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

Case No. (ADSx)

Plaintiff(s),

v.

Defendant(s).

**[MODEL] STIPULATED ORDER RE:  
DISCOVERY OF ELECTRONICALLY  
STORED INFORMATION**

**I. PURPOSE**

This Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Local Rules, this Court’s Standing Order on Discovery Disputes, and any other applicable orders and rules. Nothing in this order is intended to alter or affect any party’s rights or obligations under any order by the assigned District Judge, but shall be construed instead, wherever possible, as consistent with any order by the assigned District Judge.

1 **II. COOPERATION**

2 The parties are aware of the importance the Court places on cooperation and  
3 commit to cooperate in good faith throughout the matter consistent with this Court’s  
4 Standing Order on Discovery Disputes, the Federal Rules of Civil Procedure, and the  
5 Local Rules of this Court. The parties acknowledge that they have reviewed and shall  
6 reference the Court’s Checklist for Conference of Counsel Regarding ESI during any  
7 Rule 26 conference and when seeking to resolve discovery disputes about ESI during  
8 meet-and-confer conferences.

9 **III. ESI PERSON(S) MOST KNOWLEDGEABLE**

10 The parties have identified ESI Person(s) Most Knowledgeable (“ESI PMK”) to  
11 each other who are and will be knowledgeable about and responsible for discussing  
12 their respective ESI. Each ESI PMK will be, or have access to those who are,  
13 knowledgeable about the technical aspects of e-discovery, including the location,  
14 nature, accessibility, format, collection, search methodologies, and production of ESI  
15 in this matter. The parties will rely on the ESI PMK, as needed, to confer about ESI  
16 and to help resolve disputes without court intervention.

17 **IV. PRESERVATION**

18 The parties have discussed their preservation obligations and needs and agree  
19 that preservation of potentially relevant ESI will be reasonable and proportionate. To  
20 reduce the costs and burdens of preservation and to ensure proper ESI is preserved,  
21 the parties agree that:

- 22 A. Only ESI created or received between \_\_\_\_\_ and \_\_\_\_\_ will  
23 be preserved;

1 B. The parties have exchanged a list of the types of ESI they believe should  
2 be preserved and the custodians, or general job titles or descriptions of  
3 custodians, for whom they believe ESI should be preserved, e.g., “HR head,”  
4 “scientist,” and “marketing manager.” The parties shall add or remove  
5 custodians as reasonably necessary;

6 C. The parties have agreed/will agree on the number of custodians per  
7 party for whom ESI will be preserved;

8 D. These data sources are not reasonably accessible because of undue  
9 burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from these  
10 sources will be preserved but not searched, reviewed, or produced: [e.g., backup  
11 media of [named] system, systems no longer in use that cannot be accessed];

12 E. Among the sources of data the parties agree are not reasonably  
13 accessible, the parties agree not to preserve the following: [e.g., backup media  
14 created before \_\_\_\_\_, digital voicemail, instant messaging, automatically  
15 saved versions of documents];

16 F. In addition to the agreements above, the parties agree data from these  
17 sources (1) could contain relevant information but (2) under the proportionality  
18 factors, should not be preserved:

19 \_\_\_\_\_.

20 **V. SEARCH**

21 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or  
22 earlier if appropriate, they will meet and confer about methods to search ESI to  
23 identify ESI that is subject to production in discovery and filter out ESI that is not  
24 subject to discovery.

1 **VI. PRODUCTION FORMATS**

2 The parties agree to produce documents in  PDF,  TIFF,  native and/or  
3  paper, or a combination thereof (check all that apply) file formats. If particular  
4 documents warrant a different format, the parties will cooperate to arrange for the  
5 mutually acceptable production of such documents. The parties agree not to degrade  
6 the searchability of documents as part of the document production process.

7 **VII. PHASED DISCOVERY**

8 When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the  
9 parties agree to phase the production of ESI and the initial production will be from the  
10 following sources and custodians:

11 \_\_\_\_\_.

12 Following the initial production, the parties will continue to prioritize the order of  
13 subsequent productions.

14 **VIII. DOCUMENTS PROTECTED FROM DISCOVERY**

15 A. Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-  
16 product-protected document, whether inadvertent or otherwise, is not a waiver  
17 of privilege or protection from discovery in this case or in any other federal or  
18 state proceeding. Nothing contained herein, however, is intended to limit a  
19 party's right to conduct a review of ESI for relevance, responsiveness and/or  
20 privilege or other protection from discovery.

21 B. The parties have agreed upon a "quick peek" process pursuant to Fed. R.  
22 Civ. P. 26(b)(5) and reserve rights to assert privilege as follows

23 \_\_\_\_\_.

1 C. Communications involving trial counsel that post-date the filing of the  
2 complaint need not be placed on a privilege log. Communications may be  
3 identified on a privilege log by category, rather than individually, if appropriate.

4 **IX. MODIFICATION**

5 This Stipulated Order may be modified by a Stipulated Order of the parties or by  
6 the Court for good cause shown.

7  
8 **IT IS SO STIPULATED**, through Counsel of Record.

9  
10 Dated:

11 \_\_\_\_\_  
Counsel for Plaintiff(s)

12 Dated:

13 \_\_\_\_\_  
Counsel for Defendant(s)

14  
15 **IT IS ORDERED** that the forgoing Agreement is approved.

16  
17 Dated:

18 \_\_\_\_\_  
19 HONORABLE AUTUMN D. SPAETH  
United States Magistrate Judge