



**THIS COMMERCIAL NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT
IS MADE 24th OCTOBER 2020**

BETWEEN:

- (1) **VITABEAM LIMITED** whose address is 47-57 Marylebone Lane, London, W1U 2NT, United Kingdom, a legal entity formed to establish and manage internationally its business of designing and engineering proprietary combinations of healthy, radiant energy delivered by state-of-the-art LED devices, on its own behalf and on behalf of its subsidiaries and brands, inclusive of “BioRadiance Grow Science”, formerly “The Pathogen Death Wand Company” (collectively “**VBM**”); and
- (2) **Dr Vladimir Vasilenko** whose address is 17891 McPhail Road, Marintown, Ontario, Canada, K0C 1S0, an individual engaged by Vitabeam Limited to provide and perform specific tasks and services for the business, specific to the role as Chief Scientist, (“**DrVV**”).
- (3) Collectively **DrVV** and **VBM** are known as “**the Parties**”.

RECITALS

- (A) The purpose of this Agreement is to describe and define the conditions, which will afford the **Parties** the ability to enter into and maintain a business relationship with one another. Nothing in this Agreement shall oblige either **DrVV** to enter into such business relationship with the other **DrVV**.
- (B) **DrVV** and **VBM** desire to maintain their professional and mutually beneficial relationship. In the course of this relationship, **the Parties**, may discuss, receive or come into contact with information of a confidential, commercial and or proprietary nature to **VBM**. In this Agreement, “**Confidential Information**” shall mean any information and material related to the business or operations of a **DrVV** or designated as **Confidential Information** or proprietary by a **DrVV**, and not generally known by **non-DrVV** personnel, which **DrVV** may, directly or indirectly, obtain knowledge of, come into possession of, or gain access to. **Confidential Information** includes, but is not limited to, the following types of information or other information of a similar nature (whether or not reduced to writing): engineering, technical, engineering specification, product specification, specification, spectrum ranges or nm ranges or specific nm in peak, power, intensity, distribution curves or coverage distributions or other means of identification, data, commercial and financial information; business development strategies, models or methods; marketing plans; product and platform technology concepts, designs and plans; information regarding laboratory testing procedures and results; as well as practical or theoretical knowledge and techniques including patents, trademarks and other forms of intellectual property, all documentation and other tangible and intangible discoveries; ideas; financial information; gross sales report; technology and development strategies; financial lease information (including rental rates); products; concepts; designs; plans; drawings; trademarks; trade secrets; patents; procedures regarding laboratory testing, processes, results and data; and any proprietary information relating to devices, products,

platform technologies, associated with, or techniques involved with testing process, including test setup; **the Parties** names, brand and involvement with the projects being discussed and derivatives from such discussion; agreements in content and nature; technical, testing, performance, commercial and financial information; models or methods; marketing plans; and practical and theoretical knowledge and techniques. **Confidential Information** includes any information described above which a **DrVV** obtains from another **DrVV** that the **DrVV** treats as proprietary or designates as **Confidential Information**, whether or not owned or developed by **VBM**.

- (C) **VBM** wishes to protect the confidentiality of its **Confidential Information** and proprietary features contained within it. In order to safeguard the **Confidential Information**, **VBM** desires that **DrVV** execute this Agreement, which formalises the acknowledged basis of their confidential and non-disclosable relationship.
- (D) **VBM** would not otherwise enter into and maintain a business relationship, but for the fact that **Parties** will enter into and deliver this Agreement.

