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18 **UNITED STATES DISTRICT COURT**
 19 **EASTERN DISTRICT OF CALIFORNIA**

20 In re JPMORGAN CHASE
 21 DERIVATIVE LITIGATION

Master File No. 2:13-cv-02414-KJM-EFB

22 **[PROPOSED] STIPULATED**
PROTECTIVE ORDER

23 This Document Relates To: All Actions.
 24

Courtroom: 3
 Judge: Hon. Kimberly J. Mueller
 Magistrate: Hon. Edmund F. Brennan

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1. **PURPOSES AND DEFINITIONS**

Jurisdictional disclosure and discovery activity in this action, as directed by the Court’s Order dated May 5, 2015, 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 with respect to jurisdictional discovery. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to jurisdictional discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 141 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

2. **DEFINITIONS**

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

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

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

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

2.5 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony,

1 transcripts, and tangible things), that are produced or generated in disclosures or responses to
2 discovery in this matter.

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

8 2.7 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items:
9 extremely sensitive "Confidential Information or Items," disclosure of which to another Party or
10 Non-Party would create a substantial risk of serious harm that could not be avoided by less
11 restrictive means.

12 2.8 House Counsel: attorneys who are employees of a party to this action. House Counsel
13 does not include Outside Counsel of Record or any other outside counsel.

14 2.9 Non-Party: any natural person, partnership, corporation, association, or other legal
15 entity not named as a Party to this action.

16 2.10 Outside Counsel of Record: attorneys who are not employees of a party to this action
17 but are retained to represent or advise a party to this action and have appeared in this action on
18 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

19 2.11 Party: any party to this action, including all of its officers, directors, employees,
20 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

21 2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material
22 in this action.

23 2.13 Professional Vendors: persons or entities that provide litigation support services (e.g.,
24 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing,
25 storing, or retrieving data in any form or medium) and their employees and subcontractors.

26 2.14 Protected Material: any Disclosure or Discovery Material that is designated as
27 "CONFIDENTIAL," or as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a
2 Producing Party.

3 3. **SCOPE**

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

16 4. **DURATION**

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

24 5. **DESIGNATING PROTECTED MATERIAL**

25 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or
26 Non-Party that designates information or items for protection under this Order must take care to
27 limit any such designation to specific material that qualifies under the appropriate standards. The
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1 parties reserve their rights to seek available sanctions for designations that are shown to be clearly
2 unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or
3 retard the case development process or to impose unnecessary expenses and burdens on other
4 parties).

5 If it comes to a Designating Party's attention that information or items that it designated
6 for protection do not qualify for protection at all or do not qualify for the level of protection
7 initially asserted, that Designating Party must promptly notify all other parties that it is
8 withdrawing the mistaken designation.

9 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see,
10 e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure
11 or Discovery

12 Material that qualifies for protection under this Order must be clearly so designated before
13 the material is disclosed or produced.

14 Designation in conformity with this Order requires:

15 (a) for information in documentary form (e.g., paper or electronic documents, but
16 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
17 affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
18 ONLY" to each page that contains protected material.

19 A Party or Non-Party that makes original documents or materials available for inspection
20 need not designate them for protection until after the inspecting Party has indicated which material
21 it would like copied and produced. During the inspection and before the designation, all of the
22 material made available for inspection shall be deemed "HIGHLY CONFIDENTIAL –
23 ATTORNEYS' EYES ONLY." After the inspecting Party has identified the documents it wants
24 copied and produced, the Producing Party must determine which documents, or portions thereof,
25 qualify for protection under this Order. Then, before producing the specified documents, the
26 Producing Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY" to each page that contains Protected Material.
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1 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
2 Designating Party identify on the record, before the close of the deposition, hearing, or other
3 proceeding, all protected testimony and specify the level of protection being asserted. When it is
4 impractical to identify separately each portion of testimony that is entitled to protection and it
5 appears that substantial portions of the testimony may qualify for protection, the Designating Party
6 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right
7 to have up to 21 days to identify the specific portions of the testimony as to which protection is
8 sought and to specify the level of protection being asserted. Only those portions of the testimony
9 that are appropriately designated for protection within the 21 days shall be covered by the
10 provisions of this Stipulated Protective Order. Alternatively, a Designating Party may specify, at
11 the deposition or up to 21 days afterwards if that period is properly invoked, that the entire
12 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 CONFIDENTIAL
19 – 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 inform
24 the court reporter of these requirements. Any transcript that is prepared before the expiration of a
25 21-day period for designation shall be treated during that period as if it had been designated
26 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless otherwise
27 agreed. After the expiration of that period, the transcript shall be treated only as actually
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1 designated.

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

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
9 designate qualified information or items does not, standing alone, waive the Designating Party’s
10 right to secure protection under this Order for such material. Upon timely correction of a
11 designation, the Receiving Party must make reasonable efforts to assure that the material is treated
12 in accordance with the provisions of this Order.

13 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

14 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
15 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
16 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
17 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
18 challenge a confidentiality designation by electing not to mount a challenge promptly after the
19 original designation is disclosed.

20 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by
21 providing written notice of each designation it is challenging and describing the basis for each
22 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
23 recite that the challenge to confidentiality is being made in accordance with this specific paragraph
24 of the Protective Order. The parties shall attempt to resolve each challenge in good faith and must
25 begin the process by conferring directly (in voice to voice dialogue; other forms of communication
26 are not sufficient) within 7 days of the date of service of notice. In conferring, the Challenging
27 Party must explain the basis for its belief that the confidentiality designation was not proper and
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1 must give the Designating Party an opportunity to review the designated material, to reconsider
2 the circumstances, and, if no change in designation is offered, to explain the basis for the chosen
3 designation. A Challenging Party may proceed to the next stage of the challenge process only if it
4 has engaged in this meet and confer process first or establishes that the Designating Party is
5 unwilling to participate in the meet and confer process in a timely manner.

6 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
7 intervention, the Designating Party shall prepare and file a notice of motion and motion pursuant
8 to Local Rule 251(a) within 21 days of the initial notice of challenge or within 14 days of the
9 parties agreeing that the meet and confer process will not resolve their dispute, whichever is
10 earlier. The hearing shall be scheduled for the nearest available date and time, but no earlier than
11 twenty-one (21) days from the date of filing and service of the notice of motion and motion. The
12 Designating Party shall then prepare and file a joint statement under the procedures of Civil Local
13 Rule 251(c). In preparing the joint statement, the Designating Party shall submit to the
14 Challenging Party (or any other interested third-party) its position in writing no later than seven
15 (7) days prior to the filing of the joint statement. The Challenging Party (or any other interested
16 third-party) will then set forth its response in the joint statement and return it to the Designating
17 Party no later than three (3) days prior to the filing of the joint statement. Each such joint
18 statement must be accompanied by a competent declaration affirming that the Designating Party
19 has complied with the meet and confer requirements imposed in the preceding paragraph. Failure
20 by the Designating Party to make such a motion within 21 days (or 14 days, if applicable) as
21 provided above shall automatically waive the confidentiality designation for each challenged
22 designation. In addition, the Challenging Party may file a joint statement under the procedures of
23 Civil Local Rule 251 challenging a confidentiality designation at any time if there is good cause
24 for doing so, including a challenge to the designation of a deposition transcript or any portions
25 thereof. Any motion or joint statement brought pursuant to this provision must be accompanied by
26 a competent declaration affirming that the movant has complied with the meet and confer
27 requirements imposed by the preceding paragraph.

1 The burden of persuasion in any such challenge proceeding shall be on the Designating
2 Party. The parties reserve their rights to seek available sanctions for frivolous challenges and
3 those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens
4 on other parties). Unless the Designating Party has waived the confidentiality designation by
5 failing to file a motion to retain confidentiality as described above, all parties shall continue to
6 afford the material in question the level of protection to which it is entitled under the Producing
7 Party's designation 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 disclosed or
10 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
11 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to
12 the categories of persons and under the conditions described in this Order. When the litigation has
13 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
14 DISPOSITION).

15 Protected Material must be stored and maintained by a Receiving Party at a location and in
16 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 ordered by
18 the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
19 information or item designated "CONFIDENTIAL" only to:

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

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

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

3 (d) the court and its personnel;

4 (e) court reporters and their staff, professional jury or trial consultants, including mock
5 jurors who have signed a confidentiality agreement, and Professional Vendors to whom disclosure
6 is reasonably necessary for this litigation and who have signed the “Acknowledgment and
7 Agreement to Be Bound” that is attached hereto as Exhibit A;

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

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

16 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

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

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

24 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this
25 litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A),
26 and (3) as to whom the procedures set forth in paragraph 7.4(a), below, have been followed;

27 (c) the court and its personnel;

1 (d) court reporters and their staff, professional jury or trial consultants, including mock
2 jurors who have signed a confidentiality agreement, and Professional Vendors to whom disclosure
3 is reasonably necessary for this litigation and who have signed the “Acknowledgment and
4 Agreement to Be Bound” that is attached hereto as Exhibit A ; and

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

7 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL
8 – ATTORNEYS’ EYES ONLY”
9 Information or Items to Experts.

10 (a) Unless otherwise ordered by the court or agreed to in writing by the Designating Party,
11 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that
12 has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to
13 paragraph 7.3(b) first must make a written request to the Designating Party that (1) identifies the
14 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information
15 that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the full name of
16 the Expert and the city and state of his or her primary residence, (3) attaches a copy of the Expert’s
17 current resume, (4) identifies the Expert’s current employer(s), (5) identifies each person or entity
18 from whom the Expert has received compensation or funding for work in his or her areas of
19 expertise or to whom the expert has provided professional services, including in connection with a
20 litigation, at any time during the preceding five years, and (6) identifies (by name and number of
21 the case, filing date, and location of court) any litigation in connection with which the Expert has
22 offered expert testimony, including through a declaration, report, or testimony at a deposition or
23 trial, during the preceding five years.

24 (b) A Party that makes a request and provides the information specified in the preceding
25 respective paragraphs may disclose the subject Protected Material to the identified Expert unless,
26 within 14 days of delivering the request, the Party receives a written objection from the
27 Designating Party. Any such objection must set forth in detail the grounds on which it is based.

1 (c) A Party that receives a timely written objection must meet and confer with the
2 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
3 agreement within seven days of the written objection. If no agreement is reached, the Party
4 seeking to make the disclosure to the Expert may file a joint statement in accord with the
5 procedures as provided in Civil Local Rule 251. Any such motion or statement must describe the
6 circumstances with specificity, set forth in detail the reasons why the disclosure to the Expert is
7 reasonably necessary, assess the risk of harm that the disclosure would entail, and suggest any
8 additional means that could be used to reduce that risk. In addition, any such motion must be
9 accompanied by a competent declaration describing the parties' efforts to resolve the matter by
10 agreement (i.e., the extent and the content of the meet and confer discussions) and setting forth the
11 reasons advanced by the Designating Party for its refusal to approve the disclosure.

12 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden
13 of proving that the risk of harm that the disclosure would entail (under the safeguards proposed)
14 outweighs the Receiving Party's need to disclose the Protected Material to its Designated House
15 Counsel or Expert.

16 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
17 **OTHER LITIGATION**

18 If a Party is served with a subpoena or a court order issued in other litigation that compels
19 disclosure of any information or items designated in this action as "CONFIDENTIAL" or
20 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" that Party must:

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

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

26 and

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

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

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

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

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

- 20 1. promptly notify in writing the Requesting Party and the Non-Party that some or all of
21 the information requested is subject to a confidentiality agreement with a Non-Party;
22 2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this
23 litigation, the relevant discovery request(s), and a reasonably specific description of the
24 information requested; and
25 3. make the information requested available for inspection by the Non-Party.

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

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

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

14 11. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
15 **PROTECTED MATERIAL**

16 When a Producing Party gives notice to Receiving Parties that certain inadvertently
17 produced material is subject to a claim of privilege or other protection, the obligations of the
18 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
19 provision is not intended to modify whatever procedure may be established in an e-discovery order
20 that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
21 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
22 communication or information covered by the attorney-client privilege or work product protection,
23 the parties may incorporate their agreement in the stipulated protective order submitted to the
24 court.

25 12. **MISCELLANEOUS**

26 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek
27 its modification by the court in the future.
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1 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order
2 no Party waives any right it otherwise would have to object to disclosing or producing any
3 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
4 Party waives any right to object on any ground to use in evidence of any of the material covered
5 by this Protective Order.

6 12.3 Filing Protected Material. Without written permission from the Designating Party or a
7 court order secured after appropriate notice to all interested persons, a Party may not file in the
8 public record in this action any Protected Material. A Party that seeks to file under seal any
9 Protected Material must comply with Civil Local Rule 141. Protected Material may only be filed
10 under seal pursuant to a court order authorizing the sealing of the specific Protected Material at
11 issue.

12 13. **FINAL DISPOSITION**

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

1 DATED: July 7, 2015

MORGAN, LEWIS & BOCKIUS, LLP

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By: /s/ Christopher J. Banks
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1 DATED: July 7, 2015

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PROPOSED ORDER

Pursuant to the parties' stipulation,

IT IS SO ORDERED.

Dated: July 13, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Eastern District of California on [date] in the case of *In re JPMorgan Chase Derivative Litigation*, (Master File No. 2:13-cv-02414-KJM-EFB). I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

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

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

Date: _____

City and State where sworn and signed: _____

Printed name: _____

[printed name]

Signature: _____

[signature]