



pursuant to this Order, including but not limited to, all initial disclosures, all responses to discovery requests, all deposition testimony and exhibits, and all materials (including documents or testimony) produced by third parties in response to subpoenas issued in connection with this matter, including all copies, excerpts, and summaries thereof.  
pursuant to this Order.

b. The term “Investigation Materials” means documents, data, communications, transcripts of testimony, or other materials relating to the investigation that preceded this Action, including but not limited to those provided pursuant to the Antitrust Civil Process Act, 15 U.S.C. §§ 1311-1314, or the Hart-Scott-Rodino Antitrust Improvements Act, 15 U.S.C. § 18a, that (a) any third party provided to any party; (b) any party provided to any third party; or (c) any party provided to any opposing party.

c. The term “Litigation Materials” means documents, data, communications, transcripts of testimony, or other materials relating to this Action that, after the filing of the Complaint, (a) any third party provides to any party; (b) any party provides to any third party; (c) any party provides to any opposing party. Provided, however, that written comments relating to a proposed consent judgment in this Action that is submitted pursuant to the Antitrust Procedures and Penalties Act (Tunney Act), 15 U.S.C. § 16(b)–(h), are not Litigation Materials.

## **2. Purpose.**

a. The purpose of this Protective Order is to protect against the unnecessary disclosure of Confidential Information.

b. For purposes of this Order, “Confidential Information” means the portion of any Investigation Materials or Litigation Materials that contains (a) Personally

Identifiable Information (PII), (b) Sensitive Health Information (SHI), or (c) trade secrets or other confidential research, development, or commercial information as such terms are used in Federal Rule of Civil Procedure 26(c)(1)(G). Provided, however, that any portion of any Investigation Materials or Litigation Materials, except for PII or SHI, that has been published or otherwise made publicly available is not Confidential Information.

c. For purposes of this Order, the terms “Personally Identifiable Information” or “PII” means a natural person’s (a) Social Security number; (b) driver’s license number, state or federal government identification number, or foreign country equivalent identification number; (c) passport number; (d) financial account number; (e) credit or debit card number; (f) name, address, or phone number in combination with their date of birth; or (e) personal health information.

d. For purposes of this Order, the terms “Sensitive Health Information” or “SHI” means information or data about an individual’s health, including medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. SHI relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

**3. Disclosure Defined.** As used herein, “disclosure” or “to disclose” means to divulge, reveal, describe, summarize, paraphrase, quote, transmit, or otherwise communicate Confidential Information, and the restrictions contained herein regarding disclosure of Confidential Information also apply with equal force to any copies, excerpts, analyses, or summaries of such materials or the information contained therein, as well as to any pleadings, briefs, exhibits, transcripts or other documents which may be prepared in

connection with this litigation which contain or refer to the Confidential Information or information contained therein.

**4. Designating Material.**

**a. Investigation Materials.** All Investigation Materials produced by the Defendant or by a third party to Plaintiffs will automatically be designated as Outside Counsels' Eyes Only. Any party may challenge the designation of automatically designated Investigation Materials under the procedure provided in Paragraph 15.

**b. Litigation Materials.** Any party, or any third party subpoenaed by one of the parties, may make a Confidentiality Designation as to any documents, testimony, written responses, or other materials produced in this case if they contain information that the Producing Entity asserts in good faith is protected from disclosure by statute or common law, including, but not limited to, (a) Personally Identifiable Information (b) Sensitive Health Information, or (c) trade secrets or other confidential research, development, or commercial information as such terms are used in Federal Rule of Civil Procedure 26(c)(1)(G). Information that is publicly available may not be given a Confidentiality Designation. The making of a Confidentiality Designation pursuant to the terms of this Protective Order does not mean that the document or other material has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

**c. Outside Counsels' Eyes Only.** Any party, or any third party subpoenaed by one of the parties, may designate as Outside Counsels' Eyes Only and subject to this Protective Order any materials or information that meet the test set forth in Paragraph 4.a and/or Paragraph 4.b, but as to which the Producing Entity also asserts in good faith that

the information is so competitively sensitive that the receipt of the information by parties to the litigation could result in competitive harm to the Producing Entity.

