

CAUSE NO. _____

[illegible]

PROTECTIVE ORDER

IT IS HEREBY ORDERED as follows:

A. Scope of Protective Order

1. This Protective Order (the “Protective Order”) is to preserve and protect certain documents, information testimony and/or other material produced during discovery as confidential.

2. Therefore, subject to Texas Rule of Civil Procedure 76a, this Protective Order shall apply to and shall govern the treatment of all documents, information, testimony and/or material designated by the parties for protection pursuant to the provisions of this Protective Order, including, *inter alia*, documents, deposition testimony and exhibits, responses to written discovery requests, data, charts, photographs, film or other media, and all other written, recorded, computerized, electronic or graphic matter, or any information contained therein or derived therefrom, arising from or relating in any respect to the above-referenced Cause. This Protective Order governs documents, information, testimony and/or materials responsive to pending outstanding discovery requests as well as to any future discovery requests. Information, or documents or material that is available to the public shall not be classified, and/or protected as

confidential. Also, public information such as information available under the Freedom Information Act, is not to be deemed, classified or protected as confidential.

B. Designating Materials as “Confidential”

1. Any document that any party wishes to protect against unauthorized disclosure or use shall be designated as “Confidential” by stamping, writing or delineating that designation, along with that party’s name or initials immediately preceding the word “Confidential” on the first page, or outer cover, of each document, item, information or material as to which confidentiality is claimed. In addition, if only a portion of a document is designated “Confidential,” individual pages of the document, item, information or material should be stamped, rather than the whole document. If necessary, the parties may agree in writing to a similar method of designating information, documents, data, material and/or the aforementioned items to be protected confidential.

2. Deposition testimony concerning “Confidential” documents shall be designated as “Confidential” during the course of the deposition, and the court reporter shall transcribe any pages designated as “Confidential” in a separate volume marked with that designation, with a blank page being provided in a non-designated main transcript. The separate transcript designated “Confidential” shall have page numbers in the sequence in which testimony was taken, as if those pages were not segregated.

- a. Any party may also designate information disclosed in any deposition as “Confidential” by notifying all of the parties, in writing, within thirty (30) days after receipt of the transcript, of the specific pages and lines of the transcript that should be treated as “Confidential” thereafter. Each party shall attach a copy of such written notice or notices to the face of the

transcript and each copy thereof in his or her possession, custody or control and shall mark the designated pages of all such transcripts and copies as provided in Sections B.1 above.

3. For all documents, items, information or materials designated as “Confidential” that are not produced in paper form (such as diskettes, magnetic media, and any other discovery material not produced in paper form) and which are not susceptible to the imprinting of a stamp that signifies its confidential nature, the producing party shall, to the extent practicable, produce all such discovery material with a cover labeled “Confidential”.

C. Restriction on Disclosure and Use of Designated Materials

1. All documents, items, information or materials that are designated as “Confidential” or any information contained therein or derived therefrom, shall be handled in strict compliance with the terms of this Protective Order. The party who receives such documents, items, information or materials shall use it solely for the purposes of preparing for and/or the actual trial of this Cause and no party or its representative shall disclose any of this material, information and/or documentation to any person except as strictly permitted by the terms of this Protective Order.

2. “Confidential” Documents, Items, Information or Materials. No “Confidential” documents, items, information or materials or extracts or summaries therefrom, shall be provided, shown, made available, or disclosed or communicated in any way to any person or entity with the exception of:

- a. Outside attorneys of record for the party, their partners, shareholders, and associates working on this action on behalf of the party, and paralegal, legal assistants, stenographic, and clerical employees working under the

direct supervision of such attorneys, provided that a member of such law firm shall first sign a copy of this Protective Order. The signing of this Protective Order by outside counsel shall constitute an agreement by all lawyers in, and regular and temporary employees of, the law firm that is bound by the provisions of this Protective Order.

- b. Independent experts and consultants who are retained by any attorney described in paragraph C(2)(a) to assist in the preparation or hearing of this Cause, with disclosure made only to the extent necessary to perform such work. Independent experts or consultants, as these terms are used in this paragraph, shall not include any regular employee or agent of either party to this Cause. “Confidential” documents, items, information or materials shall not be disclosed to any independent expert or consultant who is retained in the Cause until that person has signed a written declaration in the form attached as **Exhibit A**, acknowledging that he or she has read a copy of this Protective Order and agrees to be bound by its terms.
- c. The judge, court reporters and law clerks present at any hearing or deposition.
- d. Outside vendors who perform microfiche, photocopying, computer classification, or similar clerical functions, but only for so long as necessary to perform those services.

No person who is permitted access to “Confidential” documents, items, information or materials under the terms of this Protective Order shall use any such documents for any purpose,

except as needed solely in connection with the prosecution or defense of claims in this Cause.

3. This Order does not preclude counsel from propounding questions based upon information discovered from “Confidential” documents to expert witnesses or to a fact witness who is the person and/or representative of the party or entity that originated or authored the document, after such expert or fact witness has signed and delivered to counsel interviewing or deposing such expert or fact witness a statement in the form annexed hereto as **Exhibit A**. The documents, items, information or materials shall not be shown to the witness, however, unless the requirements of Sections 2 and 3 are met. The transcripts of such questions and answers shall be designated and protected pursuant to paragraph B(2) of this Protective Order. If a witness refuses to sign Exhibit A, the deposition may cease and the parties may pursue any necessary motions with the Court, or the parties may continue the deposition by agreement.

4. Whenever “Confidential” documents, items, information or materials are disclosed in a deposition to qualified persons under Section 2 and 3 of the Protective Order, the party making such disclosure shall inform the witness, on the record, that the use of such material is subject to the terms of this Protective Order. The witness must sign a statement in the form attached hereto as **Exhibit A**, which form shall be included as an exhibit to such deposition, or the witness shall agree on the record to be bound by the terms of the Protective Order and the statement attached hereto as **Exhibit A**. If a witness refuses both options, the deposition may cease and the parties may pursue any necessary motions with the Court, or the parties may agree to continue the deposition on terms agreeable to the parties.

5. This Protective Order does not mean the parties have waived any of the following rights in this litigation:

- a. The right to object to any discovery requests on any ground (however, this provision shall in no event be interpreted to confer any additional rights with respect to discovery rulings previously made by the judge);
- b. The right to seek an order compelling discovery with respect to any discovery request served on the other party; or
- c. The right to object to the admission of any evidence on any ground.

6. The provisions of this Protective Order shall continue in effect with respect to any “Confidential” documents, items, information or materials until expressly released by the party furnishing such documents, items, information or materials, and such effectiveness shall survive the final determination of this action. Within sixty (60) days after a final determination in this action, each party shall return all “Confidential” documents, items, information or materials in its possession or control, and all copies, derivations and summaries thereof, to the party who furnished it without retaining any copies. For purposes of this Protective Order, the final determination in this action shall be deemed to be the later of (i) full settlement of all claims, final judgment herein or the completion and exhaustion of all appeals, rehearings, remands and reviews, if any, of this action; or (ii) the expiration of all time limits under applicable law for filing or submitting application for all appeals, rehearings, remands or reviews of this action, including the time limits for the filing of any motions or applications for extension of time pursuant to applicable law.

7. Counsel for the parties to whom “Confidential” documents, items, information or materials have been furnished shall be responsible for restricting disclosure of this information in

accordance with the provisions of this Protective Order and for securing and retaining the statement that is attached as **Exhibit A** as required under of this Protective Order.

8. In the event that a party wishes to use any “Confidential” documents, items, information or materials in any affidavits, briefs, memoranda of law, or other papers filed in this Cause, “Confidential” documents used therein shall be filed in a labeled, sealed envelope and maintained under seal by the Court.

D. Additional Provisions

1. The inadvertent disclosure of any privileged documents, items, information or materials by either of the parties to this Agreement shall not be deemed a waiver of that privilege as to any other documents, items, information or materials testimony or evidence. Upon written request by the producing party, all copies of inadvertently produced documents, items, information or materials or things shall promptly be returned to the producing party.

2. This Protective Order shall become fully effective between the parties immediately upon their signing of the Order. Nothing contained in this Protective Order shall be construed to prejudice the party’s right to seek a further stipulation, agreement or order from the Court that would serve to remove or reduce certain confidentiality designations and restrictions made under this Protective Order, or to create or provide additional confidentiality or additional protection for “Confidential” documents produced in this Cause. Until such agreement or order is obtained, however, this Protective Order shall constitute the Order controlling the parties with respect to all matters that are addressed in the Protective Order.

SIGNED this _____ day of _____, 20____.

JUDGE PRESIDING

AGREED:

By:_____

State Bar No. _____

ATTORNEYS FOR PLAINTIFF

By:_____

State Bar No. _____

ATTORNEYS FOR DEFENDANT

EXHIBIT A

I, _____, hereby acknowledge that I have read the Protective Order entered in the case styled _____ vs. _____; Cause No. _____, in the _____ Judicial District Court, Collin County, Texas and I understand the terms of this Order. I agree not to use the confidential documents defined in the Protective Order for any purpose other than in connection with this Cause, including the investigation, prosecution or defense of the claims in this Cause. Further, I will not disclose materials designated "Confidential", except as permitted under the terms of the Protective Order, and I will otherwise comply with the terms of the Protective Order. I will return to counsel at the end of my involvement in this case, or the conclusion of the case, all materials that have been provided to me and all copies thereof, and I shall not make any copies of the material except as necessary in connection with my participation in this matter.

Date: _____

Signature: _____

Printed Name: _____

Address: _____
