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**HALPERN MAY YBARRA GELBERG LLP**

Marc D. Halpern (CA Bar No. 216426)  
600 West Broadway, Suite 1060  
San Diego, California 92101  
Telephone: (619) 618-7000  
marc.halpern@halpernmay.com

Leslie A. Pereira (CA Bar No. 180222)  
Thomas Rubinsky (CA Bar No. 302002)  
550 South Hope Street, Suite 2330  
Los Angeles, California 90071  
leslie.pereira@halpernmay.com  
thomas.rubinsky@halpernmay.com

Attorneys for Plaintiff Live Nation  
Entertainment, Inc.

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

LIVE NATION ENTERTAINMENT,  
INC.,

Plaintiff,

v.

FACTORY MUTUAL INSURANCE  
COMPANY and DOES 1-30,  
inclusive,

Defendants.

Case No. 2:21-cv-00862-JAK-KS

**DISCOVERY MATTER**

**STIPULATED PROTECTIVE  
ORDER**

1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,  
3 proprietary, or private information for which special protection from public  
4 disclosure and from use for any purpose other than prosecuting this litigation may  
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
6 enter the following Stipulated Protective Order. The parties acknowledge that this  
7 Order does not confer blanket protections on all disclosures or responses to  
8 discovery and that the protection it affords from public disclosure and use extends  
9 only to the limited information or items that are entitled to confidential treatment  
10 under the applicable legal principles. The parties further acknowledge, as set forth  
11 in Section 12.3, below, that this Stipulated Protective Order does not entitle them  
12 to file confidential information under seal; Civil Local Rule 79-5 sets forth the  
13 procedures that must be followed and the standards that will be applied when a  
14 party seeks permission from the court to file material under seal.

15 **B. GOOD CAUSE STATEMENT**

16 This action is likely to involve private personal health information and  
17 confidential commercial and proprietary information for which special protection  
18 from public disclosure and from use for any purpose other than prosecution of this  
19 action is warranted. Such confidential and proprietary materials and information  
20 consist of, among other things, information regarding Covid-19 infections in  
21 particular individuals in particular locations, and information about individuals  
22 testing positive for Covid-19. Such materials and information also consist of, inter  
23 alia, confidential business and financial information regarding the terms of  
24 contracts with vendors and service providers (including information implicating  
25 privacy rights of third parties), as well as other financial information generally  
26 unavailable to the public, or which may be privileged or otherwise protected from  
27 disclosure under state or federal statutes, court rules, case decisions, or common  
28 law. Accordingly, to expedite the flow of information, to facilitate the prompt

1 resolution of disputes over confidentiality of discovery materials, to adequately  
2 protect information the parties are entitled to keep confidential, to ensure that the  
3 parties are permitted reasonable necessary uses of such material in preparation for  
4 and in the conduct of trial, to address their handling at the end of the litigation, and  
5 serve the ends of justice, a protective order for such information is justified in this  
6 matter. It is the intent of the parties that information will not be designated as  
7 confidential for tactical reasons and that nothing be so designated without a good  
8 faith belief that it has been maintained in a confidential, non-public manner, and  
9 there is good cause why it should not be part of the public record of this case.

10 **2. DEFINITIONS**

11 1.1 Action: this pending federal lawsuit.

12 1.2 Challenging Party: a Party or Non-Party that challenges the  
13 designation of information or items under this Order.

14 1.3 “CONFIDENTIAL” Information or Items: information (regardless of  
15 how it is generated, stored or maintained) or tangible things that qualify for  
16 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
17 the Good Cause Statement.

18 1.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
19 their support staff).

20 1.5 Designating Party: a Party or Non-Party that designates information or  
21 items that it produces in disclosures or in responses to discovery as  
22 “CONFIDENTIAL.”

23 1.6 Disclosure or Discovery Material: all items or information, regardless  
24 of the medium or manner in which it is generated, stored, or maintained (including,  
25 among other things, testimony, transcripts, and tangible things), that are produced  
26 or generated in disclosures or responses to discovery in this matter.

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1           1.7 Expert: a person with specialized knowledge or experience in a matter  
2 pertinent to the litigation who has been retained by a Party or its counsel to serve  
3 as an expert witness or as a consultant in this Action.

4           1.8 House Counsel: attorneys who are employees of a party to this Action.  
5 House Counsel does not include Outside Counsel of Record or any other outside  
6 counsel.

7           1.9 Non-Party: any natural person, partnership, corporation, association,  
8 or other legal entity not named as a Party to this action.

9           1.10 Outside Counsel of Record: attorneys who are not employees of a  
10 party to this Action but are retained to represent or advise a party to this Action  
11 and have appeared in this Action on behalf of that party or are affiliated with a law  
12 firm which has appeared on behalf of that party, and includes support staff.

13           1.11 Party: any party to this Action, including all of its officers, directors,  
14 employees, consultants, retained experts, and Outside Counsel of Record (and their  
15 support staffs).

16           1.12 Producing Party: a Party or Non-Party that produces Disclosure or  
17 Discovery Material in this Action.

18           1.13 Professional Vendors: persons or entities that provide litigation  
19 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
21 and their employees and subcontractors.

22           1.14 Protected Material: any Disclosure or Discovery Material that is  
23 designated as “CONFIDENTIAL.”

24           1.15 Receiving Party: a Party that receives Disclosure or Discovery  
25 Material from a Producing Party.

26 **3. SCOPE**

27           The protections conferred by this Stipulation and Order cover not only  
28 Protected Material (as defined above), but also (1) any information copied or

1 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
2 compilations of Protected Material; and (3) any testimony, conversations, or  
3 presentations by Parties or their Counsel that might reveal Protected Material.

4 Any use of Protected Material at trial shall be governed by the orders of the  
5 trial judge. This Order does not govern the use of Protected Material at trial.

6 **4. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations  
8 imposed by this Order shall remain in effect until a Designating Party agrees  
9 otherwise in writing or a court order otherwise directs. Final disposition shall be  
10 deemed to be the later of (1) dismissal of all claims and defenses in this Action,  
11 with or without prejudice; and (2) final judgment herein after the completion and  
12 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
13 including the time limits for filing any motions or applications for extension of  
14 time pursuant to applicable law.

15 **5. DESIGNATING PROTECTED MATERIAL**

16 a. Exercise of Restraint and Care in Designating Material for Protection.

17 Each Party or Non-Party that designates information or items for protection under  
18 this Order must take care to limit any such designation to specific material that  
19 qualifies under the appropriate standards. The Designating Party must designate for  
20 protection only those parts of material, documents, items, or oral or written  
21 communications that qualify so that other portions of the material, documents,  
22 items, or communications for which protection is not warranted are not swept  
23 unjustifiably within the ambit of this Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations  
25 that are shown to be clearly unjustified or that have been made for an improper  
26 purpose (e.g., to unnecessarily encumber the case development process or to  
27 impose unnecessary expenses and burdens on other parties) may expose the  
28 Designating Party to sanctions.

1 If it comes to a Designating Party's attention that information or items that it  
2 designated for protection do not qualify for protection, that Designating Party must  
3 promptly notify all other Parties that it is withdrawing the inapplicable designation.

4 b. Manner and Timing of Designations.

5 Except as otherwise provided in this Order (see, e.g., second paragraph of  
6 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or  
7 Discovery Material that qualifies for protection under this Order must be clearly so  
8 designated before the material is disclosed or produced.

9 Designation in conformity with this Order requires:

10 (a) for information in documentary form (e.g., paper or electronic  
11 documents, but excluding transcripts of depositions or other pretrial or trial  
12 proceedings), that the Producing Party affix at a minimum, the legend  
13 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that  
14 contains protected material. If only a portion or portions of the material on a page  
15 qualifies for protection, the Producing Party also must clearly identify the  
16 protected portion(s) (e.g., by making appropriate markings in the margins).

