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10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**

12 JAKE LECHNER, individually and on behalf
 13 of all others similarly situated,
 14 Plaintiffs,
 15 v.
 16 UBER TECHNOLOGIES, INC.,
 17 Defendant.
 18

Case No. 4:18-cv-02815-HSG

**STIPULATED
 PROTECTIVE ORDER**

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1 Plaintiff Jake Lechner and Defendant Uber Technologies, Inc. (collectively, “the parties”)
2 by and through their respective counsel of record, stipulate and jointly move the Court to issue
3 the following protective order (“Protective Order”) to govern the disclosure of documents,
4 things, and information produced in the above-captioned action (the “Action”).

5 **1. PURPOSES AND LIMITATIONS**

6 Disclosure and discovery activity in this action are likely to involve production of
7 confidential, proprietary, or private information for which special protection from public
8 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.
9 Accordingly, the parties hereby stipulate to and petition the court to enter the following
10 Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket
11 protections on all disclosures or responses to discovery and that the protection it affords from
12 public disclosure and use extends only to the limited information or items that are entitled to
13 confidential treatment under the applicable legal principles. The parties further acknowledge, as
14 set forth in Section 14.4, below, that this Stipulated Protective Order does not entitle them to file
15 confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
16 followed and the standards that will be applied when a party seeks permission from the court to
17 file material under seal.

18 **2. DEFINITIONS**

19 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
20 information or items under this Order.

21 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
22 generated, stored or maintained) or tangible things that qualify for protection under Federal
23 Rule of Civil Procedure 26(c).

24 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as
25 well as their support staff).

26 2.4 Designated House Counsel: House Counsel who seek access to “HIGHLY
27 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this matter.
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1 2.5 Designating Party: a Party or Non-Party that designates information or items that
2 it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
3 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”.

4 2.6 Disclosure or Discovery Material: all items or information, regardless of the
5 medium or manner in which it is generated, stored, or maintained (including, among other
6 things, testimony, transcripts, and tangible things), that are produced or generated in disclosures
7 or responses to discovery in this matter.

8 2.7 Expert: a person with specialized knowledge or experience in a matter pertinent
9 to the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness
10 or as a consultant in this action, (2) is not a past or current employee of a Party or of a Party’s
11 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party
12 or of a Party’s competitor.

13 2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
14 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
15 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by
16 less restrictive means.

17 2.9 House Counsel: attorneys who are employees of a party to this action. House
18 Counsel does not include Outside Counsel of Record or any other outside counsel.

19 2.10 Non-Party: any natural person, partnership, corporation, association, or other
20 legal entity not named as a Party to this action.

21 2.11 Outside Counsel of Record: attorneys who are not employees of a party to this
22 action but are retained to represent or advise a party to this action and have appeared in this
23 action on behalf of that party or are affiliated with a law firm which has appeared on behalf of
24 that party.

25 2.12 Party: any party to this action, including all of its officers, directors, employees,
26 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

27 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
28 Material in this action.

1 2.14 Professional Vendors: persons or entities that provide litigation support services
2 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
3 organizing, storing, or retrieving data in any form or medium) and their employees and
4 subcontractors.

5 2.15 Protected Material: any Disclosure or Discovery Material that is designated as
6 “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

7 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material from a
8 Producing Party.

9 **3. SCOPE**

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

23 This Stipulation and Order does not address the production of source code (including
24 source code and source code listings, object code and object listings, executable code and
25 similar sensitive software code, whether in printed or electronic form.) If any source code
26 (including source code and source code listings, object code and object code listings, executable
27 and similar sensitive software code) will be produced or disclosed in this litigation, the
28 Producing Party may seek additional protections in a separate agreement or order.

1 **4. DURATION**

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

9 **5. DESIGNATING PROTECTED MATERIAL**

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

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

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

25 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order
26 (see, e.g., second paragraph of Section 5.2(a) below), or as otherwise stipulated or ordered,
27 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly
28 so designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents, but
3 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
4 Party affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
5 EYES ONLY,” to each page that contains protected material. In order to efficiently process and
6 produce large volumes of Protected Material, multi-page documents in which Protected
7 Material is pervasive may be marked “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY” throughout. Where it is not possible to affix a legend to
9 particular Protected Material, the Producing Party shall take reasonable steps to give all
10 Receiving Parties notice of the Protected Material’s status as such.

11 A Party or Non-Party that makes original documents or materials available for
12 inspection need not designate them for protection until after the inspecting Party has indicated
13 which material it would like copied and produced. During the inspection and before the
14 designation, all of the material made available for inspection shall be deemed “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified
16 the documents it wants copied and produced, the Producing Party must determine which
17 documents, or portions thereof, qualify for protection under this Order. Then, before producing
18 the specified documents, the Producing Party must affix the appropriate legend
19 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to
20 each page that contains Protected Material, except that multi-page documents may be
21 designated in accordance with the preceding paragraph.

22 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
23 Designating Party identify on the record, before the close of the deposition, hearing, or other
24 proceeding, all protected testimony and specify the level of protection being asserted.
25 Alternatively, within 21 days after receipt of the final transcript of a deposition or pretrial
26 hearing or recording, the offering or inspecting party or non-party may designate such transcript
27 or recording as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
28 ONLY” by identifying the specific portions of the testimony as to which protection is sought

1 and specifying the level of protection being asserted. Only those portions of the testimony that
2 are appropriately designated for protection within the 21 days after receipt of the transcript or
3 recording shall be covered by the provisions of this Stipulated Protective Order. A Designating
4 Party may specify, at a deposition or up to 21 days after receipt of the final transcript or
5 recording that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY
6 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

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

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

22 In the event the deposition is videotaped, the original and all copies of the videotape
23 shall be marked by the video technician to indicate that the contents of the videotape are subject
24 to this Stipulated Protective Order, substantially along the lines of “This videotape contains
25 confidential testimony used in this case and is not to be viewed or the contents thereof to be
26 displayed or revealed except pursuant to the terms of the operative Stipulated Protective Order
27 in this matter or pursuant to written stipulation of the parties.”
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1 (c) for information produced in some form other than documentary and for any other
2 tangible items, that the Producing Party affix in a prominent place on the exterior of the
3 container or containers in which the information or item is stored the legend
4 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only
5 a portion or portions of the information or item warrant protection, the Producing Party, to the
6 extent practicable, shall identify the protected portion(s) and specify the level of protection
7 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
12 treated in accordance with the provisions of this Order.

13 Any Party receiving such inadvertently unmarked or mis-marked Disclosure or
14 Discovery Materials shall, within twenty-one (21) days of receipt of the substitute copies,
15 sequester, destroy or return to the law firm representing the Producing Party all copies of such
16 mis-designated documents (including any such documents provided to any Experts). The
17 Producing Party shall comply with Paragraph 5.2 when re-designating Disclosure or Discovery
18 Material as Protected Material. Within twenty-one (21) days of any re-designation of Disclosure
19 or Discovery Material as Protected Material (or re-designation of “CONFIDENTIAL” material
20 as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) the Party receiving such
21 Protected Material shall identify to the Producing Party any non-parties, other than Counsel or
22 Experts, who may have received copies or excerpts of any mis-designated Protected Material,
23 and the Parties shall each request that any persons who previously received such mis-designated
24 documents to destroy or return all copies or excerpts of any mis-designated Protected Material.

25 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

26 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
27 confidentiality at any time. Unless a prompt challenge to a Designating Party’s confidentiality
28 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic

1 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
2 challenge a confidentiality designation by electing not to mount a challenge promptly after the
3 original designation is disclosed.

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

18 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
19 intervention, they shall comply with the discovery dispute procedure outlined in the presiding
20 judge or magistrate judge's standing order.

21 The burden of persuasion in any such challenge proceeding shall be on the Designating
22 Party. Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
23 unnecessary expenses and burdens on other parties) may expose the Challenging Party to
24 sanctions. All parties shall continue to afford the material in question the level of protection to
25 which it is entitled under the Producing Party's designation until the court rules on the
26 challenge.
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1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed
3 or produced by another Party or by a Non-Party in connection with this case only for
4 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
5 disclosed only to the categories of persons and under the conditions described in this Order.
6 When the litigation has been terminated, a Receiving Party must comply with the provisions of
7 Section 15 below (FINAL DISPOSITION).

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

10 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
11 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
12 disclose any information or item designated “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
14 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
15 information for this litigation;

16 (b) the officers, directors, and employees (including House Counsel) of the
17 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
18 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

22 (d) the court and its personnel;

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

26 (f) during their depositions, witnesses in the action, including Parties, to whom
27 disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement
28 to Be Bound” (Exhibit A), unless otherwise agreed by the Parties or ordered by the court. Pages

1 of transcribed deposition testimony or exhibits to depositions that reveal Protected Material
2 must be separately bound by the court reporter and may not be disclosed to anyone except as
3 permitted under this Stipulated Protective Order.

4 (g) the author or recipient of a document containing the information or a custodian
5 or other person who otherwise possessed or knew the information, and who have signed the
6 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

7 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
8 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
9 Designating Party, a Receiving Party may disclose any information or item designated
10 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

11 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as
12 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
13 information for this litigation;

14 (b) Designated House Counsel of the Receiving Party (1) who has no involvement in
15 competitive decision-making, (2) to whom disclosure is reasonably necessary for this litigation,
16 and (3) who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

17 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
18 for this litigation, and (2) who have signed the “Acknowledgment and Agreement to Be Bound”
19 (Exhibit A);

20 (d) the court and its personnel;

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

24 (g) during their depositions, witnesses in the action who are current or former
25 employees of Defendant, are represented by Defendant’s undersigned counsel, to whom
26 disclosure is reasonably necessary, and who have signed the “Acknowledgment and Agreement
27 to Be Bound” (Exhibit A), unless otherwise agreed by the Parties or ordered by the court. Pages
28 of transcribed deposition testimony or exhibits to depositions that reveal Protected Material

1 must be separately bound by the court reporter and may not be disclosed to anyone except as
2 permitted under this Stipulated Protective Order;

3 (h) the author or recipient of a document containing the information or a custodian
4 or other person who otherwise possessed or knew the information, and who have signed the
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

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

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

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

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

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

19 If the Designating Party timely seeks a protective order, the Party served with the
20 subpoena or court order shall not produce any information designated in this action as
21 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” before
22 a determination by the court from which the subpoena or order issued, unless the Party has
23 obtained the Designating Party’s permission. The Designating Party shall bear the burden and
24 expense of seeking protection in that court of its confidential material – and nothing in these
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28 ¹ The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued.

1 provisions should be construed as authorizing or encouraging a Receiving Party in this action to
2 disobey a lawful directive from another court.

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

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

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

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

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

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

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

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

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

11 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
12 **PROTECTED MATERIAL**

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

22 (b) Upon learning of an inadvertent or unintentional disclosure of privileged
23 information, the Producing Party shall provide written notice to the parties who have received
24 such information. The Receiving Party must return, sequester, or destroy the specified
25 information and any copies it has within twenty-one (21) days of the date of that written notice;
26 must not use or disclose the information until the claim is resolved; must take reasonable steps to
27 retrieve the information if the Receiving Party disclosed it before being notified; and may
28 promptly present the information to the court under seal for a determination of the claim.

1 (c) If a Receiving Party, upon review of information or Materials produced to it,
2 becomes aware that any portion of such information or Materials could reasonably be considered
3 to be protected by the attorney-client privilege, work product immunity, or other privilege or
4 immunity, the receiving party shall promptly notify the Producing Party of the specific Materials
5 which could be so considered.

6 (d) If the Receiving Party intends to challenge the assertion of privilege, it must
7 provide written notice within thirty (30) days of receiving written notice from the Producing
8 Party, explaining the grounds for its challenge.

9 (e) If the Parties cannot resolve a challenge without court intervention, they shall
10 comply with the discovery dispute procedure outlined in the presiding judge or magistrate
11 judge's standing order (and comply with Civil Local Rule 79-5, if applicable). Pending the
12 Court's ruling, the party challenging the assertion of privilege shall segregate the affected
13 documents and materials and shall not make any use of such information.

14 (f) Nothing herein shall be deemed or construed as a waiver of any applicable
15 privilege, right of privacy, immunity from production, or proprietary interest with respect to any
16 document or information.

17 **12. MISCELLANEOUS**

18 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to
19 seek its modification by the court in the future.

20 12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective
21 Order no Party waives any right it otherwise would have to object to disclosing or producing
22 any information or item on any ground not addressed in this Stipulated Protective Order.
23 Similarly, no Party waives any right to object on any ground to use in evidence of any of the
24 material covered by this Protective Order.

25 12.3 Fact of Designation Not Admissible: The fact of designation, or failure to
26 designate, Disclosure or Discovery Materials as CONFIDENTIAL or HIGHLY
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY pursuant to this Stipulation and Order shall
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1 not be admissible for any purpose in a trial on the merits or at any other proceeding other than at
2 a proceeding arising from or related to this Stipulation and Order.

3 12.4 Successors: This Order shall be binding upon the Parties hereto, their attorneys,
4 and their successors, executors, heirs, assigns, and employees

5 12.5 Filing Protected Material. Without written permission from the Designating
6 Party or a court order secured after appropriate notice to all interested persons, a Party may not
7 file in the public record in this action any Protected Material. A Party that seeks to file under
8 seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may
9 only be filed under seal pursuant to a court order authorizing the sealing of the specific
10 Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only
11 upon a request establishing that the Protected Material at issue is privileged, protectable as a
12 trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request to
13 file Protected Material under seal pursuant to Civil Local Rule 79-5(e) is denied by the court,
14 then the Receiving Party may file the Protected Material in the public record pursuant to Civil
15 Local Rule 79-5(e)(2) unless otherwise instructed by the court.

16 **13. FINAL DISPOSITION**

17 Within 60 days after the final disposition of this action, as defined in paragraph 4, each
18 Receiving Party must return all Protected Material to the Producing Party or destroy such
19 material. As used in this subdivision, "all Protected Material" includes all copies, abstracts,
20 compilations, summaries, and any other format reproducing or capturing any of the Protected
21 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must
22 submit a written certification to the Producing Party (and, if not the same person or entity, to the
23 Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate)
24 all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party
25 has not retained any copies, abstracts, compilations, summaries or any other format reproducing
26 or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled
27 to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
28 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports,

1 attorney work product, and consultant and expert work product, even if such materials contain
2 Protected Material. Any such archival copies that contain or constitute Protected Material
3 remain subject to this Protective Order as set forth in Section 4 (DURATION).
4

5 IT IS SO STIPULATED, through Counsel of Record.
6

7 Dated: August 15, 2019

Respectfully submitted,

8 By: /s/ Simon S. Grille

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Plaintiffs' Counsel

1 Dated: August 15, 2019

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18 *Attorneys for Defendant Uber Technologies, Inc.*

19 **ATTESTATION**

20 I, Simon Grille, am the ECF user whose identification and password are being used to file
21 this Stipulated [Proposed] Protective Order. I attest under penalty of perjury that concurrence in
22 this filing has been obtained from all signatories above.

23 Dated: August 15, 2019

/s/ Simon S. Grille

24 **IT IS SO ORDERED.**

25 DATED: 8/16/2019



26 HON. HAYWOOD S. GILLIAM, JR.
27 UNITED STATES DISTRICT JUDGE
28

1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare
5 under penalty of perjury that I have read in its entirety and understand the Stipulated Protective
6 Order that was issued by the United States District Court for the Northern District of California
7 in the case of *Fridman v. Uber Technologies, Inc.*, Case No. 4:18-cv-02815-HSG. I agree to
8 comply with and to be bound by all the terms of this Stipulated Protective Order and I
9 understand and acknowledge that failure to so comply could expose me to sanctions and
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any
11 manner any information or item that is subject to this Stipulated Protective Order to any person
12 or entity except in strict compliance with the provisions of this Order. I further agree to submit
13 to the jurisdiction of the United States District Court for the Northern District of California for
14 the purpose of enforcing the terms of this Stipulated Protective Order, even if such
15 enforcement proceedings occur after termination of this action.

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

20 Executed this ___ day of _____ in _____, _____, _____.
21 [month] [year] [city] [state]

22 Printed name: _____

23 Signature: _____