



Confidentiality Agreement (Mutual)

Please complete this document electronically. You can either add a digital signature or print the document, sign it by hand, scan the pages and return the images to us by email.

The Agreement is made and entered into as of the last date signed below (the Effective Date) by and between:

Date:

Parties:

(PARTY 1) Cornelius Creative Ltd, a Limited Company registered in England under company number 12520863 whose registered office is at 45 Manor Forstal, New Ash Green, Longfield, Kent, DA3 8JG and

(PARTY 2)

Company name

Registered company number

Registered office address

Contact number

Email

BACKGROUND

- (A) The parties intend to enter into discussions relating to the Purpose which will involve the exchange of Confidential Information between them.
- (B) The parties have agreed to comply with this agreement in connection with the disclosure and use of Confidential Information.

AGREED TERMS

1. INTERPRETATION

1.1 Definitions

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are not open for business.

Confidential Information: has the meaning given in clause 2.

Discloser: a party to this agreement when it discloses its Confidential Information, directly or indirectly, to the other party.

Group: in relation to a company, that company, any subsidiary or any holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company. Each company in a Group is a member of the Group.

Holding company: has the meaning given in clause 1.2(e).

Purpose: Collaboration between the parties over product design and manufacturing, in order to protect the intellectual property of Party 1 and clients thereof.

Recipient: a party to this agreement when it receives Confidential Information, directly or indirectly, from the other party.

Representative(s): in relation to each party:

- (a) its officers and employees and those of its Group Company that need to know the Confidential information for the Purpose;
- (b) its professional advisers or consultants who are engaged to advise that party in connection with the Purpose;
- (c) its contractors and sub-contractors engaged by that party in connection with the Purpose; and
- (d) any other person to whom the other party agrees in writing that Confidential Information may be disclosed in connection with the Purpose.

Subsidiary: has the meaning given in clause 1.2(e).

1.2 Interpretation

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to writing or written documents including fax and email.
- (d) A reference to any company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- (e) A reference to a holding company or subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated for the purposes only of the membership requirement contained in section 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:
 - (i) another person (or its nominee) by way of security or in connection with the taking of security; or
 - (ii) its nominee

2. CONFIDENTIAL INFORMATION

2.1 Confidential Information means all confidential information relating to the Purpose which the Discloser or its Representatives or its Group Company, or their Representatives directly or indirectly discloses to the Recipient or its Representatives or its Group Company, or their Representatives, before, on or after the date of this agreement. This includes:

- (a) the fact that discussions and negotiations are taking place concerning the Purpose and the status of those discussions and negotiations;
- (b) the existence and terms of this agreement;
- (c) all confidential or proprietary information relating to:
 - (i) the business, affairs, customers, clients, suppliers, plans, intentions or market opportunities of the Discloser or of the Discloser's Group Company; and
 - (ii) the operations, processes, product information, know-how, technical information, designs, trade secrets or software of the Discloser, or of the Discloser's Group Company;
- (d) any information, findings, data or analysis derived from the Confidential Information; and
- (e) any other information that is identified as being of a confidential or proprietary nature but excludes any information referred to in clause 2.2.

2.2 Information is not Confidential Information if:

- (a) it is, or becomes, generally available to the public other than as a direct or indirect result of the information being disclosed by the Recipient or its Representatives in

breach of this agreement (except that any compilation of otherwise public information in a form not publicly known shall still be treated as Confidential Information);

- (b) it was available to the Recipient on a non-confidential basis prior to disclosure by the Discloser;
- (c) it was, is, or becomes available to the Recipient on a non-confidential basis from a person who, to the Recipient's knowledge, is not under any confidentiality obligation in respect of that information;
- (d) it was lawfully in the possession of the Recipient before the information was disclosed by the Discloser; or
- (e) it is developed by or for the Recipient independently of the information disclosed by the Discloser; or
- (f) the parties agree in writing that the information is not confidential.

3. CONFIDENTIALITY OBLIGATIONS

3.1 In return for the Discloser making Confidential Information available to the Recipient, the Recipient undertakes to the Discloser that it shall:

- (a) keep the Confidential Information secret and confidential;
- (b) not use or exploit the Confidential Information in any way except for the Purpose;
- (c) not directly or indirectly disclose or make available any Confidential Information in whole or in part to any person, except as expressly permitted by, and in accordance with this agreement, and
- (d) not copy, reduce to writing or otherwise record the Confidential Information except as strictly necessary for the Purpose. Any such copies, reductions to writing and records shall be the property of the Discloser.

3.2 The Recipient shall establish and maintain adequate security measures (including any reasonable security measures proposed by the Discloser from time to time) to safeguard the Confidential Information from unauthorised access or use.

4. PERMITTED DISCLOSURE

4.1 Disclosure to Representatives

- (a) The Recipient may disclose the Confidential Information to its Representatives on the basis that it:
 - (i) informs those Representatives of the confidential nature of the Confidential Information before it is disclosed; and
 - (ii) procures that those Representatives comply with the confidentiality obligations in clause 3.1 as if they were the Recipient.
- (b) The Recipient shall be liable for the actions or omissions of the Representatives in relation to the Confidential Information as if they were the actions or omissions of the Recipient.

4.2 Disclosure to the Serious Fraud Office relating to Bribery Act 2010 offences. The Recipient may, provided that it has reasonable grounds to believe that the Discloser

is involved in activity that may constitute a criminal offence under the Bribery act 2010, disclose the Discloser's Confidential Information to the Serious Fraud Office without first notifying the Discloser of such disclosure.

5. MANDATORY DISCLOSURE

- 5.1 Subject to the provisions of this clause 5, a party may disclose Confidential Information to the minimum extent required by:
- (a) an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction;
 - (b) the rules of any listing authority or stock exchange on which its shares or those of its Group Company are listed or traded; or
 - (c) the laws or regulations of any country to which its affairs or those of its Group Company are subject.
- 5.2 Before a party discloses any Confidential Information pursuant to clause 5.1 it shall, to the extent permitted by law, use all reasonable endeavours to give the other party as much notice of this disclosure as possible. Where notice of such disclosure is not prohibited and is given in accordance with clause 5.2, that party shall take into account the reasonable requests of the other party in relation to the content of this disclosure.
- 5.3 If a party is unable to inform the other party before Confidential Information is disclosed pursuant to the clause 5.1 it shall, to the extent permitted by law, inform the other party of the full circumstances of the disclosure and the information that has been disclosed as soon as reasonably practicable after such disclosure has been made.

6. RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION

- 6.1 If so requested by the Discloser at any time by notice in writing to the Recipient, the Recipient shall:
- (a) destroy or return to the Discloser all documents and materials (and any copies) containing, reflecting, incorporating or based on the Discloser's Confidential Information;
 - (b) erase all of the Discloser's Confidential Information from its computer and communications systems and devices used by it, or which is stored in electronic form; and
 - (c) to the extent technically and legally practicable, erase all of the Discloser's Confidential Information which is stored in electronic form on systems and data storage services provided by third parties; and
 - (d) certify in writing to the Discloser that it has complied with the requirements of this clause 6.1.
- 6.2 Nothing in clause 6.1 shall require the Recipient to return or destroy any documents and materials containing or based on the Discloser's Confidential Information that the Recipient is required to retain by applicable law, or to satisfy the requirements of

a regulatory authority or body of competent jurisdiction or the rules of any listing authority or stock exchange, to which it is subject. The provisions of this agreement shall continue to apply to any documents and materials retained by the Recipient pursuant to this clause 6.2.

7. RESERVATION OF RIGHTS AND ACKNOWLEDGEMENT

- 7.1 Each party reserves all rights in its Confidential Information. The disclosure of Confidential Information by one party does not give the other party or any other person any licence or other right in respect of any Confidential Information beyond the rights expressly set out in this agreement.
- 7.2 Except as expressly stated in this agreement, neither party makes any express or implied warranty or representation concerning its Confidential Information, including but not limited to the accuracy or completeness of the Confidential Information.
- 7.3 The disclosure of Confidential Information by the parties shall not form any offer by, or representation or warranty on the part of, that party to enter into any further agreement with the other party in relation to the Purpose.

8. INADEQUACY OF DAMAGES

Without prejudice to any other rights or remedies that each party may have, each party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement by the other party. Accordingly, each party shall be entitled to the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this agreement.

9. NO OBLIGATION TO CONTINUE DISCUSSIONS

Nothing in this agreement shall impose an obligation on either party to continue discussions or negotiations in connection with the Purpose, or an obligation on each party, or its Group Company to disclose any information (whether Confidential Information or otherwise) to the other party.

10. ENDING DISCUSSIONS AND DURATION OF CONFIDENTIALITY OBLIGATIONS

- 10.1 If either party decides not to continue to be involved in the Purpose with the other party, it shall notify that other party in writing immediately.
- 10.2 Notwithstanding the end of discussions between the parties in relation to the Purpose pursuant to clause 10.1, each party's obligations under this agreement shall continue in full force and effect for a period of two years from the date of this agreement.

10.3 The end of discussions relating to the Purpose shall not affect any accrued rights or remedies to which either party is entitled.

11. NO PARTNERSHIP OR AGENCY

11.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

11.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

12. GENERAL

12.1 **Assignment and other dealings.** Neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

12.2 Entire agreement

(a) This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

(b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty whether made innocently or negligently that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

12.3 **Variation.** No variation of this agreement shall be effective unless it is writing and signed by the parties or their authorised representatives.

12.4 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

12.5 **Severance.** If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.

12.6 Notices

- (a) Any notice or other communication given to a party under or in connection with this agreement shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or email.
- (b) A notice or other communication shall be deemed to have been received if delivered personally, when left at the address referred to in clause 12.6(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting, if delivered by commercial courier, on the date and at the time that the courier’s delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.


12.7 Third party rights. No one other than a party to this agreement shall have any right to enforce any of its terms.

12.8 Governing law. This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

12.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connections with this agreement or its subject matter or formation.

This agreement has been entered into on the date stated at the beginning of it.

Signed by Simon Cornelius, Director for and on behalf of Cornelius Creative Ltd.



“PARTY 2”

Company (if applicable)

Printed name

Date

Signature: