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

Plaintiff, Case No.
v. STIPULATED PROTECTIVE
ORDER
Defendant.

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action may 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 public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The Parties further acknowledge, as set forth in Section

1 12.3 below, that this Order does not entitle them to file Confidential Information
2 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
3 and the standards that will be applied when a Party seeks permission from the Court
4 to file material under seal.

5 1.2 GOOD CAUSE STATEMENT

6 **[The Parties must provide a statement establishing good cause for the entry of**
7 **this Order. Cf. Oliner v. Kontrabecki, 745 F.3d 1024, 1026 (9th Cir. 2014).**

8 **The Parties’ statement must be specific to the facts and issues of this case,**
9 **including the nature of the action, the type of anticipated discovery, and the**
10 **potential harm should relevant materials be disclosed publicly. The Parties are**
11 **advised not to rely on boilerplate assertions regarding good cause and not to**
12 **state categorically that certain categories of documents – which the Court will**
13 **not yet have seen – “are” confidential but rather “may well be” or “are likely”**
14 **confidential, or similar language.]**

15 2. DEFINITIONS

16 2.1 Action: **[this pending federal lawsuit]. [*Option: consolidated or**
17 **related actions.]**

18 2.2 Challenging Party: a Party or Nonparty that challenges the designation
19 of information or items under this Order.

20 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
21 how it is generated, stored, or maintained) or tangible things that qualify for
22 protection under Federal Rule of Civil Procedure 26(c) and as specified above in the
23 Good Cause Statement. **[Note: any request for a two-tiered, attorney-eyes-only**
24 **protective order that designates certain material as “Highly Confidential”**
25 **requires a separate, detailed showing of need.]**

26 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
27 their support staff).

28 2.5 Designating Party: a Party or Nonparty that designates information or

1 items that it produces in disclosures or in responses to discovery as
2 “CONFIDENTIAL.”

3 2.6 Disclosure or Discovery Material: all items or information, regardless
4 of the medium or manner in which it is generated, stored, or maintained (including,
5 among other things, testimony, transcripts, and tangible things), that are produced or
6 generated in disclosures or responses to discovery in this matter.

7 2.7 Expert: a person with specialized knowledge or experience in a matter
8 pertinent to the litigation who has been retained by a Party or its counsel to serve as
9 an expert witness or as a consultant in this action.

10 2.8 House Counsel: attorneys who are employees of a Party to this Action.
11 House Counsel does not include Outside Counsel of Record or any other outside
12 counsel.

13 2.9 Nonparty: any natural person, partnership, corporation, association, or
14 other legal entity not named as a Party to this action.

15 2.10 Outside Counsel of Record: attorneys who are not employees of a
16 Party to this Action but are retained to represent or advise a Party and have appeared
17 in this Action on behalf of that Party or are affiliated with a law firm that has
18 appeared on behalf of that Party, including support staff.

19 2.11 Party: any Party to this Action, including all of its officers, directors,
20 employees, consultants, retained experts, and Outside Counsel of Record (and their
21 support staffs).

22 2.12 Producing Party: a Party or Nonparty that produces Disclosure or
23 Discovery Material in this Action.

24 2.13 Professional Vendors: persons or entities that provide litigation
25 support services (for example, photocopying, videotaping, translating, preparing
26 exhibits or demonstrations, and organizing, storing, or retrieving data in any form or
27 medium) and their employees and subcontractors.

28 2.14 Protected Material: any Disclosure or Discovery Material that is

1 designated as “CONFIDENTIAL.”

2 2.15 Receiving Party: a Party that receives Disclosure or Discovery
3 Material from a Producing Party.

4 3. SCOPE

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

10 Any use of Protected Material at trial will be governed by the orders of the
11 trial judge. This Order does not govern the use of Protected Material at trial.

12 4. DURATION

13 **[POSSIBLE PARAGRAPH]** Once a case proceeds to trial, all the information that
14 was designated as confidential or maintained under this Order becomes public and
15 will be presumptively available to all members of the public, including the press,
16 unless the trial judge finds compelling reasons to proceed otherwise. See Kamakana
17 v. City & Cnty. of Honolulu, 447 F.3d 1172, 1180-81 (9th Cir. 2006)
18 (distinguishing “good cause” showing for sealing documents produced in discovery
19 from “compelling reasons” needed for merits-related documents). Accordingly, the
20 terms of this Order do not extend beyond the beginning of trial.

21 **[ALTERNATIVE OR ADDITIONAL POSSIBLE PARAGRAPH]** Even
22 after final disposition of this litigation, the confidentiality obligations imposed by
23 this Order will remain in effect until a Designating Party agrees otherwise in writing
24 or a court order otherwise directs. Final disposition is the later of (1) dismissal of all
25 claims and defenses in this Action, with or without prejudice, or (2) final judgment
26 after the completion and exhaustion of all appeals, rehearings, remands, trials, or
27 reviews of this Action, including the time limits for filing any motions or
28 applications for extension of time under applicable law.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Each Party or Nonparty that designates information or items for
3 protection under this Order must take care to limit any such designation to specific
4 material that qualifies under the appropriate standards. To the extent practicable, the
5 Designating Party must designate for protection only those parts of material,
6 documents, items, or oral or written communications that qualify so that other
7 portions of the material, documents, items, or communications for which protection
8 is not warranted are not swept unjustifiably within the ambit of this Order.

9 Indiscriminate or routinized designations are prohibited. Designations that
10 are shown to be clearly unjustified or that have been made for an improper purpose
11 (for example, to unnecessarily encumber the case-development process or to impose
12 unnecessary expenses and burdens on other parties) may expose the Designating
13 Party to sanctions.

14 If it comes to a Designating Party’s attention that information or items it
15 designated for protection do not qualify for that level of protection, that Designating
16 Party must promptly notify all other Parties that it is withdrawing the inapplicable
17 designation.

18 5.2 Except as otherwise provided in this Order, Disclosure or Discovery
19 Material that qualifies for protection under this Order must be clearly so designated
20 before the material is disclosed or produced.

21 Designation in conformity with this Order requires the following:

22 (a) for information in documentary form (for example, paper or electronic
23 documents but excluding transcripts of depositions or other pretrial or trial
24 proceedings), the Producing Party must affix at a minimum the legend
25 “CONFIDENTIAL” to each page that contains Protected Material. If only a portion
26 or portions of the material on a page qualify for protection, the Producing Party
27 should to the extent practicable clearly identify the protected portion(s) (for
28 example, by making appropriate markings in the margins).

1 A Party or Nonparty that makes original documents available for
2 inspection need not designate them for protection until after the inspecting Party has
3 indicated which documents it would like copied and produced. During the
4 inspection and before the designation, all material made available for inspection
5 must be treated as “CONFIDENTIAL.” After the inspecting Party has identified the
6 documents it wants copied and produced, the Producing Party must determine which
7 documents, or portions thereof, qualify for protection under this Order. Then,
8 before producing the specified documents, the Producing Party must affix the
9 “CONFIDENTIAL” legend to each page that contains Protected Material. If only a
10 portion or portions of the material on a page qualify for protection, the Producing
11 Party should to the extent practical clearly identify the protected portion(s) (for
12 example, by making appropriate markings in the margins).

13 (b) for testimony given in depositions, the Designating Party must identify
14 the Disclosure or Discovery Material that is protected on the record, before the close
15 of the deposition.

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

22 5.3 If timely corrected, an inadvertent failure to designate qualified
23 information or items does not, standing alone, waive the Designating Party’s right to
24 secure protection under this Order for that material. On timely correction of a
25 designation, the Receiving Party must make reasonable efforts to assure that the
26 material is treated in accordance with the provisions of this Order.

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Any Party or Nonparty may challenge a designation of confidentiality
3 at any time consistent with the Court’s scheduling order.

4 6.2 The Challenging Party must initiate the dispute-resolution process (and,
5 if necessary, file a discovery motion) under Local Rule 37.

6 6.3 The burden of persuasion in any such proceeding is on the Designating
7 Party. Frivolous challenges, and those made for an improper purpose (for example,
8 to harass or impose unnecessary expenses and burdens on other parties), may expose
9 the Challenging Party to sanctions. Unless the Designating Party has waived or
10 withdrawn the confidentiality designation, all parties must continue to afford the
11 material in question the level of protection to which it is entitled under the
12 Producing Party’s designation until the Court rules on the challenge.

13 7. ACCESS TO AND USE OF PROTECTED MATERIAL

14 7.1 A Receiving Party may use Protected Material that is disclosed or
15 produced by another Party or by a Nonparty in connection with this Action only for
16 prosecuting, defending, or attempting to settle this Action. Such Protected Material
17 may be disclosed only to the categories of people and under the conditions described
18 in this Order. When the Action has been terminated, a Receiving Party must comply
19 with the provisions of Section 13 below (FINAL DISPOSITION).

20 Protected Material must be stored and maintained by a Receiving Party at a
21 location and in a manner sufficiently secure to ensure that access is limited to the
22 people authorized under this Order.

23 7.2 Unless otherwise ordered by the Court or permitted in writing by the
24 Designating Party, a Receiving Party may disclose any information or item
25 designated “CONFIDENTIAL” only to the following people:

26 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
27 well as employees of that Outside Counsel of Record to whom it is reasonably
28 necessary to disclose the information for this Action;

1 (b) the officers, directors, and employees (including House Counsel) of
2 the Receiving Party to whom disclosure is reasonably necessary for this Action;

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

6 (d) the Court and its personnel;

7 (e) court reporters and their staff;

8 (f) professional jury or trial consultants, mock jurors, and Professional
9 Vendors to whom disclosure is reasonably necessary for this Action and who have
10 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (g) the author or recipient of a document containing the information or a
12 custodian or other person who otherwise possessed or knew the information;

13 (h) during their depositions, witnesses and attorneys for witnesses to
14 whom disclosure is reasonably necessary, provided that the deposing party requests
15 that the witness sign the form attached as Exhibit A hereto and the witnesses will
16 not be permitted to keep any confidential information unless they sign the form,
17 unless otherwise agreed by the Designating Party or ordered by the Court. Pages of
18 transcribed deposition testimony or exhibits to depositions that reveal Protected
19 Material may be separately bound by the court reporter and may not be disclosed to
20 anyone except as permitted under this Order; and

21 (i) any mediator or settlement officer, and their supporting personnel,
22 mutually agreed on by any of the Parties engaged in settlement discussions or
23 appointed by the Court.

24 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
25 OTHER LITIGATION

26 If a Party is served with a subpoena or a court order issued in other litigation
27 that compels disclosure of any information or items designated in this Action as
28 “CONFIDENTIAL,” that Party must

1 (a) promptly notify in writing the Designating Party. Such notification
2 must include a copy of the subpoena or court order unless prohibited by law;

3 (b) promptly notify in writing the party who caused the subpoena or order
4 to issue in the other litigation that some or all of the material covered by the
5 subpoena or order is subject to this Protective Order. Such notification must include
6 a copy of this Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be
8 pursued by the Designating Party whose Protected Material may be affected.

9 If the Designating Party timely seeks a protective order, the Party served with
10 the subpoena or court order should not produce any information designated in this
11 action as “CONFIDENTIAL” before a determination on the protective-order request
12 by the relevant court unless the Party has obtained the Designating Party’s
13 permission. The Designating Party bears the burden and expense of seeking
14 protection of its Confidential Material, and nothing in these provisions should be
15 construed as authorizing or encouraging a Receiving Party in this Action to disobey
16 a lawful directive from another court.

17 9. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE
18 PRODUCED IN THIS LITIGATION

19 (a) The terms of this Order are applicable to information produced by a
20 Nonparty in this Action and designated as “CONFIDENTIAL.” Such information is
21 protected by the remedies and relief provided by this Order. Nothing in these
22 provisions should be construed as prohibiting a Nonparty from seeking additional
23 protections.

24 (b) In the event that a Party is required by a valid discovery request to
25 produce a Nonparty’s Confidential Information in its possession and the Party is
26 subject to an agreement with the Nonparty not to produce the Nonparty’s
27 Confidential Information, then the Party must

28 (1) promptly notify in writing the Requesting Party and the Nonparty

1 that some or all of the information requested is subject to a confidentiality
2 agreement with a Nonparty;

3 (2) promptly provide the Nonparty with a copy of this Order, the
4 relevant discovery request(s), and a reasonably specific description of the
5 information requested; and

6 (3) make the information requested available for inspection by the
7 Nonparty, if requested.

8 (c) If the Nonparty fails to seek a protective order within 21 days of
9 receiving the notice and accompanying information, the Receiving Party may
10 produce the Nonparty's Confidential Information responsive to the discovery
11 request. If the Nonparty timely seeks a protective order, the Receiving Party must
12 not produce any information in its possession or control that is subject to the
13 confidentiality agreement with the Nonparty before a ruling on the protective-order
14 request. Absent a court order to the contrary, the Nonparty must bear the burden
15 and expense of seeking protection of its Protected Material.

16 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

17 If a Receiving Party learns that by inadvertence or otherwise, it has disclosed
18 Protected Material to any person or in any circumstance not authorized under this
19 Order, the Receiving Party must immediately notify the Designating Party in writing
20 of the unauthorized disclosures, use its best efforts to retrieve all unauthorized
21 copies of the Protected Material, inform the person or people to whom unauthorized
22 disclosures were made of the terms of this Order, and ask that person or people to
23 execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto
24 as Exhibit A.

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B).

7 12. MISCELLANEOUS

8 12.1 Nothing in this Order abridges the right of any person to seek its
9 modification by the Court.

10 12.2 By stipulating to the entry of this Order, no Party waives any right it
11 otherwise would have to object to disclosing or producing any information or item
12 on any ground not addressed in this Order. Similarly, no Party waives any right to
13 object on any ground to use in evidence of any of the material covered by this
14 Order.

15 12.3 A Party that seeks to file under seal any Protected Material must
16 comply with Civil Local Rule 79-5. Protected Material may be filed under seal only
17 pursuant to a court order authorizing the sealing of the specific Protected Material at
18 issue. If a Party's request to file Protected Material under seal is denied, then the
19 Receiving Party may file the information in the public record unless otherwise
20 instructed by the Court.

21 13. FINAL DISPOSITION

22 After the final disposition of this Action, as defined in paragraph 4, within 60
23 days of a written request by the Designating Party, each Receiving Party must return
24 all Protected Material to the Producing Party or destroy such material. As used in
25 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
26 summaries, and any other format reproducing or capturing any of the Protected
27 Material. Whether the Protected Material is returned or destroyed, the Receiving
28 Party must submit a written certification to the Producing Party (and, if not the same

1 person or entity, to the Designating Party) by the 60-day deadline that identifies (by
2 category, when appropriate) all the Protected Material that was returned or
3 destroyed and affirms that the Receiving Party has not retained any copies, abstracts,
4 compilations, summaries, or any other format reproducing or capturing any of the
5 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
6 archival copy of all pleadings; motion papers; trial, deposition, and hearing
7 transcripts; legal memoranda; correspondence; deposition and trial exhibits; expert
8 reports; attorney work product; and consultant and expert work product even if such
9 materials contain Protected Material. Any such archival copies that contain or
10 constitute Protected Material remain subject to this Order as set forth in Section 4
11 (DURATION).

12 14. SANCTIONS

13 Any willful violation of this Order may be punished by civil or criminal
14 contempt, financial or evidentiary sanctions, reference to disciplinary authorities, or
15 other appropriate action at the discretion of the Court.

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17 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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19 DATED: _____
20 _____
21 Attorneys for Plaintiff

22 DATED: _____
23 _____
24 Attorneys for Defendant

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____ [full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the U.S. District Court for the Central District of California on [date] in the case of _____ [insert case name and number]. I agree to comply with and to be bound by all terms of this Stipulated Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment, including contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

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

Date: _____

City and State where signed: _____

Printed name: _____

Signature: _____