

1 Martin Pitha (SBN 192447)  
2 mpitha@lp-lawyers.com  
3 Lillis Pitha LLP  
4 2 Park Plaza, Suite 480  
5 Irvine, CA 92614  
6 (949) 209-9020 (t)  
7 (949) 759-1845 (f)

8 Douglas F. Stewart (*pro hac vice*)  
9 doug.stewart@bracewelllaw.com  
10 Jared Schuettenhelm (SBN 267885)  
11 jared.schuettenhelm@bracewelllaw.com  
12 Bracewell LLP  
13 701 Fifth Avenue, Suite 6200  
14 Seattle, Washington 98104-7018  
15 (206) 204-6200 (t)  
16 (800) 404-3970 (f)

17 David J. Ball (*pro hac vice*)  
18 david.ball@bracewelllaw.com  
19 Bracewell LLP  
20 1251 Avenue of the Americas  
21 New York, New York 10020  
22 (212) 508-6100 (t)  
23 (800) 404-3970 (f)

24 *Attorneys for Plaintiffs and*  
25 *Counterclaim Defendants Toshiba Tec*  
26 *Corp. and Toshiba America Business*  
27 *Solutions, Inc.*

28  
**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

29 TOSHIBA TEC CORPORATION, and  
30 TOSHIBA AMERICA BUSINESS  
31 SOLUTIONS, INC.,

32 Plaintiffs,

33 v.

34 KATUN CORPORATION,

35 Defendant.

Case No. 8:15-cv-01979-SJO-JC

**STIPULATED PROTECTIVE  
ORDER**

1 KATUN CORPORATION,  
2  
3 Counter Claimant,  
4 v.  
5 TOSHIBA TEC CORPORATION, and  
6 TOSHIBA AMERICA BUSINESS  
7 SOLUTIONS, INC.,  
8 Counterclaim Defendants.

9  
10 In light of the nature of the claims and allegations in this case and the  
11 parties' representations that discovery in this case will involve the production of  
12 confidential records, and in order to expedite the flow of information, to  
13 facilitate the prompt resolution of disputes over confidentiality of discovery  
14 materials, to adequately protect information the parties are entitled to keep  
15 confidential, to ensure that the parties are permitted reasonable necessary uses  
16 of such material in connection with this action, to address their handling of such  
17 material at the end of the litigation, and to serve the ends of justice, a protective  
18 order for such information is justified in this matter. The parties shall not  
19 designate any information/documents as confidential without a good faith belief  
20 that such information/documents have been maintained in a confidential, non-  
21 public manner, and that there is good cause or a compelling reason why it  
22 should not be part of the public record of this case.

23 In view of the foregoing, the parties hereby stipulate to and petition the  
24 Court to enter the following Stipulated Protective Order.

25 1. For purposes of this Stipulated Protective Order ("Protective  
26 Order"), "Protected Information" shall mean all information or material  
27 produced for, made available for inspection to, or disclosed to a party (the  
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1 “Receiving Party”) by another party or non-party (the “Producing Party”) that  
2 the Producing Party believes, in good faith, constitutes or contains confidential  
3 information, whether embodied in physical objects, documents, or the factual  
4 knowledge of persons, and which has been so designated by the Producing  
5 Party using the relevant designations described in Paragraphs 3-5 below. Any  
6 Protected Information obtained pursuant to discovery in this litigation may be  
7 used only in connection with this litigation.

8 2. This Protective Order shall govern the handling of all discovery  
9 material, including documents, deposition transcripts, deposition exhibits,  
10 interrogatory responses, admissions, and any other information produced,  
11 given, or exchanged by or among the parties and any non-parties to the above-  
12 captioned action.

13 3. Protected Information may be designated “CONFIDENTIAL.” The  
14 CONFIDENTIAL designation may be used for Protected Information that  
15 constitutes or includes confidential information that is not publicly known and  
16 that cannot be ascertained from an inspection of publicly available documents  
17 and materials. Documents designated CONFIDENTIAL shall be available only  
18 to those persons and entities authorized to receive HIGHLY  
19 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY material, as  
20 specified in Paragraph 4 below, in addition to In-house Counsel or In-house  
21 Advisors, as specified in Paragraph 15 below.

22 4. Protected Information may be designated “HIGHLY  
23 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY.” The HIGHLY  
24 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY designation may  
25 be used for Protected Information that constitutes or includes commercially  
26 sensitive or competitive information that is not publicly known and that cannot  
27 be ascertained from an inspection of publicly available documents and  
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1 materials, the disclosure of which is restricted and may cause harm to the  
2 competitive position of the Producing Party, including, but not limited to, trade  
3 secrets; technical information (*e.g.*, schematic diagrams, technical reference  
4 manuals, and operations manuals); damages-related information (*e.g.*, sale  
5 volumes, revenues, costs, and profitability); business plans; marketing plans;  
6 customer lists; pricing lists; historical and on-going research and development  
7 information; information concerning systems and products not yet  
8 commercially or publicly available; information concerning comparisons,  
9 studies, testing, or evaluation of competitor systems or products; financial  
10 statements and related back-up data; unpublished pending patent applications;  
11 licenses and licensing documentation; strategic plans; and settlement  
12 agreements or settlement communications. Protected Information obtained  
13 from a non-party pursuant to a nondisclosure agreement may be designated  
14 **HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY**, unless  
15 the non-party permits disclosure under a different designation. Protected  
16 Information designated **HIGHLY CONFIDENTIAL—OUTSIDE**  
17 **ATTORNEYS’ EYES ONLY** and information contained therein shall be  
18 available only to Outside Counsel (per Paragraph 14), Technical Advisors (per  
19 Paragraph 16, and in accordance with Paragraphs 16(a)-16(d)), Mock Jurors  
20 (per Paragraph 17), and the Court and Third Party Vendors (per Paragraph 18),  
21 and may be subject to the Prosecution Bar pursuant to Paragraphs 11 -12.

22 5. Protected Information may be designated “**HIGHLY**  
23 **CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED**  
24 **CODE.**” This designation is reserved for Protected Information that is not  
25 publicly known and that cannot be ascertained from an inspection of publicly  
26 available documents and materials, involving computer code (in any software  
27 language), scripts, assembly code, source code, object code, source code listings  
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1 and descriptions of source code, object code listings and descriptions of object  
2 code, files that describe the hardware design of any ASIC or other chip  
3 (including Hardware Description Language (“HDL” or “VHDL”) files and  
4 Register Transfer Level (“RTL”) files, netlists, mask data design and  
5 fabrication computer files stored in a “GDS” or related file format, process-flow  
6 documents related to the fabrication of circuit boards, and other documents that  
7 provide the same definition or detailed description of the algorithms or  
8 structures of software or hardware designs. (For the purposes of this Protective  
9 Order only, such materials will be referred to for convenience as “Protected  
10 Code”). Information designated HIGHLY CONFIDENTIAL—OUTSIDE  
11 ATTORNEYS’ EYES ONLY—PROTECTED CODE shall be provided only to  
12 those persons and entities authorized in Paragraph 4, subject to the additional  
13 protections set forth in Paragraph 13, and shall be subject to the Prosecution Bar  
14 pursuant to Paragraphs 11-12.

15 6. Protected Information shall be designated by marking it  
16 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL—OUTSIDE  
17 ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL—OUTSIDE  
18 ATTORNEYS’ EYES ONLY—PROTECTED CODE,” as appropriate.  
19 Protected Information also includes any material (such as notes, memoranda,  
20 briefs, declarations, reports, testimony, and correspondence) that refers to or is  
21 derived from material designated as Protected Information. If two or more  
22 copies of the same document or tangible thing are produced with conflicting  
23 confidentiality designations, all parties shall assume the more restrictive  
24 designation shall apply to all copies. A non-party’s failure to designate  
25 Protected Information does not limit the right of any party to designate such  
26 information as Protected Information under the terms of this Protective Order,  
27 provided such information is the party’s information. If promptly corrected  
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1 upon discovery of the inadvertent failure to designate, such failure does not,  
2 standing alone, waive the Producing Party's right to secure protection under this  
3 Protective Order for such material. Upon prompt correction of a designation,  
4 the Receiving Party must make reasonable efforts to assure that the material is  
5 treated in accordance with the provisions of this Protective Order. This includes  
6 but is not limited to the Receiving Party making reasonable efforts to assure that  
7 any document in the Receiving Party's possession with the incorrect  
8 designation is replaced with a document with the corrected designation.

9 7. A deposition transcript may be designated, in whole or in part,  
10 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
11 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
12 EYES ONLY—PROTECTED CODE, by an appropriate statement at the time  
13 such testimony is given. The reporter shall mark the original and all copies of  
14 the transcript to reflect the designation. Alternatively, a deposition transcript  
15 may be designated by notifying the reporter and the other parties in writing of  
16 the portions of such testimony to be so designated within thirty (30) days of the  
17 date the transcript is received by the designating party. Before the expiration of  
18 said 30-day period, all parties shall presumptively treat deposition transcripts as  
19 if they were designated HIGHLY CONFIDENTIAL—OUTSIDE  
20 ATTORNEYS' EYES ONLY. Any portions of the transcript that have been  
21 designated shall thereafter be treated in accordance with the terms of this  
22 Protective Order. If no portions of a transcript are designated as  
23 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
24 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
25 EYES ONLY—PROTECTED CODE by any party on record during the  
26 deposition or by written notice within the 30-day period, the transcript shall be  
27 considered not to contain Protected Information.

1           8. All Protected Information not reduced to documentary, tangible, or  
2 physical form, or which cannot be conveniently designated using the  
3 designations described in detail above, shall be designated by the Producing  
4 Party by informing the Receiving Party of the designation in writing.

5           9. If a Receiving Party learns that, by inadvertence or otherwise, it has  
6 disclosed Protected Information to any person or in any circumstance not  
7 authorized under this Protective Order, the Receiving Party must immediately  
8 (a) notify the Producing Party in writing of the unauthorized disclosure, (b) use  
9 its best efforts to retrieve all unauthorized copies of the Protected Information,  
10 (c) inform the person or persons to whom unauthorized disclosures were made of  
11 all the terms of this Protective Order, and (d) request such persons to execute  
12 the “Agreement to Be Bound by Stipulated Protective Order” that is attached  
13 hereto as Exhibit A.

