:
  - (i) where a contrary indication appears in a Note Document;
  - (ii) where a Note Document requires the Collateral Trustee to act in a specified manner or to take a specified action; and
  - (iii) in respect of any provision which protects the Collateral Trustee's own position in its personal capacity as opposed to its role of Collateral Trustee for the Secured Parties including, without limitation, sub-clause 2.6 (*No duty to account*) to sub-clause 2.10 (*Exclusion of liability*), sub-clause 2.11 (*Confidentiality*) to sub-clause 2.15 (*Custodians and nominees*) and sub-clause 2.17 (*Acceptance of title*) to sub-clause 2.19 (*Disapplication*).

- (d) Unless a contrary indication appears in a Note Document, any instructions given to the Collateral Trustee by the Noteholders' Representative shall override any conflicting instructions given by any other parties and will be binding on all Noteholders in accordance with the Terms and Conditions and German mandatory law.
- (e) In exercising any discretion to exercise a right, power or authority under the Note Documents where it has not received any instructions as to the exercise of that discretion, the Collateral Trustee shall (but shall not be obliged to) do so having regard to the interests of all the Secured Parties.
- (f) The Collateral Trustee may refrain from acting in accordance with any instructions of the Noteholders' Representative until it has received any indemnification and/or security that it may in its discretion require (which may be greater in extent than that contained in the Note Documents and which may include payment in advance) for any cost, loss or liability (together with any applicable VAT) which it may incur in complying with those instructions.
- (g) Without prejudice to the provisions of Clause 3 (*Enforcement of Transaction Security*) and the remainder of this sub-clause 2.3 (*Instructions*), in the absence of instructions, the Collateral Trustee may act (or refrain from acting) as it considers in its discretion to be appropriate.

#### **2.4 Duties of the Collateral Trustee**

- (a) The Collateral Trustee shall promptly forward to the Noteholders' Representative a copy of any document received by the Collateral Trustee from the Issuer under any Note Document.
- (b) The Collateral Trustee is not obliged to review or check the adequacy, accuracy, or completeness of any document it forwards to another person.
- (c) The Collateral Trustee shall have only those duties, obligations and responsibilities expressly specified in the Note Documents to which it is expressed to be a party (and no others shall be implied).

#### **2.5 No fiduciary duties to the Issuer**

Nothing in this Agreement constitutes the Collateral Trustee as an agent, trustee or fiduciary of the Issuer. The Collateral Trustee has no financial or commercial duty of care (*Vermögensfürsorgepflicht*) for the Issuer.

#### **2.6 No duty to account**

The Collateral Trustee shall not be bound to account to any other Secured Party for any sum or the profit element of any sum received by it for its own account.

#### **2.7 Rights and discretions**

- (a) The Collateral Trustee may:

- (i) rely on any representation, communication, notice or document believed by it to be genuine, correct and appropriately authorised;
- (ii) assume that:
  - (A) any instructions received by it from the Noteholders' Representative are duly given in accordance with the terms of the Note Documents;
  - (B) unless it has received notice of revocation, that those instructions have not been revoked; and
  - (C) if it receives any instructions to act in relation to the Transaction Security, that all applicable conditions under the Note Documents for so acting have been satisfied; and
- (iii) rely on a certificate from any person:
  - (A) as to any matter of fact or circumstance which might reasonably be expected to be within the knowledge of that person; or
  - (B) to the effect that such person approves of any particular dealing, transaction, step, action or thing,

as sufficient evidence that that is the case and, in the case of paragraph (A) above, may assume the truth and accuracy of that certificate.
- (b) The Collateral Trustee may assume (unless it has received notice to the contrary in its capacity as Collateral Trustee for the Secured Parties) that:
  - (i) no Event of Default or Termination Event has occurred; and
  - (ii) any right, power, authority or discretion vested in any Secured Party or any group of Secured Parties has not been exercised.
- (c) The Collateral Trustee may engage and pay for the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts.
- (d) Without prejudice to the generality of paragraph (c) above or paragraph (e) below, the Collateral Trustee may at any time engage and pay for the services of any lawyers to act as independent counsel to the Collateral Trustee if the Collateral Trustee in its reasonable opinion deems this to be desirable.
- (e) The Collateral Trustee may rely on the advice or services of any lawyers, accountants, tax advisers, surveyors or other professional advisers or experts (whether obtained by the Collateral Trustee or by any other person) and shall not be liable for any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of its so relying.



- (f) The Collateral Trustee may act in relation to the Note Documents and the Security Property through its officers, employees and agents and shall not:
  - (i) be liable for any error of judgment made by any such person; or
  - (ii) be bound to supervise, or be in any way responsible for any loss incurred by reason of misconduct, omission or default on the part of any such person,  
  
unless such error or such loss was directly caused by the Collateral Trustee's gross negligence or wilful misconduct.
- (g) Notwithstanding any provision of any Note Document to the contrary, the Collateral Trustee is not obliged to expend or risk its own funds or otherwise incur any financial liability in the performance of its duties, obligations or responsibilities or the exercise of any right, power, authority or discretion if it has grounds for believing the repayment of such funds or adequate indemnity against, or security for, such risk or liability is not reasonably assured to it.
- (h) The Collateral Trustee may obtain and rely on any certificate or report from the Issuer's auditor or accountant and may enter into any reliance letter or engagement letter relating to that certificate or report on such terms as it may consider appropriate (including, without limitation, restrictions on the auditor's or accountant's liability and the extent to which that certificate or report may be relied on or disclosed).

## **2.8 Responsibility for documentation**

The Collateral Trustee is not responsible or liable for:

- (a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Collateral Trustee, the Issuer or any other person in or in connection with any Note Document or the transactions contemplated in the Note Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document;
- (b) the legality, validity, effectiveness, adequacy or enforceability of any Note Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Note Document or the Security Property; or
- (c) any determination as to whether any information provided or to be provided to any Secured Party is non-public information the use of which may be regulated or prohibited by applicable law or regulation relating to insider dealing or otherwise.

## **2.9 No duty to monitor**

- (a) The Collateral Trustee shall not be bound to monitor or enquire:
  - (i) whether or not any Event of Default or Termination Event has occurred;

- (ii) as to the performance, default or any breach by any person of its obligations under any Note Document; or
  - (iii) whether any other event specified in any Note Document has occurred.
- (b) Unless and until it shall have received notice to the contrary, the Collateral Trustee shall be entitled to assume that no such event has occurred or exists without any liability for so doing.
- (c) The Issuer (or the paying agent on its behalf) shall notify the Collateral Trustee in writing promptly upon the occurrence of any Event of Default or Termination Event.

## 2.10 Exclusion of liability

- (a) Without limiting paragraph (b) below (and without prejudice to any other provision of any Note Document excluding or limiting the liability of the Collateral Trustee), the Collateral Trustee will not be liable for:
- (i) any damages, costs or losses to any person, any diminution in value or any liability whatsoever arising as a result of taking or not taking any action under or in connection with any Note Document or the Security Property unless directly caused by its gross negligence or wilful misconduct;
  - (ii) exercising or not exercising any right, power, authority or discretion given to it by or in connection with any Note Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, any Note Document or the Security Property;
  - (iii) any shortfall which arises on the enforcement or realisation of the Security Property; or
  - (iv) without prejudice to the generality of paragraphs (i) to (iii) above, any damages, costs, losses, any diminution in value or any liability whatsoever arising as a result of:
    - (A) any act, event or circumstance not reasonably within its control; or
    - (B) the general risks of investment in, or the holding of assets in, any jurisdiction,

including (in each case and without limitation) such damages, costs, losses, diminution in value or liability arising as a result of: nationalisation, expropriation or other governmental actions; any regulation, currency restriction, devaluation or fluctuation; market conditions affecting the execution or settlement of transactions or the value of assets; breakdown, failure or malfunction of any third party transport, telecommunications, computer services or systems; natural

disasters or acts of God; war, terrorism, insurrection or revolution; or strikes or industrial action.

- (b) The Issuer may not take any proceedings against any officer, employee or agent of the Collateral Trustee in respect of any claim it might have against the Collateral Trustee or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Note Document or any Security Property.
- (c) Without prejudice to any provision of any Note Document excluding or limiting the liability of the Collateral Trustee, any liability of the Collateral Trustee arising under or in connection with any Note Document or the Security Property shall be limited to the amount of actual loss which has been finally judicially determined to have been suffered (as determined by reference to the date of default of the Collateral Trustee or, if later, the date on which the loss arises as a result of such default) but without reference to any special conditions or circumstances known to the Collateral Trustee at any time which increase the amount of that loss. In no event shall the Collateral Trustee be liable for any loss of profits, goodwill, reputation, business opportunity or anticipated saving, or for special, punitive, indirect or consequential damages, whether or not the Collateral Trustee has been advised of the possibility of such loss or damages.

## **2.11 Confidentiality**

- (a) In acting as trustee for the Secured Parties, the Collateral Trustee shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments.
- (b) If information is received by another division or department of the Collateral Trustee, it may be treated as confidential to that division or department and the Collateral Trustee shall not be deemed to have notice of it.
- (c) Notwithstanding any other provision of any Note Document to the contrary, the Collateral Trustee is not obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would, or might in its reasonable opinion, constitute a breach of any law or regulation or a breach of a fiduciary duty.

## **2.12 Collateral Trustee's remuneration**

- (a) In the event of:
  - (i) an Event of Default; or
  - (ii) the Collateral Trustee being requested to undertake duties which the Collateral Trustee and the Issuer agree to be of an exceptional nature or outside the scope of the normal duties of the Collateral Trustee under the Note Documents; or
  - (iii) the Collateral Trustee and the Issuer agreeing that it is otherwise appropriate in the circumstances,

the Issuer shall pay to the Collateral Trustee any additional remuneration (together with any applicable VAT) that may be agreed between them. For the avoidance of doubt any duties in connection with investments, the granting of consents or waivers, concurring in modifications, enforcement or during the period post enforcement or duties (including any reporting requirements) undertaken to ensure regulatory compliance, shall be deemed to be of an exceptional nature.

- (b) In the event of the Collateral Trustee and the Issuer failing to agree upon whether such duties shall be of an exceptional nature or otherwise outside the scope of the normal duties of the Collateral Trustee under this Agreement or the other Note Documents or upon the amount of such additional remuneration, such matters shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Collateral Trustee and approved by the Issuer which approval shall not be unreasonably withheld or delayed (the reasonable expenses and the fees of such investment bank being payable by the Issuer) and the determination of any such investment bank shall be final and binding upon the Collateral Trustee and the Issuer.
- (c) The Issuer covenants with and undertakes to the Collateral Trustee that
  - (i) the Issuer shall on demand indemnify and keep indemnified the Collateral Trustee (on its own behalf and on behalf of its directors, officers, employees and agents and every receiver, attorney, delegate, manager, agent, appointee or other person appointed by the Collateral Trustee under this Agreement and their respective officers and employees) against any Liabilities incurred by the Collateral Trustee, any receiver or any appointee in, or directly or indirectly as a result of, the exercise or purported exercise of any of the rights, powers, duties, obligations and/or discretions vested in them under this Agreement or any other Note Document and against all Liabilities suffered or incurred by any of them in respect of any matter or thing done or omitted relating to the Security Documents or in respect of any other matter or thing done or omitted in relation to the Note Documents, unless such Liabilities result from the gross negligence or wilful misconduct of the Collateral Trustee. The Collateral Trustee and any receiver may retain and pay all those sums out of any monies received by it or him under this Agreement; and
  - (ii) the Issuer shall, on its own behalf and on behalf of its directors, officers, employees and agents, on demand indemnify and keep indemnified the Collateral Trustee in respect of all Liabilities occasioned by any breach of any of its covenants or other obligations under this Agreement or otherwise relating to all or any part of the Security Documents.

This Clause 2.12(c) shall continue in full force and effect notwithstanding the termination of this Agreement or any other Note Document and whether or not the Collateral Trustee is the collateral trustee under this Agreement or any other Note Document.

### **2.13 No responsibility to perfect Transaction Security**

The Collateral Trustee shall not be liable for any failure to:

- (a) require the deposit with it of any deed or document certifying, representing or constituting the title of the Issuer to any of the Charged Property;
- (b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any Note Document or the Transaction Security;
- (c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any law or regulation or to give notice to any person of the execution of any Note Document or of the Transaction Security;
- (d) take, or to require the Issuer to take, any step to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under any law or regulation; or
- (e) require any further assurance in relation to any Security Document.

### **2.14 Insurance by Collateral Trustee**

- (a) The Collateral Trustee shall not be obliged:
  - (i) to insure any of the Charged Property;
  - (ii) to require any other person to maintain any insurance; or
  - (iii) to verify any obligation to arrange or maintain insurance contained in any Note Document,

and the Collateral Trustee shall not be liable for any damages, costs or losses to any person as a result of the lack of, or inadequacy of, any such insurance.

- (b) Where the Collateral Trustee is named on any insurance policy as an insured party, it shall not be liable for any damages, costs or losses to any person as a result of its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Noteholders' Representative requests it to do so in writing and the Collateral Trustee fails to do so within fourteen (14) days after receipt of that request.

### **2.15 Custodians and nominees**

The Collateral Trustee may appoint and pay any person to act as a custodian or nominee on any terms in relation to any asset of the trust as the Collateral Trustee may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement. However, none of the provisions of this Agreement shall relieve the Collateral Trustee from or indemnify the Collateral Trustee against any liabilities, loss or damage which by virtue of any rule of

law would, but for any such provision, attach to it in respect of any gross negligence or wilful misconduct on the part of the Collateral Trustee.

#### **2.16 Delegation by the Collateral Trustee**

- (a) The Collateral Trustee may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.
- (b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Collateral Trustee may, in its discretion, think fit in the interests of the Secured Parties.
- (c) If the Collateral Trustee exercises reasonable care in selecting such delegate, it shall not have any obligation to supervise such delegate or be responsible for any Liability incurred by reason of any misconduct or default by any such delegate or sub-delegate.

#### **2.17 Acceptance of title**

The Collateral Trustee shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that the Issuer may have to any of the Charged Property and shall not be liable for, or bound to require the Issuer to remedy, any defect in its right or title.

#### **2.18 Supplemental Powers**

The rights, powers, authorities and discretions given to the Collateral Trustee under or in connection with the Note Documents shall be in addition to any which may be vested in the Collateral Trustee by law or regulation or otherwise.

#### **2.19 Disapplication**

Where there are any inconsistencies between the provisions of this Agreement and the provisions on trust under any applicable law, the provisions of this Agreement shall, to the extent permitted by the relevant law and regulation, prevail.

#### **2.20 Power of Attorney**

- (a) The Issuer irrevocably appoints the Collateral Trustee to be its attorney (*Stellvertreter*) to do anything which the Issuer has authorised the Collateral Trustee to do under this Agreement or is itself required to do under this Agreement but has failed to do (and the Collateral Trustee may delegate that power on such terms as it sees fit).
- (b) The Issuer hereby exempts the Collateral Trustee from the restrictions pursuant to section 181 BGB and similar restrictions applicable to it pursuant to any other law, in each case to the extent legally possible.

