

1 **PERKINS COIE LLP**
 2 DAVID T. BIDERMAN (Bar No. 101577)
 3 CHARLES C. SIPOS (*Pro hac vice*)
 4 Four Embarcadero Center, Suite 2400
 5 San Francisco, CA 94111-4131
 Telephone: (415) 344-7000
 Facsimile: (415) 344-7050
 E-mail: DBiderman@perkinscoie.com
 E-mail: CSipos@perkinscoie.com

6 **CARLTON FIELDS**
 7 CHRIS S. COUTROULIS (*Pro hac vice*)
 8 ROBERT L. CIOTTI (*Pro hac vice*)
 9 M. DEREK HARRIS (*Pro hac vice*)
 10 4221 W. Boy Scout Blvd., Suite 1000
 Tampa, FL 33607-5780
 Telephone: (813) 223-7000
 Facsimile: (813) 229-4133
 E-mail: ccoutroulis@carltnofields.com
 E-mail: rciotti@carltonfields.com
 E-mail: mdharris@carltonfields.com

11 **O'MELVENY & MYERS LLP**
 12 JEFFREY J. FOWLER (Bar No. 172709)
 13 400 South Hope Street
 Los Angeles, California 90071
 Telephone: (213) 430-6000
 Facsimile: (213) 430-6407
 E-mail: jfowler@omm.com

14 Attorneys for
 15 GENERAL MILLS, INC.

16 *[Other counsel are listed on signature pages]*

17
 18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO**

21
 22 ANNIE LAM, on behalf of herself, and all
 23 others similarly situated,

24 Plaintiff,

25 v.

26 GENERAL MILLS, INC.,

27 Defendant.
 28

Case No. 11-CV-05056 (SC)

**~~PROPOSED~~ STIPULATED
 PROTECTIVE ORDER**

1 PURPOSES AND LIMITATIONS¹

2 Disclosure and discovery activity in this action are likely to involve production of
3 confidential, proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.
5 Accordingly, the parties hereby stipulate to and petition the Court to enter the following
6 Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket
7 protections on all disclosures or responses to discovery and that the protection it affords from
8 public disclosure and use extends only to the limited information or items that are entitled to
9 confidential treatment under the applicable legal principles. The parties further acknowledge, as
10 set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file
11 confidential information under seal; Civil Local Rule 79-5 and General Order 62 set forth the
12 procedures that must be followed and the standards that will be applied when a party seeks
13 permission from the Court to file material under seal.

14 1. DEFINITIONS

15 1.1 Challenging Party: a Party or Non-Party that challenges the designation of
16 information or items under this Order.

17 1.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
18 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
19 of Civil Procedure 26(c).

20 1.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
21 well as their support staff).

22 1.4 Designated House Counsel: House Counsel who seek access to information or
23 items designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by another Party
24 or Non-Party.

25 1.5 Designating Party: a Party or Non-Party that designates information or items that it
26 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY

27 ¹ The parties have agreed to utilize the Northern District of California’s form protective order,
28 which appears on the Court’s website as “Stipulated Protective Order for Litigation Involving
Patents, Highly Sensitive Confidential Information and/or Trade Secrets.”

1 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

2 1.6 Disclosure or Discovery Material: all items or information, regardless of the
3 medium or manner in which it is generated, stored, or maintained (including, among other things,
4 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
5 responses to discovery in this matter.

6 1.7 Expert: a person with specialized knowledge or experience in a matter pertinent to
7 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or
8 as a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s
9 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party
10 or of a Party’s competitor.

11 1.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
12 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
13 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by
14 less restrictive means.

15 1.9 House Counsel: attorneys who are employees of a party to this action. House
16 Counsel does not include Outside Counsel of Record or any other outside counsel.

17 1.10 Non-Party: any natural person, partnership, corporation, association, or other legal
18 entity not named as a Party to this action.

19 1.11 Outside Counsel of Record: attorneys who are not employees of a party to this
20 action but are retained to represent or advise a party to this action and have appeared in this action
21 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

22 1.12 Party: any party to this action, including all of its officers, directors, employees,
23 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

24 1.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
25 Material in this action.

26 1.14 Professional Vendors: persons or entities that provide litigation support services
27 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
28 organizing, storing, or retrieving data in any form or medium) and their employees and

1 subcontractors.

2 1.15 Protected Material: any Disclosure or Discovery Material that is designated as
3 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 1.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a
5 Producing Party.

6 2. SCOPE

7 The protections conferred by this Stipulation and Order cover not only Protected Material
8 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
9 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,
10 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

11 However, the protections conferred by this Stipulation and Order do not cover the following
12 information: (a) any information that is in the public domain at the time of disclosure to a
13 Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as
14 a result of publication not involving a violation of this Order, including becoming part of the
15 public record through trial or otherwise; and (b) any information known to the Receiving Party
16 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
17 obtained the information lawfully and under no obligation of confidentiality to the Designating
18 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

19 3. DURATION

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

27 4. DESIGNATING PROTECTED MATERIAL

28 4.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party

1 or Non-Party that designates information or items for protection under this Order must take care
2 to limit any such designation to specific material that qualifies under the appropriate standards.
3 To the extent it is practical to do so, the Designating Party must designate for protection only
4 those parts of material, documents, items, or oral or written communications that qualify—so that
5 other portions of the material, documents, items, or communications for which protection is not
6 warranted are not swept unjustifiably within the ambit of this Order.

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

11 If it comes to a Designating Party’s attention that information or items that it designated
12 for protection do not qualify for protection at all or do not qualify for the level of protection
13 initially asserted, that Designating Party must promptly notify all other parties that it is
14 withdrawing the mistaken designation.

15 4.2 Manner and Timing of Designations. Except as otherwise provided in this Order
16 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
17 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so
18 designated before the material is disclosed or produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic documents,
21 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
22 Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
23 EYES ONLY” to each page that contains protected material. If only a portion or portions of the
24 material on a page qualifies for protection, the Producing Party also must clearly identify the
25 protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for
26 each portion, the level of protection being asserted.

27 A Party or Non-Party that makes original documents or materials available for inspection
28 need not designate them for protection until after the inspecting Party has indicated which

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

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

25 Parties shall give the other parties notice if they reasonably expect a deposition, hearing or
26 other proceeding to include Protected Material so that the other parties can ensure that only
27 authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
28 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition

1 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

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

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

18 4.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
19 designate qualified information or items does not, standing alone, waive the Designating Party’s
20 right to secure protection under this Order for such material. Upon timely correction of a
21 designation, the Receiving Party must make reasonable efforts to assure that the material is
22 treated in accordance with the provisions of this Order.

23 5. CHALLENGING CONFIDENTIALITY DESIGNATIONS

24 5.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
25 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
26 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
27 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
28 challenge a confidentiality designation by electing not to mount a challenge promptly after the

1 original designation is disclosed.

2 5.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution
3 process by providing written notice of each designation it is challenging and describing the basis
4 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written
5 notice must recite that the challenge to confidentiality is being made in accordance with this
6 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in
7 good faith and must begin the process by conferring directly (in voice to voice dialogue; other
8 forms of communication are not sufficient) within 14 days of the date of service of notice. In
9 conferring, the Challenging Party must explain the basis for its belief that the confidentiality
10 designation was not proper and must give the Designating Party an opportunity to review the
11 designated material, to reconsider the circumstances, and, if no change in designation is offered,
12 to explain the basis for the chosen designation. A Challenging Party may proceed to the next
13 stage of the challenge process only if it has engaged in this meet and confer process first or
14 establishes that the Designating Party is unwilling to participate in the meet and confer process in
15 a timely manner.

16 5.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
17 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
18 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if
19 applicable) within 21 days of the initial notice of challenge or within 14 days of the parties
20 agreeing that the meet and confer process will not resolve their dispute, whichever is earlier.
21 After the Designating Party has filed three motions to retain confidentiality, the burden to move
22 shifts to the Challenging Party. Each such motion must be accompanied by a competent
23 declaration affirming that the movant has complied with the meet and confer requirements
24 imposed in the preceding paragraph. Failure by the Designating or Challenging Party to make
25 such a motion including the required declaration within 21 days (or 14 days, if applicable) shall
26 automatically waive either the challenge to confidentiality or the confidentiality designation for
27 each challenged designation . In addition, the Challenging Party may file a motion challenging a
28 confidentiality designation at any time if there is good cause for doing so, including a challenge to

1 the designation of a deposition transcript or any portions thereof. Any motion brought pursuant
2 to this provision must be accompanied by a competent declaration affirming that the movant has
3 complied with the meet and confer requirements imposed by the preceding paragraph.

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

11 6. ACCESS TO AND USE OF PROTECTED MATERIAL

12 6.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
13 or produced by another Party or by a Non-Party in connection with this case only for prosecuting,
14 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only
15 to the categories of persons and under the conditions described in this Order. When the litigation
16 has been terminated, a Receiving Party must comply with the provisions of section 13 below
17 (FINAL DISPOSITION).

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

20 6.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
21 ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may
22 disclose any information or item designated "CONFIDENTIAL" only to:

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

27 (b) the officers, directors, and employees (including House Counsel) of the
28 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have

1 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

5 (d) the Court and its personnel;

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

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

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

17 6.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
18 Information or Items. Unless otherwise ordered by the Court or permitted in writing by the
19 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

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

25 (b) Three attorneys of the Designated House Counsel of the Receiving Party
26 (1) who have no involvement in competitive decision-making, (2) to whom disclosure is
27 reasonably necessary for this litigation, (3) who have signed the “Acknowledgment and
28 Agreement to Be Bound” (Exhibit A), and (4) as to whom the procedures set forth in paragraph

1 7.4(a)(1), below, have been followed;

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

6 (d) the Court and its personnel;

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

10 (f) the author or recipient of a document containing the information or a
11 custodian or other person who otherwise possessed or knew the information.

12 6.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Designated House
14 Counsel.

15 (a) Unless otherwise ordered by the Court or agreed to in writing by the
16 Designating Party, a Party that seeks to disclose to Designated House Counsel any information or
17 item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
18 pursuant to paragraph 7.3(b) first must make a written request to the Designating Party that (1)
19 sets forth the full name of the Designated House Counsel and the city and state of his or her
20 residence, and (2) describes the Designated House Counsel’s current and reasonably foreseeable
21 future primary job duties and responsibilities in sufficient detail to determine if House Counsel is
22 involved, or may become involved, in any competitive decision-making.

23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
24 ONLY” information or items may be disclosed to an Expert without disclosure of the identity of
25 the Expert as long as the Expert is not a current officer, director, or employee of a competitor of a
26 Party or anticipated to become one.

27 (b) A Party that makes a request and provides the information specified in the
28 preceding respective paragraphs may disclose the subject Protected Material to the identified

1 Designated House Counsel or Expert unless, within 14 days of delivering the request, the Party
2 receives a written objection from the Designating Party. Any such objection must set forth in
3 detail the grounds on which it is based.

4 (c) A Party that receives a timely written objection must meet and confer with
5 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
6 agreement within seven days of the written objection. If no agreement is reached, the Party
7 seeking to make the disclosure to Designated House Counsel may file a motion as provided in
8 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if
9 applicable) seeking permission from the Court to do so. Any such motion must describe the
10 circumstances with specificity, set forth in detail the reasons why the disclosure to Designated
11 House Counsel is reasonably necessary, assess the risk of harm that the disclosure would entail,
12 and suggest any additional means that could be used to reduce that risk. In addition, any such
13 motion must be accompanied by a competent declaration describing the parties' efforts to resolve
14 the matter by agreement (i.e., the extent and the content of the meet and confer discussions) and
15 setting forth the reasons advanced by the Designating Party for its refusal to approve the
16 disclosure.

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

21 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
22 LITIGATION

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

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

28 (b) promptly notify in writing the party who caused the subpoena or order to

1 issue in the other litigation that some or all of the material covered by the subpoena or order is
2 subject to this Protective Order. Such notification shall include a copy of this Stipulated
3 Protective Order; and

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

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

14 8. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
15 LITIGATION

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

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

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

28

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

4 3. make the information requested available for inspection by the
5 Non-Party.

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

13 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

21 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
22 MATERIAL

23 When a Producing Party gives notice to Receiving Parties that certain inadvertently
24 produced material is subject to a claim of privilege or other protection, the obligations of the
25 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). If
26 information is produced in discovery that is subject to a claim of privilege or of protection as
27 trial-preparation material, the party making the claim may notify any party that received the
28 information of the claim and the basis for it. After being notified, a party must promptly return or

1 destroy the specified information and any copies it has and may not sequester, use or disclose the
2 information until the claim is resolved. This includes a restriction against presenting the
3 information to the Court for a determination of the claim. This provision is not intended to
4 modify whatever procedure may be established in an e-discovery order that provides for
5 production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e),
6 insofar as the parties reach an agreement on the effect of disclosure of a communication or
7 information covered by the attorney-client privilege or work product protection, the parties may
8 incorporate their agreement in the stipulated protective order submitted to the Court.

9 11. MISCELLANEOUS

10 11.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
11 seek its modification by the Court in the future.

12 11.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
13 Order no Party waives any right it otherwise would have to object to disclosing or producing any
14 information or item on any ground not addressed in this Stipulated Protective Order. Similarly,
15 no Party waives any right to object on any ground to use in evidence of any of the material
16 covered by this Protective Order.

17 11.3 Filing Protected Material. Without written permission from the Designating Party
18 or a court order secured after appropriate notice to all interested persons, a Party may not file in
19 the public record in this action any Protected Material. A Party that seeks to file under seal any
20 Protected Material must comply with Civil Local Rule 79-5 and General Order 62. Protected
21 Material may only be filed under seal pursuant to a court order authorizing the sealing of the
22 specific Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General Order 62, a
23 sealing order will issue only upon a request establishing that the Protected Material at issue is
24 privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a
25 Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-
26 5(d) and General Order 62 is denied by the Court, then the Receiving Party may file the Protected
27 Material in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by
28 the Court.

1 12. FINAL DISPOSITION

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

17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: 8/30/12

By /s/Stephen Gardner (with permission)

Stephen Gardner
sgardner@cspinet.org
CENTER FOR SCIENCE IN THE PUBLIC
INTEREST
5646 Milton Street, Suite 211
Dallas, Texas 75206 Telephone: (214) 827-2774
Facsimile: (214) 827-2787

Michael Reese
mreese@reeserichman.com
REESE RICHMAN LLP
875 Avenue of the Americas, 18th Floor
New York, New York 10001
Telephone: (212) 643-0500
Facsimile: (212) 253-4272

Attorneys for Plaintiff

DATED: 8/30/12

By /s/Jeffrey J. Fowler

Jeffrey J. Fowler
jfowler@omm.com
O'MELVENY & MYERS LLP

David T. Biderman
DBiderman@perkinscoie.com
Charles C. Sipos (Pro Hac Vice)
CSipos@perkinscoie.com
PERKINS COIE LLP

Chris S. Coutroulis (Pro Hac Vice)
ccoutroulis@carltonfields.com
Robert L. Ciotti (Pro Hac Vice)
rciotti@carltonfields.com
M. Derek Harris (Pro hac vice)
mdharris@carltonfields.com
CARLTON FIELDS

Attorneys for General Mills, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: August 31, 2012



Samuel Conti
United States Senior District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Northern District of California on [date] in the case of Annie Lam, on behalf of herself, and all others similarly situated v. General Mills, Inc., Case No. 11-CV-05056 (SC). 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 Northern 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]