



Dated 18 February 2025

ONYX ETC SECURITIES PUBLIC LIMITED COMPANY

(as Issuer)

ONYX COMMODITIES LIMITED

(as Exposure Provider)

WAYSTONE CORPORATE SERVICES (IE) LIMITED

(as Trustee and Security Trustee)

NON-MARGIN CASH ACCOUNT DECLARATION OF TRUST
in relation to Application Moneys in respect of the Commodity Securities

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THIS NON-MARGIN CASH ACCOUNT DECLARATION OF TRUST is made on 18 February 2025 (the **Deed**)

BETWEEN

- (1) **ONYX ETC SECURITIES PUBLIC LIMITED COMPANY**, a public limited company duly incorporated under the laws of Ireland with registered company number 770799, whose registered office is at 4th Floor, 35 Shelbourne Road, Ballsbridge, Dublin 4 Ireland (the **Issuer**);
- (2) **ONYX COMMODITIES LIMITED**, a private limited company duly incorporated under the laws of England and Wales, authorised and regulated by the Financial Conduct Authority (FCA No. 778117), with registered company number 03948550, whose registered office is at 95 Cromwell Road, Second Floor, London, SW7 4DL, United Kingdom (the **Exposure Provider**); and
- (3) **WAYSTONE CORPORATE SERVICES (IE) LIMITED**, a company duly incorporated under laws of Ireland with registered company number 478046, having its registered office at Unit 10 & 11 Cahir Road, Cashel, Co. Tipperary, E25 WK15, Ireland (the **Trustee**, which expression includes, where the context admits, all persons for the time being acting as the trustee or trustees under the Trust Deed).

RECITALS

- (A) The Exposure Provider carries on the business of, *inter alia*, trading in cleared oil derivatives.
- (B) The Exposure Provider and the Issuer have entered into the OCL Master Swap Agreement pursuant to which, on an issuance of Commodity Securities, the Exposure Provider and the Issuer will enter into Swap Contracts.
- (C) The Exposure Provider has opened the Non-Margin Cash Account with the Non-Margin Cash Account Bank into which Application Moneys paid by the Issuer to the Exposure Provider under each Swap Contract is deposited and has agreed to hold the same on trust as security for the Exposure Provider's Secured Obligations (as defined below).
- (D) The Exposure Provider and the Issuer acknowledge that other parties (each a **New Beneficiary**) may become entitled to sums in the Non-Margin Cash Account and will accordingly accede to the terms of this Deed together with the trustees and/or security trustees of the transactions from which the New Beneficiaries interests in the Non-Margin Cash Account arose (each such trustee a **New Trustee**).

THIS DEED WITNESSES as follows:

1 INTERPRETATION

- 1.1 Words and expressions defined in the Conditions, unless otherwise defined herein, have the same meanings when used in this Agreement. In addition, in this Deed, unless there is anything in the subject or context inconsistent therewith the following expressions shall have the following meanings:

Encumbrance means:

- (a) a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person;
- (b) any arrangement under which money or claims to money, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
- (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

Enforcement Event means the occurrence of an Event of Default under the OCL Master Swap Agreement.

Enforcement Notice means a notice delivered by the Trustee to the Issuer in accordance with Condition 15 (*Events of Default*) which declares the Commodity Securities to be immediately due and payable without further action or formality.

Issuer's Portion shall mean at any time an amount equal to the aggregate of the Application Moneys paid into the Non-Margin Cash Account from (and including) the Programme Effective Date to (and including) such date less (i) an amount equal to the margin posted by OCL in respect of the Daily Dated Brent Futures, (ii) an amount equal to the payments made by OCL into the Issuer Transaction Account in satisfaction of the Programme Expenses Fee and (iii) any interest received and/or due and payable to the Exposure Provider in respect of the Application Moneys, in each case, from (and including) the Programme Effective Date to (and including) such date.

Liabilities means, in respect of any person, any losses, damages, costs, charges, awards, claims, demands, expenses, judgments, decrees, actions, proceedings or other liabilities whatsoever including properly incurred legal fees and any Taxes and penalties incurred by that person.

Non-Margin Cash Account Accession Undertaking has the meaning given to it in Clause 6 (*Accession*).

OCL Master Swap Agreement means an Irish law governed ISDA Master Agreement and Schedule thereto between the Exposure Provider and the Issuer dated 18 February 2025.

Programme Expenses Amount has the meaning ascribed to it in the OCL Master Swap Agreement.

Programme Expenses Payment Date has the meaning ascribed to it in the OCL Master Swap Agreement.

Secured Obligations has the meaning ascribed to it in the OCL Master Swap Agreement.

Security means the security granted by the Exposure Provider or expressed to be granted by the Exposure Provider by or pursuant to this Deed.

2 THE TRUST

2.1 The Exposure Provider acknowledges and agrees that it shall hold all its right, title, benefit and interest, present and future, in and to the Non-Margin Cash Account including all amounts credited to the Non-Margin Cash Account from time to time (the **Trust Property**) on trust for:

2.1.1 the Issuer;

2.1.2 itself in its capacity as a beneficiary; and

2.1.3 any New Beneficiary,

absolutely as beneficial tenants in common on the terms of and in the proportion specified in this Deed.

2.2 The Issuer's share of the Trust Property shall be an amount equal to the Issuer's Portion from time to time.

2.3 The Issuer's Portion shall be held on trust as security for the Secured Obligations.

2.4 Any New Beneficiary's share of the Trust Property on any date shall be that proportion of the Trust Property as is specified in the relevant Non-Margin Cash Account Accession Undertaking (a **New Beneficiary's Portion**).

2.5 The Exposure Provider's share of the Trust Property from time to time shall be that which remains after deduction of the Issuer's Portion and each New Beneficiary's Portion (the **Exposure Provider's Portion**).

2.6 It is hereby expressly agreed and declared that:

- 2.6.1 the interests and entitlements of the Exposure Provider, the Issuer and any New Beneficiary in their capacities as beneficiaries (the **Beneficiaries**) of the trust created by this Deed and to the property held on trust shall be vested and indefeasible, such that the Beneficiaries are absolutely entitled to the assets comprised in the Trust Property as they are received and as income thereon arises; and
- 2.6.2 in accordance with clause 2.6.1, the Exposure Provider (in its capacity as trustee) shall have no duty, power or discretion to accumulate amounts representing income or otherwise to treat income as an accretion to principal but shall hold such income on trust to distribute or apply such amounts promptly to the Beneficiaries in the proportions which each of the Issuer's Portion, each New Beneficiary's Portion and the Exposure Provider's Portion bear to the total property held on trust at the time of receipt.

3 RESTRICTIONS

3.1 No right to Non-Margin Cash Account

- 3.1.1 Save as set out in clause 3.1.2 below, the Exposure Provider acknowledges that it has no right at any time to pay, set off or transfer any amount standing to the credit of the Non-Margin Cash Account in or towards satisfaction of:
- (a) any of the Liabilities of the Issuer or of the Trustee to the Exposure Provider;
 - (b) any of the Liabilities of any New Beneficiary or New Trustee to the Exposure Provider; or
 - (c) any of the Liabilities of the Exposure Provider to any other person.
- 3.1.2 Subject to clause 3.1.3 below, the Exposure Provider shall be permitted to transfer amounts forming part of the Issuer's Portion from time to time standing to the credit of the Non-Margin Cash Account in or towards satisfaction of:
- (a) the Programme Expenses Amount on each Programme Expenses Payment Date; and
 - (b) margin calls in respect of Daily Dated Futures.
- 3.1.3 Following an Enforcement Event, the Exposure Provider may not exercise any of its rights with respect to the Issuer's Portion without the prior written consent of the Issuer.

3.2 Security over property of Exposure Provider

Save in respect of the Security granted by the Exposure Provider pursuant to this Deed, the Exposure Provider acknowledges and declares that the trust constituted by this Deed is not intended to create, nor does it create, any Encumbrance in favour of any person over any property or assets of the Exposure Provider but rather is intended clearly to delineate the beneficial interest of the Beneficiaries respectively in the Trust Property.

3.3 No delegation or investment

Except insofar as is required or permitted pursuant to this Deed:

- 3.3.1 the Exposure Provider (in its capacity as trustee) shall have no power to delegate to any other person any of the rights, powers, authorities, duties or obligations directed or authorised pursuant to this Deed; and
- 3.3.2 the Exposure Provider (in its capacity as trustee) shall have no further or other powers of investment with respect to the property held on Trust and for the avoidance of doubt, the provisions of the Irish Trustee Act relating to trustee investments shall not apply.

3.4 No encumbrance

Save with respect to the Security granted by the Exposure Provider pursuant to this Deed, the Exposure Provider hereby acknowledges and agrees that it will not encumber or dispose of any of its right, title, interest and benefit, present and future in the Non-Margin Cash Account or the amounts standing to the credit of the Non-Margin Cash Account.

3.5 No transfer or disposal

The Exposure Provider (in its capacity as trustee) hereby agrees that it shall not, at any time, hold itself out to any person as being solely beneficially entitled to the Non-Margin Cash Account or the amounts standing to the credit of the Non-Margin Cash Account or entitled to effect any transfer or disposal of any of its right, title, interest and benefit in the Non-Margin Cash Account or the amounts standing to the credit of the Non-Margin Cash Account except in connection with the accession from time to time of a New Beneficiary and a New Trustee in accordance with the terms of this Deed or with the prior written consent of the Trustee.

3.6 Notice of Trust

The Issuer hereby irrevocably instructs the Exposure Provider (in its capacity as trustee of the Trust Property) that, and the Exposure Provider (in its capacity as trustee of the Trust Property) hereby undertakes that, upon execution of this Deed, the Exposure Provider will promptly deliver to the Non-Margin Cash Account Bank notice of the Trust created by this Deed in the form set out in Part 1 (*Form of Notice of Trust*) of Schedule 2 duly executed by the Exposure Provider or on its behalf and shall use reasonable endeavours to procure that such notice is acknowledged by the Non-Margin Cash Account Bank.

3.7 Enforcement Notice

The Issuer hereby irrevocably instructs the Exposure Provider (in its capacity as trustee of the Trust Property) that, and the Exposure Provider (in its capacity as trustee of the Trust Property) hereby undertakes that, following receipt by the Issuer of an Enforcement Notice (a copy of which the Issuer will promptly deliver to the Exposure Provider), the Exposure Provider will comply only with the directions of the Trustee (and not the Issuer) in respect of the Issuer's Portion.

3.8 No discretion

Without prejudice to any rights and powers conferred on the Exposure Provider (in its capacity as trustee) pursuant to this Deed, the Exposure Provider (in its capacity as trustee) shall at no time be entitled to exercise any discretion in respect of the Trust Property or any other matter referred to in this Deed.

4 POWERS

4.1 No resignation

The Exposure Provider shall have no right to resign from its position as trustee under this Deed without the written consent of:

4.1.1 the Trustee so long as the Issuer has an interest in the Trust Property; and

4.1.2 each New Trustee so long as its related New Beneficiary has an interest in the Trust Property.

The Trustee and each New Trustee shall have no obligation to give such consent while the Non-Margin Cash Account remains with the Non-Margin Cash Account Bank.

4.2 Statutory powers

The statutory power of appointing a new trustee or additional trustees as modified in this Deed shall apply to this Deed.

4.3 **Power to appoint New Trustee**

The power of appointing a new trustee shall be exercisable jointly by the Issuer and the Trustee and each New Beneficiary and New Trustee or by the Trustee and each New Trustee together.

5 **ACKNOWLEDGEMENT BY THE EXPOSURE PROVIDER**

The Exposure Provider in its capacity as trustee hereby acknowledges the assignment and/or charging of the Issuer's right, title, interest and benefit, present and future, in the trust hereunder, including its beneficial interest created in the Non-Margin Cash Account by this Deed, to the Security Trustee pursuant to the Security Documents.

6 **ACCESSION**

From time to time the Exposure Provider may agree that a third party may become a New Beneficiary or a New Trustee by executing a Non-Margin Cash Account Accession Undertaking (each a **Collection Account Accession Undertaking**) substantially in the form set out in the Schedule to this Deed.

7 **EXCLUSION OF THE IRISH TRUSTEE ACT**

Where there are any inconsistencies between the Irish Trustee Act and the provisions of these presents, the provisions of these presents shall, to the extent allowed by law, prevail and, in the case of any such inconsistency with the Irish Trustee Act, the provisions of these presents shall constitute a restriction or exclusion for the purposes of the Irish Trustee Act.

8 **LIMITATION OF LIABILITY**

Save as expressly otherwise provided in these presents, the Exposure Provider in its capacity as trustee of the trust shall not be liable or responsible for any Liabilities or inconvenience which may result from anything done or omitted to be done by it in accordance with the provisions of these presents, other than as a result of its own gross negligence, wilful default or fraud.

9 **ASSIGNMENT**

The Issuer may at its sole discretion assign or charge all its right, title, interest and benefit under this Deed to the Security Trustee pursuant to the Security Documents and each New Beneficiary may at its sole discretion assign or charge all its right, title, interest and benefit under this Deed to its related New Trustee, but none of the other parties to this Deed may assign or charge any of their rights, title, interest and benefit under this Deed without the prior written consent of the Trustee and any New Trustee (if any).

10 **TRUSTEE AND SECURITY TRUSTEE**

- 10.1 If there is any change in the identity of the Trustee pursuant to the terms of the Trust Deed or the Security Trustee pursuant to the Security Documents, the Exposure Provider shall execute such documents and take such actions as the new trustee and/or the outgoing trustee (as the case may be) may reasonably require for the purpose of vesting in the new trustee the rights, benefits and obligations of the outgoing trustee and/or releasing the outgoing trustee from its future obligations under this Deed (as the case may be).

11 **GOVERNING LAW AND SUBMISSION TO JURISDICTION**

- 11.1 This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with Irish law.
- 11.2 The courts of Ireland are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this Deed and accordingly any legal action or proceedings arising out of or in connection with this Deed (Proceedings) may be brought in such courts. The Issuer irrevocably submits to the jurisdiction

of such courts and waives any objections to Proceedings in such courts on the ground of venue or on the ground that the Proceedings have been brought in an inconvenient forum.

11.3 **Process Agent**

Without prejudice to any other mode of service allowed under any relevant law, the Exposure Provider:

- 11.3.1 irrevocably appoints Waystone Corporate Services (IE) Limited whose registered office is at 4th Floor, 35 Shelbourne Road, Ballsbridge, Dublin 4 Ireland as its agent for service of process in relation to any proceedings before the Irish courts in connection with this Deed; and
- 11.3.2 agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.

12 **EXECUTION**

The Exposure Provider has executed this Deed as a deed and intends to deliver, and does deliver, this Deed on the date stated above.

SCHEDULE 1

FORM OF COLLECTION ACCOUNT ACCESSION UNDERTAKING

THIS DEED is made on [•] between:

- (1) **ONYX COMMODITIES LIMITED**, a private limited company duly incorporated under the laws of England and Wales, authorised and regulated by the Financial Conduct Authority (FCA No. 778117), with registered company number 03948550, whose registered office is at 95 Cromwell Road, Second Floor, London, SW7 4DL, United Kingdom (the **Exposure Provider**);
- (2) [Name] (registered number [•]) in its capacity as [specify] (the **New Beneficiary**); and
- (3) [Name] (registered number [•]) in its capacity as trustee under [specify] (the **New Trustee**).

RECITALS

- (A) Pursuant to the terms of a [*describe the agreement*] (the **Agreement**) dated [•] made between the Exposure Provider and the New Beneficiary, the Exposure Provider has agreed to [*describe nature of the obligations of the Exposure Provider under the Agreement*].
- (B) Pursuant to the terms of [*describe the document*] (the **Security Deed**) dated [•] made between the New Beneficiary, the New Trustee [and others], the New Beneficiary has [*describe the nature of the New Beneficiary's obligations to the New Trustee*].
- (C) The Exposure Provider has agreed to provide the New Beneficiary with the beneficial interest described in the non-margin cash account declaration of trust dated [•] (as the same may be amended, restated, varied, supplemented, replaced and/or novated from time to time with the consent of the parties thereto) between the Exposure Provider, the Issuer, the Trustee and the Security Trustee (the **Non-Margin Cash Account Declaration of Trust**).
- (D) The terms of the Non-Margin Cash Account Declaration of Trust permit the Exposure Provider to hold certain amounts on trust for the New Beneficiary.
- (E) This Deed is supplemental to the Non-Margin Cash Account Declaration of Trust and the New Beneficiary and the New Trustee have agreed to enter into this Deed to accede to the provisions of the Non-Margin Cash Account Declaration of Trust.

THIS DEED WITNESSES as follows:

1 INTERPRETATION

- 1.1 Words and expressions used in this Deed have the meanings ascribed to them in the Non-Margin Cash Account Declaration of Trust or if the context requires otherwise, words and expressions used in this Deed have the meanings and constructions ascribed to them in the Master Definitions Schedule set out in Schedule 1 (*Master Definitions Schedule*) of the Incorporated Terms Memorandum which is dated on or before the date of the Non-Margin Cash Account Declaration of Trust and signed for the purpose of identification by the Exposure Provider, the Issuer and others (as the same may be amended from time to time with the consent of the Trustee, the Exposure Provider and the Issuer (the **Incorporated Terms Memorandum**)). This Deed shall be construed in accordance with the principles of construction and interpretation set out in the Master Definitions Schedule.

2 REPRESENTATIONS AND WARRANTIES

- 2.1 The New Beneficiary hereby represents and warrants to the Exposure Provider and each of the Beneficiaries in respect of itself that as of the date of this Deed:

- 2.1.1 pursuant to the terms of the Agreement, the Exposure Provider has agreed to [*describe in relation to the Agreement*]; and
- 2.1.2 [*Other representations*].

3 **NEW BENEFICIARY'S COLLECTION PORTION**

For the purposes of determining the New Beneficiary's share of the Trust Property pursuant to clause [4] of the Non-Margin Cash Account Declaration of Trust (the **New Beneficiary Trust Share**) such share shall be [*specify*].

4 **ACCESSION**

- 4.1 In consideration of the New Beneficiary being accepted as a Beneficiary for the purposes of the Non-Margin Cash Account Declaration of Trust by the parties thereto as from the date of this Deed, the New Beneficiary:
- 4.1.1 confirms that as from [*date*], it intends to be a party to the Non-Margin Cash Account Declaration of Trust as a New Beneficiary and a Beneficiary;
- 4.1.2 undertakes to comply with and be bound by all of the provisions of the Non-Margin Cash Account Declaration of Trust in its capacity as a Beneficiary, as if it had been an original party thereto; and
- 4.1.3 agrees that the Exposure Provider shall be the trustee of the trust created by the Non-Margin Cash Account Declaration of Trust for all Beneficiaries upon and subject to the terms set out in the Non-Margin Cash Account Declaration of Trust.
- 4.2 [The New Beneficiary hereby irrevocably instructs the Exposure Provider (in its capacity as trustee under the Non-Margin Cash Account Declaration of Trust) that, and the Exposure Provider (in such capacity) hereby undertakes that, following receipt by the New Beneficiary of an [*enforcement notice*] (a copy of which the New Beneficiary will promptly deliver to the Exposure Provider), the Exposure Provider will comply only with the directions of the New Trustee (and not the New Beneficiary) in respect of the New Beneficiary's Collection Portion.]
- 4.3 [The New Beneficiary will, on or about the date hereof, assign and/or charge pursuant to the [Security Deed] all of its right, title, interest and benefit, present and future, in the trust created by the Non-Margin Cash Account Declaration of Trust, including its beneficial interest created under the Collection Account by this Deed, to the New Trustee pursuant to the [Security Deed].]

5 **NEW TRUSTEE**

- 5.1 Subject to the following, the New Trustee has agreed to become a party to this Deed for the purpose of taking the benefit of contractual provisions expressed to be given in its favour, enabling better preservation and enforcement of its rights under this Deed and the Security Deed and for administrative ease associated with matters where its consent is required. The New Trustee shall not assume any liabilities or obligations under this Deed unless such obligation or liability is expressly assumed by the New Trustee in this Deed.
- 5.2 If there is any change in the identity of the new trustee pursuant to the terms of the Security Deed, the Non-Margin Cash Bank and the Exposure Provider shall each execute such documents and take such action as the new trustee and/or the outgoing new trustee (as the case may be) may reasonably require for the purpose of vesting in the new trustee the rights, benefits and obligations of the outgoing new trustee and/or releasing the outgoing new trustee from its future obligations under this Deed (as the case may be).

6 **COUNTERPARTS**

This Deed may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

7 **CHOICE OF LAW**

This Deed (and any non-contractual obligations arising out of or in connection with it) shall be governed by, and construed in accordance with, the laws of Ireland.

DULY EXECUTED AND DELIVERED AS A DEED by each of the parties hereto or on its behalf on the date appearing on page [1].

EXPOSURE PROVIDER

ONYX COMMODITIES LIMITED

acting by its attorney

in the presence of:

Witness signature: _____

Witness name: _____

Witness address: _____

EXECUTED as a DEED by

[NEW BENEFICIARY]

EXECUTED as a DEED by

[NEW TRUSTEE]

SCHEDULE 2

FORM OF NOTICE OF TRUST

(On headed notepaper of the Exposure Provider)

[Date]

To: [Non-Margin Cash Account Bank]

Attention: [•]

Re: Onyx Commodities Limited Account No. [•] (the **OCL Account**)

Dear [Addressee]

- 1 We hereby give you notice that by a Declaration of Trust made by us on [•] 2025 (a copy of which is enclosed for your records) (the **Declaration of Trust**), we (Onyx Commodities Limited) declared trust over the account with account number [•] in favour of Onyx Securities ETC plc (the "**Issuer**") and ourselves in agreed proportions and agreed to hold the Issuer's Portion (as defined in the Declaration of Trust) shall be held on trust as security for the Secured Obligations.
- 2 This notice is irrevocable.
- 3 Please sign and return the attached copy of this letter to confirm that you have this received this notice of such declaration of trust and the security granted by Onyx Commodities Limited.

Yours faithfully

.....
For and on behalf of
Onyx Commodities Limited

Acknowledgement of receipt

.....
For and on behalf of
[•]

EXECUTION PAGE(S)

ISSUER

SIGNED and **DELIVERED** as a **DEED**

for and on behalf of

ONYX ETC SECURITIES PUBLIC LIMITED COMPANY

by its lawfully appointed attorney:

Attorney signature

MATTHEW TRACY

Print Attorney name

in the presence of:

(Witness' signature)

ANDREW KELLY

(Witness' Name)

74 NEWTOWNPARK AVE, BLACKROCK, DUBLIN

(Witness' Address)

ACCOUNTANT

(Witness' Occupation)

EXPOSURE PROVIDER

ONYX COMMODITIES LIMITED

acting by its attorney

in the presence of:

Witness signature: _____



Witness name: Nathan Tynan

Witness address: 95 Cromwell Road, Second Floor, London, United Kingdom, SW7 4DL

TRUSTEE AND SECURITY TRUSTEE

SIGNED and DELIVERED

for and on behalf of and as a **DEED** of
WAYSTONE CORPORATE SERVICES (IE)
LIMITED by its authorised signatory:

Witness' Name

Witness' Signature

Witness' Occupation

Witness' Address

ANDREW KELLY

And Kelly

ACCOUNTANT

74 NEWTOWNPARK AVE BLACKROCK, DUBLIN

Authorised Signatory