

PATENT ASSIGNMENT COVER SHEET

Electronic Version v1.1
 Stylesheet Version v1.2

EPAS ID: PAT6227793

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
GEARBOX, LLC	07/16/2020
RECEIVING PARTY DATA	
Name:	MODULATED IMAGING, INC.
Street Address:	2400 BARRANCA PARKWAY
Internal Address:	SUITE 2B
City:	IRVINE
State/Country:	CALIFORNIA
Postal Code:	92606
PROPERTY NUMBERS Total: 1	
Property Type	Number
Patent Number:	8878918
CORRESPONDENCE DATA	
Fax Number:	(770)951-0933
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
Phone:	7709339500
Email:	claudia.lorenz@thomashorstemeyer.com
Correspondent Name:	THOMAS HORSTEMEYER, LLP
Address Line 1:	3200 WINDY HILL ROAD, SE
Address Line 2:	SUITE 1600E
Address Line 4:	ATLANTA, GEORGIA 30339
ATTORNEY DOCKET NUMBER:	690701-9010
NAME OF SUBMITTER:	JOHN L. LYON
SIGNATURE:	/John L. Lyon/
DATE SIGNED:	07/30/2020
Total Attachments: 12	
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PATENT TRANSFER AGREEMENT

This PATENT TRANSFER AGREEMENT (this "Agreement") is entered into, as of July 15, 2020 (the "**Effective Date**"), by and between Gearbox, LLC ("**Owner**"), a Delaware Limited Liability Company, and Modulated Imaging, Inc. ("**Assignee**"), a Delaware Corporation.

Whereas, Owner has licensed certain patents ("**Licensed Patents**") to Assignee under the Patent License Agreement between the parties dated August 2, 2017 ("**PLA**").

Whereas, Owner has an equity stake in Assignee and as an investor, Owner is interested in Assignee's business success.

Whereas, Owner is willing to assign patents under this Agreement including the Licensed Patents to Assignee and Assignee is willing to assume Owner's responsibilities associated with those patents so assigned.

Whereas, Owner and Assignee wish to terminate the PLA in favor of this Agreement.

NOW THEREFORE, in consideration of the foregoing and in further consideration of the covenants and promises set forth herein, the sufficiency of which is hereby acknowledged, and intending to be legally bound, the parties agree as follows:

1. DEFINITIONS

"Assigned Patent Rights" means (a) the Patents; (b) any continuations, divisionals, continuations-in-part, reexaminations, foreign counterparts, registrations, or reissue applications and patents granted on such applications that claim priority, directly or indirectly, to the Patents; and (c) causes of action and enforcement rights of any kind under, or on account of, the Patents or any of the items described in subpart (b), including, without limitation, all causes of action, enforcement rights and all other rights to seek and obtain any other remedies of any kind for past, current and future infringement.

"Claims" means any claims, suits or legal actions by any third party.

"Contribution and Assignment Agreement" or "**CAA**" means the Contribution and Assignment Agreement entered on December 31, 2015 pursuant to which the Patents were assigned to Owner.

"Closing" means July 15, 2020 or such other time before that date as may be mutually agreed to by the parties, and that time at which Owner will transfer all rights in the Assigned Patent Rights to Assignee.

"Entity" means any corporation, partnership, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization, governmental entity (or any department, agency, or political subdivision thereof) or any other legal entity.

"Executed Assignment" means the form of assignment attached hereto as **Exhibit B** executed by Owner pursuant to Section 2.1(a).

"Encumbrances" means those pre-existing encumbrances on the Patent disclosed to Owner by the IV Parties and set forth on **Exhibit C**.

"IV Parties" means collectively the Invention Science Fund I, LLC ("**ISF I**") and Intellectual Ventures Management, LLC acting on behalf of ISF I, LLC, the transferors of the Patents as set forth in the CAA.

“Obligation” means any obligation undertaken by the IV Parties in any written agreement granting an Encumbrance that by the terms of such agreement requires an assignee or transferee of the Assigned Patent Rights to be bound to the same obligations as the IV Parties, including for illustrative purposes only, rights granted upon the exercise of an option or the extension or renewal of a granted right.

“Owner Indemnitees” means GSVP GP1, LLC, Gearbox, and LLC, Grey Sky Venture Partners LLC, their respective members, directors, officers, managers, employees, authorized representatives, agents, and the successors, heirs and assigns of any of the foregoing.

“Patents” mean those patents and patent applications listed on the attached **Exhibit A**.

“Person” means any individual or Entity.

