

MUTUAL NONDISCLOSURE AGREEMENT

This MUTUAL NONDISCLOSURE AGREEMENT ("Agreement"), effective as of the _____ (the "**Effective Date**"), is by and between **Calibo, Inc.**, a Michigan corporation with its principal office located at 1000 Town Center Drive, Suite 700, Southfield, MI 48075 USA ("**Calibo**"), and _____ [insert name of entity here], a _____ [name of state and whether a corporation/limited liability company] having its principal place of business at _____ [address] ("_____ "[shorten entity name here]), (together, the "**Parties**", and each, a "**Party**").

WHEREAS one Party may be disclosing information as a disclosing party ("Disclosing Party") to the other Party as a receiving party ("Receiving Party");

WHEREAS **Calibo** and _____ [entity name] have an interest in participating in discussions that pertain to _____

[describe what the parties are doing] (the Purpose);

WHEREAS in connection with such discussions, Disclosing Party will be disclosing confidential and proprietary information to Receiving Party;

WHEREAS Disclosing Party seeks to protect the confidentiality of, maintain its rights in, and prevent the unauthorized use and/or disclosure of such information;

NOW THEREFORE, the Parties agree as follows:

- Confidential Information.** As used in this Agreement, Confidential Information means any information disclosed by or relating to Disclosing Party, whether of an engineering, technical, business, or other nature (including, without limitation, trade secrets, know-how and information relating to the technology, customers, business plans, promotional and marketing activities, finances and other business affairs of Disclosing Party), related to a product or service used in or intended for use in interstate or foreign commerce that generally is not known to the public, which is: (i) marked or declared "confidential" or with a similar designation; or (ii) of such a nature that each Receiving Party should have reasonably understood, at the time of receipt, that the information is confidential. Confidential Information may be contained in tangible or intangible materials, such as drawings, models, data, specifications, reports, compilations, and computer programs (including related design, development, and maintenance records), or may be in the nature of unwritten knowledge. The fact that discussions or negotiations between the Parties to this Agreement have occurred or are occurring is also considered "Confidential Information" for purposes of this Agreement. For the avoidance of doubt, information shall not be excluded from the definition of Confidential Information simply because it is not labeled or designated as such.
- Use of Confidential Information.** Receiving Party will keep the Confidential Information in confidence and, except as expressly provided in this Agreement, will not disclose it to anyone without Disclosing Party's prior written consent. Receiving Party will not use, or permit others to use, Confidential Information for any purpose other than for the Purpose(s) stated above and will not reverse engineer or allow any reverse engineering of any embodiment of the Confidential Information. Receiving Party will use its best efforts to avoid disclosure, dissemination, or unauthorized use of Confidential Information. Receiving Party will limit disclosure of Confidential Information to employees having a need to know and will advise such employees, officers, directors, and/or its affiliates (with respect to a Party, any corporation or entity that, directly or indirectly controls, is controlled by, or is under common control with such Party, where "control" means the ownership of more than fifty percent (50%) of the voting equity in such entity or otherwise the ability to direct the management of such entity, (the "Affiliates"), and any attorney, accountant, auditor, and financial advisor acting on behalf of a Party and/or its Affiliates and who are bound by confidentiality obligations substantially similar to those contained in this Agreement (altogether, the "Representatives") of the obligations of this Agreement. The Receiving Party shall be responsible for the failure of any of its Representatives to comply with the terms of this Agreement.
- Exceptions.** Confidential Information shall not include any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) can be reasonably demonstrated to have been known to Receiving Party at the time of its receipt from Disclosing Party; (iii) is rightfully received from a third party who did not acquire or disclose such information by a wrongful or tortious act; or (iv) can be reasonably demonstrated to have been independently developed by Receiving Party without reference to any Confidential Information. The mingling of Confidential Information with information that falls within one or more of the exceptions in this Section shall not impair the status of or obligations of confidence and non-use respecting the confidential parts.

4. Disclosures to Governmental Entities. If Receiving Party becomes legally obligated to disclose Confidential Information to any governmental entity with jurisdiction over it, or as required by applicable law, Receiving Party will give Disclosing Party prompt written notice sufficient to allow Disclosing Party to seek a protective order or other appropriate remedy. Receiving Party will disclose only such Confidential Information as is legally required and will use its best efforts to obtain confidential treatment for any Confidential Information that is so disclosed. If applicable, nothing in this Agreement is intended to conflict with the Defend Trade Secrets Act or create liability for disclosures of trade secrets that are expressly allowed by 18 U.S.C. § 1833(b).
5. Ownership of Confidential Information. All Confidential Information of Disclosing Party will remain the exclusive property of Disclosing Party, and Receiving Party will acquire no rights, by license or otherwise, to use the Confidential Information except as expressly provided by this Agreement. For the avoidance of doubt, neither this Agreement nor the transfer of Confidential Information hereunder shall be construed as granting any license ownership, or any other rights to any information or data, including, without limitation, any patent, trademark, or copyright, now or hereafter owned or controlled by the Disclosing Party and all such Confidential Information shall remain the property of the Disclosing Party.
6. Return of Confidential Information. Receiving Party promptly will return or confirm (via email being sufficient) the destruction of all tangible material embodying Confidential Information within its possession or control in any form and including, without limitation, all summaries, copies, and excerpts of Confidential Information upon the Disclosing Party's written request. Notwithstanding the foregoing, (a) neither the Receiving Party nor any of its Representatives shall be required to destroy any electronic copy of Confidential Information that is created pursuant to its standard electronic backup and archival procedures, provided that such archived copy will eventually be erased or destroyed in the ordinary course of such Parties' data processing procedures; and (b) the Receiving Party and its Representatives may retain: (i) copies of any Confidential Information to the extent required to defend or maintain any litigation relating to this Agreement or the Confidential Information, or (ii) such copies of the Confidential Information to the extent required to comply with requirements of applicable law, regulation or rule or any requirement or request of any legal, regulatory, governmental or supervisory authority. In all instances, the Receiving Party and its Representatives shall continue to comply with the terms and conditions of this Agreement with respect to such retained Confidential Information for the stated term.
7. Injunctive Relief. The Receiving Party agrees that the Disclosing Party's Confidential Information has been developed or obtained by the investment of significant time, effort and expense and provides the Disclosing Party with a significant competitive advantage in its business. If a Party fails to comply with any obligations hereunder, the breaching Party agrees that the non-breaching Party may suffer immediate, irreparable harm for which monetary damages may provide inadequate compensation and such immediate and irreparable injury could occur without a seizure order. Accordingly, the breaching Party agrees that the non-breaching Party, in addition to any other remedies available to it, at law or in equity, may be entitled to seek immediate injunctive relief to specifically enforce the terms of this Agreement. Receiving Party agrees that a seizure of the Confidential Information would not interrupt its legitimate business operations and that an injunction would not prevent an employee of the Receiving Party from entering into an employment relationship.
8. Limited Relationship. This Agreement will not create a joint venture, partnership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. No Party will act as an agent for any other Party by reason of this Agreement. Nothing contained in this Agreement or the action of providing Confidential Information, shall constitute a sale or offer for sale of such Confidential Information by the Disclosing Party. Neither Party has an obligation under this Agreement to purchase from or supply to the other Party any product or service. The Parties further agree that each Party retains the right to enter into other agreements with other parties with no obligation to the other Party except for the obligations contained in this Agreement.
9. Entire Agreement; Amendment; Assignment. This Agreement constitutes the entire agreement between the Parties related to the Purpose and may be amended or modified only with the mutual written consent of each Party. No party may assign any rights under this Agreement and any such attempt shall be void *ab initio*.
10. Term; Termination. This Agreement is intended to cover Confidential Information disclosed by Disclosing Party and received by Receiving Party from the Effective Date and for a period of two (2) years thereafter unless terminated by either Party upon thirty (30) days' prior written notice to the other Party. All continuing obligations of confidentiality related to this Agreement shall survive for a period of three (3) years from the expiration or termination of this Agreement. ***This Agreement does not limit the duration of an obligation to protect a trade secret.***
11. Nonwaiver. Any failure by Disclosing Party to enforce Receiving Party's strict performance of any provision of this Agreement will not constitute a waiver of Disclosing Party's right to subsequently enforce such provision or any other provision of this Agreement. No part of this Agreement may be waived except by written agreement of the Parties.
12. Governing Law & Miscellaneous Provisions. The Parties intend that this Agreement be governed by and construed in accordance with the laws of Michigan, without regard to its conflict of laws principles. Each Party irrevocably consents to the venue and jurisdiction of any state or federal court located in Southeast Michigan. Each Party agrees that service of process may be made upon it wherever it can be located or by certified mail directed to its address for notices under this Agreement. The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of law principles and the Uniform Computer Information Transactions Act (where enacted) will not apply to the Agreement. THE PARTIES FURTHER HEREBY WAIVE ANY RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY LAWSUIT OR JUDICIAL PROCEEDING ARISING OR RELATING TO THIS AGREEMENT.

13. Attorney's Fees and Court Costs. If any suit or action arising out of or related to this Agreement is brought by either Party, the prevailing Party shall be entitled to recover the costs and fees (including without limitation reasonable attorney fees, the fees and costs of experts and consultants, copying, courier and telecommunication costs, and deposition costs and all other costs of discovery) incurred by such Party in such suit or action, including without limitation any post-trial or appellate proceeding.
14. Notices. Unless a Party changes its address by giving notice to any other Party, notices shall be delivered at the address set forth on the first page of this Agreement. All notices, requests, consents, claims, demands, waivers, and other communications shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.
15. Warranty Disclaimer. The Receiving Party understands and acknowledges that all information provided by the Disclosing Party is provided on an "AS-IS" basis without warranties of any kind. The Disclosing Party, to the fullest extent permitted by law, disclaims all warranties, either express or implied, statutory, or otherwise, including but not limited to any implied warranties of merchantability, non-infringement of a third party's rights, title, or fitness for a particular purpose, or any warranties concerning the accuracy, reliability, completeness, or timeliness of the Confidential Information. The Disclosing Party will have no liability or responsibility for errors or omissions in, or any decisions made by the Receiving Party in its use of or reliance upon, any Confidential Information disclosed under this Agreement.
16. Compliance with Export Regulation and Similar Restrictions. All information, including Confidential Information or technologies, exchanged hereunder may be subject to U.S. or any other relevant national export control, embargo or anti-boycott laws and regulations ("Export Control Laws") which include, but are not limited to the following: the International Traffic in Arms Regulations ("ITAR," 22 C.F.R. §§120-130); the Export Administration Regulations ("EAR," 15 C.F.R. §§730-774); and, the U.S. economic and trade sanctions administered and enforced by the U.S. Office of Foreign Asset Controls ("OFAC"), which include regulations, statutes and Executive orders. Accordingly, the Parties agree to abide by all Export Control Laws, customs laws, or regulations governing the transfer, export, or re-export of proprietary information or technologies, including technical data or any derivatives thereof. Technical data subject to Export Control Laws may not be released to foreign nationals without first obtaining the appropriate export license or other approval from the U.S. government; this restriction includes the transfer of technical data or technologies to foreign national employees of U.S. companies.
17. Authority to Sign. Each Party representative signing this Agreement has the authority to sign and bind the Party for whom (s)he is signing.
18. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement. This Agreement may be delivered by email, and electronic copies of executed signature pages shall be binding as originals.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CALIBO, INC.	----- lentity entity nameI
Date:	Date:
Name:	Name:
Title:	Title: