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2 **Superior Court of the State of Arizona**

3 **Maricopa County**

4) Case Number: CV-20xx-xxxxx

5) [MODEL] STIPULATED ORDER RE:
6) DISCOVERY OF ELECTRONICALLY
7) STORED INFORMATION FOR
8) STANDARD LITIGATION

6 Plaintiff(s),

7 vs.

9 Defendant(s).

10
11 **1. PURPOSE**

12 This Order will govern discovery of electronically stored information (“ESI”) in this
13 case as a supplement to the Arizona Rules of Civil Procedure, this Court’s protocol for the
14 Discovery of Electronically Stored Information, and any other applicable orders and rules.

15 **2. COOPERATION**

16 The parties are aware of the importance the Court places on cooperation and commit to
17 cooperate in good faith throughout the matter consistent with this Court’s protocol for the
18 Discovery of ESI.

19 **3. LIAISON** *(Note: Use of this section is optional; include it only when appropriate.)*

20 The parties have identified liaisons to each other who are and will be knowledgeable
21 about and responsible for discussing their respective ESI. Each e-discovery liaison will be, or
22 have access to those who are, knowledgeable about the technical aspects of e-discovery,
23 including the location, nature, accessibility, format, collection, search methodologies, and
24 production of ESI in this matter. The parties will rely on the liaisons, as needed, to confer
25 about ESI and to help resolve disputes without court intervention.

26 **4. PRESERVATION**

27 The parties have discussed their preservation obligations and needs and agree that
28 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the

1 costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

- 2 a) Only ESI created or received between _____ and _____ will be preserved;
- 3 b) The parties have exchanged a list of the types of ESI they believe should be
4 preserved and the custodians, or general job titles or descriptions of custodians, for
5 whom they believe ESI should be preserved, e.g., “HR head,” “scientist,” and
6 “marketing manager.” The parties shall add or remove custodians as reasonably
7 necessary;
- 8 c) The parties have agreed/will agree on the number of custodians per party for whom
9 ESI will be preserved;
- 10 d) These data sources are not reasonably accessible because of undue burden or cost
11 pursuant to Ariz. R. Civ. P. 26(b)(2)(B) and ESI from these sources will be
12 preserved but not searched, reviewed, or produced: [e.g., backup media of [named]
13 system, systems no longer in use that cannot be accessed];
- 14 e) The parties agree not to preserve the following sources of data: [e.g., backup media
15 created before _____, digital voicemail, instant messaging, automatically saved
16 versions of documents].

17 **5. SEARCH**

18 The parties agree that in responding to an initial Ariz. R. Civ. P. 34 request, or earlier if
19 appropriate, they will meet and confer about methods to search ESI in order to identify ESI
20 that is subject to production in discovery and filter out ESI that is not subject to discovery.

21 **6. PRODUCTION FORMATS**

22 The parties agree to produce documents in PDF, TIFF, native and/or paper or
23 a combination thereof (check all that apply)] file formats. If particular documents warrant a
24 different format, the parties will cooperate to arrange for the mutually acceptable production of
25 such documents. The parties agree not to degrade the searchability of documents as part of the
26 document production process.

27 **7. PHASING**

28 When a party propounds discovery requests pursuant to Ariz. R. Civ. P. 34, the parties
agree to phase the production of ESI and the initial production will be from the following
sources and custodians: _____.

Following the initial production, the parties will continue to prioritize the order of subsequent
productions.

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8. DOCUMENTS PROTECTED FROM DISCOVERY

- a) Pursuant to Ariz. R. Evid. 502(d), the production of a privileged or work-product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privileged or work-product-protected documents in this case as part of a mass production is not itself a waiver in this case or in any other federal or state proceeding.
- b) The parties have agreed upon a “quick peek” process pursuant to Ariz. R. Civ. P. 26.1(f)(2) and reserve rights to assert privilege as follows _____
- c) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate.

9. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

IT IS SO STIPULATED, through Counsel of Record.

Dated: _____
Counsel for Plaintiff

Dated: _____
Counsel for Defendant

IT IS ORDERED that the forgoing Agreement is approved.

Dated: _____
Judge of the Superior Court