17 A Party or Non-Party that makes original documents available for inspection  
18 need not designate them for protection until after the inspecting Party has indicated  
19 which documents it would like copied and produced. During the inspection and  
20 before the designation, all of the material made available for inspection shall be  
21 deemed "CONFIDENTIAL." After the inspecting Party has identified the  
22 documents it wants copied and produced, the Producing Party must determine  
23 which documents, or portions thereof, qualify for protection under this Order.  
24 Then, before producing the specified documents, the Producing Party must affix  
25 the "CONFIDENTIAL legend" to each page that contains Protected Material. If  
26 only a portion or portions of the material on a page qualifies for protection, the  
27 Producing Party also must clearly identify the protected portion(s) (e.g., by making  
28 appropriate markings in the margins).

1 (b) for testimony given in depositions, that the Designating Party  
2 identify the Protected Material on the record before the close of the deposition or  
3 in writing within thirty (30) days after receipt of the transcript. Where it is not  
4 practicable to identify and delineate each piece of testimony sought to be protected  
5 under this Order during the deposition, the Designating Party shall designate the  
6 entire deposition as confidential on the record, and shall serve on the other Party  
7 written confidentiality designations no later than thirty (30) days after receipt of  
8 the transcript. If an entire deposition is designated as confidential on the record,  
9 absent written agreement otherwise, the Designating Party's failure to serve written  
10 confidentiality designations within thirty (30) days after receipt of the transcript  
11 shall constitute withdrawal of the confidentiality designation from the entire  
12 deposition.

13 (c) for information produced in some form other than documentary  
14 and for any other tangible items, that the Producing Party affix in a prominent  
15 place on the exterior of the container or containers in which the information is  
16 stored the legend "CONFIDENTIAL." If only a portion or portions of the  
17 information warrants protection, the Producing Party, to the extent practicable,  
18 shall identify the protected portion(s).

19 c. Inadvertent Failures to Designate.

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

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 a. Timing of Challenges: Any Party or Non-Party may challenge a  
27 designation of confidentiality at any time that is consistent with the Court's  
28 Scheduling Order.

1           b.     Meet and Confer: The Challenging Party shall initiate the dispute  
2 resolution process under Local Rule 37.1 et seq.

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

11 **7.     ACCESS TO AND USE OF PROTECTED MATERIAL**

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

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

22           b.     Disclosure of “CONFIDENTIAL” Information or Items. Unless  
23 otherwise ordered by the court or permitted in writing by the Designating Party, a  
24 Receiving Party may disclose any information or item designated  
25 “CONFIDENTIAL” only to:

26                   (a)     the Receiving Party’s Outside Counsel of Record in this Action,  
27 as well as employees of said 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  
2 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for  
3 this Action;

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

7 (d) the court and its personnel;

8 (e) court reporters and their staff;

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

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

16 (h) during their depositions, witnesses, and attorneys for witnesses,  
17 in the Action to whom disclosure is reasonably necessary provided: (1) the  
18 deposing party requests that the witness sign the form attached as Exhibit 1 hereto;  
19 and (2) they will not be permitted to keep any confidential information unless they  
20 sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless  
21 otherwise agreed by the Designating Party or ordered by the court. Pages of  
22 transcribed deposition testimony or exhibits to depositions that reveal Protected  
23 Material may be separately bound by the court reporter and may not be disclosed  
24 to anyone except as permitted under this Stipulated Protective Order;

25 (i) any mediator or settlement officer, and their supporting  
26 personnel, mutually agreed upon by any of the parties engaged in settlement  
27 discussions; and

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1 (j) any other person that the Designating Party agrees to in writing  
2 and who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
3 A).

4 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**  
5 **PRODUCED IN OTHER LITIGATION**

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

9 (a) promptly notify in writing the Designating Party. Such  
10 notification shall include a copy of the subpoena or court order;

11 (b) promptly notify in writing the party who caused the subpoena  
12 or order to issue in the other litigation that some or all of the material covered by  
13 the subpoena or order is subject to this Protective Order. Such notification shall  
14 include a copy of this Stipulated Protective Order; and

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

17 If the Designating Party timely seeks a protective order, the Party served  
18 with the subpoena or court order shall not produce any information designated in  
19 this action as “CONFIDENTIAL” before a determination by the court from which  
20 the subpoena or order issued, unless the Party has obtained the Designating Party’s  
21 permission. The Designating Party shall bear the burden and expense of seeking  
22 protection in that court of its confidential material and nothing in these provisions  
23 should be construed as authorizing or encouraging a Receiving Party in this Action  
24 to disobey a lawful directive from another court.

25 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
26 **PRODUCED IN THIS LITIGATION**

27 (a) The terms of this Order are applicable to information produced by a  
28 Non-Party in this Action and designated as “CONFIDENTIAL.” Such

1 information produced by Non-Parties in connection with this litigation is  
2 protected by the remedies and relief provided by this Order. Nothing in these  
3 provisions should be construed as prohibiting a Non-Party from seeking  
4 additional protections.

5 (b) In the event that a Party is required, by a valid discovery request, to  
6 produce a Non-Party's confidential information in its possession, and the Party is  
7 subject to an agreement with the Non-Party not to produce the Non-Party's  
8 confidential information, then the Party shall:

9 (1) promptly notify in writing the Requesting Party and the Non-  
10 Party that some or all of the information requested is subject to a confidentiality  
11 agreement with a Non-Party;

12 (2) promptly provide the Non-Party with a copy of the Stipulated  
13 Protective Order in this Action, the relevant discovery request(s), and a  
14 reasonably specific description of the information requested; and

15 (3) make the information requested available for inspection by the  
16 Non-Party, if requested.

17 (c) If the Non-Party fails to seek a protective order from this court  
18 within 14 days of receiving the notice and accompanying information, the  
19 Receiving Party may produce the Non-Party's confidential information responsive  
20 to the discovery request. If the Non-Party timely seeks a protective order, the  
21 Receiving Party shall not produce any information in its possession or control that  
22 is subject to the confidentiality agreement with the Non-Party before a  
23 determination by the court. Absent a court order to the contrary, the Non-Party  
24 shall bear the burden and expense of seeking protection in this court of its  
25 Protected Material.

26 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

27 If a Receiving Party learns that, by inadvertence or otherwise, it has  
28 disclosed Protected Material to any person or in any circumstance not authorized

1 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
2 notify in writing the Designating Party of the unauthorized disclosures, (b) use its  
3 best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
4 inform the person or persons to whom unauthorized disclosures were made of all  
5 the terms of this Order, and (d) request such person or persons to execute the  
6 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit  
7 A.

8 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**  
9 **OTHERWISE PROTECTED MATERIAL**

10 If a Producing Party inadvertently produces information or documents that  
11 it considered privileged, in whole or in part, it may retrieve such information or  
12 documents or parts thereof as follows:

13 (a) Within twenty (20) days of the discovery of the inadvertent  
14 production, and no later than forty-five (45) days prior to trial, the Producing  
15 Party must give written notice to all parties who received copies of the produced  
16 document that the Producing Party claims said document, in whole or in part, to  
17 be privileged and must state the nature of the privilege; in the event that only  
18 part(s) of document(s) are claimed to be privileged, the Producing Party shall  
19 furnish redacted copies of such privileged documents, removing only the part(s)  
20 thereof claimed to be privileged, to all parties together with the notice (the  
21 “Inadvertent Production of Privileged Materials Notice”).

22 (b) Upon receipt of such Inadvertent Production of Privileged Materials  
23 Notice, all parties who have received copies of the inadvertently produced  
24 document(s) shall promptly return them to the Producing Party and destroy any  
25 other copies thereof except to the extent reasonably necessary to promptly present  
26 the information to the court under seal for a determination of the claim pursuant to  
27 Federal Rule of Civil Procedure 26(b)(5)(B).

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1 (c) After service of such notice, no motion to compel the production of  
2 the inadvertently produced privileged documents may rely on an allegation that  
3 any privilege as to the document was waived solely by virtue of its inadvertent  
4 production.

5 **12. MISCELLANEOUS**

6 i. Right to Further Relief. Nothing in this Order abridges the right of  
7 any person to seek its modification by the Court in the future.

8 ii. Right to Assert Other Objections. By stipulating to the entry of this  
9 Protective Order no Party waives any right it otherwise would have to object to  
10 disclosing or producing any information or item on any ground not addressed in  
11 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
12 any ground to use in evidence of any of the material covered by this Protective  
13 Order.

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

20 **13. FINAL DISPOSITION**

21 13.1 After the final disposition of this Action, as defined in paragraph 4,  
22 within 60 days of a written request by the Designating Party, each Receiving  
23 Party must return all Protected Material to the Producing Party or destroy such  
24 material. As used in this subdivision, "all Protected Material" includes all copies,  
25 abstracts, compilations, summaries, and any other format reproducing or  
26 capturing any of the Protected Material. Whether the Protected Material is  
27 returned or destroyed, the Receiving Party must submit a written certification to  
28 the Producing Party (and, if not the same person or entity, to the Designating

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

12 13.2 After the final disposition of this Action, as defined in paragraph 4, a  
13 Designating Party or a Producing Party may move the Court for an order directing  
14 the clerk to destroy or return records that have been filed under seal.

15 **14.** Any violation of this Order may be punished by any and all appropriate  
16 measures including, without limitation, contempt proceedings and/or monetary  
17 sanctions.

18 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

19 Dated: July 13, 2021

HALPERN MAY YBARRA GELBERG LLP

Marc D. Halpern

Leslie A. Pereira

Thomas Rubinsky

22  
23 By: /s/ Marc D. Halpern

Marc D. Halpern

Attorneys for Plaintiff

Live Nation Entertainment, Inc.

1 Dated: July 13, 2021

ROBINS KAPLAN LLP

2 Scott G. Johnson

3 Sylvia R. Ewald

4  
5 By: /s/ Scott G. Johnson

6 Scott G. Johnson

7 Attorneys for Defendant

8 Factory Mutual Insurance Company

9 **ATTESTATION**

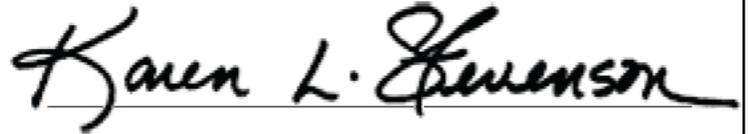
10 Pursuant to Local Rule 5-4.3.4(a)(2), the filer attests that all signatories  
11 listed, and on whose behalf the filing is submitted, concur in the filing's content  
12 and have authorized the filing.  
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ORDER

**FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

DATED: July 14, 2021



Hon. Karen L. Stevenson  
United States Magistrate Judge

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**EXHIBIT A**

**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type 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 United States District Court for  
the Central District of California on \_\_\_\_\_ [date] in the case of  
*Live Nation Entertainment, Inc. v. Factory Mutual Insurance Company*, Case No.  
2:21-cv-00862-JAK-KS. I agree to comply with and to be bound by all the terms of  
this Stipulated Protective Order and I understand and acknowledge that failure to  
so comply could expose me to sanctions and punishment in the nature of 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 United States 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 \_\_\_\_\_ [print or  
type full name] of  
\_\_\_\_\_ [print or type 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 sworn and signed: \_\_\_\_\_  
Printed name: \_\_\_\_\_  
Signature: \_\_\_\_\_