CASE PROTECTIVE ORDER:

UNITED STATES OF AMERICA: CENTRAL DISTRICT OF CALIFORNIA

Case citation:

In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices and Products Liability Litigation

Case number:

8:10ML2151 JVS (FMOx)

Protective Order:

Redacted stipulated protective order governing the exchange and handling of source code and source code related material

Name and level of the court:

United States District Court, Central District of California

Date of order: 30 March 2011

Member of the court:

James V. Selna. United States District
Judge

Lawyers for the claimants:

Mark P. Robinson, Jr, Robinson of Calcagnie & Robinson, Inc., Elizabeth J. Cabraser of Lieff Cabraser, Heimann & Bernstein, LLP, Steve W. Berman of Hagens, Berman, Sobol, Shapior, LLP, Marc M. Seltzer of Susan Godfrey, LLP, Frank M. Pitre of Cotchett, Pitre & McCarthy, Joel Smith and Vincent Galvin Jr of Bowman and Brooke

Lawyers for the defendant: Carl K. Dawson and Liza Gilford of Alston & Bird, LLP

WHEREAS, to facilitate the production and receipt of information during discovery in the above-captioned litigation ("the Litigation"), the Court entered a Stipulated Protective Order on July 16, 2010 (the "July 16th Stipulated Protective Order") and subsequently entered the First Amended Protective Order on January 19, 2011 (the "January 19th Protective Order") for the protection of Confidential and Highly Confidential Materials (as defined therein) that may be produced or otherwise disclosed during the course of this Litigation by any party or non-party; and

WHEREAS, Paragraph 5 of the January 19th Protective Order stated that source code and related materials to be exchanged in the Litigation would be subject to additional forms of protection pursuant to further Order of the Court. To the extent the Parties require special protection for other highly sensitive materials, the Parties reserve the right to seek such protection from the Court prior to production as set forth in Paragraph 5 of the January 19th Protective Order.

WHEREAS, on February 25, 2011, March 15, 2011, and March 22, 2011, the Court held hearings on the issues

of source code protection and provided the Parties with further guidance on the protection of source code and source code related material and the protocol for review.

Accordingly, IT IS HEREBY ORDERED that the terms and conditions of this Stipulated Protective Order shall govern the exchange and handling of source code and source code related materials in the Litigation:

1. **Definitions**: For purposes of this Order, "source code" means human-readable text files used as input to computer programs that generate machine-readable files, including, but not limited to, files containing program text in "C", "C++", assembler, VHDL, Verilog, and digital signal processor (DSP) programming languages. Source code further includes "make" files, link files, and other human-readable text files used in the generation or building of software directly executed on a microprocessor, microcontroller, or DSP. Source code further includes binary executable files and object code files. Further, as used herein, "Producing Party" shall refer to the

parties to this Litigation that make available for review or produce source code and source code related material, and "Receiving Party" shall refer to the parties to this Litigation that are granted access to, review, or receive such information. For purposes of this Order, "source code related material" means any material that contains, depicts, or reflects "source code" as defined above, including but not limited to, certain software specifications or any other material that the Producing Party may make available in connection with Receiving Party's review of source code. "Source code related material" also means all software, analytical tools, programming, instruction or other material or assistance provided by the Producing Party to the Receiving Party to assist in analysis of the source code. The specific materials that the Producing Party will provide will be set forth in a Response to a Request for Production from the Receiving Party. Notwithstanding these definitions, neither party waives any rights to object to requests for production of specific source code or source code related material or responses thereto. For purposes of this Order, a "line of code" means single discrete line of source code as shown in the original source code in native format.

2. "Highly Confidential - Source Code" Designation:

Any Producing Party, at its sole discretion, may designate source code and source code related material as "Highly Confidential – Source Code" if the Producing Party reasonably believes that the disclosure of the information would create a substantial risk of competitive, business, or other material injury to the Producing Party.

3. Security and Means of Inspection of "Highly Confidential – Source Code" Information: Unless otherwise agreed to in writing between the Producing Party and the Receiving Party, if information designated as "Highly Confidential – Source Code" is to be made available for review or inspection, it shall only be provided for review, upon written request and after reasonable notice, in the manner set forth as follows:

Information designated as "Highly Confidential – Source Code" shall be placed | | | | | | | |

| the Parties (the "Secure Facility"). a. Security Personnel and Access to Secure Room | | |
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| The Secure Facility and Secure Room will be | | |
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| and will only allow authorized individuals, as set forth |
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| in Paragraph 4 herein, to enter. |
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| By signing onto the "Agreement Concerning Source | |
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| Code Information Covered by Protective Order" | |
| attached hereto as Exhibit A to this Order, the | |
| Receiving Party and their representatives, experts, | |
| | |
| and consultants consent to such monitoring and any | |
| other monitoring set forth in this order. | |
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| | d. Safe |
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| | The Secure Room will contain a secured |
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| | (the "Safe"). The Safe will be |
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| The Safe will be used only in | activities, and working with both the Producing Party's |
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| The Safe will be used only in | and Receiving Party's I.T. professionals to correct |
| the manner expressly set forth herein; namely, | technical problems and implement any modifications |
| | to the system agreed to by both the Producing Party |
| | and the Receiving Party. In light of the possible length |
| | of the Receiving Party's review of the source code, at |
| | either Party's request, the Parties will agree to confer |
| | and select replacement or additional Neutral System |
| | Administrators as reasonably needed. |
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| | g. No Copies of Code |
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| | The Receiving Party cannot make electronic copies of |
| | any Highly Confidential – Source Code information |
| e. Additional Duties and Replacement of Neutral | except for purposes of electronically moving the |
| System Administrator | Highly Confidential – Source Code material from the |
| The Neutral System Administrator and security | |
| personnel will be from separate companies. In | |
| addition to the duties set forth above, the Neutral | |
| System Administrator's responsibilities will include | for purposes of review and analysis as set forth in |
| | Paragraph 4 herein during active review and analysis. |
| | Upon the Receiving Party's completion of review and |
| | analysis of the code, such code will be erased from |
| performing routine system maintenance and patching, | the |
| rebooting, restoration and recovery, maintenance and | Party unless required for inclusion in the final work |
| repair of the hardware (e.g., monitors, computer, | product as set forth in Paragraph 9 below. The |
| repair of the haraware (e.g., monitors, computer, | Receiving Party cannot make any hard copies of such |

printer), logging all system administration actions and

| source code information other than as expressly set | in this Order. |
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| forth herein in Paragraphs 6 and 7. | j. Inspection and Set Up |
| | The Parties shall have the mutual right to inspect and |
| | examine all components of the security and analytical |
| | systems |
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| | The Receiving Party shall have the right |
| | to visually inspect |
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| | The Parties will select and mutually agree |
| | on a neutral party (distinct from the Neutral System |
| | Administrator) to test the |
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| i. Hours of Operation | |
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| The Secure Room shall be made available to the | |
| Receiving Party in two shifts | |
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| through Friday (excluding U.S. holidays and when TMC | |
| is closed), and in one shift | |
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| and when TMC is closed), until the close of discovery | |
| in the Litigation. The door to the Secure Room will | |
| remain locked when not in use for review as set forth | |
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| The neutral party will |
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| not disclose to the Receiving Party, or any other party, |
| any information |
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4. Access to "Highly Confidential – Source Code" **Information**: Subject to the limitations set forth in this Paragraph, the Receiving Party may designate certain experts or consultants in the aggregate during the Litigation to have access to the Secure Facility for inspection of information designated as "Highly Confidential – Source Code." Any such experts or consultants must sign the "Agreement Concerning Source Code Information Covered by Protective Order" attached hereto as Exhibit A and must otherwise meet the requirements of Paragraph 11(c) and 12 of the January 19th Protective Order. In addition, the Receiving Party may designate certain outside counsel of record in this Litigation in aggregate as defined and limited in Paragraph 11(b) of the January 19th Protective Order who may have access to the Secure Facility for inspection of information designated as "Highly Confidential -Source Code." Notwithstanding the above, no more than a total of ||||||||||||||||| consultants meeting the criteria of Paragraphs 11(b), 11(c), and 12 of the January 19th Protective Order identified by the Receiving Party and the five (5) Co-Lead Counsel for Plaintiffs as a group shall have access to the Secure Facility for inspection of information designated as "Highly Confidential – Source Code" in aggregate during the Litigation pursuant to this Paragraph. Other than the individuals designated herein, no other individual or entity shall be granted access to information designated as Highly Confidential -Source Code, including without limitation sharing attorneys pursuant to Paragraph 13 of the First Amended Protective Order, except as expressly authorized by the Producing Party.

At least ten (10) days prior to the date on which

| access is sought to the Secure Facility, the Receiving |
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| Party's counsel shall provide to counsel for the |
| Producing Party the names of any individual, including |
| attorneys, seeking such access for the first time, and |
| the Producing Party shall have the right to object to |
| such access before granting access to the Secure |
| Facility. During the pendency of this ten (10) day |
| notice period, no listed individual shall have access to |
| the Secure Facility. If an objection to any specific |
| individual is made, that individual shall not have |
| access to the Secure Facility until resolution of such |
| objection. Individuals who have been previously |
| granted access to the Secure Facility according to this |
| Paragraph 4 may access it, without further approval, |
| although the Producing Party |
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| Receiving Party wishes to substitute the name of a |
| previously disclosed individual seeking access to the |
| Secure Facility for another individual pursuant to this |
| Paragraph, the Receiving Party shall provide notice to |
| the Producing Party five (5) days prior to the date on |
| which access is sought to the Secure Facility. The |
| Producing Party shall have the right to object to such |
| access before granting access to the Secure Facility. |
| Consent, however, will not be unreasonably withheld. |
| During the pendency of this five (5) day notice period, |
| the substituted individual shall not have access to the |
| Secure Facility. If an objection to any specific |
| individual is made, that individual shall not have |
| access to the Secure Facility until resolution of such |
| objection by the Court. During the Litigation, the |
| Receiving Party shall in no event grant access to the |
| Secure Room to more than |
| specifically named individuals in the |
| aggregate. |
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| The Neutral System Administrator will monitor the | The Producing Party will not have access to the |
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| Secure Room as set forth above in Paragraph 3, | Receiving Party's work product. After meeting and |
| | conferring with the Producing Party, the Receiving |
| | Party may |
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| | 5. Searching of "Highly Confidential – Source Code" |
| | Information by Receiving Party: The Receiving Party |
| | (including the experts or consultants who may inspect |
| Both the Producing Party and the Receiving Party will have | information designated as "Highly Confidential – |
| access to the | Source Code" pursuant to the provisions of this Order) |
| | may, to the extent necessary, request that the Neutral |
| | System Administrator load searching or analytical tools for inspection of the source code |
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| | Producing Party and Receiving Party with the advice |
| | and assistance of either Party as needed, so long as |
| | the searching or other analytical tools for inspection |
| | of the source code are identified and disclosed and, |
| | with respect to tools that are not commercially |

with respect to tools that are not commercially

| available, a CD or DVD containing such software tools | |
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| is provided by the Receiving Party to the Producing | |
| Party, at least five (5) business days in advance of the | |
| date upon which the Receiving Party wishes to have | |
| the additional software tools available for use. During | |
| the pendency of this five (5) business day notice | |
| period, the disclosed searching or analytical tools will | |
| not | |
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| tool is made, that tool may not | |
| until | |
| resolution of such objection by the Parties or the | |
| Court if the Parties are unable to resolve the dispute | |
| themselves. If there is no objection after the | |
| expiration of the five (5) business day period, the | |
| Neutral System Administrator | |
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| in the presence of the Producing Party and | |
| Receiving Party, and the Receiving Party may use the | |
| tools to assist in its review and searching of Highly | |
| Confidential – Source Code information provided that | |
| such software tools are reasonably necessary for the | |
| Receiving Party to perform its review of the Highly | |
| Confidential – Source Code information consistent | |
| with all of the protections herein. All searching or | |
| analytical tools used pursuant to this Paragraph must | |
| be consistent with the security purposes of this | |
| Protective Order and, for example, | |
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| set forth Paragraph 7. | Producing Party shall not be responsible for any items left outside the Safe in the room following each inspection session. |
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| | Other than as expressly provided in Paragraph 7 herein, the Receiving Party will not copy, remove, or otherwise transfer any Highly Confidential - Source |
| | otherwise transfer any Highly Confidential – Source Code material from |
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| | Confidential – Source Code information in any way |

from the Secure Room in any manner except as expressly provided herein. To the extent that the Producing Party reasonably believes that the Receiving Party (including the experts or consultants who may inspect information designated as "Highly Confidential – Source Code" pursuant to the provisions of this Order) is violating any provision of this Paragraph, the Producing Party will have the right to seek immediate relief from the Court, including, but not limited to, revoking or limiting the Receiving Party's access to the Highly Confidential – Source Code information and compensation for the economic harm resulting from the Receiving Party's violation of this Protective Order.

The Parties acknowledge that under the attorney work product doctrine, either Party may apply to the Court for relief for any voluntary and deliberate disclosures to the public by the other Party, or that Party's agents or representatives, of that Party's attorney work product covered by this Order. If such a disclosure occurs, either Party shall have the right to seek immediate relief, including but not limited to, disclosure of all or part of the other Party's related attorney work product, as well as, loss of any applicable privilege protecting such work product from discovery. Nothing in this provision is intended to affect the right of either party to oppose any such relief. It is the Producing Party's position that if such a disclosure relates to opinions of the Receiving Party's experts or lawyers regarding analysis of the Producing Party's Highly Confidential – Source Code information, the Producing Party may ask the Court for cessation of the source code analysis, quarantine of the Secure Facility, and any other relief as deemed appropriate by the Court. It is Receiving Party's position that under this same principle, Receiving Party may seek similar orders from the Court if Producing Party (including a Producing Party lawyer, employee, or expert), publically discloses attorney work product opinions about source code analysis by either Party. Producing Party reserves the right to oppose any such relief. Nothing in this Order shall affect, limit or modify the rights to the Parties under F. R. Civ. P. 26 and F. R. Evid. 502 to maintain the confidentiality of attorney

| relating to their respective experts. | |
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| 7. Source Code Protocol: The | |
| Producing Party shall | |
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work product and communications and materials

| marked as HIGHLY CONFIDENTIAL – SOURCE CODE. | |
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| The Producing Party's | |
| | The Receiving Party |
| | shall keep |
| | Highly Confidential – Source |
| | Code in the Secure Room only for the minimum |
| | amount of time |
| | required for analysis. The |
| | Receiving Party shall |
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| | Highly Confidential – Source |
| | Code immediately after |
| | needed for analysis. During the time |
| | that needed |
| | for analysis, |
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| | The Producing Party shall have the right to |
| | notify the Court and to seek remedies if the Producing |
| | Party has reason to believe that the Receiving Party is |
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| | customarily necessary for review and analysis. |
| | At the close of each review day, the Receiving Party |
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| | Administrator |
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| The Receiving Party | |
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| necessary to serve the aforementioned purposes. The | |
| Receiving Party may | |
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| in the Secure Room. At the close of | |
| each review day, | |
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| Upon the Receiving Party's | |
| | The Producing Party and Receiving |
| | Party shall be entitled to |
| | request to the Neutral System |
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| Administrator. | |
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| | Illing Indicates the control of the |
| | 8. Use of Highly Confidential – Source Code |
| | Information |
| | Highly Confidential – Source Code information shall be used solely for purposes of the Litigation as set forth herein. No person shall review or analyze Highly Confidential – Source Code information for purposes unrelated to this Litigation, nor may any person use any knowledge gained as a result of reviewing Highly Confidential – Source Code information in any other pending or future dispute, proceeding, patent prosecution, or litigation. |
| | 9. Expert Reports |
| forth herein, the Producing Party may seek immediate | The Receiving Party |
| relief from the Court, including, but not limited to, | |
| revoking or limiting the Receiving Party's access to | |
| Highly Confidential – Source Code, and compensation | pursuant to the protocol set forth |
| for the economic harm resulting from the Receiving | in Paragraph 7 herein, however, |
| Party's violation of the Protective Order. | |
| Except as provided herein, absent express written | . Before the final expert |
| permission from the Producing Party, the Receiving | report is |
| Party | |
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| | days. |
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| nursuant to the terms of this Order for use in any | |
| pursuant to the terms of this Order for use in any manner (including by way of example only, the | |
| Receiving Party may not | |
| receiving raity may not [[[[[[[[[[[]]]]]]]]]] | |

| or otherwise designated under the | |
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| January 19th Protective Order, and the Receiving | |
| Party | pursuant to this and/or the January 19th Protective |
| | Order. Notwithstanding the requirement to meet and |
| | confer |
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| | the security |
| | measures will include, but will not be limited to, the |
| | following measures in this Paragraph. Any final report |
| | that leaves the Secure Facility |
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| the | to the January 19th Protective Order. |
| Producing Party may apply to the Court to seek relief, | |
| including, but not limited, to relief set forth in | |
| Paragraph 7. No | |
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| until agreement has been reached on | 111111111111111111111111111111111111111 |
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| or until | |
| any dispute that has been raised with the Court is | |
| resolved by the Court. After any issues raised during | |
| the ten (10) day review are resolved by the Court | |
| and/or agreement, the parties will meet and confer | |
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| If a Party reasonably believes that it needs to submit a portion of Highly Confidential – Source Code material as part of a filing with the Court, the Parties shall meet and confer as to how to make such a filing while protecting the confidentiality of the Highly Confidential – Source Code and such filing will not be made absent agreement from the Producing Party that the confidentiality protections will be adequate. If the Producing Party agrees to produce an electronic copy of all or any portion of its Highly Confidential – Source Code material or provide written permission to the Receiving Party that an electronic or any other copy needs to be made for a court filing, the Receiving Party's communication and/or disclosure of electronic files or other materials containing any portion of Highly Confidential – Source Code (paper or electronic) shall at all times be limited solely to individuals who are expressly authorized to view Highly Confidential – Source Code under the provisions of this Order, with, for purposes of a court filings, the addition of individuals listed in Paragraph 11(a) of the January 19th Protective Order. |
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| For depositions, the Receiving Party |

| the court reporter or attached to deposition |
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| transcripts; rather, the deposition record will identify |
| the exhibit by its production numbers. |
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| deposition shall be returned to the |
| Producing Party and securely destroyed in a timely |
| manner following the deposition. |

- 11. Other Protections: Information designated as "Highly Confidential Source Code" pursuant to the terms of this Order is also entitled to the protections of the January 19th Protective Order for material designated as "Highly Confidential" and all other applicable provisions thereof. This Order is intended to provide additional specific protections related to the handling, review of, and access to highly confidential source code and source code related material designated as "Highly Confidential Source Code," and it shall govern all issues unique to the handling, review of, and access to such materials.
- 12. **Violations of Protective Order**: In the event that any person or party should violate the terms of this Protective Order, the aggrieved Producing Party should apply to the Court to obtain relief against any such person or party violating or threatening to violate any of the terms of the Protective Order. Further, if the monitoring mechanisms set forth herein identify any actual or potential violation of

this Order by the Receiving Party, the Producing Party may apply for, inter alia, immediate injunctive relief from the Court. In the event that the aggrieved Producing Party seeks injunctive relief, it must petition the District Judge for such relief, which may be granted at the sole discretion of the District Judge. The Parties and any other person subject to the terms of this Protective Order agree that this Court shall retain jurisdiction over it and them for the purpose of enforcing this Protective Order.

13. Source Code and Source Code Material Produced as Part of the NHTSA/NASA Report: The National Highway Traffic Safety Administration ("NHTSA")/National Aeronautics and Space

Administration ("NASA") Report released February 8, 2011 includes Highly Confidential – Source Code Materials. Portions of the report were redacted from the publically available report by NASA/NHTSA pursuant to statutory confidentiality provisions. Any information related to source code or source code material prepared in connection with the NASA/NHTSA report may be designated as HIGHLY CONFIDENTIAL - SOURCE CODE and will be entitled to the protections and protocol set forth in this Order. The Producing Party is producing in this Litigation all specific previously redacted portions of the report unredacted but designated as HIGHLY CONFIDENTIAL - SOURCE CODE and, as such, that information shall be entitled to the protections in this Order. ||||||| 111111111111111111111111111111111 |||| |||||| when not in use. Only the up consultants and the | | | | | | | | | | | |||||||disclosed and approved pursuant to Paragraph 4 herein for access to the HIGHLY CONFIDENTIAL – SOURCE CODE material shall have access to the report |||| ||||| ||||||||| ||||||| The report, or the ||||||| thereof, cannot be shared or otherwise disclosed to any individual other than the individuals specified in this Paragraph. Prior to the development of the Secure ||||||| will be made 1111111111111111111111

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| | cannot be shared or otherwise |
| | disclosed to any individual other than the up to |
| | reviewing consultants who |
| | have received approval for access to HIGHLY |
| | CONFIDENTIAL – SOURCE CODE material pursuant to |
| | Paragraph 4 herein as set forth above and the |
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| and should never be available or accessible to the | |
| general public or any others who are not authorized | should never be available or accessible to the general |
| to view the contents in unredacted form. No copy | public or any others who are not authorized to view |

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its contents in unredacted form. ||||||

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| prepared by the |
| Producing Party shall be |
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14. **Technical Modifications**: If technical considerations require modification of the system architecture or security protocol set forth herein, the Parties may by mutual agreement agree to make technical modifications in keeping with the security objectives of this Protective Order.

15. Conclusion of Litigation: Within thirty (30) days after receiving notice of the entry of an order, judgment or decree finally disposing of this Litigation, all persons having received or maintained Highly Confidential – Source Code material, including any notes designated as such pursuant to Paragraph 6 herein, shall return such material and all copies thereof to counsel for the Producing Party and certify that fact to counsel for the Producing Party in writing by sworn statement. Counsel of record shall make arrangements for the return of Highly Confidential -Source Code material that counsel of record provided or made available to any persons in Paragraphs 11(a), (b), or (c) of the January 19th Protective Order, except the Court, court personnel and court reporters. All Highly Confidential – Source Code material returned to the parties or their counsel by the Court shall likewise be returned to each Producing Party in accordance with this Paragraph.

Dated: March 30, 2011

(signed with a manuscript signature)

James V. Selna

United States District Judge

EXHIBIT A UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

In Re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Products Liability Litigation

This document relates to:

ALL CASES

CASE NO.: 8:10ML2151 JVS (FMOx)

AGREEMENT
CONCERNING SOURCE
CODE AND SOURCE CODE
RELATED MATERIAL
COVERED BY STIPULATED
PROTECTIVE ORDER

disclosed to me pursuant to the terms of the Source Code Protective Order.

I hereby submit myself to the jurisdiction of the United States District Court for the Central District of California for resolution of any matters pertaining to the Source Code Protective Order.

My address is

My present employer is

Dated:

Signed:

I, _______, hereby acknowledge that I have received a copy of the Stipulated Protective Order Governing the Exchange and Handling of Source Code and a copy the January 19th, 2011 Protective Order entered in this action (Case No. 8:10ML2151 JVS (FMOx) by the United States District Court for the Central District of California, Southern Division (collectively, hereinafter, "the Source Code Protective Order").

I have either read the Source Code Protective Order or have had the terms of the Protective Order explained to me by my attorney.

I understand the terms of the Source Code Protective Order and agree to comply with and to be bound by such terms.

If I review or receive documents or information designated as "Highly Confidential – Source Code," I understand that such information is provided to me pursuant to the terms and restrictions of the Source Code Protective Order.

I agree to hold in confidence and not further disclose or use for any purpose (other than is permitted by the Source Code Protective Order) any information