dpiX, LLC	C v. American Guarantee And Liability Insurance Company et al		
	Randy M. Hess, Esq. (SBN 88635) rhess@ahk-law.com Pamela A. Bower, Esq. (SBN 151701) pbower@ahk-law.com ADLESON, HESS & KELLY, PC		
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	577 Salmar Avenue, Second Floor Campbell, California 95008		
	Telephone: (408) 341-0234 Facsimile: (408) 341-0250		
6	Attorneys for Plaintiff		
7	dpiX, LLC		
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9	UNITED STATES DISTRICT COURT		
	NORTHERN DISTRICT OF CALIFORNIA		
10			
11	dpiX, LLC,	Case No.: C10-03438 EJD	
12	Plaintiff,	STIPULATION FOR ENTRY OF ORDER	
13	vs.	REGARDING PROTECTED MATERIAL	
14			
15	AMERICAN GUARANTEE AND LIABILITY		
16	INSURANCE COMPANY, ZURICH NORTH AMERICA, ZURICH AMERICAN		
17	INSURANCE CORPORATION, ZURICH AMERICAN INSURANCE GROUP, and DOES 1 through 50, inclusive,		
18	Defendants.		
19			
20			
21	IT IS HEREBY STIPULATED between and among the parties, through their respective		
22	counsel of record, that on approval of this Court the following Protective Order may be		
23	entered:		•
24	1. <u>Defined Terms:</u> The term "document" shall mean and include:		
25	(a) The "original," and "duplicates," as defined in Federal Rules of Evidence		
26	Rule 1001(1), including copies and drafts thereof;		
27	(b) Writings and recording as defined in Federal Rules of Evidence Rule		
28	1001(1), and includes letters, words, or numbers, or their equivalent, set down by		
DLESON, HESS & KELLY, APC 77 Salmar Ave., 2011. Campbal, CA 95005	Case #: C10-03438 EJD STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL		
(408) 341-0234 Fax (408) 341-0250 WWWAHK-LAW.COM		1	

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1 handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical
2 or electronic recording or other form of data compilation, including emails or any other
3 information stored in electronic format; and

4 (c) Photographs as defined in Federal Rules of Evidence Rule 1001(2); and
5 includes still photographs, video tapes, and motion pictures.

6 2. <u>Scope of Order</u>: This Order shall govern the handling of all documents
7 produced and testimony given in this action designated as Protected Material (and labeled
8 "Confidential"). This will include documents containing confidential financial information,
9 proprietary information, information subject to trade secret protection or other privacy
10 protection.

3. 11 Labeling of Protected Material: Any party producing or filing a document in this 12 action may obtain treatment for such document or its contents as Protected Material, as defined in Paragraph 5, by typing or stamping on the document, or on its cover, or on the 13 portion of the document for which protection is desired, the word "Confidential." In the case 14 of a document or documents produced in electronic format, a party may obtain treatment for 15 16 such documents as confidential by typing or stamping the word "Confidential" on the material, or on the label of the disk containing such material. Any printed version of the material will be 17 deemed Confidential, whether or not the documents printed from such disk bear that stamp. 181 However, a party shall designate a document as "Confidential" only if it, in good faith, makes 19 a determination that such information may contain or reveal trade secrets, commercially 20 sensitive or proprietary materials that the designating party has maintained in confidence, is 21 22 under an obligation to maintain in confidence, or, if newly created, will maintain in confidence.

Use of Protected Material at Deposition: Whenever any documents or 23 4. transcripts afforded protection pursuant to this Order are introduced as exhibits in connection 24 with a deposition given in this action, subject to the provisions in paragraph 6 below, counsel 25 26 introducing such exhibits shall advise the court reporter that the portions of the testimony which refer to such exhibits and the exhibits themselves shall be afforded protection pursuant 27 to this Order. The reporter shall transcribe the testimony so designated, attach the 28 iess & STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL Case #: C10-03438 EJD APC

confidential exhibits to which the testimony refers, and mark the face of the bound transcript
 with the words "Confidential Pursuant to Court Order" or "Confidential." Any portion of any
 transcript or any exhibit so marked shall be lodged under seal with the Clerk of the Court if it
 is required to be lodged, pursuant to paragraph 9 herein.

5 5. <u>Persons to Whom Protected Material May be Disclosed:</u> Except by prior Court 6 order or the prior written consent of the party or person designating the document or 7 transcript as "Confidential," no document so designated, and no information contained in or 8 derived from any such document, shall be disclosed to any person other than:

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(a) Counsel for the respective parties to this litigation;

(b) Employees of such counsel, including secretaries, legal assistants, and
 11 consultants or experts retained to assist such counsel in this litigation;

(c) Employees, officers, agents or authorized representatives designated by
 a party receiving "Confidential" materials to review such materials on its behalf and any
 reinsurers; and

(d) The respective consultants retained by the parties to this litigation having
knowledge of the subject matter of the Protected Material.