The Issuer and the Collateral Trustee agree that the powers granted under this Clause 2.20 to the Collateral Trustee may only be exercised upon and following the occurrence of an Event of Default.

## **2.21 Payment**

The Issuer shall pay to the Collateral Trustee, by way of remuneration for its services as Collateral Trustee, such amount as shall be agreed from time to time in a fee letter between the Issuer and the Collateral Trustee. Subject to the provisions of Clause 8 (*Resignation of the Collateral Trustee*), such remuneration shall accrue from day to day from the date of this Agreement and be payable (in priority to payments to Noteholders) up to and including the date when, all the Secured Obligations have been irrevocably satisfied and discharged in full.

## **2.22 Entry into contracts**

In addition, the Collateral Trustee is entitled to enter into business transactions with the Issuer and any entity relating to the Issuer without accounting for any profit.

## **2.23 Collateral Trustee not responsible for loss or for monitoring**

The Collateral Trustee will not be responsible for any loss, expense or liability which may be suffered as a result of the Charged Property or any documents of title thereto being uninsured or inadequately insured or being held by or to the order of any person on behalf of the Collateral Trustee. The Collateral Trustee shall not be responsible for monitoring the compliance by any of the other Transaction Parties with their obligations under the Transaction Documents and the Collateral Trustee will be entitled to assume, until it has written notice to the contrary, that all such persons are properly performing their duties.

## **2.24 Agents to act on instructions of Collateral Trustee following Event of Default**

At any time after an Event of Default shall have occurred, the Collateral Trustee may, by notice in writing to the Issuer and the Agents or any of them, require the Agents or any of them to act solely in accordance with the instructions of the Collateral Trustee and not the Issuer until notified otherwise.

# **3. ENFORCEMENT OF TRANSACTION SECURITY**

## **3.1 Enforcement Instructions**

Subject to it being indemnified and/or secured and/or prefunded to its satisfaction, the Collateral Trustee (acting on the instructions of the Noteholders' Representative) shall be entitled to enforce the Transaction Security upon the occurrence of an Event of Default following receipt of a Default Termination Notice from the Paying Agent pursuant to Condition 10 of the Notes and if, in addition, any further requirements stipulated in the respective Security Document are satisfied.

## **3.2 Manner of enforcement**

If the Transaction Security is being enforced pursuant to sub-clause 3.1 (*Enforcement Instructions*), the Collateral Trustee shall enforce the Transaction Security in such manner (including, without limitation, the selection of any administrator (or any analogous officer in any jurisdiction) of the Issuer to be appointed by the Collateral Trustee) as the Noteholders' Representative shall instruct.

### 3.3 **Waiver of rights**

To the extent permitted under applicable law and subject to sub-clause 3.1 (*Enforcement Instructions*), sub-clause 3.2 (*Manner of enforcement*) and Clause 4 (*Application of Proceeds*), the Issuer waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any amount received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security or of any other security interest, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

## 4. **APPLICATION OF PROCEEDS**

All amounts from time to time received or recovered by the Collateral Trustee pursuant to the terms of any Note Document or in connection with the realisation or enforcement of all or any part of the Transaction Security shall be held by the Collateral Trustee on trust to apply them at any time as the Collateral Trustee (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 4 (*Application of Proceeds*)), in the following order of priority:

- (a) in discharging any sums owing to the Collateral Trustee and any Appointee of the Collateral Trustee;
- (b) in discharging all costs and expenses incurred by the Collateral Trustee in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement and the other Security Documents, or any action taken at the request of the Collateral Trustee;
- (c) in discharging all costs and expenses incurred by the Noteholders' Representative in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of this Agreement or any action taken at the request of the Noteholders' Representative;
- (d) in discharging any sums owing to the relevant Noteholder or Noteholders (excluding, for the avoidance of doubt, the Issuer); and
- (e) the balance, if any, in payment to the Issuer.



For the purposes of this Clause 4 (*Application of proceeds*), in case the Issuer obtains an insurance policy covering certain losses of Issuer-Held Notes and/or Deposited Crypto Assets and states the Collateral Trustee as a loss payee with respect to any compensations provided by such policy, any sums paid to the Collateral Trustee by the relevant insurance company shall be deemed to be received from or by the enforcement of the relevant Transaction Security and shall be allocated in accordance with this Clause 4 (*Application of proceeds*). For the avoidance of doubt, the Collateral Trustee shall not be responsible for: (i) payments of any insurance premiums; and (ii) enforcing any insurance policies (unless instructed to do so by the Noteholders' Representative in accordance with sub-clause 2.3 (*Instructions*) and indemnified and pre-funded to its satisfaction).

The Issuer shall notify the Collateral Trustee if it obtains, cancels or amends any insurance policy referred to above as soon as practical.

## 5. **PERMITTED DEDUCTIONS**

Notwithstanding anything contained in this Agreement or any Note Document, to the extent required by any applicable law, if the Collateral Trustee is or will be required to make any deduction or withholding from any distribution or payment made by it hereunder or if the Collateral Trustee is or will be otherwise charged, or is or may become liable to, tax as a consequence of performing its duties hereunder whether as principal, agent or otherwise, or under the other Note Documents, and whether by reason of any assessment, prospective assessment or other imposition of liability to taxation of whatsoever nature and whenever made upon the Collateral Trustee, and whether in connection with or arising from any sums received or distributed by it or to which it may be entitled under this Agreement (other than in connection with its remuneration as provided for herein) or any investments or deposits from time to time representing the same, including any income or gains arising therefrom or any action of the Collateral Trustee in connection with the obligations and rights under this Agreement (other than the remuneration herein specified) or otherwise, then the Collateral Trustee shall be entitled to make such deduction or withholding or, as the case may be, to retain out of sums received by it an amount sufficient to discharge any liability to tax which relates to sums so received or distributed or to discharge any such other liability of the Collateral Trustee to tax from the funds held by the Collateral Trustee upon the rights and obligations of this Agreement.

## 6. REPRESENTATIONS OF THE ISSUER

The Issuer represents and warrants to the Collateral Trustee that:

- 6.1 it is a company with limited liability (*Gesellschaft mit beschränkter Haftung*), duly organized and registered under the laws of Germany;
- 6.2 it is and will be the sole legal and beneficial owner of the Charged Property and may freely dispose of the Charged Property without any restrictions;
- 6.3 this Agreement and the Security Documents constitute its legal, valid, binding and enforceable obligations;  
  
the statements made by the Issuer and any information describing the Charged Property in this Agreement and the Security Documents are true and correct;
- 6.4 the Charged Property is neither pledged nor assigned to any other person and no rights of third parties exist in relation thereto other than as permitted under the Terms and Conditions, this Agreement, the Security Documents or the pledges existing by operation of the general business conditions (*Allgemeine Geschäftsbedingungen*) of the Issuing Agent;
- 6.5 without prejudice to the restrictions imposed by this Agreement and/or the Security Documents, it has the right to assign, transfer, grant a pledge over or otherwise freely dispose of the Charged Property without the consent of any person, and there is no other restriction in relation to the Charged Property other than as set out in the Terms and Conditions, this Agreement, the Security Documents or as provided by German statutory law;
- 6.6 it has the corporate power and authority to enter into this Agreement and the Security Documents, in particular all necessary corporate authorisations to enable or entitle it to enter into this Agreement and the Security Documents have been obtained and are in full force and effect; and
- 6.7 its chief executive office, principal place of business, and place where it keeps its accounting records is set forth under its name on the signature page to this Agreement.

## 7. UNDERTAKINGS OF THE ISSUER

During the term of this Agreement, the Issuer undertakes to the Collateral Trustee:

- 7.1 to use best efforts to procure that the Issuing Agent waives or subordinates any right of retention and any right of set-off as well as any pledge existing by operation of its general business conditions (*Allgemeine Geschäftsbedingungen*) in respect of the Issuer-Held Notes to the pledge created under the Pledge Agreement over Issuer-Held Notes in accordance with the terms of the respective Security Document;
- 7.2 not to take, or participate in, any action which results or might result in a sale, transfer, encumbrance or other disposal of the Charged Property except as permitted under the Note Documents;

- 7.3 not to encumber, permit to subsist, create or agree to create any other security interest or third party right in or over the Charged Property except as set out in this Agreement and/or the Security Documents;
- 7.4 to defend the Charged Property against, and take such other action as is necessary to remove, any security interest on the Charged Property (other than those provided for in this Agreement and the Security Documents), and to defend the right, title and interest of the Collateral Trustee in and to any of its rights under the Charged Property and the priority thereof against the claims and demands of all persons whomsoever;
- 7.5 to keep and maintain, at its own cost and expense, satisfactory and complete records of the Charged Property so that such assets are identifiable (*bestimmbar*) for the purposes of the Security Documents;
- 7.6 if so requested by the Collateral Trustee, to furnish to the Collateral Trustee, as often as the Collateral Trustee requests, statements and schedules further identifying and describing the Charged Property and such other reports in connection with the Security Documents as the Collateral Trustee may reasonably request, all in such detail as the Collateral Trustee may specify;
- 7.7 to instruct the Issuing Agent to provide the Collateral Trustee with all information requested by it in respect of the Issuance Account or the Sales Proceeds Cash Account and to that extent to release the Issuing Agent from its obligation to maintain confidentiality (*Bankgeheimnis*);
- 7.8 to inform the Collateral Trustee without undue delay of the occurrence of any event which results in any of the representations and warranties contained in Clause 6 (*Representations of the Issuer*) hereof being untrue or inaccurate;
- 7.9 to inform the Collateral Trustee without undue delay in writing of any attachment (*Pfändung*) over any of the Charged Property or part thereof and any third parties bringing claims in respect of any of the Charged Property or part thereof or any other measures which might impair or jeopardize the Collateral Trustee's rights to any of the Charged Property or materially impair their value, such notice to be accompanied by any documents the Collateral Trustee might need to defend itself against any claim by a third party. The Issuer undertakes to forward to the Collateral Trustee in the event of an attachment without undue delay a copy of the attachment order (*Pfändungsbeschluss*), any transfer order (*Überweisungsbeschluss*) and all other documents necessary or expedient for a defence against such attachment. The Issuer shall inform the attaching creditor of the Collateral Trustee's security interests without undue delay;
- 7.10 to take, at its own cost and expense, all such action as is available to it as may be necessary for the purpose of the creation, perfection, protection or maintenance of the security rights created or intended to be created by or pursuant to this Agreement and/or the Security Documents or to facilitate the realisation of the Charged Property;
- 7.11 not to change its headquarters, principal business address, mailing address, or name as it appears in official filings in the jurisdiction of its organization unless the Collateral Trustee shall have received at least fifteen (15) days prior written notice thereof and any reasonable action requested by the Collateral Trustee in connection therewith has

been completed or taken (including any action to continue the perfection of the security interest in favour of the Collateral Trustee in any of the Charged Property);

- 7.12 upon the Collateral Trustee's request, to allow the Collateral Trustee (and/or accountants and/or other professional advisors and contractors of the Collateral Trustee) for the purpose of inspecting and checking any of the Charged Property to examine, audit and inspect its books, accounts and other documents wherever located at all times and on reasonable notice at the risk and cost of the Issuer during normal business hours, and to make and take away copies of any and all of such books, accounts and other documents; and
- 7.13 insofar as additional declarations or actions are necessary for the creation of the Transaction Security, to make such declarations and undertake such actions at its own costs and expenses at the Collateral Trustee's request.

## **8. RESIGNATION OF THE COLLATERAL TRUSTEE**

- 8.1 The Issuer shall be authorised and obliged to replace the Collateral Trustee with a reputable accounting firm or financial institution (which is experienced in the business of collateral trusteeship and which has obtained any required authorisations, registrations and licences) if the Issuer has been so instructed in writing by majority resolution of the Noteholders, provided the Collateral Trustee has been given at least two months' notice in writing of such replacement.
- 8.2 The Collateral Trustee may resign by giving at least thirty (30) days' written notice to the Issuer without giving any reason or being responsible for any liability occasioned by such retirement, in which case the Issuer may appoint a successor Collateral Trustee.
- 8.3 The Noteholders' Representative may remove the Collateral Trustee by giving at least two months' written notice to the Collateral Trustee.
- 8.4 If the Collateral Trustee gives notice of retirement or instructions by a majority of Noteholders or the Noteholders' Representative are received for its removal, the Issuer shall use all reasonable endeavours to appoint another reputable accounting firm or financial institution (which is experienced in the business of Collateral Trusteeship and which has obtained any required authorisations, registrations and licences) as Collateral Trustee. If the Issuer fails to appoint a replacement Collateral Trustee within thirty (30) days of the Collateral Trustee's notice of retirement or the date of the majority resolution of the Noteholders or the Noteholders' Representative's notice of removal (as the case may be), the Collateral Trustee shall be entitled to appoint a reputable accounting firm or financial institution (which is experienced in the business of collateral trusteeship and which has obtained any required authorisations, registrations and licences) as Collateral Trustee under this Agreement and any other Note Document.
- 8.5 The retiring Collateral Trustee shall, at the Issuer's cost, make available to the successor Collateral Trustee such documents and records and provide such assistance as the successor Collateral Trustee may reasonably request for the purposes of performing its functions as Collateral Trustee under the Note Documents. In the event of sub-clause 8.1 or 8.3, the Issuer shall, within three (3) of demand, reimburse the retiring Collateral Trustee for the amount of all costs and expenses (including legal fees)

properly incurred by it in making available such documents and records and providing such assistance.

**8.6 Any resignation or removal of the Collateral Trustee shall only take effect upon:**

- (a) the effective appointment of a successor; and
- (b) the transfer of all the Security Property to that successor.

**8.7 Upon completion of the events referred to in sub-clause 8.6 above, the retiring Collateral Trustee shall be discharged from any further obligation in respect of the Note Documents (other than under sub-clause 8.5 above) but shall remain entitled to the benefit of Clause 2 (*The Collateral Trustee*) and the indemnity provisions contained in the Note Documents (and any Collateral Trustee fees for the account of the retiring Collateral Trustee shall cease to accrue from (and shall be payable on) that date).**

**9. FURTHER ASSURANCE**

The Issuer shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Collateral Trustee may reasonably specify to create and/or perfect the security created or intended to be created under the Security Documents.

**10. INFORMATION**

The Issuer undertakes to provide the Collateral Trustee without undue delay (*unverzüglich*) (but in any event no later than five (5) Business Days of receipt of such a written request) upon its reasonable request with any information, material or document which the Collateral Trustee requires in order to be able to fulfil its function as Collateral Trustee for the Noteholders.

**11. RESTRICTIONS ON OPERATIONS WITH CHARGED PROPERTY**

**11.1 Restrictions on operations with Issuer-Held Notes**

The Issuer may only transfer Issuer-Held Notes out of the Issuance Account if the Administrator has approved such transfer to the Issuing Agent in accordance with operational procedures established in the Issuance Account Control Agreement.