In consideration of the foregoing recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **DrVV** and **VBM** agree as follows:

1. COVENANTS

- 1.1. The **DrVV** undertakes that (save as set out in clauses 1.4 and 1.5) it shall protect **VBM Confidential Information** and shall not for the duration of the relationship and a period of twenty (20) years post the termination of any relationship between the parties, directly or indirectly, whether for its own benefit or for that of another, **without VBM's prior written consent**:

- 1.1.1. disclose or reveal any Confidential Information (of whatever nature and in whatever form) to any person, firm or company whatsoever; or
- 1.1.2. make or prepare to make any use of any **Confidential Information**, other than exclusively for the purposes of benefitting the business relationship between the **Parties** or accomplishing the tasks or services provided by either **DrVV**;

Provided, however, **DrVV** shall not at any time incorporate all or any portion of the **Confidential Information** into any other work or product or reverse engineer, disassemble or decompile any devices, prototypes, LED and their wavelengths or combinations, prototypes, software or other tangible objects, which embodies the **Confidential Information**.

- 1.2. The existence of this Agreement shall not be disclosed to any external person, firm or company whatsoever (other than to a **DrVV's** attorneys who agree to act in accordance with the terms of this Agreement) by either **DrVV** without the prior written consent of the other **DrVV**.
 - 1.2.1. Exception to 1.2 is the case of Investment Due Diligence, to complete the data room, governed by investor protection and non-disclosure of such **Confidential Information**. Therein, this MNDA, shall form part of the **Confidential Information** submitted to the Data Room.
- 1.3. **DrVV** shall not use, nor permit others to use, such **Confidential Information** in violation of any laws, including but not limited to anti-trust, securities laws, rules and regulations prohibiting the purchase and sale of securities based on material non-public information.
- 1.4. **DrVV** hereby agrees to take all reasonable precautions, including the establishment of procedures and disciplines, to safeguard in the strictest confidence the **Confidential Information**. **DrVV**



further hereby agrees to take all action necessary to enforce compliance with this Agreement, and **DrVV** hereby agrees to notify **VBM** immediately if **DrVV** believes, or has reason to believe, that this Agreement has been or is about to be violated.

The obligations set out in clauses 1.1, 1.3, and 1.4 shall not apply to **Confidential Information** where:

- 1.4.1. after disclosure to the **DrVV**, that information was disclosed to the **DrVV** by a third **DrVV** who has no duty of confidentiality to **DrVV** in respect of it;
 - 1.4.3. **Confidential Information** becomes generally available to the public through no act or default of the **DrVV**; or
 - 1.4.4. if required by law, court order or a governmental agency to be disclosed (in which case the **DrVV** shall give the **VBM** as much notice thereof as reasonably practicable and disclosure will be done only to the extent required, and subject to confidentiality protection to the extent reasonably possible).
- 1.5. **Confidential Information** which comprises a combination of features shall not be within any of the exceptions set out in clause 1.4 merely because individual features are known to or received by the **DrVV** or are in or fall into the public domain, but only if the combination is known to or received by the **DrVV** or is in or falls into the public domain.

2. RETURN OF CONFIDENTIAL INFORMATION

- 2.1. Should **DrVV** and **VBM** not result continue in a mutually acceptable contract or agreement for services, or other business relationship, or in the event **DrVV** and **VBM** reach an Agreement which is subsequently terminated, or at any time upon the request of **VBM**, **DrVV** hereby agrees upon request of **VBM** to either destroy, permanently erase or return to **VBM** immediately upon the termination of negotiations, termination of services or termination of the relationship, or by termination agreement by **VBM**, upon confirmation of backup, all e-mail content and attachments, electronic text messages, business letters, presentation materials, financial information, technical data, lab results, prototype devices and manufactured products provided to **DrVV** which include **Confidential Information**, together with any and all copies thereof, and in addition, **DrVV** hereby agrees that at all times thereafter **DrVV** will continue to abide by the other provisions of this Agreement. The **DrVV** shall (as directed by **VBM**) confirm in writing that it has destroyed, permanently erased or returned all such Confidential Information.