2. ASSIGNMENT OF PATENT RIGHTS

2.1 Assignment of Assigned Patent Rights. Subject to the terms and conditions of this Agreement, effective as of Closing, Owner hereby sells, assigns, transfers, and conveys to Assignee Owner’s right, title, and interest in and to the Assigned Patent Rights subject to all Encumbrances and Obligations (**“Assignment”**). Owner will perfect the foregoing Assignment by executing a patent assignment substantially in the form as set forth in **Exhibit B** and recording such executed assignment with the U.S. Patent and Trademark Office or foreign patent office, as applicable (**“Relevant PO”**). Owner may be required to provide the Relevant PO with Assignee’s contact information, address for service of patents and other documents, authorization for a U.S. or foreign patent agent, as applicable, to communicate with the Relevant PO in relation to the Assigned Patent Rights, and other similar information and documentation in recording the foregoing Assignment with the Relevant PO. Upon written request by Owner, Assignee shall furnish all such requested information and documentation to Owner within seven (7) days of such request.

2.2 Subsequent Transfer of the Assigned Patent Rights. If Assignee transfers, exclusively licenses, conveys any exclusive rights in or assigns the Assigned Patent Rights to any Person (**“Exclusive Grants”**), all such Exclusive Grants will be conditioned on such Persons agreeing in writing (i) to acquire the Assigned Patent Rights subject to the Encumbrances and Obligations; (ii) to bind all future grantees of such Exclusive Grants to comply with those Encumbrances and Obligations as set forth in this Section 2.2, and (iii) to indemnify Owner Indemnitees in accordance with Section 6 and to bind all subsequent grantees of such Exclusive Grants to indemnify Owner Indemnitees in accordance with Section 6. Assignee hereby agrees that any agreement granting an Exclusive Grant to any Person will expressly disclaim all liability on behalf of the Owner Indemnitees.

2.3 Encumbrances and Obligations. Assignee understands that the identities of certain holders of the Encumbrances and Obligations are confidential. Upon written notice, Owner will use diligent efforts to identify any holder of any Encumbrances and Obligations, including, without limitation obtaining any necessary consents.

2.4 Termination of PLA and Release. Effective upon Closing, the parties hereby agree that the PLA will terminate without further notice or documentation. With the exception of the confidentiality obligations set forth in the PLA, neither party shall have any obligation or liability under the PLA notwithstanding any contrary provision contained in the PLA regarding survival. Assignee, on behalf of itself and its affiliates, hereby releases each Owner Indemnitee from any and all known or unknown,

accrued or unaccrued, legal, equitable or other claims or liability against any such Owner Indemnitee arising out of the PLA.

3. OBLIGATIONS AFTER CLOSING

3.1 No Retention of Rights.

As of Closing, Owner will not retain legal title to, equitable title to, or any ownership interest in any of the Assigned Patent Rights, any right to commence, direct, or settle any litigation relating to the infringement of any of the Assigned Patent Rights or any right to maintain or defend the Assigned Patent Rights.

3.2 Filing, Prosecution and Maintenance.

Upon Closing, Owner shall have no obligation to file, prosecute or maintain, including the payment of maintenance fees or annuities, any Assigned Patent Rights in the United States or in any foreign jurisdiction and Assignee expressly assumes full responsibility for the filing, prosecution and maintenance of all Assigned Patent Rights.

4. REPRESENTATIONS AND WARRANTIES

4.1 Owner's Representations and Warranties. As of the Effective Date, Owner hereby represents and warrants to Assignee as follows:

(a) Valid Entity. Owner is a limited liability company duly formed, validly existing, and in good standing under the laws of the jurisdiction of its formation.

(b) Authority. Owner has all requisite power and authority to enter into, execute, and deliver this Agreement and perform fully its obligations hereunder.

4.2 Assignee's Representations and Warranties. As of the Effective Date, Assignee hereby represents and warrants to Owner as follows:

(a) Valid Entity. Assignee is a corporation duly formed, validly existing, and in good standing under the laws of the jurisdiction of its formation.

(b) Authority. Assignee has all requisite power and authority to (i) enter into, execute, and deliver this Agreement and (ii) perform fully its obligations hereunder.

(c) Compliance with Laws. Assignee shall comply with all applicable laws and rules in exercising its rights and performing its obligations with regard to the Assigned Patent Rights.

