



## CUSTODIAN AGREEMENT

This Custodian Agreement (this “**AGREEMENT**”) is effective on the date indicated on the signature page below (the “Effective Date”) by and between Etana Custody Inc, a Colorado corporation having its principal office located at 999 17th Street, Suite 300, Denver CO 80202 (hereinafter “**ETANA**” or “**Etana**”) and the client whose information is set forth on the signature page hereto (hereinafter the “**Client**”).

**WHEREAS**, the Client wishes to appoint ETANA to provide custodial services and ETANA is willing to perform such services on the terms and conditions contained in this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

### 1. AFFIRMATION OF AUTHORITY

By entering into this Agreement, the Client represents and affirms that the Client has the legal capacity to enter into this Agreement and agrees to be legally bound by the terms and conditions herein. If Client is a natural person, Client represents and warrants they are of the age of majority in the United States and legally eligible to enter into this agreement.

### 2. DEFINITIONS AND INTERPRETATION

Words importing one gender only shall include the other and, unless the context otherwise requires, words importing the singular number only shall include the plural and vice versa. Words importing persons shall include companies and associations or bodies of persons whether corporate or unincorporated. References to Sections are references to the numbered sections of this Agreement. References to statutes are, unless otherwise specified, references to statutes of Colorado, and include any statutory modifications or re-enactments thereof, or rules promulgated thereunder for the time this Agreement is in force. Section headings are for convenience only and shall not affect the construction hereof. References to this “**Agreement**” are references to this Agreement as from time to time amended, supplemented, or restated.

#### 2.1 Definitions

In this Agreement, including the above recitals, unless the context requires otherwise, the following terms shall have the following meanings:

- (a) **Authorized Persons** means an individuals or entities authorized to provide transaction instructions to the Custodian for the Custody Account and to direct the Custodian to perform transactions for the Custody Account.
- (b) **Client Assets** means all fiat, Digital Assets, Securities, money, and all other items of property held collectively in Custody Account designated for the benefit of the Client.
- (c) **Custodian** refers to Etana Custody Inc.
- (d) **Custodial Services** means the safekeeping of Client Assets, administration of account services, and facilitation of transactions in such assets in accordance with applicable law, the terms of this Agreement.
- (e) **Custody Account** any on-chain wallet or fiat account established by ETANA for the safekeeping of Custody Assets for the benefit of the Client under this agreement.
- (f) **Custody Assets** means fiat, Digital Assets, Securities, and all other items of property, cash or assets held in the Custody Account.

- (g) **Digital Asset** means a digital asset commonly known as a “cryptocurrency,” “virtual currency,” “digital currency,” “stable coin” or “asset-backed token” recorded on, and transferred through, a distributed ledger network which is not a means of exchange currently authorized or adopted by one or more governments, regardless of whether such asset is or may be a security under any United States federal or state law
- (h) **Instructions** has the meaning ascribed thereto in Section 4.2
- (i) **Ledger** means the records maintained by the Custodian of all Client property of every kind held property acquired by the Custodian and the transactions associated with the Client properties as instructed by the Client.
- (j) **Securities** means any stock, shares, bonds, securities, or other similar property (including evidence of securities or title thereto and all rights in respect thereof) title to which, or ownership of, is not recorded on a distributed ledger network.
- (k) **Spread Fees** mean fees obtained when a trade is executed, and the client pays a premium to buy or sell the Custody Asset compared to a current market price or average trading value of the Custody Asset.

### 3. APPOINTMENT OF CUSTODIAN

3.1 The Client authorizes ETANA, and ETANA so agrees, pursuant to the terms of this Agreement, to establish and maintain an account on ETANA ledgers for: (i) the deposit of Digital Assets, Securities and any other items of property or other assets for which ETANA may, in its sole discretion, provide Custodial Services under the direction or control of ETANA for the account of the Client and (ii) the deposit of money or funds in any currency from a Client’s deposit account (as defined in Uniform Commercial Code § 4-9-102(a)(29)), for Custodial Services to be tracked in the Client’s name on ETANA’s ledger. The Digital Assets, Securities, money, and any other items of property or assets will be held by ETANA, and ETANA will be responsible for their safekeeping, as custodian for the account of the Client on and subject to the terms of this Agreement.

3.2 The Client agrees and understands that the Client is the sole, individual owner of the Custody Account and Cash Account assets. ETANA does not and will not establish accounts with multiple owners.

3.3 The Client agrees and understands that ETANA does not record or maintain information of a designated beneficiary to receive the assets or proceeds from the Client’s Custody Account in the event of the Client’s death. In the event of Client’s death, ETANA will require a court order or legal document directing ETANA to transfer ownership of Custody Assets.

3.4 The Client agrees and understands that ETANA pools the Client Assets with property of other clients of ETANA (like assets with like assets), including fiat currency, and the Client’s beneficial entitlement therein will be proportionate to the property deposited with ETANA by the Client (as increased or diminished by the Client’s subsequent sales, reductions, purchases, or additions in assets from time to time). Client accounts will be named “**Etana Custody FBO Client’s Name**” or “**Etana Custody FBO Client Segregated Account**” and reflected as such on ETANA’s ledgers to indicate their trustee or nominee nature of the Client’s beneficial entitlement within such pooled accounts.

