

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

Case No. CA \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,

v.

\_\_\_\_\_  
Defendant.

**CONFIDENTIALITY STIPULATION AND PROTECTIVE ORDER**

Plaintiff and Defendant by and through their respective duly authorized counsel hereby stipulate and agree to the following Confidentiality Stipulation and the entry by the Court of this Protective Order in the above captioned matter.

During the course of discovery, the parties may be under an obligation to disclose information and/or materials deemed to constitute trade secrets or confidential research, developmental, financial, or commercial information. Disclosure of such information and/or material, which is designated or contains confidential information or materials as set forth herein, during discovery, hearings, trial and/or any other part of this proceeding in this case, shall only occur upon the terms and conditions contained herein.

1. Until further stipulation of the parties, all discovery, hearings, trial and other proceedings of this action shall be subject to this Stipulation of Confidentiality.

2. As used herein "**trial counsel**" shall mean those attorneys who are members or associates of any law firms employed by the parties who are charged with the responsibility for and actively engaged in trial preparation of this action, as well as any of trial counsel's respective secretaries, legal assistants or other staff.

3. All discovery material produced or exchanged in the course of this litigation shall be used **solely** for the purpose of preparing for and conducting the trial of this action. It may not be used for any other purpose, without the express, written consent of all parties.

4. In connection with discovery proceedings in this action, any information deemed by the party producing it to be confidential or proprietary in nature, may be designated "**Confidential**" by the producing party, and will be subject to the terms of this Stipulation of Confidentiality.

5. Information shall be deemed and designated "**Confidential**" in the following manner:

- a. By stamping the front page of each document with the designation "**Confidential**;"
- b. By imprinting the designation "**Confidential**" next to each answer to interrogatory, response to deposition upon written question, or response to request for admission;
- c. If such Confidential information is contained or given in any deposition testimony, trial testimony or any other testimony, the transcript may be designated as containing Confidential information in accordance with this Order by notifying the parties on the record, at the time the testimony is given, or in writing, within 10 days of receipt of the transcript, by specifying the specific pages and lines of the transcript which contain such Confidential information. In any deposition transcript in which any portion has been designated confidential, the court reporter or the party in possession of the original shall imprint the word "**Confidential**" on the front page of the deposition transcript;
- d. By describing in writing and in sufficient detail any non-written material and by providing written notice to all other parties that such non-written material shall be kept confidential;

e. By affixing to the canister or cassette of all video or audio tapes the designation "**Confidential**."

In lieu of marking the original documents, the producing party may mark the copies that are produced or exchanged, and the fact that the original documents themselves may not contain the "**Confidential**" marking shall not constitute a waiver of confidentiality.

6. The obligation to designate information as confidential shall be upon the party producing it. Except with respect to deposition or hearing testimony, discovery from individuals or companies who are not parties to this action, and discovery produced prior to the date of this Stipulation, such designation shall occur at the time of production.

7. Any information designated "**Confidential**" shall not be disclosed to any person other than:

- a. The parties, their officers and directors;
- b. Trial counsel for the parties;
- c. The trial Judge and his/her personnel and employees;
- d. Persons noticed or subpoenaed for deposition or hearing testimony;
- e. Experts specifically retained to testify or assist counsel in this matter.

It is strictly understood that each individual identified above, to whom confidential information is to be disclosed, shall agree to be bound to the terms of this Stipulation.

8. This stipulation applies to all discovery from third parties, provided that only a party to this action may make a designation of confidentiality.

9. Any person to whom disclosure of confidential information is made pursuant to the terms of this Stipulation shall use said information only for the purpose of this action and preparation for trial. All persons are strictly forbidden from using any Confidential information for any business, competitive or other purpose.

10. The inadvertent or unintended disclosure by the supplying party of Confidential information, shall not be deemed a waiver of that party's claim of confidentiality. This Stipulation shall not prohibit trial counsel from contacting any person merely because that person's identity is disclosed in information that has been designated Confidential. No Confidential information, however, may be disclosed to such a person, in any form, unless allowed by this Stipulation.

11. A party shall not be obligated to challenge the propriety of another party's designation of information, and failure to do so shall not preclude any subsequent challenge thereto. In the event that any party disagreed with another's designation, the parties agree to attempt to resolve the dispute in good faith. If the dispute cannot be resolved, the objecting party may seek appropriate relief from the Court.

12. All Confidential information filed with the Court, including all depositions, or any portion or portions of depositions which contain(s) Confidential information, and all papers (including affidavits and memoranda of law) purporting to reflect Confidential information shall be filed in sealed envelopes or other appropriate sealed containers on which shall be endorsed the title of this Action, an identification of the contents thereof, and the legend: "FILED UNDER SEAL PURSUANT TO CONFIDENTIALITY ORDER." At the conclusion of litigation, including the conclusion of any appeals that may be taken, the Court may return to counsel or destroy any sealed materials and documents in its possession.

13. There shall be no reproduction whatsoever of any Confidential information, except as may be used in this litigation. Copies, excerpts, or summaries of Confidential information, including affidavits, briefs, and memoranda may be shown or given to only those with authorized access under this Order.

14. Upon termination of this action, trial counsel shall return to the furnishing party all discovery designated as **“Confidential”** received from such party during the course of this action, including all copies of discovery, excerpts and summaries thereof and shall not retain any copies thereof.

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15. The obligations described herein are to be enforced for the period of this action and shall remain in effect subsequent to its termination so as to protect the confidentiality of designated material.

Dated:

By: \_\_\_\_\_

**ATTORNEYS FOR DEFENDANT**

Dated:

By: \_\_\_\_\_

**ATTORNEYS FOR PLAINTIFF**

**PROTECTIVE ORDER**

Pursuant to Rule 26 of the Federal Rules of Civil Procedure and the foregoing Stipulation of the parties;

**IT IS HEREBY ORDERED:**

1. The foregoing Stipulation of the parties shall be and hereby is adopted as the Order of this Court, and the parties are directed to fully comply with its terms.

Dated: \_\_\_\_\_  
U. S. District Court Judge