5. DISCLAIMERS AND LIMITATIONS OF LIABILITY

5.1 Disclaimer. Assignee acknowledges and agrees that it is solely responsible for Assignee's own due diligence investigation of the Assigned Patent Rights and any information provided by Owner to Assignee was solely provided as a convenience. NO INFORMATION CONTAINED IN THE CLOSING DELIVERABLES DELIVERED PURSUANT TO SECTION 5.1(a) WILL BROADEN ANY OF THE REPRESENTATIONS OR WARRANTIES IN SECTION 4.1 ABOVE. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE, OWNER MAKES NO REPRESENTATION OR WARRANTY (EXPRESS OR IMPLIED) REGARDING ANY OF THE ASSIGNED PATENT RIGHTS AND EXPRESSLY DISCLAIMS ALL SUCH

REPRESENTATIONS AND WARRANTIES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, OWNER GIVES ASSIGNEE NO ASSURANCE, REPRESENTATION OR WARRANTY: (A) REGARDING THE PATENTABILITY OF ANY CLAIMED INVENTION IN, OR THE VALIDITY OR SCOPE, OF ANY CLAIMED INVENTION; (B) THAT THE ASSIGNED PATENT RIGHTS WILL NOT BE FOUND INVALID, UNPATENTABLE OR UNENFORCEABLE IN THE FUTURE FOR ANY REASON IN ANY ADMINISTRATIVE, ARBITRATION, JUDICIAL OR OTHER PROCEEDING; AND (C) THAT ANYTHING MADE, USED SOLD, OFFERED FOR SALE, IMPORTED, EXPORTED, DISTRIBUTED, LEASED, RENTED OR OTHERWISE DISPOSED OF UNDER ANY OF THE ASSIGNED PATENT RIGHTS WILL BE FREE FROM INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

5.2 Limitation of Liability. OWNER'S TOTAL LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED One Thousand Dollars (\$1000.00).

5.3 Limitation on Consequential Damages. NEITHER PARTY WILL HAVE ANY OBLIGATION OR LIABILITY (WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND NOTWITHSTANDING ANY FAULT, NEGLIGENCE (WHETHER ACTIVE, PASSIVE OR IMPUTED), REPRESENTATION, STRICT LIABILITY OR PRODUCT LIABILITY), FOR COVER OR FOR ANY INCIDENTAL, INDIRECT OR CONSEQUENTIAL, MULTIPLIED, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES OR LOSS OF REVENUE, PROFIT, SAVINGS OR BUSINESS ARISING FROM OR OTHERWISE RELATED TO THIS AGREEMENT, EVEN IF OWNER OR ASSIGNEE, AS APPLICABLE, OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.4 Acknowledgement. THE LIMITATIONS OF LIABILITY IN SECTIONS 5.2 AND 5.3 WERE AN ESSENTIAL ELEMENT IN SETTING CONSIDERATION UNDER THE AGREEMENT.

6. INDEMNIFICATION

Assignee will defend and indemnify Owner Indemnitees and hold Owner Indemnitees harmless against any and all Claims arising from or related to Assignee's ownership of the Assigned Patent Rights including any Claims arising from products or services that practice the inventions disclosed or claimed in the Assigned Patent Rights, irrespective of any theory of liability (including warranty, strict liability, negligence or tort, and regardless of any factual basis) upon which such Claim is brought, subject to the following:

(a) Owner Indemnitees will give Assignee written notice of the Claim which any Owner Indemnitee desires Assignee to defend, indemnify and hold harmless under this Agreement promptly after any Owner Indemnitee receives notice thereof along with sufficient information for Assignee to identify the Claim. Owner Indemnitees will cooperate and provide such assistance (including testimony and access to documentation within the possession or control of any Owner Indemnitee) as Assignee may reasonably request in connection with Assignee's defense, settlement and satisfaction of the Claim; provided that Assignee will pay or reimburse all of the costs and expenses reasonably incurred by Owner Indemnitees to provide any such cooperation and assistance in accordance with Assignee's request.

(b) As part of Assignee's obligation to defend, indemnify and hold harmless Owner Indemnitees, Assignee will pay any and all (i) costs and expenses reasonably incurred by Owner for the defense, settlement or satisfaction of any Claim (including any amounts agreed to by Assignee in settlement of the Claim) and (ii) amounts required by any judgment or order of any court to be paid by Owner

Indemnitees as damages or other relief based upon the Claim; provided that Owner Indemnitees have complied with their obligations under Section 6 with respect to the Claim.

7. GENERAL

7.1 Governing Law. This Agreement shall be governed in all respects by the internal laws of the State of Delaware as applied to agreements entered into among Delaware residents to be performed entirely within Delaware, without regard to principles of conflicts of law.

