



1 The Parties<sup>1</sup> HEREBY STIPULATE AND AGREE, by and through their  
2 undersigned counsel, that the following proposed Modified Order Governing the  
3 Treatment of Confidential Information (the “Order”) should be entered by the  
4 Court in this case (the “Litigation”).

5 This Order shall govern the handling of all documents, deposition testimony,  
6 and discovery responses, including all copies, excerpts and summaries thereof,  
7 provided during the course of the Litigation by the Parties to the Litigation or by  
8 non-parties, either voluntarily or as required in lawful discovery pursuant to the  
9 Federal Rules of Civil Procedure, except during a court hearing or at trial. Any use  
10 of Confidential material during a court hearing or at trial shall be governed by the  
11 orders of the presiding judge.

12 1. SCOPE.

13 Documents and information designated “Confidential,” as defined in section  
14 2, obtained through this lawsuit shall be used only for the purposes of  
15 investigating, preparing for and conducting this Litigation, including any appeals  
16 thereof, and shall not be used by the Parties or any other person for any  
17 commercial, business, competitive or other purpose without the prior written  
18 consent of the Producing Party or their counsel. Notwithstanding the foregoing,  
19 nothing shall prevent either Party from providing any Confidential materials  
20 produced or adduced in this Litigation in response to a subpoena or lawful court  
21 order, in accordance with Section 10 herein.

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24 <sup>1</sup> As used herein: “Party” or “Parties” refer to the Parties to this Litigation;  
25 “Producing Party” refers to the Party or non-party producing documents or  
26 information; “Receiving Party” refers to the Party to which documents or  
27 information are produced; “Designating Party” refers to the Party or party that has  
28 designated documents or materials Confidential; and “Challenging Party” refers to  
the Party challenging the designation of documents or materials Confidential.

1 2. DESCRIPTION OF PROTECTED MATERIALS.

2 A Producing Party may designate “Confidential” any non-public material  
3 produced in the Litigation the Producing Party believes in good faith contains (a) a  
4 trade secret or other confidential research, development, or commercial  
5 information, (b) personally identifying information (including dates of birth,  
6 addresses, social security numbers, phone numbers, account balances, and  
7 information otherwise protected by the Health Insurance Portability and  
8 Accountability Act of 1996 (“HIPAA”) Privacy Standards, 42 C.F.R. 164), or (c)  
9 information that the Producing Party is obligated not to disclose under a written  
10 agreement with a non-party.

11 3. PROTECTIVE ORDER REQUESTED BY THE PARTIES.

12 Upon entry of an Order by this Court, this Modified Order Governing the  
13 Treatment of Confidential Information (the “Order”) shall govern the production  
14 and disclosure of Confidential materials and their contents pursuant to Paragraph 2  
15 above throughout the entirety of this Litigation, except during a court hearing or at  
16 trial. As indicated above, any use of Confidential material during a court hearing  
17 or at trial shall be governed by the orders of the presiding judge.

18 A. This Order shall not diminish or eliminate any privilege conferred  
19 pursuant to the Federal Rules of Civil Procedure, nor any statutory or other legal  
20 obligation or right of any Party.

21 B. The Parties and their Counsel shall keep confidential and not use nor  
22 disseminate outside this Litigation any of the Confidential materials or their  
23 contents, as defined in Section 2, except as provided in this Order.

24 (1) The Confidential materials and their content shall be used by  
25 the Parties for the sole purpose of furthering the Litigation, and for no other  
26 purpose;

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1 the Confidential materials are made by or on behalf of Counsel of Record, such  
2 items shall be designated and treated as Confidential materials.

3 (4) Consultants and/or experts may receive and/or review  
4 Confidential materials provided by Counsel of Record, provided that the  
5 consultants receive a copy of this Order and sign an acknowledgment of  
6 understanding of the provisions herein. In addition, all consultants and/or experts  
7 shall be advised that any portion of their written work that contains or discloses the  
8 contents or substance of Confidential materials is also subject to this Order.

9 (5) During depositions, Counsel of Record may question a witness  
10 about Confidential materials or their contents. Unless all Parties (and non-parties,  
11 if applicable) agree on the record at the time the deposition testimony is taken, all  
12 deposition testimony taken in this case shall be treated as Confidential until 30  
13 days after the transcript is delivered to the parties. After that, the deposition  
14 testimony shall not be treated as Confidential unless the Producing Party has  
15 served a Notice of Designation to all Parties of record as to specific portions of the  
16 testimony that are designated Confidential. Thereafter, only those portions  
17 identified in the Notice of Designation shall be protected by the terms of this  
18 Order. The failure to serve a timely Notice of Designation shall waive any  
19 designation of testimony taken in that deposition as Confidential, unless otherwise  
20 ordered by the Court.

