

MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Non-Disclosure Agreement (this “Agreement”) is made and entered into effective as of September 17, 2019 by and between **BlackBox Biometrics, Inc (B3)**, a New York Corporation with an address at 125 Tech Park Drive, Rochester, New York 14623 (“B3”), and, _____, with an address at _____ (the “Company”).

RECITALS

WHEREAS, B3 and the “Company” respectively are owners of their own valuable confidential and proprietary information relating to their respective businesses and activities.

WHEREAS, B3 and Company may each disclose certain of its confidential and proprietary information (the “Disclosing Party”) to the other (the “Receiving Party”) for the sole purpose of _____ (the “Purpose”) and they each desire to maintain the confidential and secret status of their respective confidential and proprietary information.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definition of Confidential Information. For purposes of this Agreement, the term “Confidential Information” means any and all information in any form or of any type, whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing (including, without limitation, all oral and visual information), of, about, or relating to the Disclosing Party existing as of the date of this Agreement or thereafter created, including, without limitation, trade secrets, know-how, financial statements and other financial information, data, budgets, forecasts, existing and proposed projects and investments, work in process, sales, licensing, pricing, and cost information, outstanding bids and bid proposals, business and marketing plans and strategies, customer, licensee, supplier, and vendor lists and information, personnel information and capabilities, contracts, licenses, research and development, products and services, ideas, concepts, plans, patterns, designs, drawings, engineering, configurations, compilations, processes, techniques, improvements, procedures, systems, methodologies, formulas, computer software and other technology, source and object code, codes, materials, inventions, discoveries, patent applications, copyrightable materials, any information that the Disclosing Party expressly designates, in writing or verbally, as confidential from time to time, and any other information of, about, or relating to the Disclosing Party that is learned or otherwise obtained by the Receiving Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of, the Disclosing Party. Information shall not be considered Confidential Information to the extent that it (a) is or becomes part of the public domain without breach of this Agreement; (b) is rightfully received by the Receiving Party from a third party who did not acquire or disclose such information by a wrongful or tortious act; or (c) was lawfully in the Receiving Party’s possession, as demonstrated by written records, before it was (i) disclosed to the Receiving Party by the Disclosing Party or (ii) otherwise learned or obtained by the Receiving

Party in the course of its discussions or business dealings with, or its physical or electronic access to the premises of, the Disclosing Party.

2. Use and Disclosure of Confidential Information. The Receiving Party will use the Confidential Information of the Disclosing Party solely for the Purpose and shall not use the Confidential Information of the Disclosing Party for any other purpose. The Receiving Party will not without the prior written consent of the Disclosing Party, directly or indirectly, disclose the Confidential Information of the Disclosing Party to any person or entity other than entities that the Receiving Party controls, entities that control the Receiving Party, or the Receiving Party's employees, independent contractors, attorneys, accountants, consultants, and agents (collectively, "Representatives"), provided that they (a) have a need to know the Confidential Information of the Disclosing Party in order for the Receiving Party to carry out the Purpose and (b) accept disclosure of the Confidential Information of the Disclosing Party under a written agreement incorporating the restrictions on use and disclosure contained in this Agreement, and even then such Representatives shall have access only to the Confidential Information they need in order for the Receiving Party to carry out the Purpose. If the Receiving Party becomes legally obligated to disclose any Confidential Information of the Disclosing Party under law, court order, or subpoena, the Receiving Party may disclose such Confidential Information of the Disclosing Party as so required; provided, however, that before such disclosure the Receiving Party shall give the Disclosing Party prompt written notice of such obligation (which shall include, without limitation, identification of the Confidential Information of the Disclosing Party to be so disclosed and a copy of the law, court order, or subpoena) to allow the Disclosing Party to seek a protective order or other appropriate remedy to prevent or limit any such disclosure and, in the event that the Disclosing Party cannot prevent the disclosure, the Receiving Party shall disclose only such Confidential Information of the Disclosing Party as it is legally required to disclose.

3. Duty to Protect. The Receiving Party acknowledges and understands that the Confidential Information of the Disclosing Party is confidential and proprietary, that it constitutes trade secrets of the Disclosing Party, and that it is of great value and importance to the success of the Disclosing Party. The Receiving Party agrees to take all reasonable measures (including, without limitation, those measures that the Receiving Party uses to protect its own Confidential Information, which shall be no less than reasonable care) to protect the secrecy of the Confidential Information of the Disclosing Party and to prevent the unauthorized, negligent, or inadvertent disclosure or use thereof. The Receiving Party shall not in any manner copy or reproduce all or any portion of the Confidential Information of the Disclosing Party without the prior written consent of the Disclosing Party, except for copies distributed to the Receiving Party's Representatives on a need-to-know basis in order for the Receiving Party to carry out the Purpose. The Receiving Party shall promptly notify the Disclosing Party in writing of any unauthorized, negligent, or inadvertent disclosure or use of Confidential Information of the Disclosing Party. The Receiving Party shall be liable under this Agreement for any disclosure or use in violation of this Agreement by the Receiving Party or any of its Representatives.

4. Duty to Return. The Receiving Party shall, upon termination of this Agreement or upon demand by the Disclosing Party, whichever is earlier, promptly: (a) return to the Disclosing Party any and all Confidential Information of the Disclosing Party in any form whatsoever together with any copies, reproductions, summaries, and excerpts thereof in the

Receiving Party's possession or under the Receiving Party's control; (b) destroy (or, in the case of electronic embodiments, permanently erase) any notes, memoranda, compilations, analysis, or other material which incorporates or refers to the Confidential Information of the Disclosing Party in the Receiving Party's possession or under the Receiving Party's control; and (c) confirm to the Disclosing Party in writing that the Receiving Party has complied with (a) and (b) of this sentence.

5. No Rights Granted. Nothing in this Agreement is intended to grant to the Receiving Party any rights under any patent, trademark, copyright, trade secret, or other intellectual property right of the Disclosing Party, nor shall this Agreement grant the Receiving Party any rights in or to the Confidential Information of the Disclosing Party other than the limited right to use the Confidential Information of the Disclosing Party solely for the Purpose.

6. Remedies. The Receiving Party acknowledges and agrees that its obligations provided in this Agreement are necessary and reasonable to protect the Disclosing Party, and the Receiving Party expressly agrees that any breach or threatened breach of this Agreement by the Receiving Party may cause the Disclosing Party irreparable harm for which there is no adequate remedy at law, and as a result of which, the Disclosing Party shall be entitled to the issuance by a court of competent jurisdiction of an injunction, restraining order or other equitable relief in favor of the Disclosing Party, without the necessity of posting bond, restraining the Receiving Party from committing or continuing to commit any such violation. Any right to obtain an injunction, restraining order, or other equitable relief shall not be deemed a waiver of any right to assert any other remedy that may be available in law or in equity.

7. Term. This Agreement will have a term of three (3) years, unless extended by mutual agreement of the parties hereto or terminated pursuant to the succeeding sentence, and will cover all Confidential Information of the Disclosing Party disclosed to or otherwise learned or obtained by the Receiving Party during that period as well as all Confidential Information of the Disclosing Party disclosed to or otherwise learned or obtained by the Receiving Party prior to the date of this Agreement. Either party to this Agreement may terminate this Agreement by giving the other party seven (7) days written notice. The rights and obligations of the parties to this Agreement with respect to any Confidential Information of a party to this Agreement that is disclosed to or otherwise learned or obtained by the other party to this Agreement prior to the termination or expiration of this Agreement will survive the termination or expiration of this Agreement indefinitely.

8. Export Control. Except as otherwise provide in writing by B3, all Confidential Information of B3 will be considered "export controlled" for purposes of the International Traffic in Arms Regulations ("ITAR") and the Export Administration Regulations ("EAR"), whether labeled as "export controlled" or not. Notwithstanding anything in this Agreement to the contrary, both parties will hereto (a) will comply with ITAR, EAR, and all other U.S. export control laws and regulations, as they currently exist and as they may be amended from time to time (collectively, "U.S. Export Control Laws"), with respect to all Confidential Information; (b) will not disclose any Confidential Information to any foreign person, firm, or country (including, without limitation, foreign persons employed by the other) that is prohibited from receiving export controlled information and materials under U.S. Export Control Laws; and (c) will not give any individual access to the Confidential Information of the other who is not a U.S.

citizen or permanent U.S. resident with a valid permanent resident card. Each party hereunto understands there are civil and criminal penalties for failure to comply with U.S. Export Control Laws.

9. Assignment. Neither party may assign its rights or delegate its obligations under this Agreement without the prior written consent of the other party, except that either party may assign this Agreement to any entity controlling, controlled by, or under common control with such party or to any entity that acquires substantially all of its assets or the assets of the business unit to which this Agreement pertains, provided that (a) the assignee assumes the obligations of the assigning party in writing for the benefit of the other party, effective as of the time of the assignment, and (b) the assignor notifies the other party in writing no later than ten (10) days after the effectiveness of the assignment.

10. Miscellaneous.

(a) Amendment. This Agreement may not be amended, changed, or modified, except in a written instrument signed by all the parties hereto.

(b) Governing Law; Jurisdiction. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of New York, without regard to the principles of conflict of laws, and shall be binding on the parties to this Agreement in the United States and worldwide. Any suit or proceeding relating to this Agreement shall be commenced exclusively in the state or federal courts located in Monroe County, New York, and each party irrevocably consents to the exclusive jurisdiction and venue of such courts.

(c) Severability. If any provision of this Agreement shall be finally determined to be unenforceable, invalid, or ineffective in any action, suit, or proceeding, such provision shall be automatically reformed and construed so as to be valid, operative, and enforceable to the maximum extent permitted by law or equity while preserving its original intent. The determination that any provision of this Agreement is unenforceable, invalid, or ineffective in any action, suit, or proceeding shall not affect the enforceability of the remainder of this Agreement.

(d) Binding Effect. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, executors, successors, and permitted assigns.

(e) No Third Party Beneficiary. This Agreement is intended solely for the benefit of the parties hereto and does not create or grant any right in a person or entity who is not party to this Agreement.

(f) No Waiver. Failure on the part of any party hereto to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of such right or power at any other time or times.

(g) Counterparts; Facsimile Signatures. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed by facsimile signatures.

(h) Notices. Whenever this Agreement requires or permits any notice, request, or demand from one party to another, the notice, request, or demand must be in writing to be effective and shall be deemed to be delivered and received (i) if personally delivered, when actually received by the party to whom notice is sent, (ii) if delivered by mail (whether actually received or not), at the close of business on the third business day next following the day when placed in the mail, postage prepaid, certified or registered, or (iii) if delivered by nationally-recognized overnight courier, at the close of the next business day following delivery to said overnight courier, addressed to the appropriate party or parties, at the address of such party set forth in this Agreement (or at such other address as such party may designate by written notice to all other parties in accordance herewith).

(i) Headings. The headings in this Agreement are inserted as a matter of convenience only and shall not be used to interpret or construe any provision of this Agreement.

(j) Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements relating thereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this Mutual Non-Disclosure Agreement as of the date first written above.

BlackBox Biometrics, Inc.

(Company Name)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____