**5. Form and Timing Of Designation.**

**a. Documents And Written Materials.** The Producing Entity may designate any document or other written materials, including documents in hard copy, image files, or other non-native file formats, with a Confidentiality Designation pursuant to this Order by marking each page of the material with a stamp identifying it as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” or “OUTSIDE COUNSELS’ EYES ONLY – SUBJECT TO PROTECTIVE ORDER,” if practical to do so. The person or entity designating the material shall place the stamp, to the extent possible, in such a manner that it will not interfere with the legibility of the document. Materials shall be so-designated prior to, or at the time of, their production or disclosure.

**b. Documents Produced In Native Format.** If a production response includes any electronically stored documents in native file format, the Producing Entity may designate such material with a Confidentiality Designation pursuant to this Order by (a) appending the suffix “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER” or “OUTSIDE COUNSELS’ EYES ONLY – SUBJECT TO PROTECTIVE ORDER,” to the file name or document production number, or (b) including the confidentiality designation in reasonably accessible metadata associated with the file. If that is not practicable, then the Producing Entity shall designate in a transmittal letter or email to the party to whom the materials are produced (the “Receiving Party”) using a reasonable identifier (e.g., the Bates range) any portions of the ESI that should be treated as “CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER,” and any portions of the ESI that should be treated

as “OUTSIDE COUNSELS’ EYES ONLY – SUBJECT TO PROTECTIVE ORDER.”

When documents that were produced in native file format are printed for use during a deposition, for a court proceeding, or for disclosure to any person covered by Paragraph 8.b., the party printing the file must affix to the printed version a label containing the production number and the Confidentiality Designation associated with the document.

**c. Deposition Testimony.** All transcripts of depositions taken in this Action will be treated as Confidential Information in their entirety for twenty-one (21) days after the date when a complete and final copy of the transcript and exhibits have been made available to the deponent or the deponent’s counsel. Within twenty-one (21) days of receiving a final transcript and exhibits, the deponent or the deponent’s counsel may make a Confidentiality Designation as to any portion of a deposition transcript or any portion of a deposition exhibit by highlighting, stamping, or otherwise clearly marking the information with the applicable Confidentiality Designation and by providing a copy of the deposition transcript and exhibits with the designated information redacted. Any portion of a transcript or portion of a deposition exhibit not designated in the manner required by this Paragraph will not be treated as Confidential Information, even if the document(s) that became the deposition exhibit(s) or information that is the subject of the deposition testimony was subject to a prior designation of confidentiality. For avoidance of doubt, a blanket designation that an entire deposition transcript or all exhibits from a deposition are Confidential Information does not comply with the requirements of this Order.

**d. Production by Third Parties.** If a third party fails to provide copies of productions to the other side, the requesting party shall provide copies to the other party, in the format the productions were received, within five (5) business days after receipt of

such materials from the third party, subject to any other requirements stated in the Case Management Order.

**6. Notice Of Confidentiality Designations To The Parties.** Any Confidentiality Designation or other written notice to the parties required by this Order must be provided by email, overnight mail, or hand delivery to the following counsel for the parties:

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**7. Privacy Act**

a. This Order, and any subsequent order of this Court governing the United States' production of any documents, data, communications, transcripts of testimony, or other materials in this Action, constitutes a court order within the meaning of the Privacy Act, 5 U.S.C. § 552a(b)(12).

**8. Limitation Of Use.**

a. **General Protections.** All information that has received a Confidentiality Designation, including all information derived therefrom, shall be used by the party to whom the information is produced (the "Receiving Party") solely for purposes of prosecuting or defending this Action, except as set forth in Paragraph 8.d. of this Order. The Receiving Party shall not use or disclose the designated information for any other purpose, including but not limited to any business, commercial, competitive, or personal purpose. Except as set forth in this Order, the Receiving Party shall not disclose designated information to any third party. This Order shall not prevent the Producing Entity from using or disclosing information it has designated, and that belongs to the Producing Entity, for any purpose that the Producing Entity deems appropriate, except that the Producing Entity's voluntary disclosure of designated information outside the scope of this Action may impact the protection that this Order would otherwise provide with regard to such information, once disclosed.

b. **Persons To Whom Information Designated as "Confidential" May Be Disclosed.** Except as set forth in Paragraph 8.d. of this Order, use of any Confidential Information, including documents, or portions of documents marked "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER," and all information derived therefrom, shall be

restricted solely to the following persons who agree to be bound by the terms of this Protective Order, unless additional persons are authorized by the Court:

