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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

BERSTER TECHNOLOGIES, LLC doing
business as CHIP CONNECT, a California
limited liability company,

Plaintiff,

v.

COY CHRISTMAS, an individual, JIM
RONDING, an individual, BGRMODS,
LLC, a Minnesota limited liability
company, CALIBUR11, LLC, a Minnesota
limited liability company, and
EINSTEINMODZ, a Wisconsin limited
liability company,

Defendants.

CASE NO. 2:11-cv-01541-KJM-JFM

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure

1 and use extends only to the limited information or items that are entitled to confidential treatment
2 under the applicable legal principles. The parties further acknowledge, as set forth in Section
3 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential
4 information under seal; Local Rule 141 sets forth the procedures that must be followed and the
5 standards that will be applied when a party seeks permission from the court to file material under
6 seal.

7 2. DEFINITIONS

8 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
9 information or items under this Order.

10 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how
11 it is generated, stored or maintained) or tangible things that qualify for protection under Federal
12 Rule of Civil Procedure 26(c).

13 2.3 Counsel (without qualifier): Outside Counsel of Record and House
14 Counsel (as well as their support staff).

15 2.4 Designating Party: a Party or Non-Party that designates information or
16 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or
17 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

18 2.5 Disclosure or Discovery Material: all items or information, regardless of
19 the medium or manner in which it is generated, stored, or maintained (including, among other
20 things, testimony, transcripts, and tangible things), that are produced or generated in disclosures
21 or responses to discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an expert
24 witness or as a consultant in this action, (2) is not a past or current employee of a Party or of a
25 Party’s competitor, and (3) at the time of retention, is not anticipated to become an employee of a
26 Party or of a Party’s competitor.

27 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
28 Information or Items: extremely sensitive “Confidential Information or Items,” disclosure of

1 which to another Party or Non-Party would create a substantial risk of serious harm that could not
2 be avoided by less restrictive means.

3 2.8 House Counsel: attorneys who are employees of a party to this action.
4 House Counsel does not include Outside Counsel of Record or any other outside counsel.

5 2.9 Non-Party: any natural person, partnership, corporation, association, or
6 other legal entity not named as a Party to this action.

7 2.10 Outside Counsel of Record: attorneys who are not employees of a party to
8 this action but are retained to represent or advise a party to this action and have appeared in this
9 action on behalf of that party or are affiliated with a law firm which has appeared on behalf of
10 that party.

11 2.11 Party: any party to this action including all of its officers, directors,
12 employees, consultants, retained experts, and Outside Counsel of Record (and their support
13 staffs).

14 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
15 Discovery Material in this action.

16 2.13 Professional Vendors: persons or entities that provide litigation support
17 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
18 organizing, storing, or retrieving data in any form or medium) and their employees and
19 subcontractors.

20 2.14 Protected Material: any Disclosure or Discovery Material that is
21 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
22 ONLY.”

23 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
24 from a Producing Party.

25 3. SCOPE

26 The protections conferred by this Stipulation and Order cover not only Protected Material
27 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
28 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,

1 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
2 However, the protections conferred by this Stipulation and Order do not cover the following
3 information: (a) any information that is in the public domain at the time of disclosure to a
4 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
5 a result of publication not involving a violation of this Order, including becoming part of the
6 public record through trial or otherwise; and (b) any information known to the Receiving Party
7 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
8 obtained the information lawfully and under no obligation of confidentiality to the Designating
9 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

10 4. DURATION

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

18 5. DESIGNATING PROTECTED MATERIAL

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

26 Mass, indiscriminate, or routinized designations are prohibited. If it comes to a
27 Designating Party's attention that information or items that it designated for protection do not
28 qualify for protection at all or do not qualify for the level of protection initially asserted, that

1 Designating Party must promptly notify all other parties that it is withdrawing the mistaken
2 designation.

3 5.2 Manner and Timing of Designations. Disclosure or Discovery Material
4 that qualifies for protection under this Order shall be clearly so designated before the material is
5 disclosed or produced; however, as set forth in section 5.3, failure to so designate will not waive a
6 Party's ability to designate Disclosure or Discovery Material for protection.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic documents,
9 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
10 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'
11 EYES ONLY" to each page that contains protected material. If only a portion or portions of the
12 material on a page qualifies for protection, the Producing Party also must clearly identify the
13 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for
14 each portion, the level of protection being asserted.

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

1 (b) for testimony given in deposition or in other pretrial or trial proceedings,
2 that the Designating Party identify on the record, before the close of the deposition, hearing, or
3 other proceeding, all protected testimony and specify the level of protection being asserted.
4 When it is impractical to identify separately each portion of testimony that is entitled to protection
5 and it appears that substantial portions of the testimony may qualify for protection, the
6 Designating Party may invoke on the record (before the deposition, hearing, or other proceeding
7 is concluded) a right to have up to 21 days to identify the specific portions of the testimony as to
8 which protection is sought and to specify the level of protection being asserted. Only those
9 portions of the testimony that are appropriately designated for protection within the 21 days shall
10 be covered by the provisions of this Stipulated Protective Order. Alternatively, a Designating
11 Party may specify, at the deposition or up to 21 days afterwards if that period is properly invoked,
12 that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
13 – ATTORNEYS’ EYES ONLY.”

14 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
15 other proceeding to include Protected Material so that the other parties can ensure that only
16 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
17 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
18 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY
19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

20 Transcripts containing Protected Material shall have an obvious legend on the title page
21 that the transcript contains Protected Material, and the title page shall be followed by a list of all
22 pages (including line numbers as appropriate) that have been designated as Protected Material and
23 the level of protection being asserted by the Designating Party. The Designating Party shall
24 inform the court reporter of these requirements. Any transcript that is prepared before the
25 expiration of a 21-day period for designation shall be treated during that period as if it had been
26 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless
27 otherwise agreed. After the expiration of that period, the transcript shall be treated only as
28 actually designated.

1 (c) for information produced in some form other than documentary and for any
2 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
3 container or containers in which the information or item is stored the legend “CONFIDENTIAL”
4 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only a portion or portions
5 of the information or item warrant protection, the Producing Party, to the extent practicable, shall
6 identify the protected portion(s) and specify the level of protection being asserted.

7 (d) for electronically stored information produced in native format, the
8 Producing Party shall indicate in the file name of such electronically stored information the bates
9 number, along with the applicable legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY” for each file that contains protected material. Any party who
11 wishes to use electronically stored information produced in native format, either at deposition,
12 during trial, as part of any court filing or other court proceeding, shall print each such page of
13 electronically stored information and affix to each printed page of the document the bates
14 number, with such additional designation as would be required to distinguish each page in
15 chronological order (i.e., C000001.001, C000001.002, C000001.003, etc.), along with the
16 confidential designation, if any. For purposes of this section, “native format” shall refer to
17 electronically stored information which has been produced as kept in the ordinary course of
18 business and which has not been designated pursuant to subsection (a) above.

19 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
20 failure to designate qualified information or items does not, standing alone, waive the Designating
21 Party’s right to secure protection under this Order for such material. Upon timely correction of a
22 designation, the Receiving Party must make reasonable efforts to assure that the material is
23 treated in accordance with the provisions of this Order.

24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
26 designation of confidentiality at any time. Unless a prompt challenge to a Designating Party’s
27 confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary
28 economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its

1 right to challenge a confidentiality designation by electing not to mount a challenge promptly
2 after the original designation is disclosed.

3 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
4 resolution process by providing written notice of each designation it is challenging and describing
5 the basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the
6 written notice must recite that the challenge to confidentiality is being made in accordance with
7 this specific paragraph of the Protective Order. The parties shall attempt to resolve each
8 challenge in good faith and must begin the process by conferring directly (in voice to voice
9 dialogue; other forms of communication are not sufficient) within 14 days of the date of service
10 of notice. In conferring, the Challenging Party must explain the basis for its belief that the
11 confidentiality designation was not proper and must give the Designating Party an opportunity to
12 review the designated material, to reconsider the circumstances, and, if no change in designation
13 is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to
14 the next stage of the challenge process only if it has engaged in this meet and confer process first
15 or establishes that the Designating Party is unwilling to participate in the meet and confer process
16 in a timely manner.

17 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
18 court intervention, the Designating Party shall file and serve a motion to retain confidentiality
19 under Local Rule 230 (and in compliance with Local Rule 141, if applicable) within 21 days of
20 the initial notice of challenge or within 14 days of the parties agreeing that the meet and confer
21 process will not resolve their dispute, whichever is earlier. Each such motion must be
22 accompanied by a competent declaration affirming that the movant has complied with the meet
23 and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to
24 make such a motion including the required declaration within 21 days (or 14 days, if applicable)
25 shall automatically waive the confidentiality designation for each challenged designation. In
26 addition, the Challenging Party may file a motion challenging a confidentiality designation at any
27 time if there is good cause for doing so, including a challenge to the designation of a deposition
28 transcript or any portions thereof. Any motion brought pursuant to this provision must be

1 accompanied by a competent declaration affirming that the movant has complied with the meet
2 and confer requirements imposed by the preceding paragraph.

3 The burden of persuasion in any such challenge proceeding shall be on the Designating
4 Party. Unless the Designating Party has waived the confidentiality designation by failing to file a
5 motion to retain confidentiality as described above, all parties shall continue to afford the material
6 in question the level of protection to which it is entitled under the Producing Party's designation
7 until the court rules on the challenge.

8 7. ACCESS TO AND USE OF PROTECTED MATERIAL

9 7.1 Basic Principles. A Receiving Party may use Protected Material that is
10 disclosed or produced by another Party or by a Non-Party in connection with this case only for
11 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
12 disclosed only to the categories of persons and under the conditions described in this Order.
13 When the litigation has been terminated, a Receiving Party must comply with the provisions of
14 section 13 below (FINAL DISPOSITION).

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

17 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
18 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
19 disclose any information or item designated "CONFIDENTIAL" only to:

20 (a) the Receiving Party's Outside Counsel of Record in this action, as well as
21 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
22 information for this litigation and who have signed the "Acknowledgment and Agreement to Be
23 Bound" that is attached hereto as Exhibit A;

24 (b) the officers, directors, and employees (including House Counsel) of the
25 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
26 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

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

4 (d) the court and its personnel;

5 (e) court reporters and their staff, professional jury or trial consultants, and
6 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
7 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

8 (f) during their depositions, witnesses in the action to whom disclosure is
9 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
10 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of
11 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be
12 separately bound by the court reporter and may not be disclosed to anyone except as permitted
13 under this Stipulated Protective Order.

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

16 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by
18 the Designating Party, a Receiving Party may disclose any information or item designated
19 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

20 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
21 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
22 information for this litigation and who have signed the “Acknowledgment and Agreement to Be
23 Bound” that is attached hereto as Exhibit A;

24 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably
25 necessary for this litigation and (2) who have signed the “Acknowledgment and Agreement to Be
26 Bound” (Exhibit A);

27 (c) the court and its personnel;

28

1 (d) court reporters and their staff, professional jury or trial consultants, and
2 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have
3 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and

4 (e) the author or recipient of a document containing the information or a
5 custodian or other person who otherwise possessed or knew the information.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
7 OTHER LITIGATION

8 If a Party is served with a subpoena or a court order issued in other litigation that compels
9 disclosure of any information or items designated in this action as “CONFIDENTIAL” or
10 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” that Party must:

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

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

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

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

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

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

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

12 1. promptly notify in writing the Requesting Party and the Non-Party
13 that some or all of the information requested is subject to a confidentiality agreement with a Non-
14 Party;

15 2. promptly provide the Non-Party with a copy of the Stipulated
16 Protective Order in this litigation, the relevant discovery request(s), and a reasonably specific
17 description of the information requested; and

18 3. make the information requested available for inspection by the
19 Non-Party.
20

21 (c) If the Non-Party fails to object or seek a protective order from this court
22 within 14 days of receiving the notice and accompanying information, the Receiving Party may
23 produce the Non-Party’s confidential information responsive to the discovery request. If the
24 Non-Party timely seeks a protective order, the Receiving Party shall not produce any information
25 in its possession or control that is subject to the confidentiality agreement with the Non-Party
26 before a determination by the court. Absent a court order to the contrary, the Non-Party shall
27 bear the burden and expense of seeking protection in this court of its Protected Material.
28

1 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

9 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
10 PROTECTED MATERIAL

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

20 Following initial notice received of the inadvertent production, if the receiving Party
21 contests the privilege or work-product designation contained in the notice, the receiving Party
22 shall give the producing Party written notice of the reason for said disagreement within five (5)
23 court days of initial notice received and shall be entitled to retain one copy of the disputed
24 document for use in resolving the dispute. The receiving Party shall, within fifteen (15) court days
25 from the initial notice by the producing Party, seek an order from the Court compelling the
26 production of the material. If no such order is sought, the single retained copy of the disputed
27 document shall be returned or destroyed upon expiration of the fifteen (15) court day period.

28 Upon receiving an initial notice of any inadvertent production, any analyses, memoranda

1 or notes (including in electronic form to the extent reasonably practicable) which were internally
2 generated by the receiving Party based upon such inadvertently produced information shall
3 immediately be placed in sealed envelopes, and shall be destroyed in the event that (a) the
4 receiving Party does not contest that the information is privileged or work-product material, or (b)
5 the Court rules that the information is privileged, work-product, or otherwise protected. Such
6 analyses, memoranda or notes may only be removed from the sealed envelopes and returned to its
7 intended purpose in the event that (a) the producing Party agrees in writing that the information is
8 not privileged or work-product material, or (b) the Court rules that the information is not
9 privileged, or otherwise protected.

10 12. MISCELLANEOUS

11 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
12 person to seek its modification by the court in the future.

13 12.2 Right to Assert Other Objections. By stipulating to the entry of this
14 Protective Order no Party waives any right it otherwise would have to object to disclosing or
15 producing any information or item on any ground not addressed in this Stipulated Protective
16 Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of
17 the material covered by this Protective Order.

18 12.3 Filing Protected Material. Without written permission from the
19 Designating Party or a court order secured after appropriate notice to all interested persons, a
20 Party may not file in the public record in this action any Protected Material. A Party that seeks to
21 file under seal any Protected Material must comply with Local Rule 141. Protected Material may
22 only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected
23 Material at issue. Pursuant to Local Rule 141(a)-(b), a sealing order will issue only upon a
24 showing required by applicable law, supported by the statutory or other authority for sealing, the
25 requested duration, the identity, by name or category, of persons to be permitted access to the
26 documents, an explanation of service or lack thereof upon other parties, and all other relevant
27 information.

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13. FINAL DISPOSITION

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

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: October 21, 2011

/s/ Rajiv Dharnidharka
Attorneys for Plaintiff Berster Technologies,
LLC doing business as CHIP CONNECT

DATED: October 21, 2011

/s/ Yuridia Caire
Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: November 7, 2011.

UNITED STATES MAGISTRATE JUDGE

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____
4 [print or type 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 District Court for
6 the Eastern District of California on _____ in the case of Berster Technologies, LLC doing
7 business as *Chip Connect v. Coy Christmas, et al*, Case No. 2:11-cv-01541-KJM-JFM. I agree to
8 comply with and to be bound by all the terms of this Stipulated Protective Order and I understand
9 and acknowledge that failure to so comply could expose me to sanctions and punishment in the
10 nature of contempt. I solemnly promise that I will not disclose in any manner any information or
11 item that is subject to this Stipulated Protective Order to any person or entity except in strict
12 compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the
14 Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective
15 Order, even if such enforcement proceedings occur after termination of this action.

16 I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone
18 number] as my California agent for service of process in connection with this action or any
19 proceedings related to enforcement of this Stipulated Protective Order.

20 Date: _____

21 City and State where sworn and signed: _____

22 Printed name: _____
23 [printed name]

24 Signature: _____
25 [signature]

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