**11.2 Restrictions on operations with Deposited Crypto Assets**

The Issuer may only transfer Deposited Crypto Assets out of the Crypto Asset Wallet(s) if the Administrator has approved such transfer to the Crypto Custodian operating the relevant Crypto Asset Wallet(s) in accordance with operational procedures established in the Crypto Asset Wallet Control Agreement.

**11.3 Restrictions on operations with Sales Proceeds Cash Account**

The Issuer may only transfer any amounts out of the Sales Proceeds Cash Account if the Administrator has approved such transfer to the Issuing Agent in accordance with operational procedures established in the Sales Proceeds Cash Account Control Agreement.

## 12. RELEASE OF TRANSACTION SECURITY AND RIGHTS

### 12.1 After full satisfaction

If the Collateral Trustee, at the request of the Issuer, determines that all of the Secured Obligations have been fully and finally discharged, then the Collateral Trustee shall (at the cost of the Issuer)

- (a) arrange for the execution and delivery to the Issuer of a written acknowledgement of satisfaction of the Secured Obligations and termination of this Agreement (other than any indemnity referred to herein which shall survive such termination); and
- (b) release, without recourse or warranty, all of the Transaction Security and the rights of the Collateral Trustee under each of the Security Documents

### 12.2 Prior to full satisfaction

- (a) Subject to the provisions of this Agreement and the Security Documents, the Collateral Trustee is hereby authorised to execute on behalf of itself and each Noteholder, without the need for any further referral to or authority from such person, any release of the Transaction Security over any Charged Property.
- (b) Subject to the condition precedent (*aufschiebende Bedingung*) of the authorisation by the Administrator of the disposal of any Deposited Crypto Assets from the Crypto Asset Wallet(s) in accordance with sub-clause 11.2 (*Restrictions on operations with Deposited Crypto Assets*) above, the Collateral Trustee hereby releases any security interest over such Deposited Crypto Assets and re-assigns any rights and claims in connection therewith to the Issuer.

## 13. AMENDMENTS

Changes and amendments to this Agreement including this Clause 13 (*Amendments*) shall be made in writing.

## 14. NOTICES AND THEIR LANGUAGE

- 14.1 All notices and communications under or in connection with this Agreement shall be in writing and shall be delivered by letter or posted or delivered by hand (with a copy by electronic mail) or, except where any party specifically requires in writing (including by electronic mail) otherwise, by electronic mail or other electronic means.
- 14.2 Any electronic communication made between two parties will be effective only when actually received in readable form.
- 14.3 Any electronic communication which becomes effective, in accordance with sub-clause 14.2 above, after 5:00 p.m. in the place in which the party to whom the relevant communication is sent has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- 14.4 Each notice or communication shall be given to the relevant party at the address, fax number or electronic mail address and marked for the attention of the person(s) or

department from time to time specified in writing by that party to the other. The initial address, fax number, electronic mail address and person(s) or department so specified by each party are set out below:

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

- 14.5 Proof of posting or dispatch of any notice or communication to the Issuer shall be deemed (*widerlegbare Vermutung*) to be proof of receipt in case of a letter, on the second business day in the country of receipt after posting.
- 14.6 Any notice or other communication under or in connection with this Agreement shall be in the English language or, if in any other language, accompanied by a translation into English. In the event of any conflict between the English text and the text in any other language, the English text shall prevail.

15. **PRESERVATION**

15.1 **Partial invalidity**

The Parties agree that should at any time, any provisions of this Agreement be or become void (*nichtig*), invalid or due to any reason ineffective (*unwirksam*) this will indisputably (*unwiderlegbar*) not affect the validity or effectiveness of the remaining provisions and this Agreement will remain valid and effective, save for the void, invalid or ineffective provisions, without any Party having to argue (*darlegen*) and prove (*beweisen*) the Parties' intent to uphold this Agreement even without the void, invalid or ineffective provisions.

The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the Parties intended or would have intended in accordance with the purpose of this Agreement if they had considered the point at the time of conclusion of this Agreement.

## **15.2 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of the Collateral Trustee or the Noteholders, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

## **16. COSTS AND EXPENSES**

### **16.1 Transaction expenses**

The Issuer shall, promptly on demand, pay the Collateral Trustee the amount of all costs and expenses (including legal fees) (together with any applicable VAT) properly incurred by the Collateral Trustee in connection with the exercise of any rights, remedies or powers conferred on the Collateral Trustee by this Agreement or any other documents referred to in this Agreement and negotiation, preparation, printing, execution and perfection of:

- (a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and
- (b) any other Note Documents executed after the date of this Agreement.

### **16.2 Enforcement and preservation costs**

The Issuer shall, within three (3) Business Days of demand, pay to the Collateral Trustee the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under any Note Document and the Transaction Security and any action, step or proceedings instituted or taken by or against the Collateral Trustee as a consequence of taking or holding the Transaction Security or enforcing these rights.

### **16.3 Stamp taxes**

The Issuer shall pay and, within three (3) Business Days of demand, indemnify the Collateral Trustee against any cost, loss or liability the Collateral Trustee incurs in relation to all stamp duty, registration and other similar taxes payable in respect of any Note Document.

## **17. GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by German law.

## **18. JURISDICTION**

- (a) The courts of Frankfurt, Germany have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-



contractual obligation arising out of or in connection with this Agreement) (a "**Dispute**").

- (b) The Parties agree that the courts of Frankfurt, Germany are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) and (b) of this Clause 18 (*Jurisdiction*), the Collateral Trustee may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Collateral Trustee may take concurrent proceedings in any number of jurisdictions.

19. **CONCLUSION OF THIS AGREEMENT (*VERTRAGSSCHLUSS*)**

- (a) The Parties to this Agreement may choose to conclude this Agreement by an exchange of signed signature page(s), transmitted by any means of telecommunication (*telekommunikative Übermittlung*) such as by way of fax or electronic photocopy.
- (b) If the Parties to this Agreement choose to conclude this Agreement pursuant to paragraph (a) of Clause 19 (*Conclusion of this Agreement (Vertragsschluss)*) above, they will transmit the signed signature page(s) of this Agreement to Clifford Chance Partnerschaft mit beschränkter Berufshaftung, attention to [REDACTED] [REDACTED] or [REDACTED] [REDACTED] (each a "**Recipient**"). The Agreement will be considered concluded once one Recipient has actually received the signed signature page(s) (*Zugang der Unterschriftsseite(n)*) from all Parties to this Agreement (whether by way of fax, electronic photocopy or other means of telecommunication) and at the time of the receipt of the last outstanding signature page(s) by such one Recipient.
- (c) For the purposes of this Clause 19 (*Conclusion of this Agreement (Vertragsschluss)*) only, the Parties to this Agreement appoint each Recipient as their attorney (*Empfangsvertreter*) and expressly allow (*gestatten*) each Recipient to collect the signed signature page(s) from all and for all Parties to this Agreement. For the avoidance of doubt, each Recipient will have no further duties connected with its position as Recipient. In particular, each Recipient may assume the conformity to the authentic original(s) of the signature page(s) transmitted to it by means of telecommunication, the genuineness of all signatures on the original signature page(s) and the signing authority of the signatories.

**SIGNATURE PAGE**

This **Security Trust Agreement** has been entered into on the date stated at the beginning of this Agreement by

**NXTASSETS GMBH**

as Issuer

By: \_\_\_\_\_  
Name:  
Title:

**APEX CORPORATE TRUSTEES (UK) LIMITED**

as Collateral Trustee

By: \_\_\_\_\_  
Name:  
Title:

This **SALES PROCEEDS CASH ACCOUNT CONTROL AGREEMENT** (the "**Agreement**") is made on 25 February 2025

**BETWEEN:**

- (1) **NXTASSETS GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Neue Mainzer Straße 66-68, 60311, Frankfurt am Main, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 134562 (the "**Issuer**");
- (2) **QUIRIN PRIVATBANK AG**, a stock corporation organised under the laws of the Federal Republic of Germany, having its business address at Kurfürstendamm 119, 10711 Berlin, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Berlin Charlottenburg under HRB 87859 (the "**Issuer Account Bank**"); and
- (3) **APEX CORPORATE TRUSTEES (UK) LIMITED**, a private limited company incorporated under the laws of England and Wales and having its registered office at 4thFloor, 140 Aldersgate Street, London EC1A 4HY and registered with Companies House under no. 00239726 in its capacity as collateral trustee for the secured parties under the Security Trust Agreement (as defined below) (the "**Collateral Trustee**").

**WHEREAS:**

- (A) The Issuer has published a base prospectus dated 13 February 2025 which is intended to be at least annually updated (such base prospectus and any successor of such base prospectus if not materially different to its pre-successor base prospectus, the "**Base Prospectus**") for Crypto Asset linked Exchange Traded Notes. Under this Base Prospectus, the Issuer may, from time to time, issue series of German law governed debt securities (*Schuldverschreibungen*) linked to and collateralised with a Crypto Asset as specified in the final terms for the respective series of debt securities.
- (B) The Issuer intends to issue a series of debt securities in bearer form (collateralised tracker Notes (open end)) (ISIN: DE000NXTA026) under the Base Prospectus (the "**Notes**") linked to and collateralised with Ethereum (ETH) (the "**Crypto Asset**"). The Notes will be governed by its terms and conditions (the "**Terms and Conditions**").
- (C) The Issuer and the Collateral Trustee have entered into a security trust agreement on or about the date hereof (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Security Trust Agreement**").

**NOW IT IS HEREBY AGREED** as follows:

**1. DEFINITIONS AND LANGUAGE**

**1.1 Definitions**

In this Agreement:

"**Administrator**" means Apex Fund Services (Malta) Limited, a private limited liability company registered under the laws of Malta with registration number C 42646 and

having its registered office at Quad Central, Q3 Level 9, Triq L-Esportaturi, Zone 1, Central Business District, Birkirkara CBD 1040 Malta.

"**Sales Proceeds Cash Account**" means the bank account with the details set out below maintained by the Issuer Account Bank on behalf of the Issuer and any sub-account (*Unterkonto*), renewal, redesignation or replacement thereof.

International Bank Account Number (IBAN): [REDACTED]

BIC: [REDACTED]

Type of account: Giro account

## 1.2 Construction

Any reference in this Agreement to a "**Clause**" or a "**sub-clause**" shall, subject to any contrary indication, be construed as a reference to a Clause or a sub-clause in this Agreement.

- 1.3 This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

## 2. MAINTANANCE OF THE SALES PROCEEDS CASH ACCOUNT

The Issuer Account Bank shall maintain the Sales Proceeds Cash Account in accordance with its standard terms of business and operational procedures (the "**Sales Proceeds Cash Account Terms**") to the extent such Sales Proceeds Cash Account Terms do not conflict with the terms of this Agreement, and to the extent that any such Sales Proceeds Cash Account Terms do conflict, the terms of this Agreement shall govern and shall over-ride the Sales Proceeds Cash Account Terms.

## 3. CONTROL OVER SALES PROCEEDS CASH ACCOUNT

### 3.1 During the term of this Agreement:

- (a) withdrawals from the Sales Proceeds Cash Account, or other dispositions over the amounts standing to the credit thereof, by the Issuer may take place; and
- (b) the Issuer Account Bank shall act upon instructions originated by the Issuer concerning the Sales Proceeds Cash Account

upon receipt by the Issuer Account Bank of an approval of such transaction or instruction from the Administrator by way of a written notice or other written instrument in text form to the attention of Team Settlement using e-mail to [REDACTED]@ [REDACTED] or any other e-mail address communicated by the Issuer Account Bank to the Administrator from time to time and/or in accordance with operational procedures established between the Administrator and the Issuer Account Bank.

- 3.2 The Issuer hereby waives all rights of confidentiality (*Bankgeheimnis*) in relation to the Sales Proceeds Cash Account for the benefit of the Administrator and the Collateral Trustee. The Issuer Account Bank agrees to provide the Administrator and / or the

Collateral Trustee on request, at the Issuer's expense, with any information reasonably requested by it in respect of the Sales Proceeds Cash Account and the credit balances held therein.

#### **4. WAIVER OF RIGHTS BY THE ISSUER ACCOUNT BANK**

- 4.1 The Issuer Account Bank confirms that it is not aware of any third-party rights in relation to the Sales Proceeds Cash Account except for the right of pledge arising pursuant to its general business conditions (*Allgemeine Geschäftsbedingungen*).
- 4.2 The Issuer Account Bank represents and warrants that it has not entered into, and until the termination of this Agreement will not enter into, any agreement with any other person or entity not party hereto in relation to the Sales Proceeds Cash Account under which it has agreed to comply with instructions of such other person or entity. If any person asserts any lien, encumbrance or adverse claim (including any attachment (*Pfändung*) or similar process) against the Sales Proceeds Cash Account, the Issuer Account Bank will promptly notify the Issuer thereof.
- 4.3 The Issuer Account Bank will not be required to verify the calculation of amounts or whether the Issuer or the Collateral Trustee is complying with their respective obligations under the Terms and Conditions of the Notes except to the extent specified in this Agreement. The Issuer Account Bank will be entitled to additionally satisfy itself with respect to the authenticity of any instruction ostensibly delivered by any authorised person for the Issuer.
- 4.4 The Issuer Account Bank shall only be liable for damages on whatever legal grounds (e.g. contractual or pre-contractual obligation) to the following extent:
- (a) The Issuing shall be liable for damages for death or injury to body or health in accordance with the statutory provisions.
  - (b) Other than that, the Issuer Account Bank shall only be liable, without limitation, for intent or gross negligence, including that of its legal representatives and officers.
  - (c) The Issuer Account Bank shall only be liable for ordinary negligence if a material obligation or a duty that is of the essence (*Kardinalpflicht*) to the performance of the contract has been violated. In the event of a negligent breach of such obligations or duties, liability shall be limited to five (5) times the annual lump sum amount for the Issuer Account Bank's activities as an issuer account bank and to such damage that is typically foreseeable in connection with the activities of an issuer account bank.
  - (d) The above provisions shall also apply to the Issuer Account Bank's employees.
- 4.5 The Issuer will indemnify the Issuer Account Bank against all claims to which the Issuer Account Bank may be exposed in connection with the execution of this Agreement. The indemnification covers documented reasonable attorney's fees. This indemnification does not apply if the claim has been caused intentionally or through negligence by the Issuer Account Bank.

#### **5. THE COLLATERAL TRUSTEE**

The Collateral Trustee has agreed to become a party to this Agreement only for the purpose of taking the benefit of contractual provisions expressed to be given in its favour and for administrative ease associated with matters where its consent is required. The Collateral Trustee shall not assume any liabilities or obligations under this Agreement.

All the provisions of the Security Trust Agreement relating to the exercise by the Security Trustee of its powers, rights and remedies shall apply, mutatis mutandis, to the discharge by the Collateral Trustee of its functions under this Agreement.

## **6. PARTIAL INVALIDITY; WAIVER**

- 6.1 The Parties agree that should at any time, any provisions of this Agreement be or become void (*nichtig*), invalid or due to any reason ineffective (*unwirksam*) in any respect, this will indisputably (*unwiderlegbar*) not affect the validity or effectiveness of the remaining provisions, and this Agreement will remain valid and effective, save for the void, invalid or ineffective provisions, without any party having to argue (*darlegen*) and prove (*beweisen*) the parties' intent to uphold this Agreement even without the void, invalid or ineffective provisions.
- 6.2 The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the parties intended or would have intended in accordance with the purpose of this Agreement if they had considered the point at the time of conclusion of this Agreement.
- 6.3 No failure to exercise, nor any delay in exercising, on the part of the Collateral Trustee, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided hereunder are cumulative and not exclusive of any rights or remedies provided by law.

## **7. TERMINATION**

- 7.1 This Agreement shall continue in effect until the Issuer has notified the Issuer Account Bank that (i) this Agreement is to be terminated or (ii) the Secured Obligations (as defined in the Security Trust Agreement) have been satisfied in full in accordance with the Security Trust Agreement. The Issuer agrees to promptly notify the Issuer Account Bank in writing of the full satisfaction of the Secured Obligations.
- 7.2 This Agreement may also be terminated following ninety (90) days' prior notice in writing by the Issuer or the Issuer Account Bank to the other Parties; provided, however, that such termination shall only take effect once all amounts standing to the credit of the Sales Proceeds Cash Account have been transferred out of the Sales Proceeds Cash Account to an account maintained by a successor issuer account bank specified by the Issuer and approved by the Administrator.

## **8. AMENDMENTS; TRANSFER**

- 8.1 Changes and amendments to this Agreement including this Clause 8 (*Amendments*) shall be made in writing, provided that any consent of the Collateral Trustee to any change, amendment or termination of this Agreement shall be subject to the Collateral

Trustee receiving instructions in writing from the Noteholder Representative to give such consent, provided that if at the relevant time, no Noteholder Representative has been appointed, the Collateral Trustee shall give its consent if it receives a certificate signed by a director of the Issuer certifying that such change, amendment or termination is not materially prejudicial to the interests of the Noteholders or any of the other Secured Parties upon which the Collateral Trustee shall be entitled to rely absolutely without any liability to any Noteholder or Secured Party or any other person, provided further that the Collateral Trustee shall not be obliged to grant such approval if, in the sole opinion of the Collateral Trustee, to do so would (i) impose more onerous obligations upon the Collateral Trustee or expose it to any additional duties, responsibilities or liabilities or reduce or amend the rights and/or protective provisions afforded to the Collateral Trustee in this Agreement, any replacement, amendment or supplement of this Agreement, the Security Documents or the other Note Documents in any way or (ii) expose it to any liability against which it has not been indemnified and/or secured and/or prefunded to its satisfaction.

8.2 The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors.

**9. NOTICES AND THEIR LANGUAGE**

9.1 All notices and communications under or in connection with this Agreement shall be in writing and shall be delivered by letter or posted or delivered by hand (with a copy by electronic mail), except where any party specifically requires in writing (including by electronic mail) otherwise, by electronic mail or other electronic means.

9.2 Each notice or communication shall be given to the relevant party at the address or electronic mail address and marked for the attention of the person(s) or department from time to time specified in writing by that party to the other. The initial address, electronic mail address and person(s) or department so specified by each party are set out below:

[REDACTED]  
[REDACTED]  
[REDACTED] Neue Mainzer Straße 66-68, 60311 Frankfurt am Main, Germany  
[REDACTED] @ [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]





This **ISSUANCE ACCOUNT CONTROL AGREEMENT** (the "**Agreement**") is made on 25 February 2025

**BETWEEN:**

- (1) **NXT ASSETS GMBH**, a limited liability company (*Gesellschaft mit beschränkter Haftung*) organised under the laws of the Federal Republic of Germany, having its business address at Neue Mainzer Straße 66-68, 60311, Frankfurt am Main, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Frankfurt am Main under HRB 134562 (the "**Issuer**");
- (2) **QUIRIN PRIVATBANK AG**, a stock corporation organised under the laws of the Federal Republic of Germany, having its business address at Kurfürstendamm 119, 10711 Berlin, Germany, which is registered in the commercial register (*Handelsregister*) of the local court (*Amtsgericht*) of Berlin Charlottenburg under HRB 87859 (the "**Issuing Agent**"); and
- (3) **APEX CORPORATE TRUSTEES (UK) LIMITED**, a private limited company incorporated under the laws of England and Wales and having its registered office at 4<sup>th</sup>Floor, 140 Aldersgate Street, London EC1A 4HY and registered with Companies House under no. 00239726 in its capacity as collateral trustee for the secured parties under the Security Trust Agreement (as defined below) (the "**Security Trustee**").

**WHEREAS:**

- (A) The Issuer has published a base prospectus dated 13 February 2025 which is intended to be at least annually updated (such base prospectus and any successor of such base prospectus if not materially different to its pre-successor base prospectus, the "**Base Prospectus**") for Crypto Asset linked Exchange Traded Notes. Under this Base Prospectus, the Pledgor may, from time to time, issue series of German law governed debt securities (*Schuldverschreibungen*) linked to and collateralised with a Crypto Asset as specified in the final terms for the respective series of debt securities.
- (B) The Issuer intends to issue a series of debt securities in bearer form (collateralised tracker Notes (open end)) (ISIN: DE000NXTA026) under the Base Prospectus (the "**Notes**") linked to and collateralised with Ethereum (ETH). The Notes will be governed by its terms and conditions (the "**Terms and Conditions**").
- (C) The Issuer and the Collateral Trustee have entered into a security trust agreement on or about the date hereof (as amended, varied, novated, supplemented, superseded or extended from time to time, the "**Security Trust Agreement**").

**NOW IT IS HEREBY AGREED** as follows:

1. **DEFINITIONS AND LANGUAGE**

1.1 Definitions

In this Agreement:

"**Administrator**" means Apex Fund Services (Malta) Limited, a private limited liability company registered under the laws of Malta with registration number C 42646 and

having its registered office at Quad Central, Q3 Level 9, Triq L-Esportaturi, Zone 1, Central Business District, Birkirkara CBD 1040 Malta.

**"Issuance Account"** means the securities deposit account with the account number [REDACTED] by the Issuing Agent on behalf of the Issuer and any sub-account (*Unterkonto*) thereof, or any other account(s) or sub-account(s) replacing or substituting for this Issuance Account for whatever reason, to which Notes beneficially owned by the Issuer are being credited at any time.

**"Issuer-Held Notes"** means any Notes held or registered now or in the future in the name of the Issuer on the Issuance Account.

## 1.2 Construction

Any reference in this Agreement to a **"Clause"** or a **"sub-clause"** shall, subject to any contrary indication, be construed as a reference to a Clause or a sub-clause in this Agreement.

- 1.3 This Agreement is made in the English language. For the avoidance of doubt, the English language version of this Agreement shall prevail over any translation of this Agreement. However, where a German translation of a word or phrase appears in the text of this Agreement, the German translation of such word or phrase shall prevail.

## 2. MAINTANANCE OF THE ISSUANCE ACCOUNT

The Issuing Agent shall maintain the Issuance Account and keep the Issuer-Held Notes in accordance with its standard terms of business and operational procedures (the **"Issuance Account Terms"**) to the extent such Issuance Account Terms do not conflict with the terms of this Agreement, and to the extent that any such Issuance Account Terms do conflict, the terms of this Agreement shall govern and shall over-ride the Issuance Account Terms.

The role of the Issuance Agent according to this Agreement is limited to the technical processing of the securitization at the respective Central Securities Depository (CSD) only. The Issuing Agent is exclusively involved in the securitization of the Notes.

