

1 Theresa H. Wang (*pro hac vice*)
 2 *Theresa.Wang@stokeslaw.com*
 3 Joshua D. Harms (*pro hac vice*)
 4 *Joshua.Harms@stokeslaw.com*
 5 STOKES LAWRENCE, P.S.
 6 1420 Fifth Avenue, Suite 3000
 7 Seattle, WA 98101
 8 Telephone: (206) 626-6000

9 Curtis A. Graham (SBN No. 89755)
 10 *Curtis.Graham@saul.com*
 11 SAUL EWING
 12 1888 Century Park East, Suite 1500
 13 Los Angeles, CA 90067
 14 Telephone: (310) 255-6153

15 *Attorneys for Plaintiff Quest Software Inc.*

16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA
 18 AT SANTA ANA

19 Case No.: 8:23-cv-01909-JVS-KES

20 [~~PROPOSED~~]
 21 **STIPULATED PROTECTIVE**
 22 **ORDER**

23 QUEST SOFTWARE INC.,
 24 Plaintiff /
 25 Counterclaim-Defendant,
 26 v.
 27 HEALTHEQUITY, INC.,
 28 Defendant /
 Counterclaim-Plaintiff.

1 1. A. PURPOSES AND LIMITATIONS

2 As the parties have represented that discovery in this action is likely to
3 involve production of confidential, proprietary, or private information for which
4 special protection from public disclosure and from use for any purpose other than
5 prosecuting this litigation may be warranted, this Court enters the following
6 Protective Order. This Order does not confer blanket protections on all disclosures
7 or responses to discovery. The protection it affords from public disclosure and use
8 extends only to the limited information or items that are entitled to confidential
9 treatment under the applicable legal principles. Further, as set forth in Section
10 12.3, below, this Protective Order does not entitle the parties to file confidential
11 information under seal. Rather, when the parties seek permission from the court to
12 file material under seal, the parties must comply with Civil Local Rule 79-5 and
13 with any pertinent orders of the assigned District Judge and Magistrate Judge.

14 B. GOOD CAUSE STATEMENT

15 This action is likely to involve trade secrets, protected technology, customer
16 and pricing lists, internal business processes and strategies, and other commercial,
17 financial, technical and/or 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, confidential financial and business information,
21 information regarding confidential business practices and strategies, information
22 regarding proprietary and protected technology, or other confidential research,
23 development, or commercial information (including information implicating
24 privacy rights of non-parties), information otherwise generally unavailable to the
25 public, or which may be privileged or otherwise protected from disclosure under
26 state or federal statutes, court rules, case decisions, or common law. Accordingly,
27 to expedite the flow of information, to facilitate the prompt resolution of disputes
28 over confidentiality of discovery materials, to adequately protect information the

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

9 C. ESI PROTOCOL FOR MATERIAL PRODUCED IN DISCOVERY

10 The parties anticipate that they may request and produce data from
11 electronic or computer-based media. The parties agree that such disclosure or
12 production will be limited to data that is reasonably available in the ordinary
13 course of business, absent a showing of good cause. Electronically stored
14 information (“ESI”) shall be produced as follows: Documents and ESI derived
15 from e-mails and other electronically created files (e.g., Microsoft Office files,
16 PDFs) will be produced as either (a) OCR searchable PDFs or (b) single
17 page/multi-page 300 DPI TIFF or color JPEG images with accompanying Opticon
18 (.OPT) load files for use with document review software. A party should produce a
19 document, or individual pages thereof, in color if (a) the document or pages thereof
20 contain substantial color elements (e.g., images, charts, diagrams, or annotations);
21 (b) information within the document or pages thereof are no longer legible once
22 converted to black & white; or (c) the receiving party of a document produced in
23 black & white reasonably requests a color copy of the document.

24 Spreadsheets, PowerPoints, financial statements/ledgers prepared with accounting
25 software, and other data derived from structured databases (and other file types that
26 cannot be converted to PDF or TIFF format) shall be produced in their native
27 format. Native format is the format of the data in which it is used throughout the
28

1 normal course of business. Data exports from accounting software and other
2 database applications are considered native format.

3
4 Images for documents created with office or personal productivity software
5 (e.g., word processing documents, spreadsheets, and presentations) shall include
6 tracked changes, comments, hidden rows, columns or worksheets, speaker notes,
7 and any other similar content that can be made visible with the application.

8
9 Each document shall be Bates numbered and produced as a separate file (and
10 in the case of attachments, either combine the attachment with the cover
11 document/email/document family, or else produce it right next to the cover
12 document/email in order).

13
14 Concurrent with the production of ESI, the producing party shall also
15 produce a database load file (.DAT) with the following fields: Begin Doc, End
16 Doc, Begin Family, End Family, Attachment Count, Attachment Names,
17 Attachment IDs, Attachment Range, Family Range, Custodian, Page Count,
18 Document Date, Document Type, File Path, File Name, Native File Link, Text File
19 Link, Email From, Email To, Email CC, Email BCC, Email From Address, Email
20 To Address, Email CC Address, Email BCC Address, Email From Domain, Email
21 To Domains, Email CC Domains, Email BCC Domains, Email Domains, Email
22 Subject, Email Sent Date, Email Sent Time, Email Date Received, Email Time
23 Received, File Date Created, File Time Created, File Date Last Modified, File
24 Time Last Modified, MD5 Hash, Document Languages.

25
26
27 For each produced document, a text file should be provided along with the
28 image files and metadata. The text of native files should be extracted directly from

1 the native file. However, if a document has been redacted or does not contain
2 extractable text (e.g., JPEG, PNG, TIFF), OCR of the document will suffice in lieu
3 of extracted text.

4
5 Prior to production, the parties will meet and confer to facilitate the import
6 and use of the produced documents with commercially available document
7 management or litigation support software. Production of ESI can be made via
8 email, by delivery of a data storage device (e.g., CD, DVD, USB drive, etc.), or
9 through an electronic secure file transfer program.

10 2. DEFINITIONS

11 2.1 Action: the instant action: *Quest Software Inc. v. HealthEquity, Inc.*,
12 Case No. 8:23-cv-01909-JVS-KES.

13 2.2 Challenging Party: a Party or Non-Party that challenges the
14 designation of information or items under this Order.

15 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
16 how it is generated, stored or maintained) or tangible things that qualify for
17 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
18 the Good Cause Statement.

19 2.4 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
20 Information or Items: extremely sensitive “CONFIDENTIAL” Information or
21 Items, the disclosure of which to another Party or Non-Party would create a
22 substantial risk of serious harm that could not be avoided by less restrictive means.

23 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as
24 their support staff).

25 2.6 Designating Party: a Party or Non-Party that designates information
26 or items that it produces in disclosures or in responses to discovery as
27 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
28 ONLY.”

1 2.7 Disclosure or Discovery Material: all items or information, regardless
2 of the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures or responses to discovery in this matter.

5 2.8 Expert: a person with specialized knowledge or experience in a
6 matter pertinent to the litigation who has been retained by a Party or its counsel to
7 serve as an expert witness or as a consultant in this Action.

8 2.9 House Counsel: attorneys who are employees of a party to this
9 Action. House Counsel does not include Outside Counsel of Record or any other
10 outside counsel.

11 2.10 Non-Party: any natural person, partnership, corporation, association,
12 or other legal entity not named as a Party to this action.

13 2.11 Outside Counsel of Record: attorneys who are not employees of a
14 party to this Action but are retained to represent or advise a party to this Action
15 and have appeared in this Action on behalf of that party or are affiliated with a law
16 firm which has appeared on behalf of that party, and includes support staff.

17 2.12 Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
21 Discovery Material in this Action.

22 2.14 Professional Vendors: persons or entities that provide litigation
23 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

26 2.15 Protected Material: any Disclosure or Discovery Material that is
27 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
28 ATTORNEYS’ EYES ONLY.”

1 2.16 Receiving Party: a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3 3. SCOPE

4 The protections conferred by this Order cover not only Protected Material
5 (as defined above), but also (1) any information copied or extracted from Protected
6 Material; (2) all copies, excerpts, summaries, or compilations of Protected
7 Material; and (3) any deposition testimony, conversations, or presentations by
8 Parties or their Counsel that might reveal Protected Material, other than during a
9 court hearing or at trial.

10 Any use of Protected Material during a court hearing or at trial shall be
11 governed by the orders of the presiding judge. This Order does not govern the use
12 of Protected Material during a court hearing or at trial.

13 4. DURATION

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

22 5. DESIGNATING PROTECTED MATERIAL

23 5.1 Exercise of Restraint and Care in Designating Material for Protection.

24 Each Party or Non-Party that designates information or items for protection under
25 this Order must take care to limit any such designation to specific material that
26 qualifies under the appropriate standards. The Designating Party must designate for
27 protection only those parts of material, documents, items, or oral or written
28 communications that qualify so that other portions of the material, documents,

1 items, or communications for which protection is not warranted are not swept
2 unjustifiably within the ambit of this Order.

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

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

11 5.2 Manner and Timing of Designations. Except as otherwise provided in
12 this Order (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise
13 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
14 under this Order must be clearly so designated before the material is disclosed or
15 produced.

16 Designation in conformity with this Order requires:

17 (a) for information in documentary form (e.g., paper or electronic
18 documents, but excluding transcripts of depositions), that the Producing Party affix
19 at a minimum, the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
20 ATTORNEYS' EYES ONLY" to each page that contains protected material. If
21 only a portion or portions of the material on a page qualifies for protection, the
22 Producing Party also must clearly identify the protected portion(s) (e.g., by making
23 appropriate markings in the margins).

24 A Party or Non-Party that makes original documents available for inspection
25 need not designate them for protection until after the inspecting Party has indicated
26 which documents it would like copied and produced. During the inspection and
27 before the designation, all of the material made available for inspection shall be
28 deemed "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." After the

1 inspecting Party has identified the documents it wants copied and produced, the
2 Producing Party must determine which documents, or portions thereof, qualify for
3 protection under this Order. Then, before producing the specified documents, the
4 Producing Party must affix the “CONFIDENTIAL”, or “HIGHLY
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” legend to each page that
6 contains Protected Material. If only a portion or portions of the material on a page
7 qualifies for protection, the Producing Party also must clearly identify the
8 protected portion(s) (e.g., by making appropriate markings in the margins).

9 (b) for testimony given in depositions that the Designating Party identifies
10 on the record, before the close of the deposition as protected testimony, or by
11 written notice to all counsel of record in this Action within thirty (30) days of
12 receipt of the deposition transcript unless a shorter period is agreed to by the
13 parties. Before the expiration of the thirty (30) day period, all deposition testimony
14 shall be treated as Protected Material under Section 7.2 except for portions
15 specifically designated on the record or by prompt written notice as HIGHLY
16 CONFIDENTIAL – ATTORNEYS’ EYES ONLY. All portions of deposition
17 transcripts not designated as Protected Material within the thirty (30) day period
18 shall be deemed not confidential.

19 (c) for information produced in some form other than documentary and for
20 any other tangible items, that the Producing Party affix in a prominent place on the
21 exterior of the container or containers in which the information is stored the legend
22 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
23 ONLY.” If only a portion or portions of the information warrants protection, the
24 Producing Party, to the extent practicable, shall identify the protected portion(s).

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
26 failure to designate qualified information or items does not, standing alone, waive
27 the Designating Party’s right to secure protection under this Order for such
28 material. Upon timely correction of a designation, the Receiving Party must make

1 reasonable efforts to assure that the material is treated in accordance with the
2 provisions of this Order.

3 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

4 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
5 designation of confidentiality at any time that is consistent with the Court’s
6 Scheduling Order.

7 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
8 resolution process under Local Rule 37-1 *et seq.*

9 6.3 The burden of persuasion in any such challenge proceeding shall be
10 on the Designating Party. Frivolous challenges, and those made for an improper
11 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
12 parties) may expose the Challenging Party to sanctions. Unless the Designating
13 Party has waived or withdrawn the confidentiality designation, all parties shall
14 continue to afford the material in question the level of protection to which it is
15 entitled under the Producing Party’s designation until the Court rules on the
16 challenge.

17 7. ACCESS TO AND USE OF PROTECTED MATERIAL

18 7.1 Basic Principles. A Receiving Party may use Protected Material that
19 is disclosed or produced by another Party or by a Non-Party in connection with this
20 Action only for prosecuting, defending, or attempting to settle this Action. Such
21 Protected Material may be disclosed only to the categories of persons and under
22 the conditions described in this Order. When the Action has been terminated, a
23 Receiving Party must comply with the provisions of Section 13 below.

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

27 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
28 otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated

2 “CONFIDENTIAL” only to:

3 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
4 as employees of said Outside Counsel of Record to whom it is reasonably
5 necessary to disclose the information for this Action;

6 (b) the officers, directors, and employees (including House Counsel) of the
7 Receiving Party to whom disclosure is reasonably necessary for this Action;

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

11 (d) the court and its personnel;

12 (e) private court reporters and their staff to whom disclosure is reasonably
13 necessary for this Action and who have signed the “Acknowledgment and
14 Agreement to Be Bound” (Exhibit A);

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

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

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

1 (i) any mediator or settlement officer, and their supporting personnel,
2 mutually agreed upon by any of the parties engaged in settlement discussions.

3 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
4 ONLY” Information or Items. Unless otherwise ordered by the court or permitted
5 in writing by the Designating Party, a Receiving Party may disclose any
6 information or item designated “HIGHLY CONFIDENTIAL” only to:

7 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
8 as employees of said Outside Counsel of Record to whom it is reasonably
9 necessary to disclose the information for this Action, and House Counsel;

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

13 (c) the court and its personnel;

14 (d) private court reporters and their staff to whom disclosure is reasonably
15 necessary for this Action and who have signed the “Acknowledgment and
16 Agreement to Be Bound” (Exhibit A);

17 (e) professional jury or trial consultants, mock jurors, and Professional
18 Vendors to whom disclosure is reasonably necessary for this Action and who have
19 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

20 (f) the author or recipient of a document containing the information or a
21 custodian or other person who otherwise possessed or knew the information; and

22 (g) any mediator or settlement officer, and their supporting personnel,
23 mutually agreed upon by any of the parties engaged in settlement discussions.

24 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
25 PRODUCED IN OTHER LITIGATION

26 If a Party is served with a subpoena or a court order issued in other litigation
27 that compels disclosure of any information or items designated in this Action as
28 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES

1 ONLY,” that Party must:

2 (a) promptly notify in writing the Designating Party. Such notification shall
3 include a copy of the subpoena or court order unless prohibited by law;

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

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

10 If the Designating Party timely seeks a protective order, the Party served
11 with the subpoena or court order shall not produce any information designated in
12 this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
13 ATTORNEYS’ EYES ONLY” before a determination by the court from which the
14 subpoena or order issued, unless the Party has obtained the Designating Party’s
15 permission, or unless otherwise required by the law or court order. The
16 Designating Party shall bear the burden and expense of seeking protection in that
17 court of its confidential material and nothing in these provisions should be
18 construed as authorizing or encouraging a Receiving Party in this Action to
19 disobey a lawful directive from another court.

20 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
21 PRODUCED IN THIS LITIGATION

22 (a) The terms of this Order are applicable to information produced by a
23 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
24 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced
25 by Non-Parties in connection with this litigation is protected by the remedies and
26 relief provided by this Order. Nothing in these provisions should be construed as
27 prohibiting a Non-Party from seeking additional protections.

28 (b) In the event that a Party is required, by a valid discovery request, to

1 produce a Non-Party's confidential information in its possession, and the Party is
2 subject to an agreement with the Non-Party not to produce the Non-Party's
3 confidential information, then the Party shall:

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

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

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

12 (c) If a Non-Party represented by counsel fails to commence the process
13 called for by Local Rules 45-1 and 37-1, et seq. within 14 days of receiving the
14 notice and accompanying information or fails contemporaneously to notify the
15 Receiving Party that it has done so, the Receiving Party may produce the Non-
16 Party's confidential information responsive to the discovery request. If an
17 unrepresented Non-Party fails to seek a protective order from this court within 14
18 days of receiving the notice and accompanying information, the Receiving Party
19 may produce the Non-Party's confidential information responsive to the discovery
20 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
21 not produce any information in its possession or control that is subject to the
22 confidentiality agreement with the Non-Party before a determination by the court
23 unless otherwise required by the law or court order. Absent a court order to the
24 contrary, the Non-Party shall bear the burden and expense of seeking protection in
25 this court of its Protected Material.

26 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

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

7 11. INADVERTENT PRODUCTION OF PRIVILEGED OR
8 OTHERWISE PROTECTED MATERIAL

9 When a Producing Party gives notice to Receiving Parties that certain
10 inadvertently produced material is subject to a claim of privilege or other
11 protection, the obligations of the Receiving Parties are those set forth in Federal
12 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
13 whatever procedure may be established in an e-discovery order that provides for
14 production without prior privilege review. Pursuant to Federal Rule of Evidence
15 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
16 of a communication or information covered by the attorney-client privilege or
17 work product protection, the parties may incorporate their agreement into this
18 Protective Order.

19 12. MISCELLANEOUS

20 12.1 Right to Further Relief. Nothing in this Order abridges the right of
21 any person to seek its modification by the Court in the future.

22 12.2 Right to Assert Other Objections. No Party waives any right it
23 otherwise would have to object to disclosing or producing any information or item
24 on any ground not addressed in this Protective Order. Similarly, no Party waives
25 any right to object on any ground to use in evidence of any of the material covered
26 by this Protective Order.

27 12.3 Filing Protected Material. A Party that seeks to file under seal any
28 Protected Material must comply with Civil Local Rule 79-5 and with any pertinent

1 orders of the assigned District Judge and Magistrate Judge. Protected Material
2 may only be filed under seal pursuant to a court order authorizing the sealing of the
3 specific Protected Material at issue. If a Party's request to file Protected Material
4 under seal is denied by the court, then the Receiving Party may file the information
5 in the public record unless otherwise instructed by the court.

6 13. FINAL DISPOSITION

7 After the final disposition of this Action, as defined in Section 4, within 60
8 days of a written request by the Designating Party, each Receiving Party must
9 return all Protected Material to the Producing Party or destroy such material. As
10 used in this subdivision, "all Protected Material" includes all copies, abstracts,
11 compilations, summaries, and any other format reproducing or capturing any of the
12 Protected Material. Whether the Protected Material is returned or destroyed, the
13 Receiving Party must submit a written certification to the Producing Party (and, if
14 not the same person or entity, to the Designating Party) by the 60 day deadline that
15 (1) identifies (by category, where appropriate) all the Protected Material that was
16 returned or destroyed and (2) affirms that the Receiving Party has not retained any
17 copies, abstracts, compilations, summaries or any other format reproducing or
18 capturing any of the Protected Material. Notwithstanding this provision, Counsel
19 are entitled to retain an archival copy of all pleadings, motion papers, trial,
20 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
21 and trial exhibits, expert reports, attorney work product, and consultant and expert
22 work product, even if such materials contain Protected Material. Any such
23 archival copies that contain or constitute Protected Material remain subject to this
24 Protective Order as set forth in Section 4.

25 14. Any violation of this Order may be punished by any and all
26 appropriate measures including, without limitation, contempt proceedings and/or
27 monetary sanctions.
28

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

2
3 ROCK HUTCHINSON

STOKES LAWRENCE, P.S.

4
5 By: /s/ Kathryn Stephens
6 John Rock (*pro hac vice*)
7 *jrock@rockhutchinson.com*
8 Kathryn Stephens (*pro hac vice*)
9 *kstephens@rockhutchinson.com*
10 120 South Sixth Street, Ste. 2480
11 Minneapolis, MN 55402
12 Telephone: (612) 573-3688

By: /s/ Joshua D. Harms
Theresa H. Wang (*pro hac vice*)
Theresa.Wang@stokeslaw.com
Joshua D. Harms (*pro hac vice*)
Joshua.Harms@stokeslaw.com
1420 Fifth Avenue, Suite 3000
Seattle, WA 98101-2393
Telephone: (206) 626-6000

11 and

and

12 TACTICAL LAW GROUP LLP

SAUL EWING

13
14 By: /s/ Dee A. Ware
15 Pamela K. Fulmer (SBN 154736)
16 *pam@tacticallawgroup.com*
17 Dee A. Ware, (SBN 154549)
18 *dware@tacticallawgroup.com*
19 4000 MacArthur Blvd., Suite 600
20 Newport Beach, CA, 92660
21 Telephone: (949) 991-1898

By: /s/ Curtis A. Graham
Curtis A. Graham (SBN 89755)
Curtis.Graham@saul.com
1888 Century Park East , Suite 1500
Los Angeles, CA 90067
Telephone: (310) 255-6153

Attorneys for Quest Software Inc.

Attorneys for HealthEquity, Inc.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

FILER'S ATTESTATION

I, Joshua D. Harms, do attest that pursuant to Local Rule 5-4.3.4 (a)(2)(i) all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

DATED: July 26, 2024

By: s/Joshua D. Harms

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

Dated: July 29, 2024



HONORABLE KAREN E. SCOTT
United States Magistrate Judge

EXHIBIT A
ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

1
2
3 I, _____ [full name], of _____
4 [full address], declare under penalty of perjury that I have read in its entirety and
5 understand the Stipulated Protective Order that was issued by the United States
6 District Court for the Central District of California on _____ [Date] in
7 the case of *Quest Software Inc v. HealthEquity, Inc.*, Case No. 8:23-cv-01909-JVS-
8 KES. I agree to comply with and to be bound by all the terms of this Stipulated
9 Protective Order and I understand and acknowledge that failure to so comply could
10 expose me to sanctions and punishment in the nature of contempt. I solemnly
11 promise that I will not disclose in any manner any information or item that is subject
12 to this Stipulated Protective Order to any person or entity except in strict compliance
13 with the provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
15 for the Central District of California for the purpose of enforcing the terms of this
16 Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action. I hereby appoint _____ [print or
18 type full name] of _____ [print or type full address and
19 telephone number] as my California agent for service of process in connection with
20 this action or any proceedings related to enforcement of this Stipulated Protective
21 Order.

22 Date: _____

23 City and State where sworn and signed: _____

24 Printed Name: _____

25 Signature: _____
26
27
28