3. RIGHTS

- 3.1. Confidential Information and all rights in Confidential Information disclosed or to be disclosed under this Agreement will remain the exclusive property of **VBM** or its assignee or licensor. All **Confidential Information** to be furnished or exchanged between the **Parties** will be provided "AS IS". No warranty is given and no liability is accepted by either **DrVV** in connection with the accuracy, completeness, or relevance of **Confidential Information** or as to its fitness for any particular purpose and no rights of any nature (beyond the right to use it for the purposes of the business relationship) are given to the **DrVV** in respect of any intellectual property rights in or to **Confidential Information**.
- 3.2. This Agreement shall not be construed to create any obligation on the part of either **DrVV** hereto or its respective affiliates to enter into any further agreement or transaction of any kind, to retain the other **DrVV**'s services or to compensate the other **DrVV** in any manner, except as may be set

forth by a separate written agreement duly executed by the **Parties** hereto which are parties to such separate agreement.

4. BREACH

- 4.1. Nothing in this agreement shall be construed to grant to the DrVV, by implication or otherwise, any interest, right or licence with respect to, or under, any patent application, patent or claims of patents, or any other intellectual property or marketing rights present or in the future of the **VBM**.
- 4.2. The **DrVV** acknowledges that any breach of this Agreement may give rise to **VBM** suffering irreparable harm, that damages may not be an adequate remedy for any such breach and that, accordingly, **VBM** shall be entitled, including all other rights and remedies (including but not limited to monetary damages), without proof of actual or special damage sustained by **VBM**, to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of this Agreement. Each **DrVV** hereby agrees to indemnify and hold harmless the non-breaching **DrVV** from and against any and all damages, liabilities, actions, suits, proceedings, losses, costs, and expenses (including attorney's fees and expert's fees) arising out of and in connection with any breach of this Agreement by the breaching **DrVV**.

5. MISCELLANEOUS

- 5.1. Information which, in the circumstances surrounding its disclosure ought to be regarded as confidential will be treated as **Confidential Information** for the purpose of this Agreement whether it is received in written, oral, visual or other tangible or intangible form and whether or not it is marked as confidential.
- 5.2. This Agreement shall survive change or termination of the business relationship.
- 5.3. No failure by **the Parties** in exercising any right, power or privilege under this Agreement shall constitute a waiver of any such right, power or privilege, nor shall any single or partial exercise thereof preclude any further exercise of any such right power or privilege.
- 5.4. Where any provision of this Agreement is declared by any competent authority to be void, voidable, illegal or otherwise unenforceable that provision shall be severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.
- 5.5. This Agreement may be executed in any number of counterparts, each of which when executed and delivered constitutes an original of this Agreement, but all the counterparts shall together constitute one and the same agreement. No counterpart shall be effective until each DrVV has executed at least one counterpart.
- 5.6. No waiver or modification of this Agreement or any of its terms shall be effective unless it is in writing and signed by, or on behalf of, **the Parties**. Neither **DrVV** shall assign nor otherwise transfer any rights conferred upon them by this Agreement without the written consent of the other **DrVV**.
- 5.7. This Agreement contains the full and complete understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior representations and understandings whether oral or written.
- 5.8. This Agreement will be governed by and construed in accordance with the laws of England and Wales and **the Parties** hereby irrevocably submit to the non-exclusive jurisdiction of the courts of England and Wales as regards any claim or matter arising under this Agreement.



- 5.9. Prior to any possible pursuit of action in court, **the Parties** agree to try to remedy through open discussion to come to an agreeable solution or remedy. Should this fail, then any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English. The written decision of the arbitrators shall be confidential, final, binding, and convertible to a court judgment in any appropriate jurisdiction. The arbitration will be confidential. Nothing in this Section shall be construed to reduce either Parties right to seek injunctive relief.

AS WITNESS the hands of the duly authorised representatives of **the Parties** hereto the day and year first set out above.

For and on behalf of VITABEAM LIMITED	For and on behalf of Dr Vladimir Vasilenko
Signed 	Signed
Name: James H. Millichap-Merrick	Name: Dr Vladimir Vasilenko
Position: Chief Executive Officer	Position: Individual
Date: <u>9th October 2020</u>	Date: