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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. (ADSx)

Plaintiff(s),
v.
Defendant(s).

STIPULATED PROTECTIVE ORDER

I. PURPOSES AND LIMITATIONS

A. Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from

1 public disclosure and use extends only to the limited information or items that
2 are entitled to confidential treatment under the applicable legal principles. The
3 parties further acknowledge, as set forth in Section XIII(C), below, that this
4 Stipulated Protective Order does not entitle them to file confidential information
5 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
6 and the standards that will be applied when a party seeks permission from the
7 Court to file material under seal.

8 **II. GOOD CAUSE STATEMENT**

9 **[*The “Good Cause Statement” should be edited to include or exclude**
10 **specific information that applies to the particular case, i.e., what harm will**
11 **result from the disclosure of the confidential information likely to be**
12 **produced in this case? Below is an example:]**

13 A. This action is likely to involve trade secrets, customer and pricing lists
14 and other valuable research, development, commercial, financial, technical
15 and/or proprietary information for which special protection from public
16 disclosure and from use for any purpose other than prosecution of this action is
17 warranted. Such confidential and proprietary materials and information consist
18 of, among other things, confidential business or financial information,
19 information regarding confidential business practices, or other confidential
20 research, development, or commercial information (including information
21 implicating privacy rights of third parties), information otherwise generally
22 unavailable to the public, or which may be privileged or otherwise protected
23 from disclosure under state or federal statutes, court rules, case decisions, or
24 common law. Accordingly, to expedite the flow of information, to facilitate the

1 prompt resolution of disputes over confidentiality of discovery materials, to
2 adequately protect information the parties are entitled to keep confidential, to
3 ensure that the parties are permitted reasonable necessary uses of such material
4 in preparation for and in the conduct of trial, to address their handling at the
5 end of the litigation, and serve the ends of justice, a protective order for such
6 information is justified in this matter. It is the intent of the parties that
7 information will not be designated as confidential for tactical reasons and that
8 nothing be so designated without a good faith belief that it has been maintained
9 in a confidential, non-public manner, and there is good cause why it should not
10 be part of the public record of this case.

11 **III. DEFINITIONS**

12 A. Action: [This pending federal law suit]. [*Option: consolidated or related
13 actions.]

14 B. Challenging Party: A Party or Non-Party that challenges the designation
15 of information or items under this Order.

16 C. “CONFIDENTIAL” Information or Items: Information (regardless of how
17 it is generated, stored or maintained) or tangible things that qualify for
18 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
19 the Good Cause Statement.

20 D. Counsel: Outside Counsel of Record and House Counsel (as well as their
21 support staff).

22 E. Designating Party: A Party or Non-Party that designates information or
23 items that it produces in disclosures or in responses to discovery as
24 “CONFIDENTIAL.”

1 F. Disclosure or Discovery Material: All items or information, regardless of
2 the medium or manner in which it is generated, stored, or maintained
3 (including, among other things, testimony, transcripts, and tangible things), that
4 are produced or generated in disclosures or responses to discovery in this
5 matter.

6 G. Expert: A person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to
8 serve as an expert witness or as a consultant in this Action.

9 H. House Counsel: Attorneys who are employees of a party to this Action.
10 House Counsel does not include Outside Counsel of Record or any other outside
11 counsel.

12 I. Non-Party: Any natural person, partnership, corporation, association, or
13 other legal entity not named as a Party to this action.

14 J. Outside Counsel of Record: Attorneys who are not employees of a party
15 to this Action but are retained to represent or advise a party to this Action and
16 have appeared in this Action on behalf of that party or are affiliated with a law
17 firm which has appeared on behalf of that party, and includes support staff.

18 K. Party: Any party to this Action, including all of its officers, directors,
19 employees, consultants, retained experts, and Outside Counsel of Record (and
20 their support staffs).

21 L. Producing Party: A Party or Non-Party that produces Disclosure or
22 Discovery Material in this Action.

23 M. Professional Vendors: Persons or entities that provide litigation support
24 services (e.g., photocopying, videotaping, translating, preparing exhibits or

1 demonstrations, and organizing, storing, or retrieving data in any form or
2 medium) and their employees and subcontractors.

3 N. Protected Material: Any Disclosure or Discovery Material that is
4 designated as “CONFIDENTIAL.”

5 O. Receiving Party: A Party that receives Disclosure or Discovery Material
6 from a Producing Party.

7 **IV. SCOPE**

8 A. The protections conferred by this Stipulation and Order cover not only
9 Protected Material (as defined above), but also (1) any information copied or
10 extracted from Protected Material; (2) all copies, excerpts, summaries, or
11 compilations of Protected Material; and (3) any testimony, conversations, or
12 presentations by Parties or their Counsel that might reveal Protected Material.

13 B. Any use of Protected Material at trial shall be governed by the orders of
14 the trial judge. This Order does not govern the use of Protected Material at trial.

15 **V. DURATION**

16 A. [ONE POSSIBLE PARAGRAPH] Once a case proceeds to trial, all of the
17 information that was designated as confidential or maintained pursuant to this
18 Protective Order becomes public and will be presumptively available to all
19 members of the public, including the press, unless compelling reasons supported
20 by specific factual findings to proceed otherwise are made to the trial judge in
21 advance of the trial. See Kamakana v. City and County of Honolulu, 447 F.3d
22 1172, 1180-81 (9th Cir. 2006) (distinguishing “good cause” showing for sealing
23 documents produced in discovery from “compelling reasons” standard when
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1 merits-related documents are part of court record). Accordingly, the terms of
2 this Protective Order do not extend beyond the commencement of the trial.

3 B. [ALTERNATIVE POSSIBLE PARAGRAPH] Even after final disposition of
4 this litigation, the confidentiality obligations imposed by this Order shall remain
5 in effect until a Designating Party agrees otherwise in writing or a court order
6 otherwise directs. Final disposition shall be deemed to be the later of (1)
7 dismissal of all claims and defenses in this Action, with or without prejudice;
8 and (2) final judgment herein after the completion and exhaustion of all appeals,
9 rehearings, remands, trials, or reviews of this Action, including the time limits
10 for filing any motions or applications for extension of time pursuant to
11 applicable law.

12 **VI. DESIGNATING PROTECTED MATERIAL**

13 A. Exercise of Restraint and Care in Designating Material for Protection

14 1. Each Party or Non-Party that designates information or items for
15 protection under this Order must take care to limit any such designation
16 to specific material that qualifies under the appropriate standards. The
17 Designating Party must designate for protection only those parts of
18 material, documents, items, or oral or written communications that
19 qualify so that other portions of the material, documents, items, or
20 communications for which protection is not warranted are not swept
21 unjustifiably within the ambit of this Order.

22 2. Mass, indiscriminate, or routinized designations are prohibited.
23 Designations that are shown to be clearly unjustified or that have been
24 made for an improper purpose (e.g., to unnecessarily encumber the case

1 development process or to impose unnecessary expenses and burdens on
2 other parties) may expose the Designating Party to sanctions.

3 3. If it comes to a Designating Party's attention that information or
4 items that it designated for protection do not qualify for protection, that
5 Designating Party must promptly notify all other Parties that it is
6 withdrawing the inapplicable designation.

7 B. Manner and Timing of Designations

8 1. Except as otherwise provided in this Order (*see, e.g.*, Section
9 B(2)(b) below), or as otherwise stipulated or ordered, Disclosure or
10 Discovery Material that qualifies for protection under this Order must be
11 clearly so designated before the material is disclosed or produced.

12 2. Designation in conformity with this Order requires the following:

13 a. For information in documentary form (e.g., paper or
14 electronic documents, but excluding transcripts of depositions or
15 other pretrial or trial proceedings), that the Producing Party affix
16 at a minimum, the legend "CONFIDENTIAL" (hereinafter
17 "CONFIDENTIAL legend"), to each page that contains protected
18 material. If only a portion or portions of the material on a page
19 qualifies for protection, the Producing Party also must clearly
20 identify the protected portion(s) (e.g., by making appropriate
21 markings in the margins).

22 b. A Party or Non-Party that makes original documents
23 available for inspection need not designate them for protection
24 until after the inspecting Party has indicated which documents it

1 would like copied and produced. During the inspection and before
2 the designation, all of the material made available for inspection
3 shall be deemed “CONFIDENTIAL.” After the inspecting Party has
4 identified the documents it wants copied and produced, the
5 Producing Party must determine which documents, or portions
6 thereof, qualify for protection under this Order. Then, before
7 producing the specified documents, the Producing Party must affix
8 the “CONFIDENTIAL legend” to each page that contains Protected
9 Material. If only a portion or portions of the material on a page
10 qualifies for protection, the Producing Party also must clearly
11 identify the protected portion(s) (e.g., by making appropriate
12 markings in the margins).

13 c. For testimony given in depositions, that the Designating
14 Party identify the Disclosure or Discovery Material on the record,
15 before the close of the deposition all protected testimony.

16 d. For information produced in form other than document and
17 for any other tangible items, that the Producing Party affix in a
18 prominent place on the exterior of the container or containers in
19 which the information is stored the legend “CONFIDENTIAL.” If
20 only a portion or portions of the information warrants protection,
21 the Producing Party, to the extent practicable, shall identify the
22 protected portion(s).

23 C. Inadvertent Failure to Designate
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1 1. If timely corrected, an inadvertent failure to designate qualified
2 information or items does not, standing alone, waive the Designating
3 Party's right to secure protection under this Order for such material.
4 Upon timely correction of a designation, the Receiving Party must make
5 reasonable efforts to assure that the material is treated in accordance with
6 the provisions of this Order.

7 **VII. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8 A. Timing of Challenges

9 1. Any party or Non-Party may challenge a designation of
10 confidentiality at any time that is consistent with the Court's Scheduling
11 Order.

12 B. Meet and Confer

13 1. The Challenging Party shall initiate the dispute resolution process
14 under Local Rule 37.1 et seq.

15 C. The burden of persuasion in any such challenge proceeding shall be on
16 the Designating Party. Frivolous challenges, and those made for an improper
17 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
18 parties) may expose the Challenging Party to sanctions. Unless the Designating
19 Party has waived or withdrawn the confidentiality designation, all parties shall
20 continue to afford the material in question the level of protection to which it is
21 entitled under the Producing Party's designation until the Court rules on the
22 challenge.

23 **VIII. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 A. Basic Principles

1 1. A Receiving Party may use Protected Material that is disclosed or
2 produced by another Party or by a Non-Party in connection with this
3 Action only for prosecuting, defending, or attempting to settle this Action.
4 Such Protected Material may be disclosed only to the categories of
5 persons and under the conditions described in this Order. When the
6 Action has been terminated, a Receiving Party must comply with the
7 provisions of Section XIV below.

8 2. Protected Material must be stored and maintained by a Receiving
9 Party at a location and in a secure manner that ensures that access is
10 limited to the persons authorized under this Order.

11 B. Disclosure of “CONFIDENTIAL” Information or Items

12 1. Unless otherwise ordered by the Court or permitted in writing by
13 the Designating Party, a Receiving Party may disclose any information or
14 item designated “CONFIDENTIAL” only to:

15 a. The Receiving Party’s Outside Counsel of Record in this
16 Action, as well as employees of said Outside Counsel of Record to
17 whom it is reasonably necessary to disclose the information for this
18 Action;

19 b. The officers, directors, and employees (including House
20 Counsel) of the Receiving Party to whom disclosure is reasonably
21 necessary for this Action;

22 c. Experts (as defined in this Order) of the Receiving Party to
23 whom disclosure is reasonably necessary for this Action and who
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1 have signed the “Acknowledgment and Agreement to Be Bound”
2 (Exhibit A);

3 d. The Court and its personnel;

4 e. Court reporters and their staff;

5 f. Professional jury or trial consultants, mock jurors, and
6 Professional Vendors to whom disclosure is reasonably necessary
7 for this Action and who have signed the “Acknowledgment and
8 Agreement to be Bound” attached as Exhibit A hereto;

9 g. The author or recipient of a document containing the
10 information or a custodian or other person who otherwise
11 possessed or knew the information;

12 h. During their depositions, witnesses, and attorneys for
13 witnesses, in the Action to whom disclosure is reasonably
14 necessary provided: (i) the deposing party requests that the
15 witness sign the “Acknowledgment and Agreement to Be Bound;”
16 and (ii) they will not be permitted to keep any confidential
17 information unless they sign the “Acknowledgment and Agreement
18 to Be Bound,” unless otherwise agreed by the Designating Party or
19 ordered by the Court. Pages of transcribed deposition testimony or
20 exhibits to depositions that reveal Protected Material may be
21 separately bound by the court reporter and may not be disclosed to
22 anyone except as permitted under this Stipulated Protective Order;
23 and
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1 i. Any mediator or settlement officer, and their supporting
2 personnel, mutually agreed upon by any of the parties engaged in
3 settlement discussions.

4 **IX. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED**
5 **IN OTHER LITIGATION**

6 A. If a Party is served with a subpoena or a court order issued in other
7 litigation that compels disclosure of any information or items designated in this
8 Action as “CONFIDENTIAL,” that Party must:

9 1. Promptly notify in writing the Designating Party. Such notification
10 shall include a copy of the subpoena or court order;

11 2. Promptly notify in writing the party who caused the subpoena or
12 order to issue in the other litigation that some or all of the material
13 covered by the subpoena or order is subject to this Protective Order. Such
14 notification shall include a copy of this Stipulated Protective Order; and

15 3. Cooperate with respect to all reasonable procedures sought to be
16 pursued by the Designating Party whose Protected Material may be
17 affected.

18 B. If the Designating Party timely seeks a protective order, the Party served
19 with the subpoena or court order shall not produce any information designated
20 in this action as “CONFIDENTIAL” before a determination by the Court from
21 which the subpoena or order issued, unless the Party has obtained the
22 Designating Party’s permission. The Designating Party shall bear the burden
23 and expense of seeking protection in that court of its confidential material and
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1 nothing in these provisions should be construed as authorizing or encouraging a
2 Receiving Party in this Action to disobey a lawful directive from another court.

3 **X. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
4 **PRODUCED IN THIS LITIGATION**

5 A. The terms of this Order are applicable to information produced by a Non-
6 Party in this Action and designated as “CONFIDENTIAL.” Such information
7 produced by Non-Parties in connection with this litigation is protected by the
8 remedies and relief provided by this Order. Nothing in these provisions should
9 be construed as prohibiting a Non-Party from seeking additional protections.

10 B. In the event that a Party is required, by a valid discovery request, to
11 produce a Non-Party’s confidential information in its possession, and the Party
12 is subject to an agreement with the Non-Party not to produce the Non-Party’s
13 confidential information, then the Party shall:

14 1. Promptly notify in writing the Requesting Party and the Non-Party
15 that some or all of the information requested is subject to a
16 confidentiality agreement with a Non-Party;

17 2. Promptly provide the Non-Party with a copy of the Stipulated
18 Protective Order in this Action, the relevant discovery request(s), and a
19 reasonably specific description of the information requested; and

20 3. Make the information requested available for inspection by the
21 Non-Party, if requested.

22 C. If the Non-Party fails to seek a protective order from this court within 14
23 days of receiving the notice and accompanying information, the Receiving Party
24 may produce the Non-Party’s confidential information responsive to the

1 discovery request. If the Non-Party timely seeks a protective order, the
2 Receiving Party shall not produce any information in its possession or control
3 that is subject to the confidentiality agreement with the Non-Party before a
4 determination by the court. Absent a court order to the contrary, the Non-Party
5 shall bear the burden and expense of seeking protection in this court of its
6 Protected Material.

7 **XI. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

8 A. If a Receiving Party learns that, by inadvertence or otherwise, it has
9 disclosed Protected Material to any person or in any circumstance not
10 authorized under this Stipulated Protective Order, the Receiving Party must
11 immediately (1) notify in writing the Designating Party of the unauthorized
12 disclosures, (2) use its best efforts to retrieve all unauthorized copies of the
13 Protected Material, (3) inform the person or persons to whom unauthorized
14 disclosures were made of all the terms of this Order, and (4) request such person
15 or persons to execute the “Acknowledgment and Agreement to be Bound” that is
16 attached hereto as Exhibit A.

17 **XII. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

19 A. When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other
21 protection, the obligations of the Receiving Parties are those set forth in Federal
22 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
23 whatever procedure may be established in an e-discovery order that provides for
24 production without prior privilege review. Pursuant to Federal Rule of Evidence

1 502(d) and (e), insofar as the parties reach an agreement on the effect of
2 disclosure of a communication or information covered by the attorney-client
3 privilege or work product protection, the parties may incorporate their
4 agreement in the Stipulated Protective Order submitted to the Court.

5 **XIII. MISCELLANEOUS**

6 A. Right to Further Relief

7 1. Nothing in this Order abridges the right of any person to seek its
8 modification by the Court in the future.

9 B. Right to Assert Other Objections

10 1. By stipulating to the entry of this Protective Order, no Party waives
11 any right it otherwise would have to object to disclosing or producing any
12 information or item on any ground not addressed in this Stipulated
13 Protective Order. Similarly, no Party waives any right to object on any
14 ground to use in evidence of any of the material covered by this Protective
15 Order.

16 C. Filing Protected Material

17 1. A Party that seeks to file under seal any Protected Material must
18 comply with Civil Local Rule 79-5. Protected Material may only be filed
19 under seal pursuant to a court order authorizing the sealing of the specific
20 Protected Material at issue. If a Party's request to file Protected Material
21 under seal is denied by the Court, then the Receiving Party may file the
22 information in the public record unless otherwise instructed by the Court.

1 **XIV. FINAL DISPOSITION**

2 A. After the final disposition of this Action, as defined in Section V, within
3 sixty (60) days of a written request by the Designating Party, each Receiving
4 Party must return all Protected Material to the Producing Party or destroy such
5 material. As used in this subdivision, “all Protected Material” includes all copies,
6 abstracts, compilations, summaries, and any other format reproducing or
7 capturing any of the Protected Material. Whether the Protected Material is
8 returned or destroyed, the Receiving Party must submit a written certification to
9 the Producing Party (and, if not the same person or entity, to the Designating
10 Party) by the 60 day deadline that (1) identifies (by category, where appropriate)
11 all the Protected Material that was returned or destroyed and (2) affirms that the
12 Receiving Party has not retained any copies, abstracts, compilations, summaries
13 or any other format reproducing or capturing any of the Protected Material.

14 Notwithstanding this provision, Counsel are entitled to retain an archival copy of
15 all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
16 memoranda, correspondence, deposition and trial exhibits, expert reports,
17 attorney work product, and consultant and expert work product, even if such
18 materials contain Protected Material. Any such archival copies that contain or
19 constitute Protected Material remain subject to this Protective Order as set forth
20 in Section V.

21 B. Any violation of this Order may be punished by any and all appropriate
22 measures including, without limitation, contempt proceedings and/or monetary
23 sanctions.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: _____
Attorney(s) for Plaintiff(s)

Dated: _____
Attorney(s) for Defendant(s)

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: _____
HONORABLE AUTUMN D. SPAETH
United States Magistrate Judge

1 **EXHIBIT A**
2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of _____
4 _____ [print or type full address], declare under penalty of perjury that I
5 have read in its entirety and understand the Stipulated Protective Order that was issue
6 by the United States District Court for the Central District of California on [DATE] in
7 the case of _____ [insert formal name of the case and the
8 number and initials assigned to it by the Court]. I agree to comply with and to be
9 bound by all the terms of this Stipulated Protective Order and I understand and
10 acknowledge that failure to so comply could expose me to sanctions and punishment in
11 the nature of contempt. I solemnly promise that I will not disclose in any manner any
12 information or item that is subject to this Stipulated Protective Order to any person or
13 entity except in strict compliance with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
15 for the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [print or
18 type full name] of _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with this
20 action or any proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22 City and State where sworn and signed: _____

23 Printed Name: _____

24 Signature: _____