3.5 ETANA is authorized to appoint any nominees, agents or sub-custodians, whether in its own name or that of the Client, to perform any of the duties of ETANA under this Agreement and is entitled to deposit the Custody Assets in or with any depository or clearance system. Any reference in this Agreement to ETANA will, where the context so requires, include its nominees, agents, or sub-custodians (which term extends to, but not limited to, any depository or clearance system) appointed by ETANA to act on its behalf. ETANA will perform due diligence on any nominee, agent or sub-custodian; however, Etana will not be responsible for any act or omission or for the solvency of any nominee, agent or sub-custodian, appointed pursuant to this Section 3.5 hereof, unless Etana acts with grossly negligence in its appointment of a nominee, agent or sub-custodian.

3.5.1 ETANA utilizes sub-custodians for all fiat and substitutes for currency. ETANA does not directly accept or transmit fiat or substitutes for currency. All fiat is deposited and transmitted through accounts held with banking partners. All substitutes for currency are deposited and transmitted through accounts held by various sub-custodians. These accounts are named **“Etana Custody FBO Client’s Name” or “Etana Custody FBO Client Segregated Account”** so as to indicate their trustee or nominee nature. Because of ETANA’s use of accounts held with banking partners and sub-custodians, ETANA does not provide Money Transmitting Services as defined by 31§5330(d)(2).

3.6 Where ETANA agrees to act as custodian for the Client under the terms of any power of attorney from the Client, each of the provisions of this Agreement, including without limitation any indemnity in favor of ETANA, will also apply to ETANA’s actions as attorney for the Client, and the Client agrees to ratify and confirm such actions of ETANA, and to execute such documents and/or do all such other acts and things as ETANA may require for the purposes of the foregoing.

#### **4. AUTHORIZED PERSONS AND INSTRUCTIONS**

4.1 The Client agrees to provide ETANA with a list of Authorized Persons of or for the Client whom the Client has authorized, either alone or with others as specified, to act on its behalf in the giving of instructions and/or performance of any acts, discretions or duties under this Agreement, together with specimens of their signatures if written instructions are to be given, and ETANA shall be entitled to rely upon the continued authority of Authorized Persons to give instructions and so act on behalf of the Client until ETANA receives written notice (as provided in Section 16) from the Client to the contrary. The Custodian shall be fully protected in relying on and acting on any instructions received by any Authorized Persons. The Custodian shall be under no duty to make any investigation or inquiry with respect to any instructions received from Authorized Persons or to investigate or take any action with respect to the Authorized Persons.

Additionally, any written notice received by Etana to cease following instructions from any Authorized Persons listed on the client's account will not be deemed to cancel or invalidate any notice, instruction, or direction from Authorized Persons followed by the Custodian before the Custodian receives said notice.

4.2 ETANA may act upon instructions (“Instructions”) from Authorized Persons in such manner as may be agreed by ETANA, in its absolute discretion, whether received via telephone, email, or other or electronic communication system acceptable to ETANA so long as such instructions are transmitted with security features as are agreed in writing between the Client and ETANA and on such terms and conditions as ETANA may specify. When taking action upon Instructions, ETANA will observe the following:

- (a) Instructions will continue in full force and effect until cancelled or superseded (except in respect of Instructions completed or executed by ETANA which can no longer be cancelled),
- (b) If any Instructions are illegible, unclear and/or ambiguous, ETANA will not execute such Instructions until any ambiguity or conflict has been resolved to its satisfaction,
- (c) Instructions will be carried out subject to the rules, operating procedures and market practice of any relevant stock exchange, clearing house, settlement system or market where or through which transactions are to be executed, and ETANA may further refuse to execute Instructions if in ETANA’s opinion they are outside the scope of its duties under this Agreement or are contrary to any applicable law, rule or other regulatory requirement (whether arising from any governmental authority, self-regulatory organization or that of a relevant stock exchange, clearing house, settlement system or market as aforesaid), and
- (d) Etana may rely in the performance of its duties under this Agreement and without liability on its part, upon any Instructions believed by it in good faith to be given by Authorized Persons and upon any notice, request, consent, certificate or other instrument believed by it in good faith to be genuine and to be signed or furnished by the proper party or parties thereto, including (without limitation) the Client or any Authorized Persons.

4.3 Except as otherwise provided in this Agreement, all transactions involving the Custody Assets will be executed or settled or otherwise carried out solely in accordance with Instructions.

4.4 Except as otherwise agreed by ETANA, ETANA is not required to take any action to comply with any Instructions or to take any other action hereunder if (i) in the event that a transfer is to be made on behalf of the Client, there are insufficient monies deposited to the credit of the Custody Account at that time to cover the costs of such action, or (ii) in the event that Digital Assets, Securities or other property or assets are to be delivered to a third party, such Digital Assets, Securities or other property or assets are not deposited to the credit of the Custody Account, freely available and in deliverable form. Notwithstanding the foregoing and in the absence of other facility between the parties, if the costs of any action to be taken exceed such monies as aforesaid, ETANA may, in its absolute discretion, execute the action for the account of the Client and charge to the Client the amount of the difference in order to settle the cost of such action. The Client agrees that the difference for such action is repayable on demand, subject to additional fees, and may accrue interest. Interest is accrued, both pre- and post-judgment, from the date of the action but excluding the date of repayment, at a per annum rate calculated by the Prime Rate (as published in the Wall Street Journal) plus 3%. Client acknowledges and agrees that if Etana takes such action described within Section 4.4, it is in the absolute and sole discretion of ETANA and that the occurrence of any advancement on any occasion will not be construed as a course of business and Client will not have any expectation of any future advancements.

4.5 In the event that Client has engaged the services of a money manager, financial advisor, or broker, Client hereby represents and warrants to ETANA that such third-party money manager, financial advisor, or broker has the requisite power of attorney to provide ETANA with Instructions concerning the Client's Custody Account and all such Instructions will have the force and effect as if given directly by the Client. In addition, the Client acknowledges and agrees that it is solely responsible for any losses in its Custody Account, whether accrued as a result of Instructions from Client or from Client's Authorized Persons, including without limitation, a duly authorized Money Manager, Financial Advisor, or Broker.

## **5. FEES AND EXPENSES; INTEREST**

5.1 The Client agrees to pay fees to ETANA for its services pursuant to this Agreement in the amounts and at the intervals set out in the Fee Schedule which is delivered to the Client under separate cover, unless otherwise agreed in writing between ETANA and Client. The Client further agrees to pay ETANA's out of pocket or incidental expenses, including without limitation reasonable legal fees of ETANA that ETANA accrues associated with the Client's Custody Account.

5.1.1 ETANA may upon thirty (30) days written notice adjust and re-adjust the amounts and/or intervals at which such fees are payable, after which period Client agrees to pay such fees in accordance with the relevant notice. Client agrees and understands that ETANA has the right to retain or set-off against any Custody Assets any obligations Client has to ETANA. Failing timely transfer by the Client of the fees and expenses as aforesaid, ETANA has, without prejudice to any other of its rights hereunder or otherwise, full and irrevocable authority first to debit the Client's fiat position, and second, to the extent of any deficiency remains after debiting the Client's fiat position, the remaining Custody Assets. If ETANA is required to debit the remaining Custody Account, ETANA, in its sole discretion, may liquidate any Client Assets to satisfy such Client obligations.

5.1.2 ETANA has the right, in its sole discretion, to employ a law firm and/or collection agency to recover any and all overdue or unpaid fees, costs, disbursements, and expenses. The Client and the Client's Custody Account shall be liable for all of ETANA's fees including, but not limited to, attorneys' fees, costs, disbursements, and expenses incurred in connection with, or otherwise arising out of or related to such employment to collect the

unpaid fees, costs, disbursements, expenses and/or ETANA's efforts to recover or collect any portion of the overdue or unpaid fees, costs, disbursements, and expenses, or enforce any rights set forth herein, whether taxable or not.

- 5.1.3 The Client hereby relieves ETANA of any liability, including but not limited to, claims for costs, taxes, penalties, and extra fees resulting from the failure of the Client to pay or cause to be paid any assessed fees or expenses in a timely manner and from any subsequent actions taken by ETANA to collect such fees or expenses. The Client acknowledges and agree that he or she is responsible for reporting any inaccuracy of all assessed fees and expenses associated with the Client's Custody Account within 30 days of the fees being collected or attempted collection.
- 5.1.4 Certain fees set forth on the Fee Schedule may continue to apply after notification to the Client of their account closure. Such fees may include, but are not limited to, transaction fees, wire fees, and miscellaneous fees that are attributable to work performed by ETANA related to the Client's Custody Account but performed after the Client's Custody Account has closed. Any fees that remain unpaid after the Client's Custody Account is closed will be subject to collections and payment.

5.2 Client acknowledges that in addition to the fees collected by the Custodian in the above Section 5.1, the Custodian receives service fees from third parties such as Liquidity Providers, Exchanges, broker-dealers, or other investment sponsors, including, but not limited to, revenue sharing fees and spread fees.

5.3 In addition to the service fees charged by ETANA, other providers impose certain charges connected with the holding of the Client Assets or transacting with the Client Assets. These service charges may include, but not limited to, recording, surrender, registration, sub-custodial fee, sub-bank account fees, and gas fees. Such fees will be assessed and collected at the time of the transaction or when ETANA receives an invoice.

5.4 Client acknowledges and agrees that on occasion ETANA earns interest from Client's fiat position but ETANA has no obligation to pay interest to the Client on amounts deposited unless agreed upon and arranged by ETANA and then only at the rate established under such arrangement. Additionally, ETANA, in its sole discretion, may change the rate or interest paid or may choose not to pay interest at any given time. The decision to pay interest, as well as the change in rate or discontinuation of interest payments will be disclosed in an updated Fee Schedule and delivered to the Client via email to the address associated to the account. The Client acknowledges that it is their responsibility to monitor the change in interest, if applicable, paid to their Custody Account. The updated interest rate will be effective 30 days from the date ETANA sends the updated Fee Schedule to the Client's email address.

5.4.1 The Client's ability to earn interest is only available in their fiat position and is only eligible to earn interest if the Custody Account is open and has a positive fiat position as of the interest crediting date. Any interest that accrues during a month that the Client's Custody Account is closed prior to the interest crediting date will be retained by the Custodian as an additional fee.

## **6. DUTIES OF ETANA**

6.1 In the absence of contrary Instructions and without the need for Instructions from the Client, ETANA's duties are:

6.1.1 to sign any certificates of ownership or other certificates relating to the Custody Assets,

6.1.2 to collect and receive all transfers (whether income or capital) and distributions in respect of the Custody Assets, and to take any action necessary and proper, and actions otherwise reasonably incidental in connection with the same, including without limitation the presentation of

coupons and other interest items,

6.1.3 to make cash disbursements and pay any expenses or other charges incurred in relation to the Custody Assets and the performance by ETANA of its duties under this Agreement, and

6.1.4 as far as reasonably practicable, to notify the Client of all notices, reports and other financial information received by ETANA relating to the Custody Assets, and to seek Instructions from the Client as to any action to be taken in connection therewith.

6.2 ETANA will follow Instructions as to the registration of Securities, including debt or equity interests, or in the absence of such Instructions to register all Securities and debt or equity interests (other than bearer Securities), in its name or in the name of nominees and/or agents as ETANA sees fit.

6.3 ETANA will follow Instructions as to the application of and movements in the Custody Assets.

6.4 ETANA, upon receipt of Instructions from the Client and as far as reasonably practicable, will exercise subscription, purchase, voting or other similar rights attaching to the Custody Assets as instructed.

6.5 In the event of termination of this Agreement, ETANA will deliver or transfer the Custody Assets to the Client or to such other Custodian as the Client instructs, net only of any outstanding liabilities attaching to the Custody Assets of which ETANA is or becomes aware and of any fees and expenses due and owing to ETANA.

6.6 ETANA will hold the Custody Assets in segregated accounts in ETANA's Ledger, to arrange for certificated Securities, certificated Equities and any other physical property or assets (e.g., precious metals) to be deposited in its vault or otherwise held by or to its order as it may think proper for the purposes of providing for their safekeeping, and to record the amounts and locations thereof.

## 7. DUTIES OF THE CLIENT

7.1 Whether directly or subject to the appointment of Authorized Persons as defined in Section 4.1, the Client has the sole authority, responsibility and discretion, fully and completely, to select and to direct all transactions, including, but not limited to, the purchase, sale, and transfer of all Client Assets in his or her Custody Account. The Client shall be responsible for ensuring that any documents related to the Client Assets are executed, recorded, genuine and legally enforceable to give rise to a legal interest.

7.2 The Client will deliver or cause to be delivered to ETANA from time to time inter alia, the following:

7.2.1 the Digital Assets, Securities or other property or assets, which the Client now owns or may hereafter acquire which Client wishes to be held by ETANA; and

7.2.2 evidence of ownership of the Digital Assets, Securities or other property or assets.

7.3 The Client agrees to provide ETANA with copies of all documents and other relevant material as ETANA may require for the performance of its duties hereunder.

7.4 The assets in the Custody Account will only be invested in accordance with the Client's instructions, whether directly or as instructed by your Authorized Persons. The acceptance or denial of ETANA to provide custody for a Digital Asset or other investment does not constitute a determination by ETANA of the prudence or advisability of the Digital Asset or investment. ETANA will not provide investment advice, recommend, evaluate the merits or suitability of any Digital Asset or investment.

7.5 **ETANA does not offer investment advice.** ETANA is not acting under this Agreement as

manager or investment adviser to the Client, and responsibility for the selection, acquisition and disposal of the Custody Assets remains with the Client at all times. ETANA has no obligation to explain or warn of any risks taken or to be taken by the Client. Further, Client hereby expressly acknowledges and agrees that ETANA cannot and will not provide Client with any financial or other advice concerning any of the Custody Assets.

## **8. REPORTING AND INFORMATION**

ETANA will provide the Client or its authorized agent with periodic reports and/or transaction statements of accounts relating to the Custody Assets on a quarterly basis, the level of detail of which will be agreed in writing between ETANA and the Client from time to time. For the purposes of reflecting valuation and position on Digital Assets, ETANA reflects valuation and position up to the 8<sup>th</sup> decimal place (example: 1.00000008). If the Digital Asset has a valuation and/or position that exceeds the 8<sup>th</sup> decimal place, ETANA will round the valuation and/or position up if the 9<sup>th</sup> decimal place numerical value is equal to 5 and above, or round the valuation and/or position down, if the 9<sup>th</sup> decimal place numerical value is equal to 4 or below and then reflect a valuation and position to the 8<sup>th</sup> decimal place. Sells of the Digital Asset or transactions using the Digital Asset may result in the loss of the ascribed value from the 3<sup>rd</sup> decimal place and on. All fiat positions will be reported to the 2<sup>nd</sup> decimal place.

Unless ETANA receives from the Client a statement of exceptions or objections to any information, report, statement, confirmation, note or other document within thirty (30) days of the date of receipt thereof, Client agrees that ETANA will not be responsible for any errors or omissions therein. After the expiration of thirty (30) days after receipt of information, report, statement, confirmation, note or other document, the Client will be deemed to have approved the contents thereof and accepted responsibility for all of its obligations appearing therein.

## **9. NON-EXCLUSIVITY AND OWN ACCOUNT DEALING**

The services provided to the Client by ETANA under this Agreement are non-exclusive, and nothing contained in or implied by this Agreement will be construed so as (i) to prevent ETANA, its nominees or agents or its or their associated companies, principals, affiliates or employees in any way from purchasing, selling or otherwise dealing in any Securities or other assets (whether of the same type or kind as the Custody Assets) for its or their own account prior to, simultaneously with, or subsequent to any dealings on behalf of the Client, or (ii) from providing similar services to or entering into similar agreements with other customers or persons.

## **10. REPRESENTATIONS AND WARRANTIES:**

10.1 Each of ETANA and the Client represents and warrants to the other that:

10.1.1 if an entity, it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing;

10.1.2 whether an entity or individual, it has the power and authority to execute, deliver and to perform its obligations under this Agreement (and under any other documentation required in connection herewith); and

10.1.3 the obligations under this Agreement (and under any other documentation as aforesaid) constitute its legal, valid and binding obligations.

10.2 Client represents that it is in compliance with all applicable laws and regulations, and has obtained all regulatory licenses, approvals and consents as applicable, and Client further represents that it will not use ETANA's services in any manner that is, or would result in, a violation of any applicable laws or regulations.

10.3 The Client further represents and warrants to ETANA that it is the beneficial owner of the Custody Assets (or otherwise has all necessary authorizations and consents to enable it to deal with the Custody Assets) and, if it is acting as trustee, manager or otherwise in a representative capacity in relation to the Custody Assets, that it is fully empowered to enter into and perform its obligations under this Agreement and to grant the rights and remedies to ETANA contained herein and therein.

10.4 The Parties agree that: (i) all property held in the Custody Account under this Agreement is a "financial asset" for purposes of UCC Section 4-8-102(a)(9)(iii); (ii) ETANA is a "securities intermediary" for purposes of UCC Section 4-8-102(a)(14); (iii) Client's Custody Account maintained by ETANA and any other account maintained by ETANA for the benefit of Client is a "securities account" within the meaning of UCC Section 4-8-501(a), and (iv) Client has a security entitlement to any property held in the Custody Account.

10.5 The Parties acknowledge and agree that (i) Digital Assets held in the Custody Account are of a type customarily traded in a recognized market, (ii) the prices of such Digital Assets are considered volatile and that it would not be necessary under UCC Section 4-9-611(b) to give notice of any proposed disposition of such Digital Assets, (iii) the Client's statement will reflect the market value of the prices or bid or offer quotations for such Digital Assets published by Twelve Data Pte.Ltd ("twelvedata"), and (iv) in the absence of a price on twelvedata, ETANA may use any generally recognized source for prices or bid or offer quotations for any Digital Asset in the Custody Account, in ETANA's sole commercially reasonable discretion.

10.6 ETANA may provide a trading platform ("Etana Digital Service") for Clients to transact using their Custody Assets through its on-line portal. Further, to obtain access to Etana Digital Service, the Client understands and agrees that the Master Digital Services Agreement governs the services provided by Etana Digital Service. Etana Digital Services may allow you to access services being provided outside of Etana's Website. These services are managed by third parties or affiliates of Etana Custody Inc. When the Client executes a trade on Etana Digital Service, the prices or bids or offers are published by the trading platform that is utilized by the Client to execute the transaction and may not be reflective of the published prices or bids, or offer quotes published by twelvedata. **YOU AGREE THAT Etana Custody Inc IS NOT LIABLE FOR ANY SERVICES BEING PROVIDED BY THIRD PARTIES OR AFFILIATES OUTSIDE OF THIS WEBSITE, AND YOU WILL LOOK SOLELY TO THOSE THIRD-PARTY SERVICE PROVIDERS OR AFFILIATES WITH REGARDS TO ANY ISSUES YOU MAY HAVE WITH THOSE SERVICES.**

## 11. SCOPE OF RESPONSIBILITY AND INDEMNITY

11.1 Subject to the terms hereof, ETANA will act in good faith with the degree of care, skill, prudence and diligence under the circumstances that a prudent person would use in providing custody services for the Client's assets. However, ETANA will not be responsible for any loss or damage suffered by the Client as a result of ETANA performing duties in reliance on instructions from the Client. Additionally, brokers, banks or other third parties that ETANA uses to execute transactions for the Client's Account have a duty to follow the instructions from ETANA. ETANA is not responsible for losses to the Client's account because of the broker's, bank's or other third party's failure to follow these instructions.

11.2 Client agrees that ETANA is not, other than as stated in Section 11.1 above, responsible for the title, validity or genuineness of any of the Custody Assets (or any evidence of title thereto) received or delivered by it pursuant to this Agreement or, unless otherwise expressly agreed in writing by ETANA, for the maintenance of any insurances in respect of the Custody Assets.

11.3 Except as otherwise agreed in writing by ETANA, the Client is responsible for all filings, tax returns



and similar reports on any transactions undertaken pursuant to this Agreement or in connection with the Custody Assets which must be made to any relevant authority whether governmental or otherwise and for the cost of all taxes (including without limitation any valued added tax), imposts, levies or duties, or any other similar liability or fees arising out of or in connection with the Custody Assets. In the event that ETANA is under any obligation (whether from a governmental or private action such as a levy, forfeiture order, or other legal obligation) to pay the same on behalf of the Client, it may do so without Instructions from the Client, firstly by debit to the fiat position, and to the extent of any deficiency in the fiat position, out of the remaining Custody Assets. Client understands and agrees that the selection of Custody Assets from the Custody Account for liquidation shall be at the sole discretion of ETANA.

11.4 Client agrees that ETANA, except as stated in Section 11.1 above, has no responsibility for and will not be liable for losses incurred by the Client caused by or resulting from any of the following:

11.4.1 delay in the receipt by ETANA of Instructions from the Client relating to any transaction, redemption or other transaction, or delay in the receipt from third parties of such transfer, redemption or transaction, relating to money, deposit fund transfers, Digital Assets, Securities or other property or assets, forming, or to form part of, the Custody Assets;

11.4.2 loss of, damage to, or theft of, any part of the Custody Assets held, administered by or under the direction or control of any nominee or agent of ETANA (or by any third party instructed by or through ETANA or any such nominee or agent), the acts of omissions of such a nominee or agent (or any third party as aforesaid), or the bankruptcy, liquidation, winding up or similar act of or by such a nominee or agent (or any third party as aforesaid), provided that ETANA exercised all reasonable care in selecting the relevant nominee or agent; and

11.4.3 any event of force majeure or other event beyond ETANA's reasonable control, including but not limited to nationalization, expropriation, currency restrictions, acts of state, acts of God, insurrections, terrorist acts, epidemics, pandemics, labor disturbances impacting ETANA or its nominees or agents (or of any third parties instructed by or through it or any such nominees or agents), power grid failures or communications systems breakdowns, or disruption of any relevant stock exchanges, clearing houses, settlement systems or trading markets;

Provided that and without prejudice to the foregoing, ETANA shall use all reasonable efforts to assist the Client in avoiding, minimizing or mitigating such losses.

11.5 Client agrees to indemnify and hold ETANA harmless against any and all losses, claims, demands, actions, damages, penalties or liabilities of any nature, as well as legal fees, costs, disbursements and expenses incurred by ETANA and arising out of ETANA's acts, omissions, conduct, error of judgment or inactions in connection with this Agreement and/or client Instructions or for any loss, liability, damage or penalty suffered by Client, including but not limited to, any taxes, governmental charges, and any expenses related thereto, which may be imposed or assessed against ETANA or its agents or nominees. This indemnification obligation excludes those liabilities, losses, damages, costs and expenses which arise (whether through an act or omission) as the result of fraud, willful default or gross negligence on the part of ETANA in the performance of its duties under this Agreement.

11.6 **Acting on behalf of an Undisclosed Principal.** To the extent that ETANA may, from time to time, offer Client an opportunity to buy or sell one or more Digital Asset, or to loan or borrow one or more Digital Assets, Client understands that ETANA is acting solely in an agency capacity on behalf of another client or third-party which is an undisclosed principal (the "Undisclosed Principal Service") and that by offering such an opportunity, ETANA will not be making a recommendation or acting as an investment adviser. Client agrees that ETANA is in no way liable for any breach of a contract to buy or sell or to loan or borrow a Digital Asset arranged through the

Undisclosed Principal Service by the buyer, seller, lender or borrower for whatever reason. In facilitating

any such transactions, if either the buyer, seller, lender or borrower breaches a contract of sale or loan arranged through the Undisclosed Principal Service, ETANA will disclose the identities of the counterparties to each other to enable them to resolve the breach of contract. ETANA will not engage in transactions to sell its own assets to Client, other than through a separate, written contract containing disclosure of ETANA's role as seller, buyer, lender or buyer and terms of the transaction.

11.7 **Forked Digital Assets.** Client understands that the software protocols underlying Digital Assets are often open source so that they can be modified by anyone suddenly and without notice ("Forked Digital Asset"). Client acknowledges and agrees that ETANA has no obligation to support the custody of a Forked Digital Asset, and whether ETANA chooses to support such a Forked Digital Asset is entirely within ETANA's discretion, even if that decision to support, or not, such a Forked Digital Asset causes Client to incur losses. In addition, Client agrees that it is entirely within ETANA's discretion how quickly it reaches a decision on whether to support a Forked Digital Asset.

## 12. REGULATORY REQUIREMENTS

12.1 Notwithstanding any provision of this Agreement to the contrary, but subject to the provisions of Section 14 below, where ETANA is subject to any regulatory requirements (in accordance with various local, state, and federal rules and regulations) in relation to its dealings with the Client under this Agreement, the rights and obligations of ETANA under the provisions of this Agreement will be read and construed to the greatest extent permitted by, and in accordance with such applicable regulatory requirements. All Customer Data, after the termination of the contract, will be retained in accordance with various local, state, and federal rules and regulations.

12.2 Depending on the timing, amount, source or other factors, a Client transaction in Digital or other Assets or receipt of Interest or Proceeds (collectively "Event"), the Client may become subject to income taxes and/or penalties. ETANA may be required to report the Event to various regulatory agencies, including, but not limited to the Internal Revenue Service. The Client understands and acknowledges ETANA does not provide tax advice and as such, it is the Client's responsibility to determine if the Event will create income taxes and/or penalties and is responsible for determining if such Event must be reported to a governmental agency.

12.3 The Client understands that ETANA does not provide the Client an option to withhold funds related to tax withholding. However, ETANA may be required by governmental direction or regulations, among other things, to withhold certain amount of money associated with certain transactions in Client Assets or for certain Clients. If ETANA is required to withhold money from the Client, ETANA will report and send the funds to the appropriate regulatory agency.

## 13. TERM AND TERMINATION

13.1 This Agreement commences on the date set forth below on the signature page and will continue until terminated in accordance with the provisions of this Section 13.

13.2 Except as otherwise provided in this Agreement, ETANA may terminate the obligations of ETANA upon notice to Client in its sole and absolute discretion. ETANA may suspend or terminate the obligations of ETANA immediately if:

13.2.1 ETANA is so required by a facially valid court order or binding order of a governmental or self-regulatory authority;

13.2.2 ETANA reasonably suspects that Client's use of ETANA's services is in violation of Client's representations and warranties set forth in Section 10.2 hereof;

13.2.3 ETANA reasonably perceives a heightened risk of legal or regulatory non-compliance

associated with Client's use of ETANA's services; or

13.2.4 ETANA's service partners or vendors become unavailable so that ETANA cannot support services needed or desired by Client.

13.3 Etana will provide Client notice of its decision to suspend or terminate Client's use of ETANA's services for any of the grounds set forth in Section 11.2. unless a court order or other legal or regulatory process prohibits ETANA from providing such notice to Client. Client acknowledges that ETANA's decision to take certain actions, including limiting access to, suspending, or closing Client's Custody Account, may be based on confidential criteria that are essential to ETANA's risk management and security protocols. Client agrees that ETANA is under no obligation to disclose the details of its risk management and security procedures to Client.

13.4 Notwithstanding the above, either ETANA or Client may terminate this Agreement on 30 calendar days-notice to the other in compliance with Section 16 hereof for any reason

13.5 If notice of termination is given by ETANA or Client, or if Client's Custody Accounts are otherwise terminated, Client will direct ETANA within 30 calendar days of the termination of this Agreement (at the cost and expense of the Client), to deliver or transfer the Custody Assets to a regulated bank or other appropriately licensed custodial institution or if such transfer is not possible, then Client will provide instructions for crediting Assets to an account linked with the Client. Provided, however, ETANA has no obligation to transfer Custody Assets if such transfer is prohibited under the law, including any applicable sanctions program or by a facially valid court order or a binding order of a governmental authority or self-regulatory organization.

13.6 If, by the termination's effective date (30 calendar days from the date the termination notice has been sent), ETANA has not appointed a successor trustee/custodian which has duly accepted such appointment, or if the Client has not submitted delivery instructions to ETANA in a manner that ETANA can comply with; ETANA, in its sole discretion, may liquidate all assets in the Custody Account and distribute the proceeds in a single sum cash or transfer in kind, subject to ETANA's right to reserve funds as provided below, to a bank or Financial Institution that is linked or associated to the Client's Custody Account. Furthermore, the Client understands and agrees they are responsible for all fees and taxes that may be incurred by ETANA liquidating assets or distributing cash or assets to the Client.

13.7 ETANA will not be under any obligation to deliver or transfer the Custody Assets to the persons specified as aforesaid, until the transfer of all amounts which ETANA determines to be owed to it has been completed.

13.8 ETANA will be entitled to receive fees as provided for herein until the moment of actual delivery or transfer of the Custody Assets to the persons specified as aforesaid.

## **14. DISCLOSURE**

The Client and ETANA agree to use their reasonable efforts to keep confidential any information that either of them may receive in relation to the Agreement to those employees, vendors, agents, and third-party agents who need to know said information to provide products and services to the Custody Account. However, each party agrees and understands that the other may disclose such information if required by any applicable law, statute or other regulation or by court order or similar process enforceable in any relevant jurisdiction, or if required to do so by any regulatory body or self-regulatory organization having authority or jurisdiction over the relevant party.

## **15. SUCCESSORS AND ASSIGNMENT**

All terms and conditions of this Agreement will bind and inure for the benefit of the parties hereto and their respective successors and authorized assigns.

## **16. NOTICES**

16.1 Except as otherwise provided in this Agreement, all requests, demands or other communications between the parties or notices provided in connection herewith must be in writing, hand delivered or sent by first class (prepaid) post or airmail, email or such other means as may from time to time be expressly agreed in writing between the Client and ETANA, addressed to the address or email address set forth on this Agreement or subsequently updated in writing by the relevant addressee with notice to the other party.

16.1.1 Email: [support@etana.com](mailto:support@etana.com)

16.1.2 Address: 999 17<sup>th</sup> St Floor 3; Denver, CO 80202

16.2 All requests, demands or other communications or notices as aforesaid will be deemed effective, if hand delivered, upon delivery, if sent by first class (prepaid) post or airmail, 10 days after being posted (but in the case of any requests, demands or other communications or notices, including but not limited to Instructions, being given to ETANA, only upon receipt thereof by ETANA), if sent by email, when delivered to the email address.

## **17. COUNTERPARTS; ELECTRONIC SIGNATURES; ACCEPTANCE BY CUSTODIAN**

This Agreement may be executed and delivered in counterparts (including by email transmission), each of which will be deemed an original. This Agreement may be consummated by electronic means and the parties authorize that their electronic signatures act as their legal signatures to this Agreement. This Agreement will be considered signed by a party when his/her/its electronic signature is transmitted. Such signature will be treated in all respects as having the same effect as an original handwritten signature.

In lieu of the Custodian's signature on the application or Custodian Agreement, the acceptance and execution of the applicable Etana Custody Inc, Custodian Agreement by the Custodian may be evidenced by the Custodian's establishment of an account in the client's name that allows trading functionality and an execution of a transaction by the client within the client's account.

## **18. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all prior oral communications and other written agreements between them.

## **19. AMENDMENTS**

ETANA may amend this Agreement from time to time which amendment will be effective 15 calendar days upon Client receiving notification of the amendment. Client's continued use of the custodial services after Client's receipt of notification of the amendment will constitute Client's acceptance of such amendments.

## **20. GOVERNING LAW**

This Agreement and any Instructions given hereunder shall be governed by, construed, and enforced in accordance with the domestic laws of the State of New York without giving effect to any choice of law or conflict of law provision or rule that would cause the application of the law of any jurisdiction other than the State of New York.

## **21. JURISDICTION AND VENUE**

The parties agree that the State and Federal Courts located in New York, County of New York shall have sole and exclusive jurisdiction over any dispute in connection with, arising out of, or related to this Agreement and any Instructions given hereunder, and each party hereby irrevocably consents to the personal jurisdiction of such courts for any such dispute and irrevocably, waives any objection to the venue of such courts for any such dispute, and waives any defense of forum non *conveniens*.

## **22. SERVICE OF PROCESS**

The parties agree to waive service of process and/or service requirements set forth in the Federal Rules of Civil Procedure and the New York State Civil Practice Law and Rules. The parties also agree that service of process and/or service of any legal notice, paper, summons, lawsuit, demand or other legal process to, from or on either party shall be deemed effective and to have been delivered (i) one business day after deposit with a nationally or globally recognized overnight delivery service, or (ii) upon receipt when delivered personally or by hand, in each case properly addressed to the party receiving same. The physical addresses for the parties are set forth in this Agreement, or subsequently have been provided by a party in writing to the other party in accordance with the notice requirements herein.

## **23. ATTORNEYS' FEES**

If Client shall breach this Agreement or default in any of their obligations under any of the provisions of this Agreement, Client shall be obligated to pay all of ETANA's costs, disbursements, expenses, and attorneys' fees incurred in connection with or otherwise arising out of or related to: such breach or default; ETANA's efforts to remediate such breach or default; the enforcement of any of ETANA's rights under this Agreement; and/or any efforts by ETANA to recover or collect any fees, costs, disbursements, and expenses due or owing ETANA, whether taxable or not.

## **24. IRREPARABLE HARM**

The Client agrees that irreparable harm would result to, and that legal damages would not adequately compensate, ETANA if any part of this Agreement is not performed in accordance with the terms hereof, and that ETANA shall be entitled to move for an injunction or injunctions to prevent breaches of this Agreement or to enforce it specifically in addition to any other remedy to which ETANA is entitled at law or in equity.

**ACKNOWLEDGMENTS**

I ACKNOWLEDGE REVIEWING, UNDERSTANDING AND BEING BOUND BY THE CUSTODIAN AGREEMENT. BY SIGNING THIS AGREEMENT, OR CLICKING "I AGREE", "ACCEPT" OR OTHER SIMILAR BUTTON, OR BY INSTALLING, ACCESSING AND/OR USING ETANA'S SERVICE, WHICH CONSISTS OF SOFTWARE ON A SAAS BASIS AND/OR MOBILE APPLICATION AND ALL RELATED DOCUMENTATION, MANUALS AND TRAINING MATERIALS ("SERVICE"), YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT YOU, OR THE COMPANY YOU REPRESENT (CLIENT) ARE DULY AUTHORIZED TO EXECUTE THIS AGREEMENT, ARE ENTERING INTO A LEGAL AGREEMENT WITH ETANA, AND HAVE UNDERSTOOD AND AGREE TO COMPLY WITH, AND BE LEGALLY BOUND BY, THE TERMS AND CONDITIONS OF THIS AGREEMENT (THE DATE OF SUCH OCCURRENCE BEING THE "EFFECTIVE DATE"). TO THE EXTENT THAT YOU AGREE TO THIS AGREEMENT BY CLICKING "I AGREE", "ACCEPT" OR OTHER SIMILAR BUTTON, YOU HEREBY WAIVE ANY APPLICABLE RIGHTS TO REQUIRE AN ORIGINAL (NON-ELECTRONIC) SIGNATURE OR DELIVERY OR RETENTION OF NON- ELECTRONIC RECORDS, TO THE EXTENT NOT PROHIBITED UNDER APPLICABLE LAW.