

14 January 2022

**MARKETING AND SERVICES AGREEMENT**

**FIL Distributors**  
as  
**"Service Provider"**

- and -

**Fidelity Exchange Traded Products GmbH**  
as  
**"Issuance Company"**



**THIS MARKETING AND SERVICES AGREEMENT ("this Agreement")** is valid and binding as of 14 January 2022

**BETWEEN:**

- (1) **FIL Distributors**, a company incorporated in and under the laws of Bermuda having its registered office at Pembroke Hall, 42 Crow Lane, PO Box HM 670, Pembroke HM 19, Bermuda (the "**Service Provider**"), and
- (2) **Fidelity Exchange Traded Products GmbH**, a company incorporated as a limited liability company (*Gesellschaft mit beschränkter Haftung*) under the laws of the Federal Republic of Germany and registered in the commercial registry of the local court (*Amtsgericht*) of Hamburg under registration number HRB 168990, having its registered office at Hohe Bleichen 18, 20354 Hamburg, Federal Republic of Germany (the "**Issuance Company**"),

(each a "**Party**" and, together, the "**Parties**").

**WHEREAS:**

- (A) On or about the date of this Agreement, the Issuance Company has established a programme (the "**Programme**") for the issuance of bonds secured by Bitcoin and Ether (each a "**Cryptocurrency**" and together, the "**Cryptocurrencies**") or by a basket (each a "**Basket**") consisting of various Cryptocurrencies (the "**Bonds**" and each a "**Bond**").
- (B) The Service Provider has agreed to act as agent for the Issuance Company in the procurement of the performance or the performance of (as applicable) certain services in relation to the Issuance Company's business activities, in particular regarding the Programme and the Bonds issued under the Programme upon the terms and subject to the conditions contained in this Agreement.
- (C) The Service Provider has been duly authorised to enter into this Agreement, and to license use of the trademarks, as set out in Schedule A (the "**Trademarks**"), under license from the owner of the Trademarks [REDACTED]
- (D) The Issuance Company has agreed that all use of the Trademarks shall be made solely in accordance with the terms and conditions of this Agreement as set forth below.

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

## **1. DEFINITIONS, INTERPRETATIONS AND COMMON TERMS**

### **1.1 Definitions**

Unless otherwise defined herein or the context requires otherwise, capitalised terms used in this Agreement have the meanings ascribed to them in the Base Prospectus (as defined below).

"**Applicable Regulations**" means all applicable statutes, regulations, rules, ordinances, codes, licenses, permits, orders and approvals of BaFin having jurisdiction over that are binding upon or applicable to the Issuance Company, as amended unless expressly specified otherwise.

"**BaFin**" means the Federal Financial Supervisory Authority or any successor regulator of the Issuance Company.

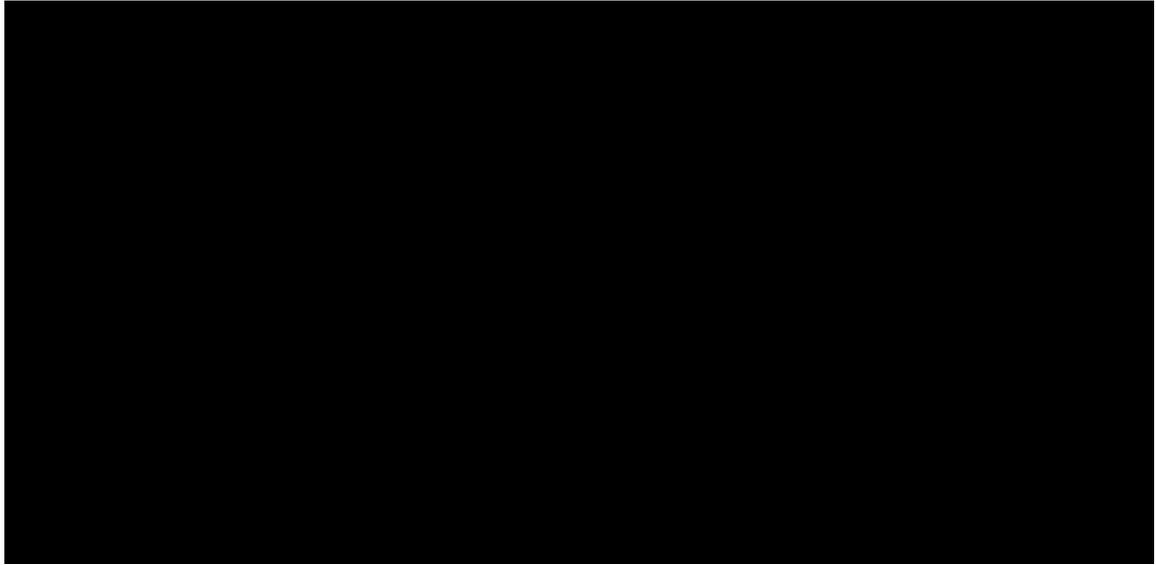
"**Base Prospectus**" means the base prospectus dated [REDACTED] prepared and published in connection with the Programme as revised, supplemented, amended or updated from time to time, including, in relation to each Series of Bonds, the Terms and Conditions and the Final

Terms relating to such Series of Bonds, and such other documents as from time to time incorporated therein by reference.

## 1.2 Interpretations

Terms in this Agreement, except where otherwise stated or where the context otherwise requires, shall be interpreted in the same way as set forth in the Base Prospectus.

2.



## 3. APPOINTMENT OF SERVICE PROVIDER

3.1 The Issuance Company hereby appoints the Service Provider to provide the services set out in Clause 5 (the "**Appointment**").

3.2 The Service Provider accepts the Appointment upon the terms and subject to the conditions of this Agreement.

3.3 During the continuance of the Appointment hereunder, the Service Provider shall, upon the terms and subject to the conditions of this Agreement have the full power, authority and right to do or cause to be done any and all things which the Service Provider reasonably considers necessary, convenient or incidental to the services set out in Clause 5 or the exercise of the rights, powers, duties and discretions referred to in Clause 5 and the performance of its other duties and obligations hereunder.

## 4. DELEGATION

4.1 The Service Provider may further delegate or outsource part or all of the services to another entity (the "**Sub-Delegate**"). The Service Provider's liability shall not be affected by such delegation, and the operating standards and regulatory adherence described in this Agreement shall remain in force and under the Service Provider's supervision under the delegation arrangements. The Service Provider shall properly supervise the services provided by any delegate appointed by it on an ongoing basis and manage the risks associated with such delegation. In case the Issuance Company decides or is required to carry out initial and ongoing

due diligence on the Sub-Delegate, the latter has to make itself reasonably available for due diligence and periodic reporting to the Issuance Company.

- 4.2** Subject to the provisions of this Clause [REDACTED] the Service Provider shall be entitled to appoint in writing sales agents and/or independent third parties to carry out all or any of its duties and functions hereunder or procure the appointment in writing of agents for general distribution services or agency services upon such terms as it shall deem fit. Such sales agents and independent third parties may in turn be permitted by the Service Provider to appoint sub-agents, provided that the Service Provider shall remain liable for the acts and omissions of such sales agents and sub-agents thereof as if such acts and omissions were its own. The fees and expenses of any such sales agents, independent third parties and agents shall be paid by the Service Provider. The appointment by the Service Provider of any such sales agents and independent third parties shall terminate immediately on the termination of the Service Provider's appointment pursuant to the terms herein (as further set out in the respective agreements entered into between the Service Provider and such sales agents or third parties).
- 4.3** The Service Provider shall provide the Issuance Company in advance with all necessary information relating to any such proposed appointment, including the details of the proposed delegate, the name of the competent authority where the delegate is authorised or registered and the functions proposed to be delegated.
- 4.4** The Service Provider shall:
- (a) exercise all due care in the selection of each Sub-Delegate (including in relation to the good repute and experience of the persons conducting the business of the Sub-Delegate);
  - (b) ensure that each Sub-Delegate will comply with the obligations under this Agreement that exist between the Service Provider and the Issuance Company (as further set out in the respective agreements entered into between the Service Provider and such sales agents or third parties);
  - (c) ensure that each Sub-Delegate is obliged to comply with instructions of the Service Provider;
  - (d) terminate the appointment of each Sub-Delegate if required to do so by the Issuance Company; and
  - (e) cooperate and ensure that its Sub-Delegates cooperate with BaFin in connection with the performance of its duties.

## **5. THE SERVICES**

- 5.1** The Service Provider shall provide or procure the provision of the following services for the Issuance Company as service recipient at the respective service fees as set out in the respective Fee Side Letter:
- (a) Marketing, Sales and Distribution

The Service Provider shall provide marketing, sales and distribution services to the Issuance Company, including, but not limited to, marketing on websites of the Service Provider and/or its affiliates and of the Issuance Company, social media marketing, out of

home marketing, affiliate marketing, sales activities and distribution within distribution networks in accordance with the selling restrictions set out in the Base Prospectus.

(b) Administration of Bonds

The Service Provider shall provide assistance in processing subscriptions to and redemptions of any Bonds issued under the Programme.

(c) IT-Structure

- a. The Service Provider shall provide the Issuance Company with access to its existing IT infrastructure (including hardware and software for employees).
- b. The Service Provider shall provide the Issuance Company with any IT services required to carry out the Issuance Company's business activities, including, but not limited to, (i) programming of websites, website contents and website interfaces, (ii) creation of a secure server environment with ongoing and regular security updates, (iii) informing the Issuance Company about changes in general security standards and whether this results in a need for action, (iv) evaluation and presentation for improvements for a technical internal control system and (v) the annual evaluation of possible server-technical outsourcing.

(d) Accounting and Controlling

- a. The Service Provider shall perform planning, coordination and control tasks. In particular, the Service Provider shall support the execution and control of payments between the Issuance Company and the Service Provider.
- b. The Service Provider shall also support the Issuance Company's financial management, which includes, but is not limited to, (i) the calculation and payment of taxes and (ii) being the point of contact for the auditor during the audit.

(e) Legal

The Service Provider shall support the Issuance Company in all legal matters such as contracts, legal assessments and the like. Such services are exclusively to be provided upon request by the Issuance Company.

(f) Data Protection

- a. The Service Provider shall establish an adequate data protection compliance which includes, but is not limited to:
  - i. Creation and administration of processing directory, including a deletion concept for personal data;
  - ii. Preparation and conclusion of necessary contracts with all (sub-)service providers (e.g. agreement according to Art. 26 and 28 of Regulation (EU) 2016/679 (the "**DSGVO**"));
  - iii. Where necessary, conducting data protection impact assessments;
  - iv. Fulfilment of information obligations;
  - v. Preparation and ongoing adaption of data protection declarations (Privacy Policy & Cookie Policy);

- vi. Introduction of technical and organisational measures, particularly in the areas of data security, data availability and data integrity;
  - vii. Examination of all applicable data protection regulations (such as, without limitation, the DSGVO) and, if necessary, fulfilment of other obligations in this connection.
- b. The Service Provider establishes an ongoing data protection management which includes, but is not limited to:
- i. Receipt and handling of customer enquiries in connection with data protection, in particular fulfilment of the rights of data subjects (right of access, right of rectification and cancellation, right of objection, restriction of processing);
  - ii. Review of the guidelines and, if necessary, training of employees;
  - iii. Ongoing monitoring of data protection compliance and external service providers;
  - iv. Incident-response management and processing of data protection violations, as well as the necessary reports and other communications with authorities;
  - v. Ongoing information of the management about changes in the area of data protection and about important incidents and whether this results in a need for action for the Issuance Company;
  - vi. Evaluation and presentation of improvements for data protection management; and
  - vii. Ongoing review of the application requirements and, if necessary, appointment of privacy officer.

(g) Reporting Obligations

Upon reasonable request, the Service Provider will provide reports to the Issuance Company on all the services listed herein and will report immediately to the Issuance Company in the event of possible or actual restrictions to the services.

(h) Compliance

- a. The Service provider shall implement appropriate internal safeguards for the Issuance Company to manage and mitigate the risk of money laundering and terrorist financing as well as the due diligence requirements under money laundering.
- b. The Service Provider shall, upon request by the Issuance Company, provide support in the following tasks:
  - i. Working towards the implementation of effective procedures to comply with legal regulations and requirements that are material to the Issuance Company as well as conducting appropriate controls;
  - ii. Supporting and advising the Issuance Company's management on compliance with these legal regulations and requirements;

- iii. Receiving and properly processing reports of suspicious situations, including documentation;
- iv. Verifying whether a reportable suspicious situation actually exists;
- v. Implementation of reports;
- vi. Communication and correspondences with the relevant financial intelligence unit;
- vii. Deciding whether to terminate a customer relationship or under which conditions a customer relationship can be continued (e.g. increased monitoring and reporting obligations);
- viii. Employee training;
- ix. Implementation and updating of the risk matrix;
- x. Specifications on sanction checks and politically exposed persons ("**PEP**") checks and monitoring of implementation;
- xi. Preparation of periodic and ad hoc activity reports; and
- xii. Preparation of money laundering risk rating of customers.

whereby all the tasks as set out in the foregoing Clause 5 being collectively referred to as the "**Services**".

- 5.2** When performing the activities required under this Agreement, the Service Provider will act within the scope of its regular business and will procure that its delegates, agents and representatives will also act within the scope of their regular business.

**6.**

## **7. INFORMATION**

- 7.1** The Service Provider shall keep safe and shall use all reasonable endeavours to maintain records and shall maintain in computer readable form as agreed with the Issuance Company from time to time records in relation to the provided Services.
- 7.2** The Service Provider shall notify the Issuance Company, by written notice addressed to a managing director of the Issuance Company, of its intention to adversely change its administrative or operating procedures relating to the keeping and maintaining of records.
- 7.3** The Service Provider shall prepare and deliver to the Issuance Company such further information, certification and/or reports, whether in writing or otherwise, as the Issuance Company may reasonably request from time to time.

## **8. TRADEMARK LICENSE**

- 8.1** The Service Provider shall hereby grant to the Issuance Company the non-exclusive, non-transferable, limited right to use the Trademarks in the European Union, the United Kingdom,

Liechtenstein, Iceland, Norway and Switzerland ("the **Territory**") for the duration of this Agreement or immediately upon receipt of notice by the Issuance Company from the Service Provider.

**8.2** The Issuance Company shall be granted solely for the purpose of trading its products and to facilitate the Service Provider with providing the Services set out in Clause 5.

**8.3** [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

**8.8** [Redacted]

**9. TERM, TERMINATION**

**9.1** This Agreement is concluded for an indefinite period of time. The right for ordinary termination shall remain unaffected.

**9.2** The right of the Service Provider or the Issuance Company to terminate this Agreement for important cause (*wichtiger Grund*) remains unaffected. Any termination by the Service

Provider or the Issuance Company shall be effected by serving a written notice of termination to the respective other Party.

**9.3** This Agreement shall terminate immediately on receipt of written notice by the Issuance Company from the Service Provider in the event that the Issuance Company has failed to comply with the Trademark User Requirements.

**9.4** The termination of this Agreement shall not relieve or release a Party from any right, liability or obligation that accrued prior to the effective date of such termination.

## **10. CONCLUSION AND VARIATION**

The conclusion and variation of this Agreement is valid only if it is in writing or in the form of Section 126a Civil Code and signed by or on behalf of each Party to this Agreement.

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

## **11. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

## **12. GOVERNING LAW**

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

## **13. JURISDICTION**

- (a) The courts of Frankfurt am Main, 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 am Main, Germany are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Notwithstanding paragraphs (a) and (b) above, no Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Parties may take concurrent proceedings in any number of jurisdictions.

**SIGNATURE PAGE TO THE MARKETING AND SERVICES AGREEMENT  
DATED AS OF 14 JANUARY 2022**

**FIL Distributors**

as Service Provider

By:   
\_\_\_\_\_  
  
Director

**Fidelity Exchange Traded Products GmbH**

as Issuance Company

By:   
\_\_\_\_\_

## SCHEDULE A

### The Trademarks

1. "Fidelity International" and F symbol:



2. F symbol:



3. "Fidelity":

FIDELITY

4. "Fidelity International":

FIDELITY INTERNATIONAL

## SCHEDULE B

### The Trademark Guidelines

[REDACTED]

[REDACTED]

[REDACTED]

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## **Privacy Policy**

### **Please read this privacy policy carefully**

#### **Purposes for which we are collecting your data**

In order to allow you to sign documents electronically and to facilitate a secure transmission of contractual documentation between Fidelity and the counterparty, a cloud-based solution, DocuSign, is implemented by Fidelity Management Ltd (UK) in its capacity as data controller on its behalf and/or on behalf of any of its affiliates (“Fidelity”).

Personal data of the users of the DocuSign platform are lawfully processed on the basis of the performance of a contract or in order to take steps prior to entering into a contract with or on behalf of Fidelity.

Your personal data are therefore processed for the purposes of allowing you as user of DocuSign to electronically sign any contract, addendum to existing contractual relationship or any other document with or on behalf of any of the Fidelity entity issuing the document, through a secure e-signature system and to transfer securely the relevant documentation to progress a contractual process.

#### **What data we collect about you**

You are hereby informed that when accessing and using DocuSign as a user, your personal data such as your name, email address, IP address and e-signature will be processed and collected together with the subject of your envelope, the time and location you sent, viewed or signed a document (altogether referred as “Personal Data”).

#### **Cookies**

By using the DocuSign platform, functionality cookies are implemented. Functionality cookies are designed to permit enhanced, more personal features. These cookies also enable you to optimise your use of the tool after logging in.

Once you log out from DocuSign, functionality cookies are deleted after 20 minutes.

No tracking or analytical cookies are implemented on DocuSign.

#### **Who we share your data with**

Your Personal Data will be stored temporarily within DocuSign EU servers located in Amsterdam, Frankfurt and Paris.

Your Personal Data will also be accessed by DocuSign sub-processors located in the USA and in Philippines in accordance with applicable data protection law in the following instances:

- if you require the assistance of DocuSign customer support team in the Philippines or technical support team in the US, and they require remote screen sharing access to assist you; or
- if you access and download your eDocument from outside of the EEA.

Because laws in Philippines and in the USA do not offer protections equivalent to European privacy laws, the transfer of your Personal Data to DocuSign sub-processors is carried out on the basis of standard contractual clauses approved by the European Commission that ensures your privacy rights are respected and suitable technological safeguards are in place.

Once signed, the documents will be stored offline on the confidential Fidelity’s infrastructures.

Your Personal Data may also be shared with a Fidelity entity located in India that provides administrative support and IT functions. Because laws in India do not offer protections equivalent to European privacy laws, the transfer of your information to India is done under standard contractual clauses approved by the European Commission that ensures your privacy

rights are respected and suitable technological safeguards are in place.

### **How long we keep your data for**

Your Personal Data will be kept for 30 days following the e-signature process on DocuSign servers. If not completed, documents are removed after 30 days.

Your Personal Data will be kept by Fidelity for the applicable retention period in accordance with the legal requirements applying to each type of documents and implementing appropriate technical and organizational measures to ensure the security of your Personal Data.

### **Your rights**

You have the right to:

- access the Personal Data that is held about you and a right to have a copy provided to you, or someone else on your behalf, in a digital format;
- ask us to correct any inaccurate Personal Data that we hold;
- require us to restrict the processing of your Personal Data in certain circumstances (e.g. whilst a complaint about its accuracy is being resolved);
- when applicable request that your Personal Data is deleted altogether.

You should be aware that taking any of the above steps may affect your ability to access and use DocuSign.

### **Who to contact about your Personal Data**

If you wish to:

- access the Personal Data we hold about you or to exercise any of the rights mentioned above;
- find out more about the protections in place where we transfer your Personal Data outside the European Union;
- raise question about how we have handled your Personal Data,

please contact the UK HR Support Team at [fil.uk.hr.support.services@fil.com](mailto:fil.uk.hr.support.services@fil.com).

If the Privacy Policy is updated or amended at any point, this page will be shown again in order to alert you to any changes that have been made.

By selecting the checkbox, you are hereby informed of the use and processing of your Personal Data for the purposes set out above.