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 INB INSURANCE SERVICES CORPORATION
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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

10 GENERAL INSURANCE COMPANY OF
 11 AMERICA,
 12 Plaintiff,
 13 vs.
 14 INB INSURANCE SERVICES
 CORPORATION, a California Corporation,
 15 Defendant.
 16

Case No: 3:18-cv-03372-JST
**STIPULATED PROTECTIVE ORDER FOR
 STANDARD LITIGATION**

17 1. PURPOSES AND LIMITATIONS

18 Disclosure and discovery activity in this action are likely to involve production of
 19 confidential, proprietary, or private information for which special protection from public
 20 disclosure and from use for any purpose other than prosecuting this litigation may be
 21 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
 22 following Stipulated Protective Order. The parties acknowledge that this Order does not
 23 confer blanket protections on all disclosures or responses to discovery and that the protection
 24 it affords from public disclosure and use extends only to the limited information or items that
 25 are entitled to confidential treatment under the applicable legal principles. The parties further
 26 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does
 27 not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the
 28 procedures that must be followed and the standards that will be applied when a party seeks

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1 permission from the court to file material under seal.

2 2. DEFINITIONS

3 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
4 information or items under this Order.

5 2.2 "CONFIDENTIAL" Information or Items: information (regardless of how it is
6 generated, stored or maintained) or tangible things that qualify for protection under Federal
7 Rule of Civil Procedure 26(c).

8 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel
9 (as well as their support staff).

10 2.4 Designating Party: a Party or Non-Party that designates information or items
11 that it produces in disclosures or in responses to discovery as "CONFIDENTIAL."

12 2.5 Disclosure or Discovery Material: all items or information, regardless of the
13 medium or manner in which it is generated, stored, or maintained (including, among other
14 things, testimony, transcripts, and tangible things), that are produced or generated in
15 disclosures or responses to discovery in this matter.

16 2.6 Expert: a person with specialized knowledge or experience in a matter
17 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
18 expert witness or as a consultant in this action.

19 2.7 House Counsel: attorneys who are employees of a party to this action. House
20 Counsel does not include Outside Counsel of Record or any other outside counsel.

21 2.8 Non-Party: any natural person, partnership, corporation, association, or other
22 legal entity not named as a Party to this action.

23 2.9 Outside Counsel of Record: attorneys who are not employees of a party to
24 this action but are retained to represent or advise a party to this action and have appeared
25 in this action on behalf of that party or are affiliated with a law firm which has appeared on
26 behalf of that party.

27 2.10 Party: any party to this action, including all of its officers, directors, employees,
28 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

1 2.11 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
2 Material in this action.

3 2.12 Professional Vendors: persons or entities that provide litigation support
4 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
5 and organizing, storing, or retrieving data in any form or medium) and their employees and
6 subcontractors.

7 2.13 Protected Material: any Disclosure or Discovery Material that is designated
8 as "CONFIDENTIAL."

9 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material from
10 a Producing Party.

11 3. SCOPE

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

25 4. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations imposed by
27 this Order shall remain in effect until a Designating Party agrees otherwise in writing or a
28 court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal

1 of all claims and defenses in this action, with or without prejudice; and (2) final judgment
2 herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or
3 reviews of this action, including the time limits for filing any motions or applications for
4 extension of time pursuant to applicable law.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
7 Party or Non-Party that designates information or items for protection under this Order must
8 take care to limit any such designation to specific material that qualifies under the appropriate
9 standards. The Designating Party must designate for protection only those parts of material,
10 documents, items, or oral or written communications that qualify – so that other portions of
11 the material, documents, items, or communications for which protection is not warranted are
12 not swept unjustifiably within the ambit of this Order.

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

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

20 5.2 Manner and Timing of Designations. Except as otherwise provided in this
21 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
22 ordered, Disclosure or Discovery Material that qualifies for protection under this Order must
23 be clearly so designated before the material is disclosed or produced.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic documents, but
26 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
27 Party affix the legend "CONFIDENTIAL" to each page that contains protected material. If only
28 a portion or portions of the material on a page qualifies for protection, the Producing Party

1 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in
2 the margins).

3 A Party or Non-Party that makes original documents or materials available for
4 inspection need not designate them for protection until after the inspecting Party has
5 indicated which material it would like copied and produced. During the inspection and before
6 the designation, all of the material made available for inspection shall be deemed
7 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants copied
8 and produced, the Producing Party must determine which documents, or portions thereof,
9 qualify for protection under this Order. Then, before producing the specified documents, the
10 Producing Party must affix the “CONFIDENTIAL” legend to each page that contains
11 Protected Material. If only a portion or portions of the material on a page qualifies for
12 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by
13 making appropriate markings in the margins).

14 (b) for testimony given in deposition or in other pretrial or trial proceedings, that
15 the Designating Party identify on the record, before the close of the deposition, hearing, or
16 other proceeding, all protected testimony.

17 (c) for information produced in some form other than documentary and for any
18 other tangible items, that the Producing Party affix in a prominent place on the exterior of the
19 container or containers in which the information or item is stored the legend
20 “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection,
21 the Producing Party, to the extent practicable, shall identify the protected portion(s).

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

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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation
3 of confidentiality at any time. Unless a prompt challenge to a Designating Party's
4 confidentiality designation is necessary to avoid foreseeable, substantial unfairness,
5 unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party
6 does not waive its right to challenge a confidentiality designation by electing not to mount a
7 challenge promptly after the original designation is disclosed.

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

22 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
23 intervention, the Designating Party shall file and serve a motion to retain confidentiality under
24 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5, if applicable) within 21 days
25 of the initial notice of challenge or within 14 days of the parties agreeing that the meet and
26 confer process will not resolve their dispute, whichever is earlier. Each such motion must be
27 accompanied by a competent declaration affirming that the movant has complied with the
28 meet and confer requirements imposed in the preceding paragraph. Failure by the

1 Designating Party to make such a motion including the required declaration within 21 days
2 (or 14 days, if applicable) shall automatically waive the confidentiality designation for each
3 challenged designation. In addition, the Challenging Party may file a motion challenging a
4 confidentiality designation at any time if there is good cause for doing so, including a
5 challenge to the designation of a deposition transcript or any portions thereof. Any motion
6 brought pursuant to this provision must be accompanied by a competent declaration affirming
7 that the movant has complied with the meet and confer requirements imposed by the
8 preceding paragraph.

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

16 7. ACCESS TO AND USE OF PROTECTED MATERIAL

17 7.1 Basic Principles. A Receiving Party may use Protected Material that is
18 disclosed or produced by another Party or by a Non-Party in connection with this case only
19 for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may
20 be disclosed only to the categories of persons and under the conditions described in this
21 Order. When the litigation has been terminated, a Receiving Party must comply with the
22 provisions of section 13 below (FINAL DISPOSITION).

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

26 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
27 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
28 disclose any information or item designated "CONFIDENTIAL" only to:

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

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

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

11 (d) the court and its personnel;

12 (e) court reporters and their staff, professional jury or trial consultants, mock
13 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this
14 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit
15 A);

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

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

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

26 If a Party is served with a subpoena or a court order issued in other litigation that
27 compels disclosure of any information or items designated in this action as
28 "CONFIDENTIAL," that Party must:

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

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

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

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

16 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
17 LITIGATION

18 (a) The terms of this Order are applicable to information produced by a Non-Party
19 in this action and designated as "CONFIDENTIAL." Such information produced by Non-
20 Parties in connection with this litigation is protected by the remedies and relief provided by
21 this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from
22 seeking additional protections.

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

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

1 Party;

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

5 (3) make the information requested available for inspection by the Non-
6 Party.

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

15 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

24 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
25 MATERIAL

26 When a Producing Party gives notice to Receiving Parties that certain inadvertently
27 produced material is subject to a claim of privilege or other protection, the obligations of the
28 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This

1 provision is not intended to modify whatever procedure may be established in an e-discovery
2 order that provides for production without prior privilege review. Pursuant to Federal Rule of
3 Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
4 of a communication or information covered by the attorney-client privilege or work product
5 protection, the parties may incorporate their agreement in the stipulated protective order
6 submitted to the court.

7 12. MISCELLANEOUS

8 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person
9 to seek its modification by the court in the future.

10 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
11 Order no Party waives any right it otherwise would have to object to disclosing or producing
12 any information or item on any ground not addressed in this Stipulated Protective Order.
13 Similarly, no Party waives any right to object on any ground to use in evidence of any of the
14 material covered by this Protective Order.

15 12.3 Filing Protected Material. Without written permission from the Designating
16 Party or a court order secured after appropriate notice to all interested persons, a Party may
17 not file in the public record in this action any Protected Material. A Party that seeks to file
18 under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material
19 may only be filed under seal pursuant to a court order authorizing the sealing of the specific
20 Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only
21 upon a request establishing that the Protected Material at issue is privileged, protectable as
22 a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request
23 to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is denied by the
24 court, then the Receiving Party may file the information in the public record pursuant to Civil
25 Local Rule 79-5(e) unless otherwise instructed by the court.

26 13. FINAL DISPOSITION

27 Within 60 days after the final disposition of this action, as defined in paragraph 4,
28 each Receiving Party must return all Protected Material to the Producing Party or destroy

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

15 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

16 Dated: 8/8/2018

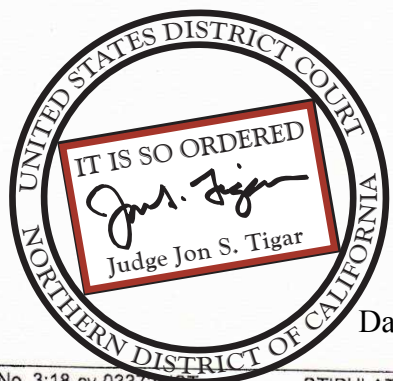
LINDAHL BECK LLP

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21 Dated: 8/9/18

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23 By: *Randy M. Hess*
Randy M. Hess
Nicole S. Adams-Hess
Attorneys for Defendant
INB Insurance Services Corporation



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28 Dated: August 10, 2018

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Honorable Jon S. Tigar
United States District Court 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 Northern District of California on [date] in the case of *General Insurance Company of America v. INB Insurance Services Corporation*, Case No. 3:18-cv-03372-JST. 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: _____

Signature: _____