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 6 OF TEXTRON INC.

7
 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE BRANCH

11 CARMEN REYNOSO, individually;
 12 MIGUEL REYNOSO, individually;
 13 PRISCILLA REYNOSO, individually;
 14 MARIA de JESUS REYES, individually,

Case No. C09 01227 LHK PVT

STIPULATED PROTECTIVE ORDER

15 Plaintiffs,

16 vs.

17 TEXTRON, INC., a Corporation;
 18 JACOBSEN, A TEXTRON COMPANY, a
 Corporation; DOES 1 to 50,

Defendants.

19 1. **PURPOSES AND LIMITATIONS**

20 Disclosure and discovery activity in this action are likely to involve production of
 21 confidential, proprietary, or private information for which special protection from public
 22 disclosure and from use for any purpose other than prosecuting this litigation would be
 23 warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the
 24 following Stipulated Protective Order. The parties acknowledge that this Order does not
 25 confer blanket protections on all disclosures or responses to discovery and that the
 26 protection it affords extends only to the limited information or items that are entitled under
 27 the applicable legal principles to treatment as confidential.

1 The parties further acknowledge, as set forth in Section 10, below, that this
2 Stipulated Protective Order creates no entitlement to file confidential information under
3 seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the
4 standards that will be applied when a party seeks permission from the court to file material
5 under seal.

6 2. **DEFINITIONS**

7 2.1. Party: any party to this action, including all of its officers, directors,
8 employees, consultants, retained experts, and outside counsel (and their support staff).

9 2.2. Disclosure or Discovery Material: all items or information, regardless of the
10 medium or manner generated, stored, or maintained (including, among other things,
11 testimony, transcripts, or tangible things) that are produced or generated in disclosures or
12 responses to discovery in this matter.

13 2.3. “Confidential” Information or Items: information (regardless of how
14 generated, stored or maintained) or tangible things that qualify for protection under
15 standards developed under F.R.Civ.P. 26(c).

16 2.4. “Highly Confidential – Attorneys’ Eyes Only” Information or Items:
17 extremely sensitive “Confidential Information or Items” whose disclosure to another Party
18 or nonparty would create a substantial risk of serious injury that could not be avoided by
19 less restrictive means.

20 2.5. Receiving Party: a Party that receives Disclosure or Discovery Material from
21 a Producing Party.

22 2.6. Producing Party: a Party or non-party that produces Disclosure or Discovery
23 Material in this action.

24 2.7. Designating Party: a Party or non-party that designates information or items
25 that it produces in disclosures or in responses to discovery as “Confidential” or “Highly
26 Confidential—Attorneys’ Eyes Only.”

27 2.8. Protected Material: any Disclosure or Discovery Material that is designated
28 as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

1 2.9. Outside Counsel: attorneys who are not employees of a Party but who are
2 retained to represent or advise a Party in this action.

3 2.10. House Counsel: attorneys who are employees of a Party.

4 2.11. Counsel (without qualifier): Outside Counsel and House Counsel (as well as
5 their support staffs).

6 2.12. Expert: a person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
8 expert witness or as a consultant in this action and who is not a past or a current employee
9 of a Party or of a competitor of a Party's and who, at the time of retention, is not
10 anticipated to become an employee of a Party or a competitor of a Party's. This definition
11 includes a professional jury or trial consultant retained in connection with this litigation.

12 2.13. Professional Vendors: persons or entities that provide litigation support
13 services (e.g., photocopying; videotaping; translating; preparing exhibits or
14 demonstrations; organizing, storing, retrieving data in any form or medium; etc.) and their
15 employees and subcontractors.

16 3. **SCOPE**

17 The protections conferred by this Stipulation and Order cover not only Protected
18 Material (as defined above), but also any information copied or extracted therefrom, as
19 well as all copies, excerpts, summaries, or compilations thereof, plus testimony,
20 conversations, or presentations by parties or counsel to or in court or in other settings that
21 might reveal Protected Material.

22 4. **DURATION**

23 Even after the termination of this litigation, the confidentiality obligations imposed
24 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or
25 a court order otherwise directs.

26 5. **DESIGNATING PROTECTED MATERIAL**

27 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each
28 Party or non-party that designates information or items for protection under this Order

1 must take care to limit any such designation to specific material that qualifies under the
2 appropriate standards. A Designating Party must take care to designate for protection only
3 those parts of material, documents, items, or oral or written communications that qualify –
4 so that other portions of the material, documents, items, or communications for which
5 protection is not warranted are not swept unjustifiably within the ambit of this Order.
6 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
7 shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to
8 unnecessarily encumber or retard the case development process, or to impose unnecessary
9 expenses and burdens on other parties), expose the Designating Party to sanctions. If it
10 comes to a Party’s or a non-party’s attention that information or items that it designated for
11 protection do not qualify for protection at all, or do not qualify for the level of protection
12 initially asserted, that Party or non-party must promptly notify all other parties that it is
13 withdrawing the mistaken designation.

14 5.2. Manner and Timing of Designations. Except as otherwise provided in this
15 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or
16 ordered, material that qualifies for protection under this Order must be clearly so
17 designated before the material is disclosed or produced. Designation in conformity with
18 this Order requires: (a) for information in documentary form (apart from transcripts of
19 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
20 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at
21 the top of each page that contains protected material. If only a portion or portions of the
22 material on a page qualifies for protection, the Producing Party also must clearly identify
23 the protected portion(s) (e.g., by making appropriate markings in the margins) and must
24 specify, for each portion, the level of protection being asserted (either “CONFIDENTIAL”
25 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). A Party or non-party
26 that makes original documents or materials available for inspection need not designate
27 them for protection until after the inspecting Party has indicated which material it would
28 like copied and produced. During the inspection and before the designation, all of the

1 material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it
3 wants copied and produced, the Producing Party must determine which documents, or
4 portions thereof, qualify for protection under this Order, then, before producing the
5 specified documents, the Producing Party must affix the appropriate legend
6 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at
7 the top of each page that contains Protected Material. If only a portion or portions of the
8 material on a page qualifies for protection, the Producing Party also must clearly identify
9 the protected portion(s) (e.g., by making appropriate markings in the margins) and must
10 specify, for each portion, the level of protection being asserted (either “CONFIDENTIAL”
11 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”); (b) for testimony given
12 in deposition or in other pretrial or trial proceedings, that the Party or non-party offering or
13 sponsoring the testimony identify on the record, before the close of the deposition, hearing,
14 or other proceeding, all protected testimony, and further specify any portions of the
15 testimony that qualify as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”
16 When it is impractical to identify separately each portion of testimony that is entitled to
17 protection, and when it appears that substantial portions of the testimony may qualify for
18 protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke
19 on the record (before the deposition or proceeding is concluded) a right to have up to 20
20 days to identify the specific portions of the testimony as to which protection is sought and
21 to specify the level of protection being asserted (“CONFIDENTIAL” or “HIGHLY
22 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). Only those portions of the testimony
23 that are appropriately designated for protection within the 20 days shall be covered by the
24 provisions of this Stipulated Protective Order. Transcript pages containing Protected
25 Material must be separately bound by the court reporter, who must affix to the top of each
26 such page the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY,” as instructed by the Party or nonparty offering or
28 sponsoring the witness or presenting the testimony; (c) for information produced in some

1 form other than documentary, and for any other tangible items, that the Producing Party
2 affix in a prominent place on the exterior of the container or containers in which the
3 information or item is stored the legend “CONFIDENTIAL” or “HIGHLY
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only portions of the information or
5 item warrant protection, the Producing Party, to the extent practicable, shall identify the
6 protected portions, specifying whether they qualify as “Confidential” or as “Highly
7 Confidential – Attorneys’ Eyes Only.”

8 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
9 to designate qualified information or items as “Confidential” or “Highly Confidential –
10 Attorneys’ Eyes Only” does not, standing alone, waive the Designating Party’s right to
11 secure protection under this Order for such material. If material is appropriately designated
12 as “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” after the material was
13 initially produced, the Receiving Party, on timely notification of the designation, must
14 make reasonable efforts to assure that the material is treated in accordance with the
15 provisions of this Order.

16 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

17 6.1. Timing of Challenges. Unless a prompt challenge to a Designating Party’s
18 confidentiality designation is necessary to avoid foreseeable substantial unfairness,
19 unnecessary economic burdens, or a later significant disruption or delay of the litigation, a
20 Party does not waive its right to challenge a confidentiality designation by electing not to
21 mount a challenge promptly after the original designation is disclosed.

22 6.2. Meet and Confer. A Party that elects to initiate a challenge to a Designating
23 Party’s confidentiality designation must do so in good faith and must begin the process by
24 conferring directly (in voice to voice dialogue; other forms of communication are not
25 sufficient) with counsel for the Designating Party. In conferring, the challenging Party
26 must explain the basis for its belief that the confidentiality designation was not proper and
27 must give the Designating Party an opportunity to review the designated material, to
28 reconsider the circumstances, and, if no change in designation is offered, to explain the

1 basis for the chosen designation. A challenging Party may proceed to the next stage of the
2 challenge process only if it has engaged in this meet and confer process first.

3 6.3. Judicial Intervention. A Party that elects to press a challenge to a
4 confidentiality designation after considering the justification offered by the Designating
5 Party may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil
6 Local Rule 79-5, if applicable) that identifies the challenged material and sets forth in
7 detail the basis for the challenge. Each such motion must be accompanied by a competent
8 declaration that affirms that the movant has complied with the meet and confer
9 requirements imposed in the preceding paragraph and that sets forth with specificity the
10 justification for the confidentiality designation that was given by the Designating Party in
11 the meet and confer dialogue. The burden of persuasion in any such challenge proceeding
12 shall be on the Designating Party. Until the court rules on the challenge, all parties shall
13 continue to afford the material in question the level of protection to which it is entitled
14 under the Producing Party’s designation.

15 7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

16 7.1. Basic Principles. A Receiving Party may use Protected Material that is
17 disclosed or produced by another Party or by a non-party in connection with this case only
18 for prosecuting, defending, or attempting to settle this litigation. Such Protected Material
19 may be disclosed only to the categories of persons and under the conditions described in
20 this Order. When the litigation has been terminated, a Receiving Party must comply with
21 the provisions of section 11, below (FINAL DISPOSITION). Protected Material must be
22 stored and maintained by a Receiving Party at a location and in a secure manner that
23 ensures that access is limited to the persons authorized under this Order.

24 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
25 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
26 may disclose any information or item designated CONFIDENTIAL only to: (a) the
27 Receiving Party’s Outside Counsel of record in this action, as well as employees of said
28 Counsel to whom it is reasonably necessary to disclose the information for this litigation;

1 (b) the officers, directors, and employees (including House Counsel) of the Receiving
2 Party to whom disclosure is reasonably necessary for this litigation; (c) experts (as defined
3 in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this
4 litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit
5 A); (d) the Court and its personnel; (e) court reporters, their staffs, and professional
6 vendors to whom disclosure is reasonably necessary for this litigation and who have signed
7 the “Agreement to Be Bound by Protective Order” (Exhibit A); (f) during their
8 depositions, witnesses in the action to whom disclosure is reasonably necessary and who
9 have signed the “Agreement to Be Bound by Protective Order” (Exhibit A). Pages of
10 transcribed deposition testimony or exhibits to depositions that reveal Protected Material
11 must be separately bound by the court reporter and may not be disclosed to anyone except
12 as permitted under this Stipulated Protective Order; (g) the author of the document or the
13 original source of the information.

14 7.3. Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
15 Information or Items. Unless otherwise ordered by the court or permitted in writing by the
16 Designating Party, a Receiving Party may disclose any information or item designated
17 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to: (a) the Receiving
18 Party’s Outside Counsel of record in this action, as well as employees of said Counsel to
19 whom it is reasonably necessary to disclose the information for this litigation and who
20 have signed the “Agreement to Be Bound by Protective Order” that is attached hereto as
21 Exhibit A; (B) Experts (as defined in this Order) (1) to whom disclosure is reasonably
22 necessary for this litigation, AND (2) who have signed the “Agreement to Be Bound by
23 Protective Order” (Exhibit A); (d) the Court and its personnel; (e) court reporters, their
24 staffs, and professional vendors to whom disclosure is reasonably necessary for this
25 litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit
26 A); and (f) the author of the document or the original source of the information.

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1 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED**
2 **PRODUCED IN OTHER LITIGATION**

3 If a Receiving Party is served with a subpoena or an order issued in other litigation
4 that would compel disclosure of any information or items designated in this action as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,”
6 the Receiving Party must so notify the Designating Party, in writing (by fax, if possible)
7 immediately and in no event more than three court days after receiving the subpoena or
8 order. Such notification must include a copy of the subpoena or court order. The Receiving
9 Party also must immediately inform in writing the Party who caused the subpoena or order
10 to issue in the other litigation that some or all the material covered by the subpoena or
11 order is the subject of this Protective Order. In addition, the Receiving Party must deliver a
12 copy of this Stipulated Protective Order promptly to the Party in the other action that
13 caused the subpoena or order to issue.

14 The purpose of imposing these duties is to alert the interested parties to the
15 existence of this Protective Order and to afford the Designating Party in this case an
16 opportunity to try to protect its confidentiality interests in the court from which the
17 subpoena or order issued. The Designating Party shall bear the burdens and the expenses
18 of seeking protection in that court of its confidential material – and nothing in these
19 provisions should be construed as authorizing or encouraging a Receiving Party in this
20 action to disobey a lawful directive from another court.

21 9. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

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

3 10. **FILING PROTECTED MATERIAL**

4 Without written permission from the Designating Party or a court order secured
5 after appropriate notice to all interested persons, a Party may not file in the public record in
6 this action any Protected Material. A Party that seeks to file under seal any Protected
7 Material must comply with Civil Local Rule 79-5.

8 11. **FINAL DISPOSITION**

9 Unless otherwise ordered or agreed in writing by the Producing
10 Party, within sixty days after the final termination of this action, each Receiving
11 Party must return all Protected Material to the Producing Party. As used in this
12 subdivision, “all Protected Material” includes all copies, abstracts, compilations,
13 summaries or any other form of reproducing or capturing any of the Protected Material.
14 With permission in writing from the Designating Party, the Receiving Party may destroy
15 some or all of the Protected Material instead of returning it. Notwithstanding this
16 provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers,
17 transcripts, legal memoranda, correspondence or attorney work product, even if such
18 materials contain Protected Material. Any such archival copies that contain or constitute
19 Protected Material remain subject to this Protective Order as set forth in Section 4
20 (DURATION), above.

21 12. **MISCELLANEOUS**

22 12.1. Right to Further Relief. Nothing in this Order abridges the right of any
23 person to seek its modification by the Court in the future.

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

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: May 17, 2010

HAIGHT BROWN & BONESTEEL LLP

By: /s/ Krsto Mijanovic
Peter Dubrawski
Krsto Mijanovic
Attorneys for Defendant
JACOBSEN DIVISION OF TEXTRON
INC.

Dated: May 17, 2010

O'REILLY COLLINS

By: /s/ James Collins
James Collins
Attorneys for Plaintiffs
CARMEN REYNOSO, MIGUEL
REYNOSO, and PRISCILLA
REYNOSO

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 10/26/10


Hon. Patricia V. Trumbull
Mag. Judge, United States District Court

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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 _____ in the case of Carmen Reynoso et al. v. Textron Inc. et al, Case No. C09 01227 JW PVT. 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 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 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 Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____