

This Agreement is dated .....202.....  
(the "Effective Date") and made between:

## Parties

1. ....  
(*company legal name*), a company registered and incorporated in .....  
(*country/ state of incorporation*) with company number .....  
(*company number*), whose registered office is at .....  
(*registered office address*) (the "**Company**"); and
2. **COLART INTERNATIONAL HOLDINGS LIMITED**, a company registered and incorporated in England and Wales with company number 03659130, whose registered office is at Huckletree West, The MediaWorks Building, 191 Wood Lane, London, W12 7FP ("**Colart**"),

each of the Company and Colart is referred to as a "**Party**" and collectively referred to as the "**Parties**".

## Recitals

3. The Parties are intending to disclose or give access to each other Confidential Information (as defined below) relating to their respective companies:
  - a. to discuss the possibility of initiating a business relationship or to commence a business relationship; and/or
  - b. ....  
(*if 3(a) is sufficient to explain purpose, insert "N/A" in 3(b), otherwise complete 3(b) as necessary*)  
  
(the "**Business Purpose**").
4. To fulfil the Business Purpose, each Party (a "**Disclosing Party**") will give to the other Party (the "**Receiving Party**") access to Confidential Information (as defined below), subject to the terms of this Agreement.

## Confidential Information

5. "**Confidential Information**" means, without limitation, all information which is disclosed before or after the Effective Date by the Disclosing Party to the Receiving Party, however conveyed, whether or not marked or identified as confidential, which relates to the business, operations, processes, financial business plans and affairs, products, product developments, designs, intellectual property, trade secrets, formulations, methods of manufacturing, know-how, technical information, marketing plans, personnel, customers, clients, contracts, contractors and suppliers of the Disclosing Party, and all information derived from the aforementioned.
6. Disclosing Party includes all affiliates of the Disclosing Party and Receiving Party includes all affiliates of the Receiving Party. An "**Affiliate**" of a Party means any person, partnership, joint venture, corporation or other form of enterprise, domestic or foreign, including parent companies or subsidiaries, that directly or indirectly control, are controlled by, or are under common control with such Party at any time.

## Obligations

7. Regardless of when disclosed to or obtained by the Receiving Party and unless otherwise agreed in writing with the Disclosing Party, the Receiving Party agrees:
  - (a) to keep the Confidential Information strictly confidential;
  - (b) not to disclose the Confidential Information to any person or entity, save only to its directors, officers, employees (whether permanent or temporary), contractors, sub-contractors, freelancers or external advisors who require access to such Confidential Information strictly with respect to the Business Purpose;
  - (c) not to use the Confidential Information for any purpose other than with respect to the Business Purpose;
  - (d) not to use Confidential Information in any way detrimental to, or in competition with, the Disclosing Party, including, without any limitation, reverse engineering, disassembling or decompiling any prototypes, product development, software, source code, object code, or other tangible objects or products that embody the Disclosing Party's Confidential Information or to copy or duplicate Confidential Information in any manner; and
  - (e) not to make any announcement regarding the Business Purpose and the discussions or negotiations connected thereto.
8. The Receiving Party shall procure all its staff and external advisors referred to in clause 7(b) above to abide by the confidentiality obligations contained in this Agreement. Furthermore, any reproduction of any Confidential Information by the Receiving Party shall contain any and all confidential and proprietary notices and legends which appear on or in such Confidential Information as provided by the Disclosing Party.
9. Each Party agrees that it shall protect the Confidential Information of the other Party using the highest degree of care that such Party applies to its own proprietary, secret or Confidential Information and in a prudent and commercially acceptable manner.
10. The Receiving Party will immediately notify the Disclosing Party of any unauthorised disclosure or unauthorised use of the Disclosing Party's Confidential Information and will immediately, at its own cost, take all actions: (a) that it would take itself to protect its own Confidential Information under such circumstances; and (b) that the Disclosing Party may reasonably request, to prevent any further unauthorised disclosure or use.

## Exceptions

11. If any of the following apply to any information, such information shall not be considered Confidential Information: (a) it is or becomes available to the public through no wrongful act of the Receiving Party; or (b) it is received by the Receiving Party from a third party without any restriction or breach of this Agreement or a breach otherwise known to the Receiving Party, after reasonable inquiry, for the benefit of the Disclosing Party; or (c) it is independently developed by the Receiving Party; or (d) it is already known to the Receiving Party.
12. The Receiving Party may disclose Confidential Information if it is required to comply with an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar

body or any taxation authority of competent jurisdiction, provided that the Receiving Party: **(a)** gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy (except to the extent the Receiving Party's compliance with the foregoing would cause it to violate a court order or other legal requirement); **(b)** discloses Confidential Information to the minimum extent possible; and **(c)** uses reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.

## Term, Termination and Consequences of Termination

13. This Agreement shall commence on the Effective Date and shall continue in full force and effect until the fifth anniversary of the Effective Date, when it shall automatically expire without notice, unless the Confidential Information is in respect of either Party's trade secrets or formulations, in which case it shall continue in perpetuity.
14. The Disclosing Party may request in writing at any time, including, without limitation, that any Confidential Information disclosed pursuant to the terms of this Agreement and any copies thereof, whether electronic or otherwise, be returned or destroyed, at the sole option of the Disclosing Party with a written statement duly signed by an authorised officer of the Receiving Party to the effect that it has so returned or destroyed all copies of the Confidential Information.

## Protection of Personal Data

15. In this clause, the follow definitions shall apply:

**"Personal Data"** means any information relating to an identified or identifiable natural person that is processed by the Receiving Party as a result of, or in connection with, this Agreement; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

**"Representative(s)"** means in relation to each Party:

- (a) its directors, officers and employees that need to know the Confidential Information for the Business Purpose;
- (b) its professional advisers or consultants who are engaged to advise that Party in connection with the Business Purpose;
- (c) its contractors and sub-contractors engaged by that Party in connection with the Business Purpose; and
- (d) any other person to whom the Disclosing Party agrees in writing that Confidential Information may be disclosed in connection with the Business Purpose; and

**"Data Protection Legislation"** means all applicable data protection and privacy legislation in force from time to time including the UK General Data Protection Regulation ("**UK GDPR**"), the General Data Protection Regulation ((EU) 2016/679) ("**EU GDPR**"); the UK Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

16. The Receiving Party shall comply with all the obligations imposed on a controller under the Data Protection Legislation in relation to the processing of any Personal Data, including the

following: **(a)** ensure that it has all necessary notices and consents in place to enable lawful transfer of the Personal Data to the Representatives for the Business Purpose; **(b)** process the Personal Data only for the Business Purpose; **(c)** not disclose or allow access to the Personal Data to anyone other than the Representatives; **(d)** ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data; and **(e)** not transfer any Personal Data outside the EEA unless the transferor:

- (i) complies with the provisions of Article 26 of the EU GDPR (in the event the third party is a joint controller) or such equivalent provision in the UK GDPR; and
- (ii) ensures that: **(a)** the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the EU GDPR or respective equivalent provisions in the UK GDPR; or **(b)** there are appropriate safeguards in place pursuant to Article 46 EU GDPR or equivalent provisions of the UK GDPR; or **(c)** binding corporate rules are in place; or **(d)** one of the derogations for specific situations in Article 49 EU GDPR or equivalent provisions of the UK GDPR applies to the transfer.

17. The Receiving Party shall: **(a)** assist the Disclosing Party, in ensuring compliance with its obligations under the Data Protection Legislation with respect to personal data breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators; **(b)** notify the Disclosing Party immediately on becoming aware of any breach of the Data Protection Legislation; and **(c)** maintain complete and accurate records and information to demonstrate its compliance with this section on the Protection of Personal Data.

## Rights and Remedies

18. The Receiving Party agrees that monetary damages alone may not be a sufficient remedy for a breach of this Agreement and that, in addition to all other rights and remedies which may be available to it, the Disclosing Party shall be entitled to seek equitable relief, including injunction and specific performance, for any breach by the Receiving Party of its obligations under this Agreement.
19. The Receiving Party hereby acknowledges that it has no proprietary interest in and to the Confidential Information of the Disclosing Party and the disclosure of such Confidential Information shall not be deemed to confer any rights to, or license to use, any of the Confidential Information on or to the Receiving Party. All Confidential Information shall remain the property of the Disclosing Party at all times.

## No Obligation to Complete Discussions

20. Nothing in this Agreement shall commit or oblige or legally bind either Party to agree any potential business relationship or enter into any further agreement or negotiations with the other Party or to refrain from entering into an agreement or negotiations with any third party, save the obligation to protect Confidential Information at all times in accordance with this Agreement.

## No Partnership

21. This Agreement shall not be deemed to create any partnership, joint venture or employment relationship between the Parties and neither Party has express or implied authority to bind the other in any manner whatsoever.

**No Representations**

22. Neither Party makes any representation or warranty as to the accuracy or the completeness of the Confidential Information and neither Party shall have any liability in contract, tort or otherwise resulting from the Receiving Party's use of the Confidential Information or participating in the discussions described herein in this regard.

**Corporate Power and Authority**

23. Each Party represents and warrants that it has full corporate power and authority to enter into this Agreement and to disclose its Confidential Information to the Receiving Party.

**Assignment**

24. This Agreement shall bind and inure to the benefit of the Parties hereto and their successors and assigns. Neither Party may assign or otherwise transfer this Agreement or any of its rights and obligations under this Agreement, to any third party. Colart reserves the right to assign to any Affiliate.

**Governing Law and Jurisdiction**

25. This Agreement and any claim or dispute (including any non-contractual claim or dispute) arising out of, or in connection with, this Agreement, its formation or subject matter shall be governed by, and construed in accordance with, English law.

26. Each Party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any claim, dispute or other matter (including any non-contractual claim, dispute or matter) arising out of, or in connection with, this Agreement, its formation or subject matter.

**Conflict**

27. This Agreement is without prejudice to all confidentiality rights implied by law. In the event of a conflict between the express provisions of this Agreement and such implied rights, the express provisions of this Agreement shall prevail.

**Public Announcements**

28. Each Party agrees that it shall not make any public announcements in any form about the existence or performance of this Agreement, or any other matter in connection with the Business Purpose.

**Entire Agreement**

29. This Agreement constitutes the entire agreement and understanding between the Parties in relation to the matters referred to in it and supersedes all previous agreements and understandings between the Parties in relation to those matters.

30. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or statement (whether innocent or negligent) that is not set out in this Agreement and all rights in relation to any such representation or statement are waived.

31. Nothing in this Agreement limits or excludes any liability for fraud or fraudulent misrepresentation.

**Variation**

32. This Agreement may not be modified except by mutual agreement in writing between the Parties.

**Counterparts**

33. This Agreement may be executed in any number of counterparts, and by the Parties on separate counterparts, each of which when executed shall constitute an original. All counterparts taken together shall constitute one and the same instrument. This Agreement shall not be effective unless each Party has executed at least one counterpart.

**Waiver**

34. No failure or delay by either Party in exercising any right in this Agreement shall operate as a waiver thereof, and no single or partial exercise of any right shall preclude any other or further exercise thereof or the exercise of any other right hereunder.

**Invalidity**

35. Any provision of this Agreement (or part of a provision) which is or becomes invalid, illegal, or unenforceable shall be deemed to be deleted, and the Parties will negotiate in good faith to substitute a provision of like economic effect and intent. The validity, legality and enforceability of the rest of the Agreement shall not be affected.

**Third Party Rights**

36. Unless otherwise provided in this Agreement, no term of this Agreement shall be enforceable under the UK Contracts (Rights of Third Parties) Act 1999 (or any equivalent legislation anywhere in the world) by any entity or person who is not a party to it.

**Survival**

37. With respect to any disclosure of Confidential Information to the Receiving Party during the term of this Agreement, the terms of clauses 5, 6, 7, 12, 13, 14, 15, 16, 17, 18, 19, 24, 25, 26, 36 and this clause 37 shall survive the expiration or earlier termination of this Agreement.

**Notices**

38. Any notice given to a Party under or in connection with this Agreement shall be in writing and shall be: **(a)** delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or **(b)** sent by email to the respective Party's CEO with a copy to the General Counsel.

**AGREED and ACCEPTED by the Parties:**

For and on behalf of the **COMPANY**

Signature:.....

Name:.....

Position:.....

For and on behalf of **COLART INTERNATIONAL HOLDINGS LIMITED**

Signature:.....

Name:.....

Position:.....

[End]