Before disclosure of any Protected Material is made to any of the persons identified 17 above, that person shall be advised that the Protected Material is being disclosed pursuant 18 and subject to the terms of this Protective Order and agree that the Protected Material may 19 not be disclosed other than pursuant to the terms of the Protective Order. Counsel shall 20 21 | maintain a list of all designated employees of the parties and all consultants to whom 22 disclosure is made and shall make the list available for inspection by counsel for other parties 23 on request. Further, any party accessing electronic material produced in this action with a label marked "Confidential" and/or with password protection and/or encryption agrees that the 24 25 Protected Material viewed, printed, or used electronically will be treated as protected 26 pursuant to this Protective Order and agrees that the material may not be disclosed other than pursuant to the terms of the Protective Order. 27

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Case #: C10-03438 EJD STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL

## 6. Use of Protected Material:

Any document or transcript designated "Confidential," or any information therein, shall be used solely for the purpose of prosecution and/or defense of this litigation, including but not limited to preparing for and conducting mediation, pretrial and/or trial proceedings in this action, and shall not be utilized for any other purpose whatsoever. No person receiving Protected Material shall disclose it to any person other than those described in paragraph 5 above and then solely for the express purposes set forth in this Protective Order.

7. 8 Written Authorization Required for Disclosure to Others: Counsel desiring to disclose Protected Material to persons other than those specifically identified in Paragraph 5 9 shall make a written request on each of the other counsel (the "Request"). If the other 10 counsel do not object in writing within five (5) court days of receipt of the Request, counsel 11 seeking such disclosure may reveal Protected Material to the persons identified in the 12 Request only after such persons have been fully advised as to the contents of this Order and 13 have agreed that the Protected Material may not be disclosed other than pursuant to the 14 15 | terms of the Protective Order. If any of the other counsel object in writing within five (5) court days of receiving the Request to the disclosure of Protected Material to the persons identified 16 in the Request, then disclosure to such persons shall only be made by order of this Court 17 after a properly noticed motion. 18

8. <u>Labeling of Protected Material Provided to the Court:</u> If any counsel lodges, files with or submits to the Court any (a) documents or transcripts afforded protection pursuant to this Order, or (b) any information derived from such documents, transcript, or information, or (c) papers containing or summarizing such documents, transcripts, or information, then such counsel shall comply with this Order, including paragraph 9 of the same, and such documents shall be lodged or filed in sealed envelopes on which shall be endorsed the caption of this action and a statement substantially in the following form:

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## "CONFIDENTIAL

27 This envelope contains documents that are subject to an Order governing the use of 28 Protected Material entered by the Court in this action. This envelope shall not be opened nor Case #: C10-03438 EJD STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL

1 the contents thereof displayed or revealed except by Order of this Court. Violation of this2 Order may be regarded as contempt of the Court."

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9.

## Filing Protected Material:

Without written permission from the Designating Party or a court order secured after 4 appropriate notice to all interested persons, a Party may not file in the public record in this 5 6 action any Protected Material. A Party that seeks to file under seal any Protected Material 7 must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal 8 pursuant to a court order authorizing the sealing of the specific Protected Material at issue. 9 Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise 10 entitled to protection under the law. If a Receiving Party's request to file Protected Material 11 12 under seal pursuant to Civil Local Rule 79-5(d) is denied by the court, then the Receiving Party may file the information in the public record pursuant to Civil Local Rule 79-5(e) unless 13 14 otherwise instructed by the court.

15 10. <u>Objections to Confidential Designation</u>: If a party objects to the designation of a document or transcript as "Confidential" and thus entitled to protection under this Order, it shall notify the party seeking protection in writing. Within a reasonable time after receiving such written notice, but not to exceed ten (10) court days, the party seeking protection may apply to the Court by noticed motion for a ruling that the document or transcript shall be treated as Protected Material pursuant to the terms of this Order. Pending the outcome of the application, the document or testimony shall be afforded the protection described in Paragraph 5.

Disposal of Protected Material at Conclusion of Litigation: Within ninety (90) 23 11. 24 days of the conclusion of this litigation (that is, upon its final dismissal or judgment), all copies of all documents or transcripts designated "Confidential" or "Confidential Pursuant to Court 25 other than those filed with the Court Order's shall either be destroyed or returned to the party or person furnishing them. In 26 addition, all copies of all summaries or other materials containing or disclosing information 27 contained in documents or transcripts designated "Confidential" or "Confidential Pursuant to 28 Case #: C10-03438 EJD STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL LLY, APC

1 Court Order" shall be either destroyed or returned to the party or person furnishing them.

This Order shall continue to be binding after the conclusion of this litigation, except that, unless otherwise ordered by this Court, there shall be no restriction on documents or transcripts that are (a) used as exhibits and/or offered into evidence in the trial of this action, and (b) not covered by any subsequent and inclusive confidentiality order.

6 Dated: 109 22, 2011 ADLESON, HESS & RELLY, PC 7 8 9 Bv 10 PAMELA A BOWER 11 Dated: 8-19-11 12 **BISHOP BARRY DRATH** 13 14 Bv: 15 THAN GROŚ VIAN LERCHE 16 17 IT IS SO ORDERED. 18 19 20 Dated: 9/8/2011 Pore S. 1 MAGISTRATE JUDGE PAUL S. GREWAL 21 UNITED STATES DISTRICT COURT 22 23 24 25 26 27 28 STIPULATION FOR ENTRY OF ORDER RE PROTECTED MATERIAL Case #: C10-03438 EJD