

October 22, 2019

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the “Jurisdiction”)**

AND

**IN THE MATTER OF
TOKENGX INC.
(The Filer)**

DECISION

Background

The Ontario Securities Commission (**OSC**), through the OSC LaunchPad, engages with fintech businesses that have innovative products, services or applications that benefit investors. OSC LaunchPad assists businesses in navigating regulatory requirements and offers flexible approaches for them to fulfill regulatory requirements, including time-limited registration or exemptive relief from securities law requirements to allow them to test their innovative business models.

The Filer wishes to create a blockchain-based security token (**token**) trading platform for the trading among investors (**investors**) of their tokens that were distributed under prospectus exemptions in order to facilitate capital raising for issuers and to provide liquidity for the investors. The Filer is currently participating in the Creative Destruction Lab’s (**CDL**) Blockchain Incubator Stream, a 10-month program in which blockchain founders are mentored by veteran entrepreneurs, investors and visionaries in artificial intelligence and blockchain. CDL is an Ontario-based incubator program with locations across Canada and the UK that provides assistance to various seed-stage businesses, including technology businesses with a focus on blockchain applications.

Generally, some liquidity and transferability of tokens is desired by investors to access their funds and for issuers in the development or growth stage of their business. Liquidity is limited for offerings of tokens under a prospectus exemption as the tokens issued are subject to resale restrictions.

The OSC recognizes that to keep abreast of and facilitate innovation, an environment to conduct commercial tests of novel business models, products and services is required. The Filer is seeking exemptive relief, as described below, to conduct a time-limited pilot test in order to gather data and operational feedback in a controlled environment, to assess the appropriate regulatory requirements, and to foster capital raising by innovative businesses in Canada and some liquidity for investors.

In the context of the OSC LaunchPad, the Filer submitted its business model and subsequently filed an application to the OSC as principal regulator to be exempted from certain requirements under applicable securities legislation to pilot test its proposed business model in a sandbox environment for a time-limited period. This Decision is based on the unique facts and circumstances of the Filer and for the limited purpose

of allowing the Filer to pilot test its business in a limited commercial setting. Accordingly, this Decision should not be viewed as a precedent for other filers.

Relief Sought for Time-Limited Pilot Testing

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of itself and the Selling Token Holders (as defined below), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) pursuant to:

- (a) section 15.1 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) for relief in whole from the requirements of NI 21-101;
- (b) section 12.1 of National Instrument 23-101 *Trading Rules* (**NI 23-101**) for relief in whole from the requirements of NI 23-101;
- (c) section 10 of National Instrument 23-103 *Electronic Trading and Direct Access to Marketplaces* (**NI 23-103**) for relief in whole from the requirements of NI 23-103; and
- (d) section 74 of the *Securities Act* (Ontario) (the **Act**) for relief from the prospectus requirement in section 53 of the Act (the **Prospectus Relief**)

subject to conditions and restrictions outlined in the Decision in order to operate the Secondary Trading Platform (as defined below) for a pilot test period (collectively, the **Relief Sought**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* have the same meaning if used in this Decision, unless otherwise defined.

Representations

This Decision is based on the following facts represented by the Filer:

The Filer

1. The Filer is a blockchain business incorporated under the *Business Corporations Act* (Ontario) on May 31, 2018. Its head office is located in Toronto, Ontario.
2. All of the outstanding common shares of the Filer are held equally by Alan Wunsche and Laura Pratt.
3. The Filer is an affiliate of Token Funder Inc. (**TokenFunder**). All of the outstanding common shares of TokenFunder are held by Leading Knowledge Ltd., an Ontario corporation controlled by Alan Wunsche and Matt Yang.
4. Pursuant to a decision dated October 17, 2017, TokenFunder was granted relief from the dealer registration requirement in the Legislation in order to distribute its own tokens (the **FNDR Tokens**) to fund the development of an on-line platform (the **Primary Distribution Platform**) that facilitates the initial distribution of crypto assets to investors pursuant to available prospectus exemptions.

5. TokenFunder subsequently completed an offering of the FNDR Tokens by way of an initial token offering (**ITO**), pursuant to the offering memorandum prospectus exemption (the **OM Exemption**) in section 2.9 of National Instrument 45-106 *Prospectus Requirements (NI 45-106)*.
6. TokenFunder completed the development of the Primary Distribution Platform and the Filer became registered as an Exempt Market Dealer (**EMD**) in Alberta, British Columbia, Ontario and Québec on April 17, 2019 to operate the Primary Distribution Platform.
7. The Filer's registration is subject to terms and conditions given that it is a novel business focused on facilitating the ITOs through an on-line platform.
8. The Filer is not in default of securities legislation in any jurisdiction of Canada.

Initial Token Offerings on the Primary Distribution Platform

9. The Filer provides advisory, technology implementation and brokerage services for issuers in connection with crypto-asset offerings by way of ITOs. Each ITO is organized according to a set of rules via a smart contract (a **Smart Contract**) that is represented as a token on a distributed ledger, the Ethereum public blockchain. The Filer assists issuers in the deployment and management of standardized Smart Contracts specifically developed by TokenFunder for the Primary Distribution Platform.
10. The tokens are digital assets which represent an equity interest or debt, are distributed pursuant to prospectus exemptions and can only be distributed through the Primary Distribution Platform or Secondary Trading Platform (**Issuer Tokens**).
11. The Filer develops the Smart Contracts using open source code and will use various online resources to test and review the Smart Contracts. The Filer will review the smart contract audit reports generated by smart contract audit tools and will address any issues identified by those reviews prior to the deployment of those Smart Contracts.
12. As part of the investor account opening process, the Filer collects know-your-client information to verify the identity of the investor and collects information necessary for the Filer to conduct a suitability assessment for each investor. An investor's information is added to a smart contract digital account identifier list (**KYC Whitelist**) that corresponds to the investor's vetted investor category, such as accredited investor as defined in the Act and NI 45-106 (**Accredited Investor**). A prospective investor must be verified and approved by the Filer to be on the KYC Whitelist before they are permitted to participate in any offerings through the Primary Distribution Platform.
13. The Filer uses technology to facilitate the determination of whether a purchase of an Issuer Token is suitable for an investor before accepting an instruction from that investor to buy that Issuer Token on the Primary Distribution Platform.
14. The Filer requires investors to purchase Issuer Tokens through the Primary Distribution Platform using fiat currency. The funds are held at a Canadian custodian (as defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations*) in a trust account designated for that Issuer until such time the offering period has closed.

15. Investors purchasing Issuer Tokens through the Primary Distribution Platform do so through digital wallets not controlled by the Filer or affiliates of the Filer. An investor's interest in Issuer Tokens is recorded on the Ethereum blockchain. Investors control the private keys to the public digital wallet address. The Filer does not act as custodian for any Issuer Tokens that are assets of the Filer's clients.
16. All Issuer Tokens issued are deployed on the decentralized Ethereum public blockchain. Issuer Token transaction data will be immutably recorded on the blockchain and all Issuer Token transactions will be visible to the public and can be verified.
17. In order to address transferability restrictions of Issuer Tokens, the Filer designed a blockchain-based transfer controller (the **Transfer Controller**) which enables it to manage transactions of Issuer Tokens and future tokens issued. For example, the investor category from the KYC Whitelist (e.g. retail and Accredited Investor) is embedded in the Transfer Controller to manage transferability restrictions. This feature differentiates tokens issued via the Primary Distribution Platform from other "ERC-20" tokens in circulation on the Ethereum blockchain. The Primary Distribution Platform is designed to incorporate the KYC Whitelist and the Transfer Controller – for example, should an investor attempt to transfer an Issuer Token to another digital wallet belonging to an individual that has not been onboarded by the Primary Distribution Platform and included in the KYC Whitelist, the Transfer Controller would automatically stop the transfer of the Issuer Token to another wallet from occurring.

Secondary Trading Platform

18. Secondary trading of Issuer Tokens distributed on the Primary Distribution Platform pursuant to prospectus exemptions and FNDR Tokens will take place on the FreedomX platform (the **Secondary Trading Platform**) operated by the Filer.
19. The participants on the Secondary Trading Platform will be limited to sellers that are resident in Ontario (**Selling Token Holders**) and purchasers that are resident in Ontario (**Purchasers**, and together with Selling Token Holders, **Participants**).
20. The Secondary Trading Platform will be comprised of an order book displaying buy and sell orders entered by the Participants (the **Order Book**), with an interface system that utilizes blockchain smart contracts to execute the transactions that occur in the Order Book. The Participants will interact with one another on the Order Book.
21. Participants may view the Order Book and enter buy or sell orders for the FNDR Token or Issuer Token they wish to trade which includes the quantity and price. The Order Book will display buy and sell orders created by the Participants.
22. Participants who purchased Issuer Tokens through the Primary Distribution Platform will have previously been onboarded by the Filer. Parties that are seeking to purchase Issuer Tokens on the Secondary Trading Platform that did not purchase Issuer Tokens on the Primary Distribution Platform must first be onboarded by the Filer before being permitted to purchase Issuer Tokens. The Filer will onboard Participants to the Secondary Trading Platform in the same manner as any other investor on the Primary Distribution Platform, with the investor status included on the KYC Whitelist and with all transactions on the Secondary Trading Platform subject to the Transfer Controller mechanism. As such, all Participants are vetted by the Filer prior to gaining access and trading on the Secondary Trading Platform as set out in paragraphs 12 and 13 of the Decision.

23. The Filer, through the Transfer Controller, has rules regarding when transfers of FNDR Tokens and Issuer Tokens are permitted or prohibited, and which Participants may enter orders of FNDR Tokens and Issuer Tokens on the Secondary Trading Platform. This includes confirmation that a Participant is on the KYC Whitelist.
24. The Filer, through the Transfer Controller and KYC Whitelist, will confirm that the Purchaser is an Ontario resident and the Purchaser's investor status.
25. For Purchasers that are not Accredited Investors, the Filer, through the Transfer Controller and KYC Whitelist, will not permit the acquisition cost of the FNDR Tokens and Issuer Tokens acquired by the Purchaser on the Secondary Trading Platform to exceed \$2,500 for all trades on the Secondary Trading Platform.
26. Subject to suitability, once a Participant's order is matched to an existing order, the smart contract automatically executes the transactions and the FNDR Tokens or Issuer Tokens are transferred between Participant's digital wallets, with the transaction published on the public blockchain. The Order Book is simultaneously updated to reflect outstanding open orders. Payment is made using the Settlement Balance Token (as defined below).
27. The Filer will limit the tokens made available by Participants for trading on the Secondary Trading Platform during the pilot test to
 - (a) FNDR Tokens,
 - (b) Issuer Tokens from no more than ten (10) Ontario issuers whose tokens were issued through the Primary Distribution Platform, and
 - (c) Settlement Balance Tokens (as defined below).
28. The Filer will require any issuer that wishes for its Issuer Tokens to be made available on the Secondary Trading Platform to have conducted at least one previous distribution in reliance of the OM exemption, such that there is an offering memorandum available, and be in compliance with the requirements pursuant to the OM Exemption.
29. The Filer will not facilitate the trading of any tokens created on other platforms.
30. The Filer's technology enables FNDR Tokens and Issuer Tokens to be transferred between Participants without the involvement of custodians or clearing agencies.
31. Concurrent to the pilot test in the sandbox environment, the Filer intends to seek appropriate approvals from the principal regulator and the regulators or securities regulatory authorities of the jurisdictions in which the Filer is registered to expand the pilot test with the goal of offering the Secondary Trading Platform to investors and issuers in those other jurisdictions.

Settlement Balance Tokens

32. The Filer will require Purchasers to purchase tokens from the Filer that will be used for the sole purpose of facilitating payment for the FNDR Tokens or Issuer Tokens on the Secondary Trading Platform (the **Settlement Balance Tokens**).

33. The Filer will issue Settlement Balance Tokens to Participants at a price of one (1) Canadian dollar (**CAD**) per Settlement Balance Token.
34. Settlement Balance Tokens may be acquired by Purchasers by transferring funds to the Filer's Trust Account (defined below) at a Canadian custodian through the Secondary Trading Platform.
35. Settlement Balance Tokens purchased by Participants from the Filer will be transferred by the Filer directly to the Participant's digital wallet. A Participant's holding of the Settlement Balance Tokens is recorded on the Ethereum blockchain. Participants will control the private keys to the public digital wallet address.
36. The Filer will maintain a separate business trust account (the **Trust Account**) at a Canadian custodian for the designated purpose of depositing funds received from the issuance of the Settlement Balance Tokens and funding the redemption of the Settlement Balance Tokens. The Filer will not use the Trust Account for any other purposes.
37. The Settlement Balance Tokens will be immediately usable as payment for FNDR Tokens or Issuer Tokens.
38. The Filer, through the Transfer Controller, will restrict Settlement Balance Tokens from being transferred to digital wallets external to the Secondary Trading Platform.
39. Sellers that receive Settlement Balance Tokens as payment for FNDR Tokens or Issuer Tokens may either use those Settlement Balance Tokens to purchase Issuer Tokens on the Secondary Trading Platform or request that the Filer repurchase the Settlement Balance Tokens.
40. The Filer will repurchase Settlement Balance Tokens at a price of one (1) CAD per Settlement Balance Token less applicable administration fees within one (1) business day of receiving a repurchase request. Upon a request from a Participant for redemption of Settlement Balance Tokens through the Participant's online account on the Secondary Trading Platform, an authorized representative of the Filer will instruct the Canadian custodian to transfer funds from the Trust Account to the Participant's bank account.
41. As long as there are outstanding Settlement Balance Tokens, the Filer will offer to repurchase Settlement Balance Tokens from Participants on the Secondary Trading Platform.
42. The Filer will reconcile, on a regular basis, the amount of outstanding Settlement Balance Tokens and the records of the Canadian custodian setting out the balance in the Trust Account.

Disclosures and Information Collected from Participants of the Secondary Trading Platform

43. The Filer will establish and maintain an ongoing dedicated page on the Secondary Trading Platform for each issuer with FNDR Tokens or Issuer Tokens available for trading on the Secondary Trading Platform. The Filer will require issuers to provide ongoing business disclosures to the Filer to be posted on the Secondary Trading Platform, including at a minimum:
 - (a) corporate information;
 - (b) FNDR Tokens or Issuer Token issuance details;

- (c) the issuer's offering memorandum;
 - (d) quarterly financial and management reports, including how proceeds raised in the ITO have been used;
 - (e) the audited annual financial statements provided to prospective purchasers of the ITO and any subsequent audited annual financial statements required to be made reasonably available to each holder of a FNDR Tokens or Issuer Token acquired under the ITO; and
 - (f) as soon as practicable and in any event within ten (10) days, notice of any material change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the value of any of the FNDR Tokens or Issuer Tokens of the issuer, including but not limited to a change of the issuer's business, change of the issuer's industry, a change of control of the issuer and a change to information previously disclosed in the offering memorandum.
44. The Filer will conduct an ongoing review of the issuer's disclosures as described in paragraph 43 to determine that it is complete, consistent and not misleading. If the Filer determines that a disclosure is incorrect, incomplete or misleading, the Filer will require the issuer to correct or make complete the disclosure within two (2) business days or the Filer will remove the disclosure. The Filer will remove an issuer's Issuer Tokens from trading on the Secondary Trading Platform if there are material disclosures that are not corrected or made complete.
45. The Filer does not permit officers, directors, or employees of issuers to trade in their own FNDR Tokens or Issuer Tokens during the pilot test if their FNDR Tokens or Issuer Tokens are available for trading on the Secondary Trading Platform.
46. The Filer will establish, maintain and monitor policies prohibiting the officers, directors or employees of the Filer and any affiliated entities from trading in their own FNDR Tokens or Issuer Tokens during the pilot test period.

Other

47. The Filer will require each Purchaser to acknowledge certain risks associated with the investments on the Secondary Trading Platform.

Decision

The principal regulator is satisfied that the Decision meets the tests set out in the Legislation for the principal regulator to make the Decision for purposes of pilot testing this novel business.

The Decision of the principal regulator under the Legislation is that the Relief Sought is granted on a time-limited basis, provided that all of the following conditions are met:

- I. The Filer is registered as an EMD and complies with the requirements of a dealer under securities legislation for the operation of the Primary Distribution Platform and Secondary Trading Platform.

- II. The Filer limits the tokens made available for trading by Participants on the Secondary Trading Platform to
 - (a) FNDR Tokens,
 - (b) Issuer Tokens from no more than ten (10) Ontario issuers whose tokens were issued through the Primary Distribution Platform, and
 - (c) Settlement Balance Tokens.
- III. The Filer will require any issuer that wishes for its FNDR Tokens or Issuer Tokens to be made available on the Secondary Trading Platform to have conducted at least one previous distribution in reliance of the OM Exemption, such that there is an offering memorandum available, and be in compliance with the requirements pursuant to the OM Exemption.
- IV. The Filer will not facilitate the trading of any tokens created on other platforms or that are able to be traded outside of the Secondary Trading Platform.
- V. The Filer will maintain an ongoing dedicated page on the Secondary Trading Platform for each issuer with FNDR Tokens or Issuer Tokens available for trading on the Secondary Trading Platform as set out in paragraph 43 of the Decision.

Access to the Secondary Trading Platform

- VI. The Filer ensures that each Participant accessing the Secondary Trading Platform has been onboarded as set out in paragraph 22 of the Decision.
- VII. The Filer will ensure that only Participants that reside in Ontario will be permitted to participate on the Secondary Trading Platform.
- VIII. The Filer will not permit unreasonable discrimination among Participants of the Secondary Trading Platform.
- IX. The Filer will not unreasonably prohibit, condition or limit access by Participants to services offered by Secondary Trading Platform.
- X. The Filer will establish written standards for access to the Secondary Trading Platform.
- XI. The Filer will not provide access to Participants to the Secondary Trading Platform unless it has the ability to terminate all or a portion of access of Participants, if required.
- XII. The Filer will not permit officers, directors, or employees of:
 - (a) issuers to trade in their own Issuer Tokens if their Issuer Tokens are available for trading on the Secondary Trading Platform; and
 - (b) the Filer and any affiliated entities to trade in FNDR Tokens or Issuer Tokens on the Secondary Trading Platform during the pilot test period.

Settlement Balance Tokens

- XIII. The Filer will issue Settlement Balance Tokens to Participants at a price of one (1) CAD per Settlement Balance Token for the sole purpose of facilitating payment for the FNDR Tokens or Issuer Tokens on the Secondary Trading Platform.
- XIV. The Filer will repurchase Settlement Balance Tokens at a price of one (1) CAD per Settlement Balance Token less applicable funds transfer fees within one (1) business day of receiving a repurchase request.
- XV. The Filer will continue to offer to repurchase Settlement Balance Tokens from Participants as long as there are outstanding Settlement Balance Tokens.
- XVI. The Filer will maintain the Trust Account at a Canadian custodian for the designated purpose of depositing funds received from the issuance of the Settlement Balance Tokens and funding the redemption of the Settlement Balance Tokens. The Filer will not use the Trust Account for any other purposes.
- XVII. The Filer will reconcile, on a regular basis, the value of outstanding Settlement Balance Tokens and the records of the Canadian custodian setting out the balance in the Trust Account.
- XVIII. The Filer will promptly notify the principal regulator if, at any time, the balance in the Trust Account is less than the Canadian value of outstanding Settlement Balance Tokens.

Market Integrity

- XIX. The Filer will take reasonable steps to ensure its operations do not interfere with fair and orderly markets.
- XX. The Filer will establish price and volume thresholds as necessary in order to ensure trading on the Secondary Trading Platform does not interfere with fair and orderly markets and will not permit the execution of orders that exceed price and volume thresholds established by the Secondary Trading Platform.
- XXI. The Filer will establish, maintain and ensure compliance with policies and procedures that identify and manage conflicts of interest arising from the operation of the Secondary Trading Platform, including conflicts between the interests of its owners, its commercial interests, and the responsibilities and sound functioning of the Secondary Trading Platform.
- XXII. The Filer will only reverse a trade by entering into a new transaction to correct an error caused by a system or technological malfunctions of the Secondary Trading Platform or caused by an individual acting on behalf of the Secondary Trading Platform.

The Filer's Oversight of Participants and Trading

- XXIII. The Filer will have rules governing trading, including prohibitions against abusive trading, and mechanisms for monitoring trading and enforcing these rules.

Transparency of Marketplace Operations

- XXIV. The Filer will disclose to issuers and Participants that the Filer has been granted time-limited relief to operate the Secondary Trading Platform and continued operations of the Secondary Trading Platform following expiry of the Decision will be subject to further approval by the principal regulator and any terms and conditions the principal regulator may impose.
- XXV. The Filer will disclose on the Secondary Trading Platform information reasonably necessary to enable a person or company to understand the operations or services the Secondary Trading Platform provides, including at a minimum:
- (a) Access criteria, including how access is granted or denied and whether there are differences in access and trading;
 - (b) Description of how access is suspended or terminated;
 - (c) Risks related to operation and trading on the Secondary Trading Platform;
 - (d) Hours of trading;
 - (e) All fees, including fees associated with the redemption of Settlement Balance Tokens, and will notify its Participants, in writing, at least five (5) business days prior to implementing any fee changes;
 - (f) How orders are entered, interact and execute;
 - (g) All order types;
 - (h) Policies and procedures relating to error trades, cancellations, modifications and dispute resolution;
 - (i) Information about the FNDR Tokens or Issuer Tokens available for trading;
 - (j) Information about the trades executed on the Secondary Trading Platform, including, at a minimum, the name of the FNDR Token or Issuer Token purchased or sold, the price and the volume of the trade;
 - (k) Conflicts of interest and the policies and procedures to manage them;
 - (l) Process for payment and settlement of transactions;
 - (m) Access arrangements with a third-party services provider, if any; and
 - (n) Rules governing trading, including prevention of manipulation and other market abuse.

Systems

- XXVI. The Filer will have internal controls over systems that support order entry and execution.

- XXVII. The Filer will have information technology controls including controls relating to operations, information security, change management, problem management, network support and system software support.
- XXVIII. The Filer will promptly notify the principal regulator of any systems failure, malfunction, delay or security breach and provides timely updates on the status.

Risk Acknowledgement

- XXIX. The Filer will require a Purchaser to directly acknowledge that they have read and understand each of the following statements immediately prior to the Purchaser submitting a buy order:
- (a) **Risk of loss** – I could lose my entire investment of \$[dollar value of trade].
 - (b) **Liquidity risk** – I may not be able to sell my investment quickly – or at all.
 - (c) **Lack of information** – I may receive little or no information about my investment.
 - (d) **No income** – I may not earn any income, such as dividends or interest on this investment.
 - (e) **No approval** – This investment has not been reviewed or approved in any way by a securities regulatory authority.
 - (f) **Limited legal rights** – I will not have the same rights as if I purchased under a prospectus or through a stock exchange. If you want to know more about your legal rights, you should seek professional legal advice.
 - (g) **No ability to cancel a trade** – Once an order is submitted and matched, the trade is final, I will have no ability to request a cancellation or reversal of the trade.

Investment Limits

- XXX. If a Purchaser is not an Accredited Investor, the acquisition cost of the FNDR Tokens and Issuer Tokens acquired by the Purchaser on the Secondary Trading Platform does not exceed \$2,500 for all trades on the Secondary Trading Platform.

Resale Restrictions

- XXXI. Unless all of the conditions in subsection 2.5(2) of National Instrument 45-102 *Resale of Securities* are satisfied, subject to the exceptions from those conditions in subsection 2.5(3), the first trade of a FNDR Token or Issuer Token distributed under this Decision is deemed to be a distribution under the Legislation.
- XXXII. The first trade of a Settlement Balance Token to a person that is not a Participant on the Secondary Trading Platform is deemed to be a distribution under the Legislation.

Ongoing Disclosure and Liability

- XXXIII. The Filer will maintain an ongoing dedicated page on the Secondary Trading Platform for each issuer with FNDR Tokens or Issuer Tokens available for trading on the Secondary Trading Platform

and will require each issuer to include, at a minimum, disclosures set out in paragraph 43 of the Decision.

XXXIV. The Filer will require each of the following persons or companies to provide Participants with a contractual right of action for damages where the disclosure provided to the Filer to be posted on the Secondary Trading Platform contains a misrepresentation:

- (a) the issuer of the FNDR Token or Issuer Token;
- (b) each director of the issuer at the time the disclosure was provided to the Filer to be posted on the Secondary Trading Platform;
- (c) each officer of the issuer who authorized, permitted or acquiesced the providing of the disclosure to the Filer to be posted on the Secondary Trading Platform;
- (d) each influential person (as defined in section 138.1 of the Act), and each director and officer of an influential person, who knowingly influenced,
 - (i) the issuer or any person or company acting on behalf of the issuer to provide the disclosure to the Filer to be posted on the Secondary Trading Platform, or
 - (ii) a director or officer of the issuer to authorize, permit or acquiesce in the providing of the disclosure to the Filer to be posted on the Secondary Trading Platform.

XXXV. The contractual right of action under paragraph XXXIV may provide that:

- (a) a person or company is not liable in relation to a misrepresentation if that person or company proves any of the following:
 - (i) that the Participant acquired or disposed of the FNDR Token or Issuer Token with knowledge that the disclosure contained a misrepresentation;
 - (ii) before the release of the disclosure the containing the misrepresentation, the person or company conducted or caused to be conducted a reasonable investigation (with consideration of the factors in section 138.4(7) of the Act), and at the time the disclosure was posted on the Secondary Trading Platform, the person or company had no reasonable grounds to believe that the disclosure contained the misrepresentation;
- (b) a person or company is not liable for a misrepresentation in forward-looking information if the person or company proves all of the following things:
 - (i) The disclosure containing the forward-looking information contained, proximate to that information,
 1. reasonable cautionary language identifying the forward-looking information as such, and identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information, and

2. a statement of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information.
 - (ii) The person or company had a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information.
- (c) a person or company, other than the issuer, is not liable if the misrepresentation was made without the knowledge or consent of that person or company and, if, after the person or company became aware of the misrepresentation before it was corrected,
 - (i) the person or company promptly notified the board of directors of the issuer, or other persons acting in similar capacity, of the misrepresentation; and
 - (ii) if no correction of the misrepresentation was made by the issuer within two (2) business days of the notification under (i), the person or company, unless prohibited by law or by professional confidentiality rules, promptly and in writing notified the Filer and the OSC of the misrepresentation.
- (d) damages shall be assessed as set out in sections 138.5 to 138.7 of the Act, except that references to “the public correction of the misrepresentation or the disclosure of the material change in the manner required under this Act or the regulations” shall be replaced with “the public correction of the misrepresentation on the Secondary Trading Platform”.

Other

- XXXVI. The Filer will keep books, records and other documents reasonably necessary for the proper recording of its business, including but not limited to:
- (a) a record of all investors granted or denied access to the Secondary Trading Platform;
 - (b) daily trading summaries including FNDR Tokens and Issuer Tokens traded and transaction volumes and values;
 - (c) records of all orders and trades, including the price, volume, times when the orders are entered, matched, cancelled or rejected and posted on the blockchain;
 - (d) a copy of all information posted by the Filer or issuers on the Secondary Trading Platform; and
 - (e) the risk acknowledgement and know-your-client information for a period of eight (8) years and makes available the risk acknowledgement to the Participants of FNDR Tokens and Issuer Tokens.
- XXXVII. Within 30 days of the end of each calendar quarter, the Filer must provide to the principal regulator
- (a) copies of smart contract audit reports obtained in the calendar quarter;
 - (b) details of incidents and incidences of non-compliance by issuers and Participants in the calendar quarter, including any action taken by the Filer;

- (c) monthly metrics of the number of Settlement Balance Tokens issued and outstanding;
- (d) monthly metrics of trading volume, dollar value of trades and type of Purchaser (e.g. Accredited Investor) for each issuer's token being traded in the calendar quarter;
- (e) monthly metrics of number of disclosures provided by each issuer of which FNDR Token or Issuer Token is being traded in the calendar quarter; and
- (f) monthly metrics of new Purchasers participating on the Secondary Trading but not previously an investor in the primary distributions in the calendar quarter.

XXXVIII. In addition to any other reporting required by securities legislation, the Filer will provide, on a timely basis, any report, document or information to the principal regulator that may be requested by the principal regulator from time to time for the purpose of monitoring compliance with securities legislation and the conditions in the Decision, in a format acceptable to the principal regulator.

XXXIX. The Filer files Form 21-102F2 *Information Statement Alternative Trading System* with the OSC to seek approval to operate a marketplace and files the required application to seek membership with the Investment Industry Regulatory Organization of Canada no later than six (6) months after the date of the Decision.

XL. This Decision may be amended by the principal regulator from time to time upon prior written notice to the Filer.

XLI. This Decision shall expire the earlier of:

- (a) twelve (12) months after the closing of the first completed ITO of an issuer on the Primary Distribution Platform, and
- (b) April 16, 2021.

In respect of the Relief Sought other than the Prospectus Relief:

" Pat Chaukos "

Pat Chaukos
Deputy Director
Ontario Securities Commission

In respect of the Prospectus Relief:

" Grant Vingoe "

Grant Vingoe
Vice-Chair
Ontario Securities Commission

" Tim Moseley "

Tim Moseley
Vice-Chair
Ontario Securities Commission