## 3. CONTROL OVER ISSUER-HELD NOTES

### 3.1 During the term of this Agreement:

- (a) any disposal over the Issuer-Held Notes (in particular any transfer of Issuer-Held Notes out of the Issuance Account) may take place; and
- (b) the Issuing Agent shall act upon instructions originated by the Issuer concerning the Issuer-Held Notes

upon receipt by the Issuing Agent of an approval of such transaction or instruction from the Administrator by way of a written notice or other written instrument in text form to the attention of Team Settlement using e-mail to [REDACTED]@ [REDACTED] or any other e-mail address communicated by the Issuing Agent to the Administrator from time to time and/or in accordance with operational procedures established between the Administrator and the Issuing Agent.

- 3.2 The Issuer hereby waives all rights of confidentiality (*Bankgeheimnis*) in relation to the Issuance Account and the Issuer-Held Notes for the benefit of the Administrator and the Collateral Trustee. The Issuing Agent agrees to provide the Administrator and / or the Collateral Trustee on request, at the Issuer's expense, with any information reasonably requested by it in respect of the Issuance Account and the Notes held therein.

#### 4. WAIVER OF RIGHTS BY THE ISSUING AGENT

- 4.1 The Issuing Agent confirms that it is not aware of any third-party rights in relation to the Issuance Account or the Issuer-Held Notes except for the right of pledge arising pursuant to its general business conditions (*Allgemeine Geschäftsbedingungen*).
- 4.2 The Issuing Agent represents and warrants that it has not entered into, and until the termination of this Agreement will not enter into, any agreement with any other person or entity not party hereto in relation to the Issuance Account and/or the Issuer-Held Notes under which it has agreed to comply with instructions of such other person or entity. If any person asserts any lien, encumbrance or adverse claim (including any attachment (*Pfändung*) or similar process) against the Issuance Account or any Issuer-Held Notes, the Issuing Agent will promptly notify the Issuer thereof.
- 4.3 The Issuing Agent will not be required to verify the calculation of amounts or whether the Issuer or the Collateral Trustee is complying with their respective obligations under the Terms and Conditions of the Notes except to the extent specified in this Agreement. The Issuing Agent will be entitled to additionally satisfy itself with respect to the authenticity of any instruction ostensibly delivered by any authorised person for the Issuer.
- 4.4 The Issuing Agent shall only be liable for damages on whatever legal grounds (e.g. contractual or pre-contractual obligation) to the following extent:
- (a) The Issuing shall be liable for damages for death or injury to body or health in accordance with the statutory provisions.
  - (b) Other than that, the Issuing Agent shall only be liable, without limitation, for intent or gross negligence, including that of its legal representatives and officers.
  - (c) The Issuing Agent shall only be liable for ordinary negligence if a material obligation or a duty that is of the essence (*Kardinalpflicht*) to the performance of the contract has been violated. In the event of a negligent breach of such obligations or duties, liability shall be limited to five (5) times the annual lump sum amount for the Issuing Agent's activities as an issuing agent and to such damage that is typically foreseeable in connection with the activities of an issuing agent.
  - (d) The above provisions shall also apply to the Issuing Agent's employees.
- 4.5 The Issuer will indemnify the Issuing Agent against all claims to which the Issuing Agent may be exposed in connection with the execution of this Agreement. The indemnification covers documented reasonable attorney's fees. This indemnification does not apply if the claim has been caused intentionally or through gross negligence by the Issuing Agent.

## **5. THE COLLATERAL TRUSTEE**

The Collateral Trustee has agreed to become a party to this Agreement only for the purpose of taking the benefit of contractual provisions expressed to be given in its favour and for administrative ease associated with matters where its consent is required. The Collateral Trustee shall not assume any liabilities or obligations under this Agreement.

All the provisions of the Security Trust Agreement relating to the exercise by the Security Trustee of its powers, rights and remedies shall apply, *mutatis mutandis*, to the discharge by the Collateral Trustee of its functions under this Agreement.

## **6. PARTIAL INVALIDITY; WAIVER**

6.1 The Parties agree that should at any time, any provisions of this Agreement be or become void (*nichtig*), invalid or due to any reason ineffective (*unwirksam*) in any respect, this will indisputably (*unwiderlegbar*) not affect the validity or effectiveness of the remaining provisions, and this Agreement will remain valid and effective, save for the void, invalid or ineffective provisions, without any party having to argue (*darlegen*) and prove (*beweisen*) the parties' intent to uphold this Agreement even without the void, invalid or ineffective provisions.

6.2 The void, invalid or ineffective provision shall be deemed replaced by such valid and effective provision that in legal and economic terms comes closest to what the parties intended or would have intended in accordance with the purpose of this Agreement if they had considered the point at the time of conclusion of this Agreement.

6.3 No failure to exercise, nor any delay in exercising, on the part of the Collateral Trustee, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies provided hereunder are cumulative and not exclusive of any rights or remedies provided by law.

## **7. TERMINATION**

7.1 This Agreement shall continue in effect until the Issuer has notified the Issuing Agent that (i) this Agreement is to be terminated or (ii) the Secured Obligations (as defined in the Security Trust Agreement) have been satisfied in full in accordance with the Security Trust Agreement. The Issuer agrees to promptly notify the Issuing Agent in writing of the full satisfaction of the Secured Obligations.

7.2 This Agreement may also be terminated following ninety (90) days' prior notice in writing by the Issuer or the Issuing Agent to the other Parties; provided, however, that such termination shall only take effect once all Notes deposited in the Issuance Account have been transferred out of the Issuance Account to an account maintained by a successor issuing agent specified by the Issuer and approved by Administrator.

## **8. AMENDMENTS; TRANSFER**

8.1 Changes and amendments to this Agreement including this Clause 8 (*Amendments*) shall be made in writing, provided that any consent of the Collateral Trustee to any change, amendment or termination of this Agreement shall be subject to the Collateral



[REDACTED]  
[REDACTED] ([REDACTED])  
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]@ [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]

**10. APPLICABLE LAW; JURISDICTION**

- 10.1 This Agreement is governed by the laws of the Federal Republic of Germany (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "Dispute").
- 10.2 The courts in Frankfurt am Main shall have exclusive jurisdiction for any and all Disputes.

**11. CONCLUSION OF THIS AGREEMENT (VERTRAGSSCHLUSS)**

- 11.1 The parties to this Agreement may choose to conclude this Agreement by an exchange of signed signature page(s), transmitted by any means of telecommunication (*telekommunikative Übermittlung*) such as by way of fax or electronic photocopy.
- 11.2 If the parties to this Agreement choose to conclude this Agreement pursuant to sub-clause 11.1 above, they will transmit the signed signature page(s) of this Agreement to Clifford Chance Partnerschaft mit beschränkter Berufshaftung, attention to [REDACTED] [REDACTED] or [REDACTED] [REDACTED] (each a "Recipient"). The Agreement will be considered concluded once one Recipient has actually received the signed signature page(s) (*Zugang der Unterschriftsseite(n)*) from all parties to this Agreement (whether by way of fax, electronic photocopy or other means of telecommunication) and at the time of the receipt of the last outstanding signature page(s) by such one Recipient.
- 11.3 For the purposes of this Clause 11 (*Conclusion of this Agreement (Vertragsschluss)*) only, the parties to this Agreement appoint each Recipient as their attorney (*Empfangsvertreter*) and expressly allow (*gestatten*) each Recipient to collect the signed signature page(s) from all and for all parties to this Agreement. For the avoidance of doubt, each Recipient will have no further duties connected with its position as Recipient. In particular, each Recipient may assume the conformity to the authentic original(s) of the signature page(s) transmitted to it by means of telecommunication, the genuineness of all signatures on the original signature page(s) and the signing authority of the signatories.