14           10. Inadvertent or unintentional disclosure of documents (including  
15 physical objects) containing privileged or protected information shall not  
16 constitute a waiver of attorney-client privilege, work product immunity, or any  
17 other applicable privilege if, as soon as reasonably possible after the Producing  
18 Party becomes aware of any inadvertent or unintentional disclosure, the  
19 Producing Party designates any such documents as protected by the attorney-  
20 client privilege, work product immunity or any other applicable privilege and  
21 requests return of such documents to the Producing Party. Upon request by the  
22 Producing Party, the Receiving Party shall immediately return or destroy all  
23 copies of such inadvertently produced document(s). Nothing herein shall  
24 prevent the Receiving Party from challenging the assertion of the attorney-  
25 client privilege, work product immunity, or other applicable privilege before the  
26 Court. The Receiving Party may not retain any inadvertently produced  
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1 documents pending the Court's resolution of a challenge to a designation of  
2 privilege.

3 11. Absent written consent of the owner of the Protected Information,  
4 any person who receives and reviews any document containing technical  
5 information designated as HIGHLY CONFIDENTIAL—OUTSIDE  
6 ATTORNEYS' EYES ONLY or HIGHLY CONFIDENTIAL—OUTSIDE  
7 ATTORNEYS' EYES ONLY—PROTECTED CODE shall not engage in any  
8 original prosecution of a patent application substantially related to technology  
9 disclosed during this litigation from the time of receipt of such information  
10 through and including two (2) years following the entry of a final non-  
11 appealable judgment or order of the complete settlement of all claims against all  
12 parties in these related cases. Original prosecution of a patent application does  
13 not include (1) activities by parties' counsel or their clients and affiliates in  
14 addressing a challenge to a patent in reexaminations, *inter partes* reviews, or  
15 other post-grant challenges to patents, or (2) activities by any person subject to  
16 this provision for purposes of performing administrative tasks for a pending  
17 patent application on which the person is an inventor. Nothing in this  
18 paragraph shall prevent any attorney from sending non-confidential prior art to  
19 an attorney involved in patent prosecution for purposes of ensuring that such  
20 prior art is submitted to the U.S. Patent and Trademark Office (or any similar  
21 agency of a foreign government) to assist a patent applicant in complying with  
22 its duty of candor. For the avoidance of doubt, this prosecution bar shall not be  
23 applicable to individuals that receive and review documents containing only  
24 financial information designated as HIGHLY CONFIDENTIAL—OUTSIDE  
25 ATTORNEYS' EYES ONLY or HIGHLY CONFIDENTIAL—OUTSIDE  
26 ATTORNEYS' EYES ONLY—PROTECTED CODE.



1           12. The parties expressly agree that the Prosecution Bar set forth in the  
2 paragraphs above shall be personal to any attorney who reviews Protected  
3 Information designated as HIGHLY CONFIDENTIAL—OUTSIDE  
4 ATTORNEYS’ EYES ONLY or HIGHLY CONFIDENTIAL—OUTSIDE  
5 ATTORNEYS’ EYES ONLY—PROTECTED CODE and shall not be imputed  
6 to any other persons or attorneys at that attorney’s law firm or company.

7           13. Material designated HIGHLY CONFIDENTIAL—OUTSIDE  
8 ATTORNEYS’ EYES ONLY—PROTECTED CODE shall be afforded the  
9 following further protections:

10           (a) Access to material designated HIGHLY CONFIDENTIAL—  
11 OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED CODE shall be  
12 provided only to those persons authorized in Paragraph 4, subject to the  
13 Prosecution Bar pursuant to Paragraphs 11-12.

14           (b) The persons allowed access pursuant to Paragraph 13(a) shall  
15 only view the Protected Code on a stand-alone computer (“Protected Code  
16 Computer”) made available at a single, secure location selected by the  
17 Producing Party (“Secure Facility”). Such Secure Facility may include, but is  
18 not limited to, the business offices of the Producing Party or its Outside  
19 Counsel. The Protected Code Computer shall not have Internet access or  
20 network access to other computers.

21           (c) Protected Code Available at Secure Facilities. Protected Code  
22 will be made available at a Secure Facility on seven (7) business days prior  
23 written notice. If a Secure Facility is used on consecutive days, 24 hours notice  
24 shall be sufficient after the first day. The Protected Code Computer shall be  
25 provisioned with sufficient tools to review Protected Code. For example, the  
26 Protected Code Computer shall be provisioned with tools to select limited  
27 exemplary excerpts of information for production after proper redaction (for  
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1 example, of specific transmission code values and formats) and labeling,  
2 including the ability to indicate the Protected Code to be produced by saving  
3 such Protected Code to PDF in a specified folder on the Protected Code  
4 Computer. In addition, the Protected Code Computer shall include software  
5 utilities that will allow reviewers to view, search, and analyze the Protected  
6 Code. At a minimum, these utilities must provide the ability to (a) view,  
7 search, and line-number any source file, (b) search for a given pattern of text  
8 through a number of files, (c) compare two files and display their differences,  
9 and (d) compute the MD5 checksum of a file.

10 (d) Outside Counsel and/or Technical Advisors for the party  
11 reviewing the Protected Code (“Reviewing Party”) shall be entitled to take  
12 notes relating to the Protected Code, but may not copy the Protected Code into  
13 such notes. Such notes shall be subject to all of the restrictions of the HIGHLY  
14 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
15 CODE designation.

16 (e) Following its review of Protected Code, the Reviewing Party  
17 and its Technical Advisors may request that the Producing Party print specified  
18 portions of the Protected Code. The Reviewing Party shall request printing  
19 only such portions as are reasonably necessary. Requests for 10 or less  
20 consecutive pages, and an aggregate total of 100 or less pages, of Protected  
21 Code during the duration of the case shall be presumptively reasonable. If the  
22 Reviewing Party wishes to have printed more than 10 consecutive pages and/or  
23 more than 100 pages of Protected Code in the aggregate per Producing Party  
24 during the case, the Reviewing Party may request a conference of counsel to  
25 discuss the printing of additional Protected Code. Unless it objects to the  
26 request, the Producing Party shall provide, within no more than five business  
27 days of any such presumptively reasonable request, or in such additional time as  
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1 reasonably necessary due to the volume requested as agreed to by the parties,  
2 three copies of such pages to the Reviewing Party. The Producing Party shall  
3 Bates number, copy, and label HIGHLY CONFIDENTIAL—OUTSIDE  
4 ATTORNEYS’ EYES ONLY—PROTECTED CODE such pages of printed  
5 Protected Code. The printed pages shall constitute part of the Protected Code  
6 produced by the Producing Party in this action. If the Producing Party objects  
7 based on a good faith belief that the portions requested to be printed are not  
8 reasonably necessary to any case preparation activity, the Producing Party shall  
9 make such objection known to the Reviewing Party within five business days of  
10 the request. If, after conferring, the Producing Party and the Reviewing Party  
11 cannot resolve the objection, either party may bring the issue to the Court.  
12 Pending resolution of the dispute, the Reviewing Party shall not remove the  
13 disputed materials from the Secure Facility unless otherwise agreed by the  
14 parties.

15 (f) The use of any input/output device, recordable media, or  
16 recordable device (*e.g.*, USB memory stick, CDs, portable hard drives, cameras  
17 (including cellular phones with camera functionality), sound recorders, etc.) is  
18 prohibited while accessing the Protected Code Computer, and no such devices  
19 or media shall be permitted in the room at the Secure Facility with the Protected  
20 Code Computer. Other than as provided herein, the Reviewing Party shall not  
21 copy, remove, or otherwise transfer any Protected Code from the Protected  
22 Code Computer.

23 (g) Only persons permitted to view HIGHLY  
24 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
25 CODE pursuant to Paragraph 13(a) of this Protective Order shall have access to  
26 the Reviewing Party Computer. The following additional restrictions shall  
27 apply to such access:

(1) Access to the Protected Code Computer shall be limited  
2 to two (2) Outside Counsel representing the Reviewing Party and two (2)  
3 Technical Advisors retained by the Reviewing Party.

(4) Neither the Reviewing Party nor the Producing Party  
5 shall modify the Protected Code or any files on the Protected Code Computer  
6 during discovery, provided however that new files may be created that test the  
7 existing files.

(8) At least seven (7) business days prior to the date on  
9 which access to the Protected Code Computer is sought, counsel of record for  
10 the Reviewing Party shall provide a list of Outside Counsel and Technical  
11 Advisors seeking access to the Protected Code Computer, and the Producing  
12 Party shall have the right to object to such access within five (5) business days.  
13 If the Producing Party does not object within five (5) business days after  
14 receiving notice, any objections by Reviewing Party are waived. During the  
15 pendency of the seven business day notice period, no listed individual shall  
16 have access to the Protected Code Computer. The parties shall confer in good  
17 faith to resolve any objections by the Producing Party to the list of Outside  
18 Counsel and Technical Advisors seeking access to the Protected Code  
19 Computer.

~~(4)~~ Each time a person accesses the Protected Code  
21 Computer on behalf of the Reviewing Party, that person shall sign a sign-in  
22 sheet prior to and subsequent to accessing the Protected Code Computer that  
23 includes the name of the person accessing the Protected Code Computer and the  
24 date and time in and out of the Secure Facility.

(h) The persons described in Paragraph 13(a) who may have  
26 access to information designated HIGHLY CONFIDENTIAL—OUTSIDE  
27 ATTORNEYS' EYES ONLY—PROTECTED CODE may include excerpts of

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1 properly-produced Protected Code in a pleading, exhibit, analysis, expert report,  
2 discovery document, deposition transcript, other Court document, or any drafts  
3 of these documents (“Protected Code Documents”); each excerpt of Protected  
4 Code quoted in a Protected Code Document shall be limited to only that  
5 necessary to support the argument made in the referencing Protected Code  
6 Document. To the extent portions of Protected Code are quoted in a Protected  
7 Code Document, either (1) the entire document will be stamped and treated as  
8 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—  
9 PROTECTED CODE or (2) those pages containing quoted PROTECTED  
10 CODE will be separately bound, stamped, and treated as HIGHLY  
11 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
12 CODE.

13 (i) The persons described in Paragraphs 13(a) and 16(a) shall be  
14 permitted to send, store, and access Protected Code Documents on a computer  
15 and on a computer network that limits access to only necessary viewers. To the  
16 extent Protected Code Documents are transferred back to electronic media, such  
17 media shall be labeled HIGHLY CONFIDENTIAL—OUTSIDE  
18 ATTORNEYS’ EYES ONLY—PROTECTED CODE.

19 (j) Protected Code Documents stored on a computer or computer  
20 network shall be password protected so as to limit access only to persons  
21 described in Paragraph 13(a) and 16(a).

22 (k) Copies of Protected Code shall be stored or viewed only at (i)  
23 the offices of Outside Counsel for the Receiving Party, (ii) the offices of  
24 Technical Advisors who have been approved to access to the Protected Code;  
25 (iii) the site where any deposition is taken (iv) the Court; or (v) any  
26 intermediate location necessary to transport the information to a hearing, trial,  
27 or deposition. Any such paper copies shall be maintained at all times in a  
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1 secure location under the control of either Outside Counsel or Technical  
2 Advisors who have been approved to access to the Protected Code, as the case  
3 may be. Technical Advisors in possession of the Protected Code outside of  
4 Outside Counsel's offices must store the Protected Code in a secure location  
5 inaccessible to others.

6 (l) Images or copies of Protected Code shall not be included in  
7 correspondence between the parties (references to production numbers shall be  
8 used instead) except as included in correspondence that attaches copies of  
9 Protected Code Documents as permitted herein.

10 14. Outside Counsel for a Receiving Party shall have access to the  
11 Producing Party's information designated CONFIDENTIAL, HIGHLY  
12 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY and HIGHLY  
13 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY—PROTECTED  
14 CODE. The term "Outside Counsel" shall mean attorneys who are not  
15 employees of a party to this action, but are retained to represent or advise a  
16 party to this action, and have appeared in this action on behalf of that party.  
17 The term "Outside Counsel" also includes other attorneys and supporting  
18 personnel, such as paralegals and legal secretaries, employed by the law firm of  
19 those counsel.

20 15. Up to three (3) In-house Counsel or In-house Advisors for a  
21 Receiving Party with responsibility for overseeing this litigation may have  
22 access to the Producing Party's information designated CONFIDENTIAL. The  
23 term "In-house Counsel" shall mean attorneys who are employees of a party  
24 and are working on this litigation, and includes supporting personnel employed  
25 by those counsel, such as paralegals, but excludes any inventor of a patent-in-  
26 suit. The term "In-house Advisors" shall mean non-attorney individuals  
27 working on this litigation as an employee or advisor of a party, but excludes any  
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1 inventor of a patent-in-suit. No disclosure of information designated  
2 CONFIDENTIAL shall be made to any In-house Counsel or In-house Advisor  
3 unless the person to whom the disclosure is to be made shall first have signed  
4 the form attached hereto as Exhibit A stating that he or she has read and  
5 understands this Protective Order and agrees to be bound by its terms and a  
6 copy has been given to the Producing Party.

7 16. Information designated CONFIDENTIAL, HIGHLY  
8 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY  
9 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
10 CODE may be furnished and disclosed to Technical Advisors. The term  
11 “Technical Advisor” shall mean an independent, outside expert witness or  
12 consultant (who is not a current or former employee of a party) with whom  
13 Outside Counsel may deem it necessary to consult concerning technical,  
14 financial, or other aspects of this litigation for the preparation or trial thereof,  
15 but excludes any inventor of a patent-in-suit.

16 (a) Should a Receiving Party find it necessary to disclose a  
17 Producing Party’s information designated CONFIDENTIAL, HIGHLY  
18 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY  
19 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
20 CODE to a Technical Advisor, the Receiving Party shall first give written  
21 notice to the Producing Party. Such written notice shall: (1) set forth the full  
22 name of the Technical Advisor and the city and state of his or her primary  
23 residence; (2) attach a current copy of the Technical Advisor’s résumé or  
24 curriculum vitae; (3) identify the Technical Advisor’s current employer(s) and  
25 current title(s); (4) identify each person or entity from whom the Technical  
26 Advisor has received compensation or funding for work in his or her areas of  
27 expertise or to whom the Technical Advisor has provided professional services,  
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1 including in connection with a litigation, at any time during the five (5) years  
2 preceding the delivery of such notice; and (5) identify any litigation in  
3 connection with which the Technical Advisor has offered expert testimony,  
4 including through a declaration, report, or testimony at a deposition or a trial  
5 during the preceding five (5) years. To the extent that a prospective Technical  
6 Advisor cannot provide any of the aforementioned information, the Receiving  
7 Party shall advise the Producing Party and the parties shall confer in good faith  
8 to enable the Technical Advisor to provide information that is sufficient to  
9 permit the Producing Party to assess whether it has grounds to object to  
10 disclosure of the information to the Technical Advisor.

11 (b) The Producing Party may object to the disclosure of the  
12 information to such Technical Advisor by notifying the Receiving Party of any  
13 objection within seven (7) business days of receiving written notice of the  
14 Receiving Party's request to disclose information designated CONFIDENTIAL,  
15 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY, or  
16 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY—  
17 PROTECTED CODE to a Technical Advisor. Except by order of this Court, no  
18 information designated CONFIDENTIAL, HIGHLY CONFIDENTIAL—  
19 OUTSIDE ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL—  
20 OUTSIDE ATTORNEYS' EYES ONLY—PROTECTED CODE shall be  
21 disclosed to such Technical Advisor until after the expiration of the 7-business  
22 day period without having received an objection from the Producing Party.  
23 Failure to object within the time period set forth above shall be deemed consent  
24 to the proposed disclosures as set forth in the notification. Consistent with C.D.  
25 Cal. L.R. 37-1, a party that receives a timely written objection shall meet and  
26 confer with the objecting party in an effort to resolve the matter. If no  
27 agreement can be reached after counsel for the parties have conferred, the  
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1 objecting party may approach the Court and follow appropriate Court  
2 procedures for resolution of the dispute.

3 (c) No disclosure of information designated CONFIDENTIAL,  
4 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or  
5 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—  
6 PROTECTED CODE shall be made to any Technical Advisor unless the person  
7 to whom the disclosure is to be made shall first have signed the form attached  
8 hereto as Exhibit A stating that he or she has read and understands this  
9 Protective Order and agrees to be bound by its terms. Identification of a  
10 Technical Advisor under this Protective Order is not a waiver of any applicable  
11 consultant or work product privilege, and does not by itself subject the  
12 Technical Advisor to any discovery.

13 (d) No notes, drafts, draft reports, or other types of preliminary  
14 written work by or for Technical Advisors concerning the subject matter of this  
15 action shall be the subject of discovery or of inquiry at trial. No  
16 communication, whether written or oral between or among any Technical  
17 Advisors or counsel for the party retaining said Technical Advisors concerning  
18 the subject matter of this action shall be the subject of discovery or of inquiry at  
19 trial. The foregoing shall not apply to any communications or documents upon  
20 which the Technical Advisor relied in forming his or her opinions as expressed  
21 in a declaration, report, or testimony, or on which a Technical Advisor intends  
22 to rely as a basis for an opinion expressed in a declaration, report, or testimony  
23 in connection with this action; such communications and documents shall be  
24 subject to discovery and inquiry at trial. Materials, communications, and other  
25 information exempt from discovery under this paragraph shall be treated as  
26 attorney work product.

1           17. Mock jurors hired by a party and/or their Outside Counsel in  
2 connection with this litigation may only be told about or shown  
3 CONFIDENTIAL or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
4 EYES ONLY materials provided: (1) they are not affiliated with any party to  
5 this case or their direct competitor; (2) they have signed the form attached  
6 hereto as Exhibit A stating that they have read and understand this Protective  
7 Order and agree to be bound by its terms; and (3) they are not themselves given  
8 custody of any Protected Information, nor permitted to remove or discuss  
9 outside the exercise, any presentations, questionnaires, or notes taken during the  
10 exercise from any room in which the research is conducted.

11           18. The Court, its officers, and court stenographers whose functions  
12 require them to have access to information designated CONFIDENTIAL,  
13 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or  
14 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—  
15 PROTECTED CODE may have such access. Parties may retain third-party  
16 vendors who may be given access to information designated CONFIDENTIAL,  
17 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or  
18 HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—  
19 PROTECTED CODE, but such third-party access shall not entitle the parties  
20 themselves to any access to information otherwise prohibited by this Protective  
21 Order.

22           19. Nothing in this Protective Order shall prevent a Receiving Party  
23 from contending that any or all documents or information designated  
24 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
25 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
26 EYES ONLY—PROTECTED CODE has been improperly designated. A  
27 Receiving Party may at any time request that the Producing Party cancel or  
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1 modify the CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE  
2 ATTORNEYS’ EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE  
3 ATTORNEYS’ EYES ONLY—PROTECTED CODE designation with respect  
4 to any document or information contained therein. Such a challenge shall be  
5 written, shall be served on Outside Counsel for the Producing Party, and shall  
6 identify the particular pages or information on a page that the Receiving Party  
7 contends should be differently designated. The parties shall use their best  
8 efforts to resolve promptly and informally such disputes. If an agreement  
9 cannot be reached, the Receiving Party may request that the Court cancel or  
10 modify a CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE  
11 ATTORNEYS’ EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE  
12 ATTORNEYS’ EYES ONLY—PROTECTED CODE designation.

13 20. Except as may be otherwise ordered by the Court, any person may  
14 be examined as a witness at depositions concerning all information designated  
15 as CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
16 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
17 EYES ONLY—PROTECTED CODE as reasonably necessary. Without in any  
18 way limiting the generality of the foregoing:

19 (a) A present director, officer, agent, and/or employee of a  
20 Producing Party may be shown, may be examined, and may testify concerning  
21 all information designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL—  
22 OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY CONFIDENTIAL—  
23 OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED CODE that has been  
24 produced by that party.

25 (b) Non-parties may be examined or may testify concerning any  
26 document containing information designated as CONFIDENTIAL, HIGHLY  
27 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY  
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1 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
2 CODE of a Producing Party, which appears on its face or from other documents  
3 or testimony to have been received from or communicated to the non-party as a  
4 result of any contact or relationship with the Producing Party or a representative  
5 or agent of the Producing Party. Any person other than the witness, his or her  
6 attorney(s), or any person authorized to receive information designated as  
7 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
8 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
9 EYES ONLY—PROTECTED CODE under this Protective Order shall be  
10 excluded from the portion of the examination concerning such information,  
11 unless the Producing Party consents to persons other than authorized recipients  
12 being present at the examination.

13 (c) In the course of any deposition, counsel for a Producing Party  
14 may request that everyone except the court reporter and persons authorized to  
15 access Protected Information under this Protective Order leave the room.  
16 Failure to comply with this instruction shall justify instructing the witness not to  
17 answer the pending question.

18 (d) At a later date, any party may ask the Court to address trial  
19 examinations and testimony occurring in open court as it relates to materials  
20 designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE  
21 ATTORNEYS’ EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE  
22 ATTORNEYS’ EYES ONLY—PROTECTED CODE.

23 21. The parties shall seek permission from the Court to file all  
24 transcripts of depositions, exhibits, answers to interrogatories, pleadings, briefs,  
25 and other documents that have been designated as CONFIDENTIAL, HIGHLY  
26 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY  
27 CONFIDENTIAL—OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED  
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1 CODE or that contain information so designated, under seal pursuant to the  
2 local rules for the Central District of California and any pertinent orders of the  
3 assigned District Judge and Magistrate Judge.

4 22. Export Control. Each party receiving Protected Information shall  
5 comply with all applicable export control statutes and regulations. The  
6 Producing Party shall label any Protected Information subject to United States  
7 Export Administration Regulations with the designation “Export Controlled”  
8 (“Export Controlled Material”). The Receiving Party shall not provide Export  
9 Controlled Material to a foreign national without prior consent of the Producing  
10 Party or order of the Court. The term “foreign national” is defined as any person  
11 who is not a U.S. person or national/citizen, lawful permanent resident, person  
12 granted asylum or refugee status, or temporary resident granted amnesty. The  
13 restrictions contained within this paragraph may be amended through the  
14 consent of the Producing Party to the extent that such agreed to procedures  
15 conform with applicable export control laws and regulations.

16 23. Disclosure to Author or Recipient. Notwithstanding any other  
17 provisions, nothing in this Protective Order shall prohibit Outside Counsel from  
18 disclosing a document or thing designated as Protected Information to any  
19 person whom the document or thing clearly identifies as an author, addressee,  
20 source, or carbon copy recipient of such document or thing. Regardless of its  
21 designation, if a document or thing makes reference to the actual or alleged  
22 conduct or statements of a person, Outside Counsel may discuss such conduct  
23 or statements with such person, provided that such discussions do not directly  
24 or indirectly disclose or reveal any portion of the document or thing other than  
25 that which specially refers to such conduct or statement.

26 24. The parties shall disclose this Protective Order to all non-parties  
27 producing information or material pursuant to a subpoena or court order in this  
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1 case. A non-party producing information or material voluntarily or pursuant to  
2 a subpoena or a court order may designate such material or information as  
3 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
4 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
5 EYES ONLY—PROTECTED CODE information pursuant to the terms of this  
6 Protective Order, and shall be considered a Producing Party under this  
7 Protective Order.

8 25. A non-party's use of this Protective Order to protect its  
9 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
10 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
11 EYES ONLY—PROTECTED CODE information does not entitle that non-  
12 party access to CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE  
13 ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL— OUTSIDE  
14 ATTORNEYS' EYES ONLY—PROTECTED CODE information produced by  
15 any party in this case.

16 26. Nothing in this Protective Order shall bar or otherwise restrict any  
17 attorney from rendering advice to his or her client with respect to this litigation  
18 and, in the course of rendering advice, relying generally on the examination of  
19 Protected Information produced or exchanged; provided however, that in  
20 rendering such advice and in otherwise communicating with his or her client,  
21 the attorney shall not disclose the substance or contents of any Protected  
22 Information produced by another Party or person if that disclosure would be  
23 contrary to the terms of this Protective Order. Further, nothing in this  
24 Protective Order prevents any Outside Counsel from advising his or her clients  
25 regarding general strategy so long as the Outside Counsel does not disclose  
26 the substance or contents of any Protected Information in a manner contrary  
27 to the terms of this Protective Order.

1           27. Within sixty (60) days after the entry of a final non-appealable  
2 judgment or order, or the complete settlement of all claims asserted against all  
3 parties, each Receiving Party shall, at its option, either return to the Producing  
4 Party or destroy all physical objects and documents which embody  
5 CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
6 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS'  
7 EYES ONLY—PROTECTED CODE information that were received from the  
8 Producing Party, and shall destroy in whatever form stored or reproduced, all  
9 other physical objects and documents, including but not limited to,  
10 correspondence, memoranda, notes and other work product materials, electronic  
11 or otherwise, that contain or refer to CONFIDENTIAL, HIGHLY  
12 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY, or HIGHLY  
13 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY—PROTECTED  
14 CODE information. Each Receiving Party that has provided copies of  
15 Protected Information of another party to a Technical Advisor shall promptly  
16 request the return of all such copies and shall destroy such copies, or shall cause  
17 the Technical Advisor to destroy all such copies. Each Receiving Party shall  
18 submit a written certification to each Producing Party by ninety (90) days after  
19 the entry of a final non-appealable judgment or order, or the complete  
20 settlement of all claims asserted against all parties, confirming that all Protected  
21 Information has been destroyed (or handled as otherwise ordered or agreed).  
22 Notwithstanding the foregoing, Outside Counsel shall be entitled to maintain  
23 copies of all pleadings, motions and trial briefs (including all supporting and  
24 opposing papers and exhibits thereto), any expert reports, written discovery  
25 requests and responses (and exhibits thereto), deposition transcripts (and  
26 exhibits thereto), trial transcripts, and exhibits offered or introduced into  
27 evidence at any hearing or trial. The terms of this Protective Order shall  
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1 continue to apply to all retained materials, and any attorney work product that  
2 refers or is related to any Protected Information for archival purposes only.

3 28. This Protective Order is entered without prejudice to the right of any  
4 party to apply to the Court at any time for additional protection or relief, or to  
5 relax or rescind its restrictions, when convenience or necessity so requires.

6 29. The United States District Court for the Central District of  
7 California is responsible for the interpretation and enforcement of this  
8 Protective Order. All disputes concerning CONFIDENTIAL, HIGHLY  
9 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY, or HIGHLY  
10 CONFIDENTIAL—OUTSIDE ATTORNEYS' EYES ONLY—PROTECTED  
11 CODE information produced under the protection of this Protective Order shall  
12 be resolved by the United States District Court for the Central District of  
13 California.

14 30. This Protective Order shall remain in full force and effect until one  
15 hundred twenty (120) days after the entry of a final non-appealable judgment or  
16 order, or the complete settlement of all claims asserted against all parties in  
17 each of these related cases, unless cancelled or otherwise modified in writing as  
18 agreed to by all of the Parties or by an order of this Court.

19 31. Other Proceedings. By entering this Protective Order and limiting  
20 the disclosure of information in this litigation, the Court does not intend to  
21 preclude another court from finding that information may be relevant and  
22 subject to disclosure in another case. Any person or party subject to this order  
23 who becomes subject to a motion to disclose another party's information  
24 designated CONFIDENTIAL, HIGHLY CONFIDENTIAL—OUTSIDE  
25 ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE  
26 ATTORNEYS' EYES ONLY— PROTECTED CODE pursuant to this order  
27 shall promptly notify that party of the motion so that the party may have an  
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1 opportunity to appear and be heard on whether that information should be  
2 disclosed.

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2 **STIPULATED TO BY THE PARTIES**

3 /s/ Douglas F. Stewart

4 Douglas F. Stewart (*pro hac vice*)  
5 doug.stewart@bracewelllaw.com  
6 Jared Schuettenhelm (SBN 267885)  
7 jared.schuettenhelm@bracewelllaw.com  
8 Bracewell LLP  
9 701 Fifth Avenue, Suite 6200  
10 Seattle, Washington 98104-7018  
11 (206) 204-6200 (t)  
12 (800) 404-3970 (f)

13 David J. Ball (*pro hac vice*)  
14 david.ball@bracewelllaw.com  
15 Bracewell LLP  
16 1251 Avenue of the Americas  
17 New York, New York 10020  
18 (212) 508-6100 (t)  
19 (800) 404-3970 (f)

20 Martin Pitha (SBN 192447)  
21 mpitha@lp-lawyers.com  
22 Lillis Pitha LLP  
23 2 Park Plaza, Suite 480  
24 Irvine, CA 92614  
25 (949) 209-9020 (t)  
26 (949) 759-1845 (f)

27 *Attorneys for Plaintiffs and*  
28 *Counterclaim Defendants Toshiba Tec*  
*Corporation and Toshiba America*  
*Business Solutions, Inc.*

/s/ Cyrus A. Morton

Cyrus A. Morton (*pro hac vice*)  
CMorton@RobinsKaplan.com  
800 LaSalle Ave.  
2800 LaSalle Plaza  
Tel.: (612) 349-8500  
Fax: (612) 339-4181

Li Zhu (SBN 302210)  
LZhu@RobinsKaplan.com  
2440 W. El Camino Real, Suite 100  
Mountain View, CA 94040  
Tel.: (650) 784-4013  
Fax: (612) 339-4181

*Attorneys for Defendant and*  
*Counterclaimant, Katun*  
*Corporation*

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Dated: December 5, 2016

/s/ Jacqueline Chooljian  
UNITED STATES MAGISTRATE JUDGE

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**EXHIBIT A**

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

TOSHIBA TEC CORPORATION,  
and  
TOSHIBA AMERICA BUSINESS  
SOLUTIONS, INC.,

Case No. 8:15-cv-01979-SJO-JC  
JURY TRIAL DEMANDED

Plaintiffs,

v.

KATUN CORPORATION,

Defendant.

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KATUN CORPORATION,

Counter

Claimant,

v.

TOSHIBA TEC CORPORATION,  
and  
TOSHIBA AMERICA BUSINESS  
SOLUTIONS, INC.,

Counterclaim

Defendants.

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**AGREEMENT TO BE BOUND BY  
STIPULATED PROTECTIVE ORDER**

I, \_\_\_\_\_, declare that:

1. My address is \_\_\_\_\_.
2. The name and address of my present employer is \_\_\_\_\_.
3. My present occupation or job description is \_\_\_\_\_.
4. I have received and read a copy of the Stipulated Protective Order (“the

1 Protective Order”) in this litigation.

2 5. I am fully familiar with and agree to comply with and be bound by the  
3 terms of the Protective Order or by further order issued by the Court. I  
4 understand that I am to retain all copies of any documents designated as  
5 CONFIDENTIAL, HIGHLY CONFIDENTIAL— OUTSIDE ATTORNEYS’  
6 EYES ONLY, or HIGHLY CONFIDENTIAL—OUTSIDE ATTORNEYS’  
7 EYES ONLY—PROTECTED CODE in a secure manner, and that all copies are  
8 to remain in my personal custody until I have completed my assigned duties,  
9 whereupon the copies and any writings prepared by me related to any  
10 information designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL—  
11 OUTSIDE ATTORNEYS’ EYES ONLY, or HIGHLY CONFIDENTIAL—  
12 OUTSIDE ATTORNEYS’ EYES ONLY—PROTECTED CODE are to be  
13 returned to counsel who provided me with such material or destroyed within 60  
14 days after the entry of a final non-appealable judgment or order, or the complete  
15 settlement of all claims asserted against all parties.

16 6. I will not divulge to persons other than those specifically authorized by the  
17 Protective Order, and will not copy or use except solely for authorized purposes,  
18 any information obtained pursuant to the Protective Order, except as provided in  
19 the Protective Order. I also agree to notify any stenographic, clerical, or other  
20 personnel who are required to assist me of the terms of the Protective Order.

21 7. I hereby submit to the jurisdiction of this Court for the purposes of  
22 enforcement of the Protective Order in this action.

23 8. I state under penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and correct.

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Executed at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[SIGNATURE]

\_\_\_\_\_  
[PRINTED NAME]