7.2 Confidentiality of Terms. The parties hereto will keep the terms of this Agreement including Exhibit C, but not the existence or the identities of the parties, confidential and will not now or hereafter divulge any of this information to any third party except (a) with the prior written consent of the other party; (b) as otherwise may be required by law or legal process, including, without limitation, by a taxing authority; (c) during the course of litigation, so long as the disclosure of such terms and conditions is restricted in the same manner as is the confidential information of other litigating parties; (d) in confidence to its legal counsel, accountants, banks, and financing sources and their advisors in connection with complying with or administering its obligations with respect to this Agreement; (e) to actual or prospective licensees or grantees of rights in the Assigned Patent Rights who have agreed in writing to keep such terms confidential; (f) in order to perfect Assignee's interest in the Assigned Patent Rights with any governmental patent office by recording any Executed Assignments delivered by Owner pursuant to this Agreement in any governmental patent office; or (g) information that is, before the date of such disclosure, rightfully publicly available, other than by a breach of this Agreement by the disclosing party; provided that, in (b) and (c) above, (i) to the extent permitted by law, the disclosing party will use all legitimate and legal means available to minimize the disclosure to third parties, including, without limitation, seeking a confidential treatment request or protective order whenever appropriate or available; and (ii) the disclosing party will provide the other party with at least ten (10) days' prior written notice of such disclosure.

7.3 Notices. All notices and other communications required or permitted hereunder shall be in writing and shall be mailed by registered or certified mail, postage prepaid, sent by facsimile or electronic mail or otherwise delivered by hand or by messenger addressed:

(i) if to Owner, at the Owner's address, facsimile number or electronic mail address as set forth below or as otherwise directed in writing by Owner:

Owner:

Gearbox, LLC
Attn: Manager
1100 Bellevue Way NE, Suite 8A 590
Bellevue, WA 98004

(ii) if to Assignee at the Assignee's address, facsimile number or electronic mail address as set forth below or as otherwise directed in writing by Assignee:

Assignee:

Modulated Imaging, Inc.
2400 Barranca Parkway, Suite 2B
Irvine, CA 92606
Attention: Richard Oberreiter, CEO

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given when delivered if delivered personally, or, if sent by mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid or, if sent by facsimile, upon confirmation of facsimile transfer or, if sent by electronic mail, upon confirmation of delivery.

7.4 Relationship of Parties. The parties hereto are independent contractors. Nothing in this Agreement will be construed to create a partnership, joint venture, franchise, fiduciary, employment or agency relationship between the parties. No party has any express or implied authority to assume or create any obligations on behalf of another party or to bind another party to any contract, agreement or undertaking with any third party.

7.5 Severability. If any provision of this Agreement is found to be invalid or unenforceable, then the remainder of this Agreement will have full force and effect, and the invalid provision will be modified, or partially enforced, to the maximum extent permitted to effectuate the original objective.

7.6 Nonwaiver. Failure by either party to enforce any term of this Agreement will not be deemed a waiver of future enforcement of that or any other term in this Agreement or any other agreement that may be in place between the parties.

7.7 Miscellaneous. None of the parties will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. This Agreement is not intended to confer any right or benefit on any third party (including, but not limited to, any employee, consultant or beneficiary of any party), and no action may be commenced or prosecuted against a party by any third party claiming as a third-party beneficiary of this Agreement or any of the transactions contemplated by this Agreement. Owner may, without prior consent of Assignee, transfer or assign this Agreement to any other party. This Agreement will be fully binding upon the parties and their respective permitted successors and assigns under this Section 7.7 and each party agrees that such permitted successors and assigns must expressly assume the respective party's obligations under this Agreement. Subject to the foregoing restriction on any transfer, this Agreement will be binding upon, inure to the benefit of and be enforceable by each of the parties and their respective successors and assigns. Any transfer or assignment of this Agreement which does not comply with the foregoing shall be null and void. This Agreement including its Exhibits constitutes the entire agreement between the parties with respect to the subject matter addressed herein, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, between the parties or any of their Affiliates regarding such subject matter. No amendments or modifications will be effective unless in writing signed by authorized representatives of both parties.

7.8 Opportunity to Confer with Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations which preceded the execution of this Agreement and that it has executed this Agreement with the consent and on the

advice of such independent legal counsel. Each party further acknowledges that it and its counsel have had adequate opportunity to make whatever investigation or inquiry they deem necessary or desirable in connection with the subject matter of this Agreement prior to the execution hereof.

7.9 Construction. The parties to this Agreement have cooperated in the drafting and preparation of this Agreement. This Agreement will be interpreted in accordance with its terms and without any strict construction in favor of or against either party based on draftsmanship of the Agreement or otherwise. If a dispute arises as to the meaning or intent of any word or provision of this Agreement, then the court or person attempting to resolve the dispute shall not construe or interpret the word or provision against any party. Terms defined in a given number, tense, or form shall have the corresponding meaning when used in this Agreement with initial capitals in another number, tense, or form. "Includes" or "including" shall not be deemed limited by the specific enumeration of items but shall be deemed without limitation. The term "or" is not exclusive. Unless the context clearly intends to the contrary, words singular or plural in number shall be deemed to include the other and pronouns having a masculine or feminine gender shall be deemed to include the other. All headings used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.10 Counterparts; Electronic Signature; Delivery Mechanics. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which together constitute one and the same instrument. Each party will execute and promptly deliver to the other parties a copy of this Agreement bearing the original signature. Prior to such delivery, in order to expedite the process of entering into this Agreement, the parties acknowledge that a Transmitted Copy of this Agreement will be deemed an original document. "Transmitted Copy" means a copy bearing a signature of a party that is reproduced or transmitted via email of a .pdf file, photocopy, facsimile, or other process of complete and accurate reproduction and transmission.

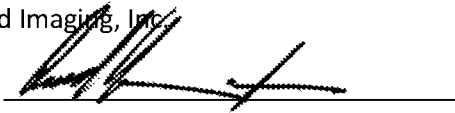
Modulated Imaging, Inc. Patent Transfer Agreement

IN WITNESS WHEREOF, intending to be legally bound, the parties have executed this Patent Transfer Agreement as of the dates set forth below.

Assignee:

Modulated Imaging, Inc.

By:



Title:

Richard Oberreiter, CEO

Signature date: 14 July 2020

Owner:

Gearbox, LLC

By:

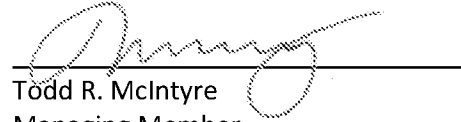
GSVP GP1, LLC on behalf of
Gearbox, LLC

Its:

Manager

By:

Name:



Title:

Managing Member

Signature date: 16 July 2020

EXHIBIT A

Patents

US Patent Nos.

8,896,679
9,069,996
8,896,678
8,878,918
8,908,941
9,081,992
9,483,678
8,634,598
8,965,062
10,032,060

Exhibit B

Form of Patent Assignment

WHEREAS, The Gearbox, LLC (hereinafter referred to as ASSIGNOR), a limited liability corporation of the State of Delaware, having a place of business at 1100 Bellevue Way NE, Suite 8A 590, Bellevue, WA 98004, is the assigned owner of the entire right, title and interest in and to the inventions listed on Attachment A, (hereinafter referred to as the "Patents"); and

WHEREAS, Modulated Imaging, Inc. (hereinafter referred to as ASSIGNEE) a Delaware Corporation, having a place of business at 2400 Barranca Parkway, Suite 2B Irvine, CA 92606, is desirous of acquiring the entire right, title and interest in and to the Patents;

WHEREAS, ASSIGNOR and ASSIGNEE are parties to the Patent Transfer Agreement (the "Agreement") providing for the execution and delivery of this Assignment by ASSIGNOR to ASSIGNEE (capitalized terms used herein without definition shall have the meanings set forth in the Agreement);

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and for other good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR hereby sells, assigns and transfers unto said ASSIGNEE the entire right, title and interest in and to said Patents and any (a) reissues, reexaminations, extensions, continuations, existing continuations-in-part, continuing prosecution application, requests for continuing examinations, divisions, registrations and foreign counterparts of any of the Patents; (b) rights to apply in any or all countries of the world with full benefit of such priority as may not or hereafter be granted by law, treaty or other international convention for patents, certificates of invention, utility models, or other future governmental grants or issuances of any type related to the Patents; (c) any inventions embodied in any of items described in the foregoing categories; and (d) causes of action and enforcement rights of any kind under, or on account of, any of the Patents or any of the items described in the foregoing categories including all causes of action, enforcement rights and all other rights to seek, compromise, and obtain any other remedies of any kind, at law or equity, for past, current and future infringement. Said rights to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNOR had this assignment, transfer and sale not been made. ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks to issue said Patents to ASSIGNEE.

This Assignment shall be governed by, and construed in accordance with, the laws of the United States, in respect to patent issues and in all other respects, including as to validity (except for patent issues), interpretation and effect, by the laws of the State of Delaware, without giving effect to the conflict of laws rules thereof.

Exhibit C

List of Encumbrances

See attached.