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LEGAL ANALYSIS ON THE LEGAL NATURE OF BITCOLLAR TOKEN

1. Scope of the Legal Analysis

- 1.1 This legal analysis is prepared in order to determine the application of the federal securities laws of the United States of America to the offer and sale of BitCollar Tokens and to confirm whether BitCollar Tokens are not securities or other financial instruments as defined by federal securities laws of the United States of America.
- 1.2 In particular, it is analysed whether BitCollar Tokens would likely constitute securities pursuant to the U.S. Securities Act of 1933, Securities Exchange Act of 1934, as well as Howey Test (which is used in the United States to recognise a particular instrument as a security).
- 1.3 For the purpose of this document “BitCollar Token” is a token offered by BITCOLLAR, a company registered in British Virgin Islands (BVI) (hereinafter referred to as the “BITCOLLAR” or “Company”).
- 1.4 This legal analysis does not include review of any risks involved with trading of virtual currencies and whether the Company should comply with any other laws (e.g. data protection laws, AML/CTF legislation, etc.), other than U.S. federal securities laws.
- 1.5 This legal analysis does not provide (and must not be held as such) any advice relating to your decision whether or not to purchase BitCollar Tokens. Any decision to participate in a token sale should be based upon independent consultation and professional advice.

2. Project Overview

- 2.1 For the purpose of this legal analysis, we have examined and relied solely on Whitepaper of BitCollar located on the website of BitCollar being <https://www.bitcollar.co.uk> (the “Website”). The Website is accessed on August 23, 2019.



2.2 This legal analysis is fully based on the description given in the Whitepaper and on the Website.

2.3 We do not warrant that the information given in the Whitepaper and on the Website is accurate, complete and full as we have not verified its accuracy and completeness.

3. Disclaimer

3.1 This document is not a prospectus nor a solicitation for investment and it does not pertain in any way to an offering of securities in any jurisdiction.

3.2 This analysis does not include the background check of BITCOLLAR and no verification was conducted in relation to the accuracy or completeness of information provided for the purpose of preparation of this legal analysis. Thus, no guarantee is made in relation to the accuracy, completeness, reliability or timeliness of any information contained in this document.

3.3 This analysis should not be considered as a recommendation or advice to participate in the sale of BitCollar Tokens. Each participant and any potential purchaser should carefully consider its personal financial situation, level of experience and financial objectives, and should determine for themselves the relevance of the information contained in this document and related materials. Any decision to participate in a token sale should be based upon independent consultation and professional advice.

4. Objectives of BitCollar Tokens

4.1 BITCOLLAR develops the BitCollar platform in order to provide an innovative solution that gives multiple functions such as mobile payment for crypto, decentralized money transfer and access to multiple crypto investment products.

4.2 BITCOLLAR performs the BitCollar token sale for the purpose of developing and producing BitCollar products. Holders of BitCollar Tokens are granted with the right of use of products and services of BitCollar platform.

4.3 In order to determine whether the BitCollar Tokens are regulated by the federal securities laws, it is necessary to analyse the definition of securities under the U.S. Securities Act of 1933. Accordingly, a security includes an “investment contract” along with other instruments such as stocks, bonds, and transferable shares. This definition is important as any offeror should analyse whether a digital asset meets any criteria of security – an “investment contract”, and hence understand whether U.S. federal securities laws apply.



The federal securities laws provide that all offers of securities should be registered or be qualified for an exemption from registration.

4.4 In order to determine the nature of a token, a Howey Test¹ as well as subsequent case law provide the framework for determining whether certain assets are securities. Regardless of form, something is a security if it represents an investment in a common enterprise with the expectation of profit solely through the efforts of others. Though as interpreted by courts, profit does not need to be solely from the effort of others. In other words, if digital assets meet the requirement of Howey test, they are determined as securities. It is important to note that not only determinations and the form of the instrument itself matter, but other circumstances surrounding the digital asset such as the nature of transaction, etc.

4.5 Under the Howey Test, there are four factors one should consider:

1. It is an **investment of money**;
2. The investment of money is in a **common enterprise**;
3. There is an **expectation of profits** from the investment;
4. Any **profit comes solely from the efforts of a promoter or third party**.

4.6 If not all four Howey factors are satisfied, then a digital asset is non-security.

4.7 **Investment of money**

For the purpose of the Howey Test, the term “money” includes investments of various assets other than money, including goods, services, promissory notes and other assets. In other words, the investment can be in the form of a contribution of value.

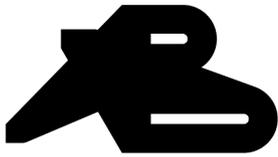
The BitCollar Tokens are offered in exchange of digital currency and are not offered for free. The BitCollar Tokens can be bought on the Website in exchange for value, whether in the form of real currency, another digital asset, or other type of consideration.

Therefore, the first element of Howey test (investment of money) is met.

4.8 **Common enterprise**

Regarding the second element of the Howey Test, the “common enterprise” is usually considered by different courts with three approaches: horizontal commonality, and vertical commonality. The horizontal commonality test requires a pooling of funds by multiple buyers in a common venture and a pro rata distribution of profits, in which an investor’s assets are joined with other investors and each investor shares the risk of loss and profits

¹ See SEC v. Howey



according to their investment. The vertical commonality test examines the vertical relationship between the investor and the promoter.

Based on the description given in the Whitepaper, the BitCollar holders will pool their assets together, which will be linked to each other and the success of the BitCollar which is not developed yet is fully dependable on the promoter's efforts.

Thus, the second element of the Howey Test is also met.

4.9 **Expectation of Profits**

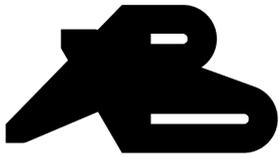
The last two elements of Howey Test are essential in determination of a token as a security. It is vital to establish whether a token holder may reasonably expect profits from its investment and, if yes, whether the profit comes from the efforts of third parties.

According to the recent Munchee Order², a security has the following key elements:

- a company promises investors to reasonably expect profits by describing the way in which tokens would increase in value as a result of a company's efforts in developing and promoting the platform, and retaining the right to "burn" tokens to increase the tokens' value.
- investors are offered to rely on promoters' expertise in managing and developing the platform and creating demand for tokens.
- the company represents that tokens would be tradable on exchanges.
- the company markets its ICO internationally even though the platform could be only used in the U.S.
- the company markets tokens to investors in cryptocurrency generally, rather than purchasers who would actually use the platform.
- the token will not have any actual utility or value to users of the platform by the close of the token sale because the platform will not be operation at that time.
- the company plans to use proceeds from the token sale to further develop the ecosystem and integrate the token in the platform.

Based on the analysis of the documentation, BitCollar Token can be purchased in order to obtain services on the platform. However, the Company states that its holders may receive "investment opportunity". In particular, the Company states that there is still a possibility of pricing growth of BitCollar (BOR) in the future. Taking into account that all the paid services on BitCollar platform need to be paid in BitCollar, this will create constant demand from the business partner and BitCollar client to purchase BitCollar and obtain services. "To participate in crypto fund investment opportunities, end customers required to buying BOR to get the investment opportunity". That's said, the Whitepaper states that

² See: Munchee Inc., Securities Act of 1933 Release No. 10445 (December 11, 2017)



holders of BitCollar may have a potential generation of profits from holding BitCollar and describes how the value may potentially increase.

Taking into account the above mentioned analysis, the BitCollar Tokens would likely to meet the third requirement of the Howey Test.

4.10 **Solely from the efforts of others**

As per the fourth requirement, the Howey Test considers whether the profit comes solely from the managerial efforts of others. Generally, the word “solely” is interpreted in a wide sense and is explained that it needs only be predominately from the efforts of others, including platform’s organizers and other persons involved in the development of the platform.

As stated on the Website, the platform has not been fully developed yet. Thus, it is evident that the success of the platform depends mostly on the managerial efforts of the BitCollar team. And only after the platform is launched, BitCollar Token holders can expect (though they are not promised to) receive some profit.

Based on the whole analysis, there is a risk that BitCollar Token can be considered as a security under U.S. federal securities laws subject to certain conditions which is listed below. In the meantime, there is a possibility that this fourth element will not be satisfied since the BitCollar token holders purchase the BitCollar tokens only to use them within the platform only.

4.11 The risk of BitCollar to be considered as a security can be avoided subject to the following conditions:

- the BitCollar token will not be offered and purchased by U.S. citizens and residents;
- the Company will conduct KYC and AML checks on each participant in order to avoid U.S. citizens and residents to purchase BitCollar tokens now and in the future (through third party channels).

4.12 Currently, there is no information on the Website that BitCollar conducts KYC and AML checks which creates above mentioned risks.

5. **Conclusions**

5.1 Based on the information disclosed by the Company on the Website and in the Whitepaper, the BitCollar Tokens can be considered as securities tokens for the purpose of the U.S. Securities and Exchange Act.



5.2 If the Company will not take the above mentioned measures, then it is recommended for the Company to register or disclose the token offering with the U.S. Securities Commission in order to comply within the scope of the U.S. Securities and Exchange Act.

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