1. outside counsel for the parties whose functions require access to the information, and the administrative staff of such outside counsel's firms;
2. up to two (2) in-house attorneys for the Defendant, not involved in contracting and negotiations with health insurers, whose names must be disclosed to the United States at least ten (10) business days prior to the effective date of such designation provided that the in-house attorneys must first execute an Agreement Concerning Confidentiality in the form attached as Appendix A. For a period of one year following the last occasion on which Confidential Information is disclosed to such in-house attorneys, they must not (a) participate in or advise Defendant on contracting and negotiations with health insurers; (b) participate in or advise on business decisions involving a Protected Person whose Confidential Information they accessed during the course of this Action at any employer, or (c) participate in or advise on litigation or other legal actions on behalf of the Defendant or any other employer where a Protected Person is a party and whose Confidential Information the in-house attorneys accessed in the course of this Action, where the Confidential Information accessed is relevant to said litigation or other legal action. To the extent the Defendant seeks to change the two (2) in-house attorneys that may receive access to Confidential Information, the Defendant must provide notice to Plaintiff at least ten (10) business days prior to the effective date of such change;
3. counsel for Plaintiffs, including any attorneys, paralegals, and other professional personnel employed by Plaintiffs (including support and IT staff), and any agents or independent contractors retained by Plaintiffs whose functions require access to the information;
4. independent testifying or consulting experts (including partners, associates and employees of the firm which employs such consultant or expert) retained by a party or its attorneys for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation, and only after such persons have completed the certification attached hereto as Attachment A, Acknowledgment of Understanding and Agreement to be Bound;
5. the Court and its personnel, including, but not limited to, stenographic reporters regularly employed by the Court and stenographic reporters not regularly employed by the Court who are engaged by the Court or the parties during the litigation of this action;
6. any special master, mediator, arbitrator, trustee, or monitor that the parties

engage in this Action or that this Court appoints;

7. the authors, addressees, recipients, or custodians of the information or documents and persons who received or have had access to the information or documents as well as any counsel representing such persons;
8. any court reporter or videographer reporting a deposition;
9. employees of copy services, microfilming or database services, trial support firms, and/or translators who are engaged by the parties during the litigation of this action and only after such persons have completed the certification attached hereto as Attachment A, Acknowledgment of Understanding and Agreement to be Bound; and
10. outside trial consultants (including, but not limited to, graphics consultants and jury consultants) retained by a party for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation, and only after such persons have completed the certification attached hereto as Attachment A, Acknowledgment of Understanding and Agreement to be Bound.

**c. Persons To Whom Information Marked “Outside Counsels’ Eyes Only” May Be Disclosed.** Use of any information, documents, or portions of documents marked “OUTSIDE COUNSELS’ EYES ONLY – SUBJECT TO PROTECTIVE ORDER,” including all information derived therefrom, shall be restricted solely to the following persons who agree to be bound by the terms of this Protective Order, unless additional persons are stipulated by counsel or authorized by the Court:

1. outside counsel for the parties whose functions require access to the information, and the administrative staff of such outside counsel’s firms;
2. counsel for Plaintiffs, including any attorneys, paralegals, and other professional personnel employed by Plaintiffs (including support and IT staff), and any agents or independent contractors retained by Plaintiffs whose functions require access to the information;
3. independent testifying or consulting experts (including partners, associates and employees of the firm which employs such consultant or expert) retained by a party or its attorneys for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation, and only after such persons have completed the certification attached hereto

as Attachment A, Acknowledgment of Understanding and Agreement to be Bound;

4. the Court and its personnel, including, but not limited to, stenographic reporters regularly employed by the Court and stenographic reporters not regularly employed by the Court who are engaged by the Court or the parties during the litigation of this action;
5. the authors, addressees, recipients, or custodians of the information or documents and persons who received or have had access to the information or documents as well as any counsel representing such persons;
6. any court reporter or videographer reporting a deposition;
7. any special master, mediator, arbitrator, trustee, or monitor that the parties engage in this Action or that this Court appoints;
8. employees of copy services, microfilming or database services, trial support firms, and/or translators who are engaged by the parties during the litigation of this action and only after such persons have completed the certification attached hereto as Attachment A, Acknowledgment of Understanding and Agreement to be Bound;
9. outside trial consultants (including, but not limited to, graphics consultants and jury consultants) retained by a party for purposes of this litigation, but only to the extent necessary to further the interest of the parties in this litigation, and only after such persons have completed the certification attached hereto as Attachment A, Acknowledgment of Understanding and Agreement to be Bound.

**d.** **Nothing in this Order** prevents the United States' or the State of Ohio's retention, use, or disclosure of Confidential Information outside the context of this Action (1) to the extent permitted or required by law, court order, or regulation; (2) for law enforcement purposes; or (3) for the purpose of securing compliance with the Final Judgment of this Action.

**9. Inadvertent Production.** Inadvertent production of any document or information subject to a Confidentiality Designation shall be governed by Fed. R. Evid. 502. Pursuant to subsections (d) and (e) of that Rule, the parties agree to, and the Court orders, protection

of Protected Information against claims of waiver (including as against third parties and in other Federal and State proceedings) in the event such information is produced during the course of this litigation, whether pursuant to a Court order, a parties' discovery request, or informal production, as follows:

- a. the inadvertent production of documents or electronically stored information ("ESI") (including, without limitation, metadata) subject to a legally recognized claim of privilege or other protection from production or other disclosure (collectively, "Protected Information"), including without limitation the attorney-client privilege and work-product doctrine, shall in no way constitute the voluntary disclosure of such Protected Information;
- b. the production of Protected Information shall not result in the waiver of any privilege or protection associated with such Protected Information as to the Receiving Party, or any third parties, and shall not result in any waiver of protection, including subject matter waiver, of any kind;
- c. if any document or ESI (including, without limitation, metadata) received by a party is on its face clearly subject to a legally recognizable privilege, immunity, or other right not to produce such information, the Receiving Party will promptly notify the Producing Entity in writing that it has discovered Protected Information, identify the Protected Information by Bates Number range, and return or sequester such Protected Information until the Producing Entity confirms whether it does indeed assert any privilege protecting this information. Once the Producing Entity asserts privilege over such Protected Information (as described in Subparagraph (e) below), the Receiving Party will return, sequester, or destroy all copies of such Protected Information, along with any notes, abstracts or compilations of the content thereof, within ten (10) business days of notice from the Producing Entity;
- d. if the Producing Entity intends to assert a claim of privilege or other protection over Protected Information identified by the Receiving Party, the Producing Entity will, within ten (10) business days of receiving the Receiving Party's written notification, inform the Receiving Party of such intention in writing and shall provide the Receiving Party with a log for such Protected Information that is consistent with the requirements of the Federal Rules of Civil Procedure, setting forth the basis for the claim of privilege, immunity or basis for non-disclosure, and in the event, if any portion of the Protected Information does not contain privileged or protected information, the Producing Entity shall also provide to the Receiving Party a redacted copy of the Protected Information that omits the information that the Producing Entity believes is subject to a claim of privilege, immunity or other protection;

- e. if, during the course of the litigation, a party determines it has produced Protected Information, the Producing Entity may notify the Receiving Party of such production in writing. The Producing Entity's written notice must identify the Protected Information by Bates Number range, the privilege or protection claimed, and the basis for the assertion of the privilege and shall provide the Receiving Party with a log for such Protected Information that is consistent with the requirements of the Federal Rules of Civil Procedure, setting forth the basis for the claim of privilege, immunity or basis for non-disclosure, and in the event any portion of the Protected Information does not contain privileged or protected information, the Producing Entity shall also provide to the Receiving Party a redacted copy of the Protected Information that omits the information that the Producing Entity believes is subject to a claim of privilege, immunity or other protection. The Producing Entity must also demand the return of the Protected Information. After receiving such written notification, the Receiving Party must, within ten (10) business days of receiving the written notification, return, sequester, or destroy the specified Protected Information and any copies, along with any notes, abstracts or compilations of the content thereof;
- f. a Receiving Party's return, sequestration, or destruction of such Protected Information as provided in the Subparagraphs above will not act as a waiver of the Receiving Party's right to move for the production of the returned, sequestered, or destroyed Protected Information on grounds that the Protected Information is not in fact subject to a viable claim of privilege or other protection. However, the Receiving Party is prohibited and estopped from arguing that the Producing Entity's production of the Protected Information in this matter acts as a waiver of applicable privileges or protections, that the disclosure of the Protected Information by the Producing Entity was not inadvertent, that the Producing Entity did not take reasonable steps to prevent the disclosure of the Protected Information, or that the Producing Entity did not take reasonable steps to rectify such disclosure;
- g. nothing contained herein is intended to or shall limit a Producing Entity's right to conduct a review of documents or ESI (including, without limitation, metadata), for relevance, responsiveness, and/or the segregation of privileged and/or protected information before such information is produced to the Receiving Party; and
- h. prior to production to another party, all copies, electronic images, duplicates, extracts, summaries, or descriptions (collectively "copies") of documents marked with a Confidentiality Designation under this Order, or in any individual portion of such a document, shall be affixed with the same Confidentiality Designation if it does not already appear on the copy. All such copies shall thereafter be entitled to the protection of this Order. The term "copies" shall not include indices, electronic databases, or lists of documents provided these indices, electronic databases, or lists do not contain substantial portions or images of the text of confidential documents or otherwise disclose the substance of the designated information contained in those documents.

**10. Inadvertent Disclosure of Designated Information.**

a. In the event designated information is disclosed to a person not authorized to receive it under this Order, the party responsible for the disclosure must promptly notify the Producing Entity that made the Confidentiality Designation and provide all known relevant information concerning the nature and circumstances of the disclosure. The party responsible for the disclosure must also promptly take all reasonable measures to retrieve the improperly disclosed material and ensure there is no additional unauthorized disclosure or use of the information.

b. Unauthorized or inadvertent disclosure of Designated Information does not change the confidential status of any disclosed material or waive the Producing Entity's right to maintain the disclosed material as designated.

**11. Filing Materials Containing Information with a Confidentiality Designation.**

a. In the event a party seeks to file with the Court any information subject to protection under this Order, that party must take appropriate action to ensure that the document receives proper protection from public disclosure, including: (a) filing a redacted document with the consent of the Producing Entity or party who made the Confidentiality Designation; (b) where appropriate (e.g., in relation to discovery and evidentiary motions), submitting the document solely for in camera review; or (c) when the preceding measures are inadequate, seeking permission to file the document under seal by filing a motion for leave to file under seal.

b. Any motion to file a document subject to this Order under seal must meet the Sixth Circuit's standard set forth in *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299 (6th Cir. 2016). The burden of demonstrating the need for and appropriateness of a sealing order is borne by the moving party, and requires the moving

party to analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations. Regardless of whether the parties agree, it remains the Court's independent obligation to determine whether a seal is appropriate for any given document or portion thereof. Any proposed sealing, even when compelling reasons exist, must be narrowly tailored to serve the compelling reasons.

c. When a party to this Order seeks to file documents which it believes may warrant sealing, but is not the party who may be prejudiced by the document or documents becoming part of the public record, the filing party shall provide the potentially-prejudiced party or parties, or any potentially-prejudiced third party or parties, with written notification of its intent to file such documents at least (7) **seven days** before doing so. After being provided such notice, the potentially harmed party or parties will then have (4) **four days** to file with the Court a motion for sealing. The Court will rule on the motion as promptly as possible.

d. Filing another person's designated information under seal does not constitute agreement by the filing party that the information is properly designated, and nothing in this Order should be construed to prevent a party from later challenging the confidentiality designation of information that was previously filed under seal.

**12. Attorneys Allowed To Provide Advice.** Nothing in this Order shall bar or otherwise restrict any attorney for any party from rendering advice to his or her client with respect to this case or from doing anything necessary to prosecute or defend this case and furthering the interests of his or her client, except for the disclosure of information with a Confidentiality Designation as proscribed in this Order.

**13. Excluding Others From Access.** Whenever information with a Confidentiality Designation pursuant to this Protective Order is to be discussed at a deposition, the person or entity that designated the information may exclude from the room any person, other than persons designated in Paragraph 8 of this Order, as appropriate, for that portion of the deposition.

**14. No Voluntary Disclosure To Other Entities.** Except as provided for in Paragraph 8.d., the parties or anyone acting on their behalf may not voluntarily disclose any information with a Confidentiality Designation to any state or federal law enforcement or regulatory agency, or any employee thereof, except in this litigation as set forth in Paragraph 8 of this Order or as otherwise commanded by law or provided in this Order. Nothing in this Order shall prevent a party from providing information in its possession in response to a valid order or subpoena from a law enforcement or regulatory agency requiring the production of such information, except that, prior to such production, the party producing the information shall provide as much advance notice as possible to the person or entity that designated the material to facilitate that party's efforts to preserve the confidentiality of the material, if warranted.

**15. Disputes As To Designations.** Each party has the right to dispute the confidential status claimed by any other party or subpoenaed person or entity in accordance with this Protective Order. If a party believes that any documents or materials have been inappropriately designated by another party or subpoenaed party, that party shall confer with counsel for the person or entity that designated the documents or materials. As part of that conferral, the designating person or entity must assess whether redaction is a viable alternative to complete non-disclosure. If any party challenges the designation of any

document or information, the burden to properly maintain the designation shall, at all times, remain with the person or entity that made the designation to show that said document or information should remain protected pursuant to Federal Civil Rule 26(c). In the event of disagreement, then the designating person or entity shall file a motion pursuant to Federal Civil Rule 26(c). A party who disagrees with the designation must nevertheless abide by that designation until the matter is resolved by agreement of the parties or by order of the Court.

**16. Information Security Protections.** Any person in possession of information given a Confidentiality Designation received from another person or entity in connection with this Action shall maintain an information security program that includes reasonable administrative, technical, and physical safeguards designed to protect the security and confidentiality of such designated information, protect against any reasonably anticipated threats or hazards to the security of such designated information, and protect against unauthorized access to or use of such designated information.

If the Receiving Party discovers a breach of security, including any actual or suspected unauthorized access, to designated information subject to this Order, they shall:

- (1) notify the person or entity who designated the materials as confidential of such breach;
- (2) investigate and take reasonable efforts to remediate the effects of the breach; and
- (3) provide sufficient information about the breach that the Producing Entity can reasonably ascertain the size and scope of the breach. The Receiving Party agrees to cooperate with the Producing Entity or law enforcement in investigating any such security incident. In any event, the Receiving Party shall promptly take all necessary and appropriate corrective action to terminate the unauthorized access.

**17. All Trials Open To Public.** All trials, and certain pretrial proceedings and hearings, are open to the public (collectively a “Public Hearing” or “Public Hearings”). Absent further order of the Court, there will be no restrictions on any party’s ability to use during a Public Hearing any document or information that contains Confidential Information including any material that has been given a Confidentiality Designation, or documents or information derived therefrom that would disclose such Confidential Information. However, if a party intends to present at a Public Hearing any document or information that has been so designated by another party or third party, the party intending to present such document or information shall provide advance notice to the person or entity that designated the material at least (5) **five** days before the Public Hearing by identifying the documents or information at issue as specifically as possible (i.e., by Bates Number, page range, deposition transcript line, etc.) without divulging the actual documents or information. Any person may then seek appropriate relief from the Court regarding restrictions on the use of such documents or information at trial, or sealing of the courtroom, if appropriate.

**18. No Waiver Of Right To Object.** This Order does not limit the right of any party or third parties, to object to the scope of discovery in the Action.

**19. No Determination Of Admissibility.** This Order does not constitute a determination of the admissibility or evidentiary foundation for the documents or a waiver of any party’s objections thereto.

**20. No Admissions.** Designation by any person of information or documents under the terms of this Order, or failure to so designate, will not constitute an admission that information or documents are or are not confidential or trade secrets. Neither party may

introduce into evidence in any proceeding between the parties, other than a motion to determine whether the Protective Order covers the information or documents in dispute, the fact that the other party designated or failed to designate information or documents under this Order.

**21. No Prior Judicial Determination.** This Order is based on the representations and agreements of the parties and is entered for the purpose of facilitating discovery in this Action. Nothing in this Order shall be construed or presented as a judicial determination that any documents or information as to which counsel or the parties made a Confidentiality Designation is in fact subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific document or issue.

**22. Order Subject To Modification.**

a. If a third-party Producing Entity determines that this Order does not adequately protect its Confidential Information, it may, within ten (10) business days after receiving notice of this Order, file a motion seeking additional protection from the Court for its Confidential Information. If a third-party Producing Entity timely files such a motion, the information for which additional protection has been sought may not be disclosed until the Court has rendered a decision on the motion, unless the movant and the parties reach an agreement that permits disclosure of the Confidential Information while the motion is pending.

b. Nothing in this Order limits any person, including members of the public, a party, third party, or an interested non-party, from seeking additional protection or modification of this Order upon a motion duly made according to the Local Rules of this

Court or an order that certain information need not be produced at all or is not admissible evidence in this Action or any other proceeding.

**23. Parties May Consent To Disclosure.** Nothing shall prevent disclosure beyond the terms of this Order if all parties, and any affected third parties, consent to such disclosure, or if the Court, after notice to all affected parties, permits such disclosure. Specifically, if and to the extent any party wishes to disclose any Confidential Information beyond the terms of this Order, that party shall provide all other parties, and any affected third parties, with reasonable notice in writing of its request to so disclose the materials. If the parties, and any affected third parties, cannot resolve their disagreement with respect to the disclosure of any Confidential Information, then a party may petition the Court for a determination of these issues. In addition, any interested member of the public may also challenge the designation of any material as confidential, pursuant to the terms of this paragraph.

**24. Return Of Materials Upon Termination Of Litigation.**

a. The obligations imposed by this Order survive the termination of this Action unless the Court orders otherwise.

b. Within ninety (90) days after the expiration of the time for appeal of an order, judgment, or decree terminating this Action, all persons that received information designated under this Order must make a good faith effort to return all designated information, including all copies, that has not otherwise been made public during this Action to the Producing Entity (or the Producing Entity's counsel, if represented by counsel), or to destroy or delete all copies of the designated information, unless the information may be retained pursuant to Paragraph 8.d., Paragraph 25.a., or Paragraph

25.b. All designated information returned to the parties or their counsel by the Court also must be disposed of in accordance with this Order.

c. Within 90 days after the expiration of the time for appeal of an order, judgment, or decree terminating this Action, all persons that received information given a Confidentiality Designation under this Order must certify compliance with Subparagraph b in writing to the Producing Entity or party that produced or designated the information.

d. Counsel for a party that disclosed information given a Confidentiality Designation to a person identified in Paragraph 8.b. Subparagraphs 4, 9, or 10 of this Order must obtain and retain the signed version of Attachment A, Acknowledgement of Understanding and Agreement to be Bound, for a period of at least one year following the termination of this Action.

e. This Court retains jurisdiction to resolve any disputes arising out of this Order after termination of this Action.

**25. Counsel Allowed To Retain Copy Of Filings.**

a. Nothing in this Protective Order shall prevent (i) outside counsel for Defendant or a third party or (ii) counsel for Plaintiffs from maintaining in its files a copy of any filings in the Action, any deposition, hearing and trial transcripts, any exhibits, or work product including any such materials that incorporate or attach information with a Confidentiality Designation. Moreover, an attorney may use his or her work product in subsequent litigation provided that such use does not disclose any information or documents given a Confidentiality Designation in this matter. Provided, however, the parties, third parties, and their counsel may not disclose the portions of those materials containing information with a Confidentiality Designation except pursuant to a court order,

with the consent of the Producing Entity or party that produced or designated the information, or as otherwise permitted by this Order.

b. Expert witnesses for the parties will be entitled to retain their own expert reports, their own deposition and trial transcripts and exhibits, and their own work product. Provided, however, that they may not disclose the portions of those materials containing information with a Confidentiality Designation except pursuant to a court order, with the consent of the Producing Entity or party that produced or designated the information, or as otherwise permitted by this Order.

**SO ORDERED.**

Dated: May 15, 2026

/s/ S. Courter M. Shimeall  
UNITED STATES MAGISTRATE JUDGE

AGREED TO:

/s/ Paul Torzilli

Paul J. Torzilli (Bar # 411832)

**ATTORNEY FOR PLAINTIFF  
UNITED STATES**

/s/ David DeVillers

David DeVillers (Bar #0059456)

**ATTORNEY FOR DEFENDANT**

/s/ Tom Collin

Tom Collin (Bar # 0023770)

**ATTORNEY FOR PLAINTIFF  
STATE OF OHIO**

DATE: 05/13/2026



The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Employer: \_\_\_\_\_

Business Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature