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NOTE CHANGES MADE BY THE COURT.

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

13 HOLOGRAM USA, INC., a Delaware
 14 corporation; and UWE MAASS, an
 individual,

15 **Plaintiffs,**

16 v.

18 VNTANA 3D, LLC (d/b/a VNTANA) a
 19 California limited liability company;
 20 ASHLEY CROWDER, an individual; and
 BENJAMIN CONWAY, an individual;
 21 and DOES 1 through 10,

22 **Defendants.**

Case No. CV-09489-BRO-AGR

~~PROPOSED~~ PROTECTIVE
 ORDER

Hon. Alicia G. Rosenberg
 United States Magistrate Judge

NOTE CHANGES MADE BY THE COURT.

[PROPOSED] PROTECTIVE ORDER

1 Disclosure and discovery activity in this action are likely to involve
2 production of confidential, proprietary, or private information for which special
3 protection from public disclosure and from use for any purpose other than
4 prosecuting this litigation may be warranted. Accordingly, the parties hereby
5 stipulate to and petition the court to enter the following Stipulated Protective
6 Order. The parties acknowledge that this Order does not confer blanket protections
7 on all disclosures or responses to discovery and that the protection it affords from
8 public disclosure and use extends only to the limited information or items that are
9 entitled to confidential treatment under the applicable legal principles. The parties
10 further acknowledge that this Stipulated Protective Order does not entitle them to
11 file confidential information under seal; Local Rule 79-5 sets forth the procedures
12 that must be followed when a party seeks permission from the court to file material
13 under seal.
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16 DEFINITIONS

17 1. The term "Confidential Information" shall mean and include
18 information contained or disclosed in any materials, including documents, portions
19 of documents, answers to interrogatories, responses to requests for admissions, trial
20 testimony, deposition testimony, and transcripts of trial testimony and depositions,
21 including data, summaries, and compilations derived therefrom, copies, abstracts,
22 and any other format reproducing or capturing such information, as well as
23 information disclosed orally in connection with settlement or other
24 communications between the parties that qualify for protection under Federal Rule
25 of Civil Procedure 26(c). Pursuant to provisions below, Confidential Information
26 may be designated as either "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL-
27 ATTORNEYS' EYES ONLY."
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1 2. The term “Designating Party” shall mean a Party or Non-Party that
2 designates information or items that it produces in disclosures or in responses to
3 discovery as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
4 ATTORNEYS’ EYES ONLY.”

5 3. The term “Defendants” shall mean and refer to the defendants in this
6 action, including Ventana 3D LLC, d/b/a VNTANA (s/h/a VNTANA 3D, LLC
7 (d/b/a VNTANA)), Ashley Crowder, Benjamin Conway and any of their respective
8 agents, officers, directors, employees, representatives, parents, subsidiaries,
9 divisions, affiliates, predecessors-in-interest, successors-in-interest, trustees,
10 attorneys, and any other person acting for or on their behalf.

11 4. The term “Plaintiffs” shall mean and refer to the plaintiffs in this
12 action, including Hologram USA, Inc., Uwe Maass and any of their respective
13 agents, officers, directors, employees, representatives, parents, subsidiaries,
14 divisions, affiliates, predecessors-in-interest, successors-in-interest, trustees,
15 attorneys, and any other person acting for or on their behalf.

16 5. The terms “Disclosure” or “Discovery Material” shall mean all items
17 or information, regardless of the medium or manner in which it is generated,
18 stored, or maintained (including, among other things, testimony, transcripts, and
19 tangible things), that are produced or generated in disclosures or responses to
20 discovery in this matter.

21 6. The term “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
22 ONLY” shall mean extremely sensitive “Confidential Information or Items,”
23 disclosure of which to another Party or Non-Party would create a substantial risk of
24 serious harm that could not be avoided by less restrictive means.

25 7. The term “Non-Party” shall mean any natural person, partnership,
26 corporation, association, or other legal entity not named as a Party to this action.

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1 8. The term "Party" shall mean any party to this action, including all of
2 its officers, directors, employees, consultants, retained experts, and Outside
3 Counsel of Record (and their support staffs).

4 9. The term "Producing Party" shall mean a Party or Non-Party that
5 produces Disclosure or Discovery Material in this action.

6 10. The term "Protected Material" shall mean any Disclosure or
7 Discovery Material that is designated as "CONFIDENTIAL" or "HIGHLY
8 CONFIDENTIAL – ATTORNEYS' EYES ONLY.

9 11. The term "Receiving Party" shall mean a Party that receives
10 Disclosure or Discovery Material from a Producing Party.

11 12. The term "documents" shall include, but shall not be limited to:
12 documents; correspondence; memoranda; electronically stored information; source
13 code; bulletins; blueprints; specifications; customer lists or other material that
14 identify customers or potential customers; price lists or schedules or other matter
15 identifying pricing; minutes; telegrams; letters; statements; cancelled checks;
16 contracts; invoices; drafts; books of account; worksheets; notes of conversations;
17 desk diaries; appointment books; expense accounts; recordings; photographs;
18 motion pictures; compilations from which information can be obtained and translated
19 into reasonably usable form through detection devices; sketches; drawings; notes
20 (including laboratory notebooks and records); reports; instructions; disclosures;
21 other writings; and models and prototypes and other physical objects.

22 13. The term "attorneys" shall mean outside counsel retained or employed by
23 the parties, paralegals, secretaries, and other support staff of those attorneys, and
24 litigation support vendors utilized by said law firms (only so long as said vendors
25 agree to be bound by the terms of this Protective Order by having an appropriate
26 representative of the vendor execute a copy of the form attached hereto as Exhibit
27 A on behalf of the vendor).

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1 14. The term “independent expert” shall mean a person with specialized
2 knowledge or experience in a matter pertinent to the case who has been retained by a
3 party’s attorneys to serve as an expert witness or as a litigation consultant in this case,
4 and who is not a current employee of a party or of a competitor of a party and who, at
5 the time of retention, is not anticipated to become an employee of, or a non-litigation
6 consultant of a party or competitor of a party.

7 **GENERAL RULES**

8 15. Each party to this litigation that produces or discloses any materials,
9 answers to interrogatories, responses to requests for admission, trial testimony,
10 deposition testimony, and transcripts of trial testimony and depositions, or other
11 materials and/or information that the Producing Party believes should be subject to this
12 Order may designate the same as “CONFIDENTIAL” or “HIGHLY
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

14 a. Designation as “CONFIDENTIAL”: Any Party may designate
15 information as “CONFIDENTIAL” only if, in the good faith belief of such Party
16 and its attorneys, the unrestricted disclosure of such material could be potentially
17 prejudicial to the business or operations of such Party.

18 b. Designation as “HIGHLY CONFIDENTIAL – ATTORNEYS’
19 EYES ONLY”: Any Party may designate information as “HIGHLY
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only if, in the good faith belief
21 of such party and its attorneys, the material is among that considered to be highly
22 sensitive by the Party, including, but not limited to, trade secret or other
23 confidential research, development, financial, or other highly sensitive commercial
24 or competitive information.

25 16. In the event the Producing Party elects to produce or disclose materials
26 for inspection, no marking need be made by the Producing Party in advance of the
27 initial inspection. For purposes of the initial inspection, all materials produced shall
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1 be considered as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," and
2 shall be treated as such pursuant to the terms of this Order. Thereafter, upon
3 selection of specified materials for copying, if any, by the Receiving Party, the
4 Producing Party shall, within a reasonable time prior to producing those materials to
5 the Receiving Party, mark the copies of those materials that contain Confidential
6 Information with the appropriate confidentiality marking. Materials may also be
7 produced in the first instance with confidentiality markings.

8 a. For documents (apart from transcripts of depositions or other
9 pretrial or trial proceedings), the Producing Party shall affix the appropriate
10 confidentiality legend to each page that contains Confidential Information.

11 b. For Disclosures other than documents, and for any other
12 tangible items, the Producing Party shall affix, in a prominent place on the exterior
13 of the container or containers in which the material or item is stored, the
14 appropriate confidentiality legend. In the event a Receiving Party generates any
15 "hard copy" transcription or printout from any designated non-paper media
16 (including, but not limited to, documents produced in native electronic format),
17 such Receiving Party must stamp each page with the appropriate confidentiality
18 legend, and the hard copy, transcription, or printout shall be treated as it is
19 designated.

20 c. For materials disclosed orally in the context of settlement or
21 other communications between the parties, in addition to protection afforded such
22 materials or information under Federal Rules of Evidence 408, the Producing Party
23 may identify the information as Confidential Information pursuant to the terms of
24 this Order during the course of the oral communication or promptly thereafter,
25 provided that, written confirmation of the particular designation is made by the
26 Producing Party promptly following the oral communication, and the restrictions
27 that inhere in the particular designation identified shall apply.

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1 17. Whenever a deposition taken on behalf of any Party involves a disclosure
2 of Confidential Information of any Party:

3 a. said deposition or portions thereof shall be designated as
4 containing Confidential Information subject to the provisions of this Order; such
5 designation shall be made on the record whenever possible, but a Party may
6 designate portions of depositions as containing Confidential Information after
7 transcription of the proceedings; that Party shall have until fourteen (14) calendar
8 days after receipt of the deposition transcript to inform the other Party or Parties to
9 the action of the portions of the transcript designated "CONFIDENTIAL" or
10 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY";

11 b. the Producing Party shall have the right to exclude from
12 attendance at said deposition, during such time as the Confidential Information is
13 to be disclosed, any person other than the deponent, attorneys (including their staff
14 and associates), the court reporter, and the person(s) agreed upon pursuant to
15 paragraphs 19-22 below; and

16 c. the originals of said deposition transcripts and all copies
17 thereof shall bear the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL
18 – ATTORNEYS' EYES ONLY," as appropriate, and shall be separately bound
19 according to the portions of the transcript bearing each such designation, and the
20 original or any copy thereof ultimately presented to the Court for filing shall not be
21 filed unless filing can be accomplished under seal, identified as being subject to
22 this Order, and protected from being opened except by order of this Court.

23 18. All Protected Material shall not be disclosed by the Receiving Party to
24 anyone other than those persons designated herein as appropriate to the particular
25 designation, and shall be handled in the manner set forth below.

26 19. Upon receipt of material or records designated "HIGHLY
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY," and except as otherwise
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1 compelled by law, the Receiving Party may only disclose the material or records to
2 the following:

3 a) The Court (under seal prior to time of trial); ^{unless otherwise}
4 b) The outside attorneys for the Parties, their respective associates, ^{ordered by}
5 partners, clerks, paralegals, legal assistants, secretaries and other support staff who ^{the court}
6 are actively engaged in assisting such attorneys in the prosecution or defense of this
7 action;

8 c) Independent experts retained or consulted by any Party or its
9 counsel as required to assist in the conduct of this action, provided that, prior to
10 disclosure, any such expert is provided with a copy of this Protective order and
11 acknowledges in writing that he or she agrees to be bound by these terms by
12 executing an acknowledgment in the form attached hereto as Exhibit "A";

13 d) One or more of the Parties' officers, employees or independent
14 contractors associated with the Parties who are designated by the Parties to obtain
15 access to "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"
16 information in this matter, so long as the party receiving the "HIGHLY
17 CONFIDENTIAL – ATTORNEYS' EYES ONLY" information identifies the
18 individual/individuals to the Designating Party, and the Designating Party
19 approves the disclosure of that information to the individual/individuals on a
20 disclosure-by-disclosure basis.

21 e) Deponents but (1) only to the extent necessary to assist in the
22 conduct or preparation of this litigation; and (2) only after the deponent has certified
23 in writing (by executing an acknowledgment in the form attached hereto as Exhibit
24 "A") that he or she has read this Protective Order and agrees to be bound by its
25 terms and conditions or has been personally served with the Protective Order on
26 the record of his or her deposition in the presence of counsel for all parties who
27 have appeared in the action;

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1 f) Clerical or ministerial service providers, including outside
2 copying services and court reporters, retained by a Party's counsel to assist such
3 counsel in connection with this action;

4 g) Individuals who either are designated in the document or
5 material itself as an author or recipient thereof, or are otherwise shown to have
6 authored or received the designated document or material, provided that the
7 disclosure to such individuals shall be limited to the specific Confidential Material
8 originally disclosed to such individuals in the particular document. Such
9 individuals shall not retain any Confidential Material;

10 h) Jury consultants and mock jurors (subject to execution of the
11 form attached hereto as Exhibit "A");

12 i) Litigation support vendors (subject to execution of the form
13 attached hereto as Exhibit "A"); and

14 j) Any mediator who hears this matter, and his or her staff.

15 20. Except as otherwise provided herein, material designated
16 "CONFIDENTIAL" shall be viewed only by the persons listed in paragraph 19
17 above, as well as the additional individuals listed below:

18 a. Deponents but only to the extent necessary to assist in the
19 conduct or preparation of this litigation; and

20 b. One or more additional of the Parties' officers, employees or
21 independent contractors associated with the Parties who are designated by the Parties
22 to obtain access to "CONFIDENTIAL" information in this matter, so long as the
23 party receiving the "CONFIDENTIAL" information identifies the
24 individual/individuals to the Designating Party, and the Designating Party approves
25 the disclosure of that information to the individual/individuals on a disclosure-by-
26 disclosure basis.

1 21. With respect to Protected Material/any person indicated on the face of
2 the document to be its originator, author, or a recipient of a copy thereof, may be
3 shown the same.

4 22. All Protected Material and any and all reproductions thereof, shall be
5 retained in the custody of the attorneys for the Receiving Party, except that experts
6 authorized to view such information under the terms of this Order may retain
7 custody of copies such as are necessary for their participation in this litigation.

8 23. Before any Protected Material or any pleadings reflecting Confidential
9 Information are filed with the Court, for any purpose, the Party seeking to file such
10 materials shall seek permission of the Court to file said materials under seal, unless
11 the Designating Party so waives the confidentiality designation. Any request to file
12 such material under seal must comply with Local Rule 79-5. Confidential
13 Information may only be filed under seal pursuant to a court order authorizing the
14 sealing of the specific Confidential Information at issue.

15 24. At any stage of these proceedings, any Party may object to a designation
16 of materials or information as CONFIDENTIAL or HIGHLY CONFIDENTIAL-
17 ATTORNEYS' EYES ONLY. The Party objecting to the confidentiality
18 designation shall notify, in writing, attorneys for the Producing Party of the
19 objected-to materials and state the grounds for the objection. If the dispute is not
20 resolved consensually between the parties within seven (7) calendar days of receipt
21 of such a notice of objections, the objecting party may move the Court for a ruling
22 on the objection. The materials at issue shall be treated as Confidential Information,
23 as designated by the Designating Party, until the Court has ruled on the objection or
24 the matter has been otherwise resolved.

25 25. All Confidential Information shall be held in confidence by those
26 inspecting or receiving it, and shall be used only for purposes of this action. The
27 attorneys for each Party, and each person receiving Confidential Information, shall
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1 take reasonable precautions to prevent the unauthorized or inadvertent disclosure of
2 such information. If Confidential Information is disclosed to any person other than
3 a person authorized by this Order, the party responsible for the unauthorized
4 disclosure must immediately bring all pertinent facts relating to the unauthorized
5 disclosure to the attention of the other parties and, without prejudice to any rights
6 and remedies of the other parties, make every effort to prevent further disclosure by
7 the party and by the person(s) receiving the unauthorized disclosure.

8 26. If a party, through inadvertence, produces any Confidential Information
9 without labeling or marking or otherwise designating it as such in accordance with
10 this Order, the Producing Party may give written notice to the Receiving Party that
11 the document or thing produced is deemed Confidential Information, and that the
12 document or thing produced should be treated as such in accordance with that
13 designation under this Order. The Receiving Party must treat the materials as
14 confidential, once the Producing Party so notifies the Receiving Party. The
15 Producing Party must promptly provide the Receiving Party with replacement
16 materials that bear the appropriate confidentiality markings, and the Receiving Party
17 shall, in return, provide prompt confirmation of the destruction of the replaced
18 materials. If the Receiving Party has disclosed the materials before receiving the
19 designation, the Receiving Party must notify the Producing Party in writing of each
20 such disclosure to the extent reasonably possible and reasonably cooperate with the
21 Producing Party in attempting to retrieve them and halt their further dissemination.

22 27. Nothing herein shall prejudice the right of any Party to object to the
23 production of any Discovery Information on the grounds that the material is
24 protected as privileged or as work product.

25 28. Nothing in this Order shall bar the attorneys from rendering advice to
26 their clients with respect to this litigation and, in the course thereof, relying upon
27 any information designated as Confidential Information, provided that the contents
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1 of the information shall not be disclosed.

2 29. This Order shall be without prejudice to the right of any party to
3 oppose production of any information for lack of relevance or any other ground
4 other than the mere presence of Confidential Information. The existence of this
5 Order shall not be used by any Party as a basis for discovery that is otherwise not
6 proper under the Federal Rules of Civil Procedure.

7 30. Nothing herein shall be construed to prevent disclosure of Confidential
8 Information if such disclosure is required by subpoena, court order or any other
9 legal obligation. Should a party be required by law, including 37 CFR 1.56, or by
10 order of the Court to disclose Confidential Information, notice should be provided
11 to the Producing Party prior to any such disclosure. The Producing Party shall
12 have seven (7) days from the date of the notice to object to any disclosure of the
13 Confidential Information.

14 31. Within thirty (30) calendar days of final termination of this action,
15 including any and all appeals, attorneys for the Receiving Party shall either return
16 the Protected Material to the Producing Party, including any copies, excerpts, and
17 summaries thereof, or shall destroy same at the option of the Receiving Party, and
18 shall purge all such material from all machine-readable media on which it resides.
19 Notwithstanding the foregoing, attorneys for each party may retain all pleadings,
20 briefs, memoranda, motions, and other documents filed with the Court that refer to
21 or incorporate information designated as CONFIDENTIAL and HIGHLY
22 CONFIDENTIAL- ATTORNEYS' EYES ONLY, and will continue to be bound
23 by this Order with respect to all such retained material. Further, attorney work
24 product materials that contain Confidential Information need not be destroyed, but,
25 if they are not destroyed, the person in possession of the attorney work product will
26 continue to be bound by this Order with respect to all such retained Confidential
27 Information.

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1 32. The restrictions and obligations set forth herein shall not apply to any
2 information that:

3 a. the Parties agree should not be designated Confidential
4 Information;

5 b. the Parties agree, or the Court rules, is already public
6 knowledge;

7 c. the Parties agree, or the Court rules, has become public
8 knowledge other than as a result of disclosure by the Receiving Party , its
9 employees, or its agents in violation of this Order; or

10 d. has come or shall come into the Receiving Party's legitimate
11 knowledge independently of and prior to the production by the Producing Party as
12 demonstrated by pre-production documentation.

13 33. The restrictions and obligations herein shall not be deemed to prohibit
14 discussions of any Confidential Information with anyone if that person already has or
15 obtains legitimate possession thereof.

16 34. If material is produced in discovery that is subject to a claim of
17 privilege or of protection as trial preparation or work product material
18 ("privilege"), the Party making the claim may notify any Receiving Party of the
19 claim for privilege and the basis for it. In accordance with Federal Rule of
20 Evidence 502(d)-(e), such a production or disclosure does not operate as a waiver
21 of any privilege associated with any such production or disclosure. After being
22 notified by a Party claiming privilege that material produced by that Party is
23 subject to a claim of privilege, a Receiving Party (a) must promptly return or
24 destroy the specified material and any copies it has, (b) must not sequester, use, or
25 disclose the material until the claim is resolved, and (c) must take reasonable steps
26 to retrieve the material if the Party disclosed it before being notified. These
27 obligations include a restriction against presenting the material to the Court for a
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1 determination of the claim. The Party making the claim must serve a privilege log
2 that complies with Federal Rule of Civil Procedure 26(b)(5) within fourteen (14)
3 calendar days of notifying any Receiving Party of the claim. The party making
4 the claim must also preserve the material until the claim is resolved. The matter
5 shall be resolved on the basis of the information set forth in the privilege log and in
6 accordance with the standards, laws, and rules pertaining to the privilege(s)
7 claimed. This paragraph 34 expressly incorporates the protections of Federal Rule
8 of Evidence 502(d)-(e). Specifically, pursuant to Federal Rule of Evidence 502(d),
9 the inadvertent production of privileged or work product protected electronically
10 stored information is not a waiver of any applicable privilege or protection in the
11 pending case or in any other federal or state proceeding.

12 35. The terms of this Order are applicable to information produced by a
13 Non-Party in response to a subpoena in this action and designated as
14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
15 ONLY” under this Order. Such information produced by Non-Parties in
16 connection with this litigation is protected by the remedies and relief provided by
17 this Order. Nothing in these provisions should be construed as prohibiting a Non-
18 Party from seeking additional protections. Additionally, any Party may designate
19 Confidential Information produced by a Non-Party as “CONFIDENTIAL” or
20 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, subject to the
21 limitations set forth herein.

22 36. This Order may be modified by agreement of the parties, subject to
23 approval by the Court.

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37. The Court may modify the terms and conditions of this Order for good cause, or in the interest of justice, or on its own order at any time in these proceedings.

IT IS SO ORDERED.

Dated: August 10, 2015

Alicia G. Rosenberg
Honorable Alicia G. Rosenberg
United States Magistrate Judge

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EXHIBIT A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HOLOGRAM USA, INC., a Delaware corporation; MUSION DAS HOLOGRAM LIMITED, a corporation organized under the laws of the United Kingdom; and UWE MAASS, an individual,

Plaintiffs,

v.

VNTANA 3D, LLC (d/b/a VNTANA) a California limited liability company; ASHLEY CROWDER, an individual; and BENJAMIN CONWAY, an individual; and DOES 1 through 10,
Defendants.

Case No.: CV-09489-BRO-AGR

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

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I, _____, declare and say that:

1. I am employed as _____
by _____.

2. I have read the Protective Order entered in the above-captioned action, and have received a copy of the Protective Order.

3. I promise that I will use any and all Protected Material (as defined in the Protective Order), given to me only in manners authorized by the Protective Order, and only to assist the attorneys in the litigation of this matter.

4. I promise that I will not disclose or discuss such Confidential Information with anyone other than with persons permitted access to the particular Confidential Information under the terms of the Protective Order. I also agree to notify any stenographic, clerical or technical personnel who are required to assist me of the terms of this Protective Order and of its binding effect on them and me.

5. I acknowledge that, by signing this agreement, I am subjecting myself to the jurisdiction of the United States District Court for the Central District of California with respect to enforcement of the Protective Order.

6. I understand that any disclosure or use of Confidential Information in any manner contrary to the provisions of the Protective Order may subject me to sanctions for contempt of court.

I declare under penalty of perjury that the foregoing is true and correct.

Date: _____

Signature: _____

Printed Name: _____

On Behalf of Company (if appropriate): _____