21 (6) In the event that Confidential materials are attached to, quoted  
22 in, or summarized in motions papers, pleadings, briefs, or other documents filed  
23 with the Court, the Confidential materials or their content shall be submitted for  
24 filing under seal pursuant to Local Rule 79-5. Copies of the filings containing  
25 Confidential information subject to this Order must be served on Counsel of

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1 Record for the Parties in accordance with federal statutes, rules, and regulations  
2 and with the Local Rules of this Court, and treated as Confidential.

3 (7) Confidential materials offered into evidence at a public hearing  
4 or at trial shall no longer be treated as Confidential, unless the Producing Party first  
5 obtains a separate protective order or other relief from the Court specifically  
6 relating to the materials used during the hearing or trial. The Receiving Party must  
7 give the Producing Party at least seven (7) days notice, whether through an exhibit  
8 list or otherwise, if they intend to use Confidential materials at a public hearing or  
9 trial. Personally identifying information must be redacted from all documents used  
10 during depositions, during a public hearing, or at trial.

11 4. ADMISSION.

12 Neither this Order, nor its contents, nor any action taken in compliance with  
13 the Order shall operate as an admission by the Producing Party that specific  
14 materials are or are not admissible for evidentiary purposes.

15 5. UNAUTHORIZED DISCLOSURE.

16 An inadvertent failure to designate a document as Confidential materials  
17 does not, standing alone, waive the right to so designate the document. If a Party  
18 (or non-party) designates a document as Confidential material after it was initially  
19 produced, the Receiving Party, on notification of the designation, must make a  
20 reasonable effort to assure that the document is treated in accordance with the  
21 provisions of this Order. If, however, a Receiving Party uses a document or  
22 information that has not been designated Confidential in a way that makes its  
23 contents public, the Producing Party may not thereafter designate the document or  
24 information Confidential.

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1 6. RETURN OR DESTRUCTION OF CONFIDENTIAL MATERIALS.

2 Within sixty (60) days of final resolution of this Litigation, a Receiving  
3 Party must return all Confidential materials, including copies, to the Producing  
4 Party, or the Parties may elect to destroy the information, and all extracts or  
5 summaries of Confidential materials (except attorney work product). A Receiving  
6 Party must make a written Certification of such destruction, under penalty of  
7 perjury, and provide it to Counsel for the Producing Party within ten (10) business  
8 days of destruction. Notwithstanding this provision, counsel are entitled to retain  
9 an archival copy of all documents produced in this Litigation, including all  
10 pleadings, motion papers, trial, deposition, and hearing transcripts, deposition and  
11 trial exhibits, expert reports, attorney work product, and expert work product, even  
12 if such materials contain Confidential material. All Confidential materials retained  
13 by the Parties will continue to be treated as Confidential under this Order.

14 7. CHALLENGES TO DESIGNATION AS CONFIDENTIAL MATERIALS.

15 The designation of any materials or documents Confidential is subject to  
16 challenge by any Party. The following procedure shall apply to any such  
17 challenge.

18 A. Meet and Confer. The Challenging Party must act in good faith in  
19 challenging the designation of Confidential materials. The Challenging Party shall  
20 begin the process by serving the Designating Party with a notice of the materials the  
21 Challenging Party does not believe were properly designated Confidential. The  
22 Parties shall confer regarding the challenged designations within 7 days of the date  
23 of service of notice. If the Designating Party does not change its designation of the  
24 challenged materials, it must explain the basis for its belief the designation is  
25 proper. Unless another time period for conferral is agreed to by the parties, if the

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1 Designating Party fails to confer within 7 days of the challenge, the challenged  
2 materials shall automatically lose their Confidential designation.

3 B. Judicial Intervention. If a Designating Party does not change the  
4 designation of Confidential materials following a challenge under Section 7.A  
5 herein, the Challenging Party may, within fourteen (14) business days, prepare and  
6 send to the Designating Party a Joint Stipulation in accordance with Local Rule 37-  
7 2. If the Designating Party does not provide the Challenging Party with its portion  
8 of the Joint Stipulation in accordance with Local Rule 37-2, the challenged  
9 materials shall automatically lose their Confidential Designation.

10 C. Action by the Court. Applications to the Court for an order relating to  
11 materials or documents designated Confidential shall be in accordance with Local  
12 Rule 37-1–37-4. Nothing in this Order or any action or agreement of a Party (or  
13 non-party) under this Order limits the Court’s power to make orders concerning  
14 the disclosure of documents produced in discovery or at trial.

15 8. MODIFICATION.

16 The Court may modify the Order at any time, or consider any dispute that  
17 may arise under the Order upon motion of any Party.

18 9. DURATION.

19 Confidential materials shall remain protected pursuant to this Order  
20 throughout the Litigation unless terminated by Court Order or by stipulation  
21 executed by Counsel of Record. Counsel of Record shall make reasonable efforts  
22 to prevent unauthorized or inadvertent disclosure of Confidential materials. The  
23 provisions of this Order shall continue to be binding after the termination of the  
24 Litigation unless so ordered by the Court.

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1 10. CONFIDENTIAL INFORMATION SUBPOENAED OR ORDERED  
2 PRODUCED.

3 A. If a Receiving Party is served with a subpoena or a court order issued in  
4 other litigation or in connection with an ongoing investigation from a Federal or  
5 state government department or agency that would compel disclosure of any  
6 material or document designated in this Litigation as Confidential material, the  
7 Receiving Party must so notify the Producing Party, in writing, immediately and at  
8 least seven (7) days before the Party's response to the subpoena or order is due  
9 (unless the subpoena or court order does not allow the Receiving Party seven (7)  
10 days to respond). Such notification must include a copy of the subpoena or court  
11 order.

12 B. The Receiving Party also must immediately inform in writing the party  
13 who caused the subpoena or order to issue that some or all of the material covered  
14 by the subpoena or order is the subject of this Order.

15 C. The purpose of imposing these duties is to alert the Producing Party to  
16 the existence of this Order and to afford the Producing Party an opportunity to try  
17 to protect its Confidential material in the court (or from the Federal or state  
18 government or agency) from which the subpoena or order issued. The Producing  
19 Party shall bear the burden and the expense of seeking protection in that court or  
20 from that government department or agency of its Confidential material, and  
21 nothing in these provisions should be construed as authorizing or encouraging a  
22 Receiving Party in this Litigation to disobey a lawful directive from another court  
23 or from a government department or agency. The obligations set forth in this  
24 Section remain in effect while the Party has in its possession, custody or control  
25 Confidential material produced in this Litigation.

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1 11. WRITTEN NOTICE

2 For purposes of any written notice requirements as between the Parties under  
3 this Order, notice by email is sufficient.

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6 Dated: July 14, 2017

Respectfully submitted,

7 By: /s/ Laura Hammargren  
8 Nancy G. Ross (*Pro Hac Vice*)  
9 Brian D. Netter (*Pro Hac Vice*)  
10 Laura Hammargren (*Pro Hac Vice*)  
11 Samuel P. Myler (*Pro Hac Vice*)  
12 Dale J. Giali (SBN 150382)  
13 MAYER BROWN LLP

*Attorneys for Defendants*

14 By: /s/ Stephen M. Hoeplinger  
15 Stephen M. Hoeplinger (*Pro Hac Vice*)  
16 SCHLICHTER, BOGARD & DENTON  
17 *Lead Counsel for Plaintiffs*

18 William A. White (SBN 121681)  
19 HILL, FARRER & BURRILL LLP  
20 *Local Counsel for Plaintiffs*

21 Dated: August 3, 2017

IT IS SO ORDERED.

22 \_\_\_\_\_  
23 /s/  
24 Honorable Jacqueline Chooljian  
25 U.S. MAGISTRATE JUDGE

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

CLIFTON W. MARSHALL, et al.,

Case No. 16-CV-6794 AB (JCx)

Plaintiffs,

v.

NORTHROP GRUMMAN  
CORPORATION, et al.

Defendants.

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**ACKNOWLEDGMENT AND AGREEMENT TO ABIDE BY MODIFIED  
ORDER GOVERNING THE TREATMENT OF CONFIDENTIAL  
INFORMATION**

I hereby certify under penalty of perjury and pursuant to 28 U.S.C. § 1746 as follows:

1. Confidential material is being provided to me pursuant to the terms and restrictions of the “Modified Order Governing the Treatment of Confidential Information,” which was entered in the above-captioned case.
2. I have been given a copy of and have read that Order and agree to be bound by it.
3. I understand that all such Confidential information and copies, including, but not limited to, any notes or other materials relating or referring to such Confidential information shall be destroyed no later than sixty (60) days after the termination of this proceeding.

Date: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_