



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,)
)
Plaintiff and)
Counterclaim-Defendant,)
)
v.) C.A. No. 2022-0613-KSJM
)
ELON R. MUSK, X HOLDINGS I, INC.,)
and X HOLDINGS II, INC.,)
)
Defendants and)
Counterclaim-Plaintiffs.)

NOTICE OF SERVICE

PLEASE TAKE NOTICE that on August 1, 2022 pursuant to Court of Chancery Rules 26, 34 and 45, counsel for Defendants and Counterclaim-Plaintiffs Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. caused to be served, in the form filed herewith, a Subpoena *Duces Tecum and Ad Testificandum* upon Concentrix Solutions Corporation, c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

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DATED: August 1, 2022

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CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on August 1, 2022, a copy of the foregoing Notice of Service of Subpoena *Duces Tecum and Ad Testificandum* Directed to Concentrix Solutions Corporation with Schedules A-C and Proof of Service was served electronically via File & ServeXpress upon the following counsel of record:

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/s/ Edward B. Micheletti

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SCHEDULE C

(continued on next page)



GRANTED

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IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

- a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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Dated: July 22, 2022

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP

By: /s/ Edward B. Micheletti
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(302) 984-6000

Attorneys for Plaintiff Twitter, Inc.

IT IS SO ORDERED this ____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,)
)
Plaintiff and)
Counterclaim-Defendant,)
)
v.) C.A. No. 2022-0613-KSJM
)
ELON R. MUSK, X HOLDINGS I, INC.,)
and X HOLDINGS II, INC.,)
)
Defendants and)
Counterclaim-Plaintiffs.)

NOTICE OF SERVICE

PLEASE TAKE NOTICE that on August 1, 2022 pursuant to Court of Chancery Rules 26, 34 and 45, counsel for Defendants and Counterclaim-Plaintiffs Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. caused to be served, in the form filed herewith, a Subpoena *Duces Tecum and Ad Testificandum* upon Innodata Inc., c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, Delaware 19801.

OF COUNSEL:

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DATED: August 1, 2022

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*Attorneys for Defendants
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Elon R. Musk, X Holdings I, Inc.,
and X Holdings II, Inc.*

CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on August 1, 2022, a copy of the foregoing Notice of Service of Subpoena *Duces Tecum and Ad Testificandum* Directed to Innodata Inc. with Schedules A-C and Proof of Service was served electronically via File & ServeXpress upon the following counsel of record:

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/s/ Edward B. Micheletti

Edward B. Micheletti (ID No. 3794)



SCHEDULE C

(continued on next page)



GRANTED

EFiled: Jul 22 2022 04:45PM EDT
Transaction ID 67851718
Case No. 2022-0613-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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Dated: July 22, 2022

SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP

By: /s/ Edward B. Micheletti
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(302) 984-6000

Attorneys for Plaintiff Twitter, Inc.

IT IS SO ORDERED this ____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,)
)
Plaintiff and)
Counterclaim-Defendant,)
)
v.) C.A. No. 2022-0613-KSJM
)
ELON R. MUSK, X HOLDINGS I, INC.,)
and X HOLDINGS II, INC.,)
)
Defendants and)
Counterclaim-Plaintiffs.)

NOTICE OF SERVICE

PLEASE TAKE NOTICE that on August 1, 2022 pursuant to Court of Chancery Rules 26, 34 and 45, counsel for Defendants and Counterclaim-Plaintiffs Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. caused to be served, in the form filed herewith, a Subpoena *Duces Tecum* upon TaskUs Holdings, Inc., c/o Intertrust Corporate Services Delaware Ltd., 200 Bellevue Parkway Suite 210 Wilmington, Delaware 19809.

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DATED: August 1, 2022

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*Attorneys for Defendants
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Elon R. Musk, X Holdings I, Inc.,
and X Holdings II, Inc.*

CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on August 1, 2022, a copy of the foregoing Notice of Service of Subpoena *Duces Tecum* Directed to TaskUs Holdings, Inc. with Schedules A-B and Proof of Service was served electronically via File & Serve*Xpress* upon the following counsel of record:

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/s/ Edward B. Micheletti

Edward B. Micheletti (ID No. 3794)



SCHEDULE B

(continued on next page)



GRANTED

EFiled: Jul 22 2022 04:45PM EDT
Transaction ID 67851718
Case No. 2022-0613-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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Dated: July 22, 2022

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Attorneys for Plaintiff Twitter, Inc.

IT IS SO ORDERED this ____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,)
)
)
 Plaintiff and)
 Counterclaim-Defendant,)
)
 v.) C.A. No. 2022-0613-KSJM
)
)
 ELON R. MUSK, X HOLDINGS I, INC.,)
 and X HOLDINGS II, INC.,)
)
)
 Defendants and)
 Counterclaim-Plaintiffs.)

NOTICE OF SERVICE

PLEASE TAKE NOTICE that on August 1, 2022 pursuant to Court of Chancery Rules 26, 34 and 45, counsel for Defendants and Counterclaim-Plaintiffs Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. caused to be served, in the form filed herewith, a Subpoena *Duces Tecum* upon TaskUs USA, LLC, c/o Intertrust Corporate Services Delaware Ltd., 200 Bellevue Parkway Suite 210 Wilmington, Delaware 19809.

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DATED: August 1, 2022

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and X Holdings II, Inc.*

CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on August 1, 2022, a copy of the foregoing Notice of Service of Subpoena *Duces Tecum* Directed to TaskUs USA, LLC with Schedules A-B and Proof of Service was served electronically via File & Serve*Xpress* upon the following counsel of record:

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/s/ Edward B. Micheletti

Edward B. Micheletti (ID No. 3794)



SCHEDULE B

(continued on next page)



GRANTED

EFiled: Jul 22 2022 04:45PM EDT
Transaction ID 67851718
Case No. 2022-0613-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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Dated: July 22, 2022

IT IS SO ORDERED this ____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,)
)
Plaintiff and)
Counterclaim-Defendant,)
)
v.) C.A. No. 2022-0613-KSJM
)
ELON R. MUSK, X HOLDINGS I, INC.,)
and X HOLDINGS II, INC.,)
)
Defendants and)
Counterclaim-Plaintiffs.)

NOTICE OF SERVICE

PLEASE TAKE NOTICE that on August 1, 2022 pursuant to Court of Chancery Rule 45, Section 3119 of the Civil Practice Law and Rules of the State of New York, and the Uniform Interstate Depositions and Discovery Act, counsel for Defendants and Counterclaim-Plaintiffs Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. caused to be served, in the form filed herewith, a Subpoena *Duces Tecum and Ad Testificandum* upon Allen & Company LLC, 711 Fifth Avenue, 8th Floor, New York, New York 10022.

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DATED: August 2, 2022

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CERTIFICATE OF SERVICE

I, Edward B. Micheletti, hereby certify that on August 2, 2022, a copy of the foregoing Notice of Service of Subpoena *Duces Tecum and Ad Testificandum* Directed to Allen & Company LLC with Schedules A-C and Affidavit of Service was served electronically via File & ServeXpress upon the following counsel of record:

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/s/ Edward B. Micheletti _____
Edward B. Micheletti (ID No. 3794)



SCHEDULE A

This subpoena requires the production of Documents described herein. The Requests are to be responded to in accordance with the following Definitions and Instructions.

DEFINITIONS

1. “Action” means the above-captioned action.
2. “Communication” means the transmission of information (in the form of facts, ideas, inquiries, or otherwise), whether orally or in writing or by any other means or medium, between or among two or more Persons, including spoken words, conversations, conferences, discussions, interviews, reports, meetings, negotiations, agreements, and understandings, whether transmitted in person or by an electronic device such as telephone, radio, or e-mail, and Documents, a defined term.
3. “Defendants” refers to Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.
4. “Document” shall have the broadest meaning permitted under the Court of Chancery Rules and shall include all originals (both sides thereof), copies (if the originals are not available), non-identical copies (whether different from the original because of underlining, editing marks, notes made on or attached to such copy, or otherwise), and drafts of the following items, whether printed or recorded (through a sound, video, or other electronic, magnetic, or digital recording system) or

reproduced by hand, as well as all materials underlying, supporting, or used in the preparation of such a Document: letters, correspondence, telegrams, telexes, facsimile transmissions, memoranda, records, summaries of personal conversations or interviews, notes, financial or statistical statements or compilations, contracts, agreements, analyses, pictures, films, plans, tape recordings, videotapes, disks, diskettes, web-sites, email and other electronically transmitted messages, text messages, chat or communicator transmissions, voicemail messages, online chat or instant messages (e.g., Slack, Teams, Discord, WhatsApp, or Signal messages), interoffice Communications, and any other writings, papers, or tangible things of whatever description; and including any Electronically-Stored Information (including (a) information on or in computer memory, (b) information on or in computer or network backup files, and (c) information which has been “deleted” or “erased” but is recoverable), whether located on-site or at an off-site facility.

5. “Electronically-Stored Information” or “ESI” means all “potentially discoverable electronically stored information” and refers to ESI that contains or potentially contains information relating to facts at issue in this litigation. ESI includes, but is not limited to, all electronically stored Documents. ESI further includes, without limitation, the following: (a) information or data that is generated, received, processed, and recorded by computers and other electronic devices, including, without limitation, metadata (e.g., author, recipient, file creation date, file

modification date, etc.); (b) internal or external web sites; (c) output resulting from the use of any software program, including, without limitation, word processing Documents, spreadsheets, database files, charts, graphs and outlines, electronic mail, online messaging platforms, such as Slack or Teams, including chats, messages, direct messages, and ticketing software, bulletin board programs, operating systems, source code, PRF files, PRC files, batch files, ASCII files, and all miscellaneous media on which they reside and regardless of whether said electronic data exists in an active file, a deleted file, or file fragment; (d) activity listings of electronic mail receipts and/or transmittals; and any and all items stored on computer memories, hard disks, floppy disks, thumb drives, flash drives, CD-ROM, magnetic tape, microfiche, or on any other media for digital data storage or transmittal, such as, but not limited to, cell phones, iPhones and other smart phones, personal digital assistants, handheld wireless devices, or similar devices, and file folder tabs, or containers and labels appended to, or relating to, any physical storage device associated with each original or copy of all Documents requested herein; (e) electronic information accessible via Twitter APIs or other data feeds, including but not limited to the Twitter Firehose showing all public Tweets and like activity, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise>, the Compliance Firehose API, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise/compliance-firehose->

[api/overview](#), the Follow, search, and get users API, as described here: <https://developer.twitter.com/en/docs/twitter-api/v1/accounts-and-users/follow-search-get-users/api-reference/get-followers-ids>, the Account Activity API, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise/account-activity-api/overview>.

6. “Debt Commitment Letter” refers to the Commitment Letter, dated April 25, 2022, among Morgan Stanley Senior Funding, Inc. (acting through such of affiliates or branches as it deems appropriate), Bank of America, N.A., BofA Securities, Inc. (or any of its designated affiliates), Barclays Bank PLC, MUFG Bank, Ltd., BNP Paribas, BNP Paribas Securities Corp., Mizuho Bank, Ltd., and Societe Generale, X Holdings, II, Inc., and X Holdings, I, Inc., and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

7. “Equity Commitment Letter” refers to the Equity Commitment Letter dated May 24, 2022, between Elon R. Musk and X Holdings I, Inc.

8. “Goldman Sachs” means Goldman Sachs Group Inc. and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

9. “J.P. Morgan” means J.P. Morgan Chase & Co. and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

10. “Limited Guaranty” refers to the Limited Guaranty dated April 25, 2022, between Elon R. Musk and Twitter, Inc.

11. “mDAU” has the meaning Twitter ascribes to it in its SEC filings.

12. “Merger” means the transaction described in the Merger Agreement and the other transaction documents described therein.

13. “Merger Agreement” refers to the Agreement and Plan of Merger by and among X Holdings I, Inc., X Holdings II, Inc., and Twitter, Inc., dated as of April 25, 2022, including all exhibits and incorporated documents thereto as well as any drafts or prior iterations of this document.

14. “Person” or “Persons” means natural persons, proprietorships, corporations, partnerships, trusts, joint ventures, groups, associations, organizations, government agencies, regulatory bodies, and all other entities.

15. “Plaintiff” or “Twitter” refers to the Plaintiff in this Action, Twitter Inc., and—to the extent necessary to bring within the scope of the Requests all information that might otherwise be construed to be outside of its scope—the Plaintiff’s parents, subsidiaries, affiliates, predecessors, successors, assigns,

members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on its behalf.

16. “Simpson Thacher” means the law firm of Simpson Thacher & Bartlett LLP and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

17. “Wilson Sonsini” means the law firm of Wilson Sonsini Goodrich & Rosati and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

18. “You” or “Your” refers to Allen & Company LLC, as well as any parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on its behalf.

19. A reference to an organization or other legal entity (whether formed as a corporation, trust, partnership, or otherwise) means that entity and each and all of its: (a) predecessors, successors, subsidiaries, divisions, partnerships, limited

partners, related parties, joint ventures, or affiliates; (b) present and former officers, employees, agents, representatives, trustees, directors, or its board of directors (either generally or committees thereof); (c) its attorneys, accountants, agents, representatives, and advisors (including investment bankers and public relations or other media consultants); (d) any professional employed or retained by that entity; and (e) all other Persons acting or purporting to act on its behalf.

20. A reference to a natural Person includes that Person and each and all of his or her: (a) employees, agents, or representatives; (b) attorneys, accountants, agents, representatives, and advisors (including investment bankers and public relations or other media consultants); (c) any professional employed or retained by him or her; and (d) all other Persons acting or purporting to act on his or her behalf.

21. Whenever used herein: (a) the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular; (b) the term “including” shall be deemed to mean “including, but not limited to,” and shall not be construed to limit the scope of any definition or Request herein; (c) the masculine shall be deemed to include the feminine, and the feminine shall be deemed to include the masculine; (d) the disjunctive (“or”) shall be deemed to include the conjunctive (“and”), and the conjunctive (“and”) shall be deemed to include the disjunctive (“or”); and (e) each of the functional words “any,” “each,” “every,” and “all” shall be deemed to include each of the others.

22. The terms “concerning,” “reflecting,” “relating to,” “regarding,” and their variants are synonymous and mean analyzing, concerning, containing, dealing with, constituting, defining, describing, embodying, interpreting, evidencing, comprising, commenting on, recording, reflecting, relating to, regarding, responding to, explaining, identifying, discussing, mentioning, referring to, setting forth, showing, having any relationship or connection to, stating, summarizing, supporting, or in any way pertaining to the subject matter of the Request, explicitly or implicitly. For the avoidance of doubt, the terms “concerning,” “reflecting,” “relating to,” “regarding,” and their variants shall be construed to bring within the scope of the Request any information that was reviewed in conjunction with, or was generated as a result of, the subject matter of the Request. For ease of reference, more than one of these terms may be included in a particular Request, but such use shall not alter this definition in any way.

INSTRUCTIONS

1. Unless otherwise specified, the Relevant Period covered by each document request is the period commencing April 1, 2022 through and including the date of Your response to these Requests. All information and Documents which refer or relate to this period, whether prepared or collected before, during or afterward, are to be produced.

2. You are requested to produce all Documents described below which are in Your possession, custody, or control or are otherwise available to You.

3. Notwithstanding anything else to the contrary herein, each word, term, or phrase is intended to have the broadest meaning permitted under the Court of Chancery Rules.

4. A request for a Document shall be deemed to include a request for the original and final versions of the Document, all drafts, alterations, modifications, changes and amendments thereto, as well as all non-identical copies or drafts of such Documents, including any copy bearing non-identical markings or notations of any kind, as well as all transmittal sheets, cover letters, exhibits, enclosures, or attachments to the Document.

5. The Documents produced shall be produced as they are kept in the usual course of business and with the name of the person from whose files they were produced. Documents contained in file folders, loose-leaf binders, and notebooks with tabs or labels, etc., are to be produced in a manner that duplicates such labels, markings, or organizational tools and that replicates the manner in which the Documents are or were maintained. Any forecasts, models, or valuations produced should be produced in native form with formulas embedded.

6. Each Document produced pursuant to a Request shall be produced in a manner that clearly identifies the source, location, and/or origin of said Document.

7. Each Request herein should be construed independently and not with reference to any other Request for the purpose of limitation.

8. If any Document responsive to a Request was in Your possession, custody, or control but has been disposed of, lost, discarded, destroyed, or is otherwise currently unavailable to You, furnish a list specifying each such Document and setting forth the following information: the type of document; the general subject matter of the Document; the date of the Document; the name(s) and address(es) of each person who prepared, received, viewed, or has or has had possession, custody, or control of the Document; the period in which the Document was within Your possession, custody, or control; the last known location(s) of each Document; any additional copies thereof; and the date or approximate time of the disposition, loss, destruction or discarding of each such Document, the reason therefor, and the person or persons responsible therefor.

9. If the attorney-client, work product, or other privilege is claimed as to any Document requested herein, state in writing, on or before the date of production: the nature or basis of the privilege or immunity that is being claimed; the type of document; the date of the Document; the general subject matter of the Document; the author(s) of the Document; the addressee(s) and/or recipient(s) of the Document; where not apparent, the relationship of the author(s) and addressee(s) to one another; and each and every fact or basis upon which You claim any such privilege. If a

portion of a Document contains information subject to a claim of privilege, only that portion shall be redacted and the remainder shall be produced.

10. Each Request seeks production of each Document in its entirety, without abbreviation or redaction, and all drafts and non-identical copies of each Document.

11. If no Documents exist that are responsive to a particular Request, so state in writing.

12. These Requests are continuing in nature. If, after producing the requested Documents, You obtain or become aware of any further Documents responsive to any of these Requests, You are required promptly to amend and supplement Your prior responses in accordance with Court of Chancery Rule 26(e).

13. These Requests are provided without prejudice to, or waiver of, Defendants' right to conduct further discovery.

DOCUMENT REQUESTS

1. Documents and Communications relating to the Merger or Merger Agreement.

2. Documents and Communications regarding Twitter.

3. Documents and Communications reflecting Your discussions with Twitter about the Merger; the Merger Agreement; the associated debt financing,

including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee; and conditions to consummate the Merger.

4. Documents and Communications concerning Your retention by Twitter.

5. Documents and Communications relating to Your analysis of Twitter's financial condition, performance, and operations, including any forecasts, model(s), or valuation(s) of Twitter.

6. Documents and Communications concerning Your discussions with or about potential purchasers of Twitter other than Defendants.

7. Documents sufficient to show all individuals or entities, other than Defendants, that You considered contacting or actually contacted concerning an acquisition involving Twitter.

8. Documents and Communications reflecting, referring to, or relating to any analysis of the value or valuation of Twitter in whole or in part, or of the value of its stock, its business (in whole or in part), assets, or subsidiaries, including but not limited to any valuations performed for purposes of negotiating or consummating a merger or acquisition of Twitter.

9. Documents sufficient to identify any code names used to discuss the Merger or the Merger Agreement.

10. Documents and Communications regarding Defendants.

11. Documents and Communications reflecting your discussions with Twitter about the economic impact of mDAU or false or spam Twitter accounts and Twitter's financial condition, performance, and operations.

12. Documents and Communications regarding any diligence performed regarding Defendants, Twitter, and any potential financing for the transaction contemplated by the Merger Agreement, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee.

13. Documents and Communications exchanged with Twitter or Defendants.

14. Documents and Communications exchanged between You and Goldman Sachs and between You and J.P. Morgan regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

15. Documents and Communications exchanged between You and Simpson Thacher and between You and Wilson Sonsini regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.



SCHEDULE B

The Definitions and Instructions in Schedule A attached hereto are incorporated by reference.

TOPICS FOR DEPOSITION

1. Twitter and Your retention by Twitter.
2. The Merger, the Merger Agreement, the transaction contemplated by the Merger Agreement, and Your activities in relation to the Merger.
3. Your analysis of Twitter's financial condition, performance, and operations, including any forecasts, model(s), or valuation(s) of Twitter.
4. Your discussions with Twitter about the Merger; the Merger Agreement; the associated debt financing, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee; the conditions to consummate the Merger; Defendants; potential purchasers; and the economic impact of mDAU or false or spam Twitter accounts and Twitter's financial condition, performance, and operations.
5. Any analysis of the value or valuation of Twitter in whole or in part, or of the value of its stock, its business (in whole or in part), assets, or subsidiaries, including but not limited to any valuations performed for purposes of negotiating or consummating a merger or acquisition of Twitter.

6. Any diligence performed regarding Defendants, Twitter, and any potential financing for the transaction contemplated by the Merger Agreement, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee.

7. Any Documents and Communications exchanged with Twitter or Defendants.

8. Your discussions with or about potential purchasers of Twitter other than Defendants.

9. Individuals or entities, other than Defendants, that You considered contacting or actually contacted concerning an acquisition involving Twitter.

10. Any Communications between You and Goldman Sachs and between You and J.P. Morgan regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

11. Any Communications between You and Simpson Thacher and between You and Wilson Sonsini regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

12. Code names used to discuss the Merger or the Merger Agreement

13. Your Communications regarding this Action.

14. The Documents You produced in response to the Requests contained in Schedule A.



SCHEDULE C



GRANTED

EFiled: Jul 22 2022 04:45PM EDT
Transaction ID 67851718
Case No. 2022-0613-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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Dated: July 22, 2022

IT IS SO ORDERED this _____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON MUSK, X HOLDINGS I, INC.,
AND X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**NOTICE OF SERVICE OF SUBPOENA *DUCES TECUM* AND *AD TESTIFICANDUM* TO
GOLDMAN SACHS & CO. LLC**

TO: Peter J. Walsh, Esq.
Kevin R. Shannon, Esq.
Christopher N. Kelly, Esq.
Matthew A. Golden, Esq.
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Wilmington, DE 19801

PLEASE TAKE NOTICE that, pursuant to Rule 45 of the Court of Chancery Rules of Civil Procedure, Defendants, by and through their undersigned counsel, caused a subpoena *duces tecum* and *ad testificandum* attached hereto as Exhibit 1 to be served upon the following on August 2, 2022:

Goldman Sachs & Co. LLC
c/o The Corporation Trust Company
Corporation Trust Center
1209 Orange St.
Wilmington, DE 19801

Dated: August 3, 2022

CHIPMAN BROWN CICERO & COLE, LLP

/s/ Robert A. Weber

Robert A. Weber (#4013)

Joseph B. Cicero (#4388)

Elliott Covert (#6540)

Hercules Plaza

1313 North Market Street, Suite 5400

Wilmington, Delaware 19801

(302) 295-0191

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2022, I caused a copy of the foregoing document to be served by File & ServeXpress upon the following counsel of record:

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/s/ Robert A. Weber
Robert A. Weber (#4013)



SCHEDULE A

This subpoena requires the production of Documents described herein. The Requests are to be responded to in accordance with the following Definitions and Instructions.

DEFINITIONS

1. “Action” means the above-captioned action.
2. “Allen & Co.” means Allen & Company LLC and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.
3. “Communication” means the transmission of information (in the form of facts, ideas, inquiries, or otherwise), whether orally or in writing or by any other means or medium, between or among two or more Persons, including spoken words, conversations, conferences, discussions, interviews, reports, meetings, negotiations, agreements, and understandings, whether transmitted in person or by an electronic device such as telephone, radio, or e-mail, and Documents, a defined term.
4. “Defendants” refers to Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.
5. “Document” shall have the broadest meaning permitted under the Court of Chancery Rules and shall include all originals (both sides thereof), copies (if the

originals are not available), non-identical copies (whether different from the original because of underlining, editing marks, notes made on or attached to such copy, or otherwise), and drafts of the following items, whether printed or recorded (through a sound, video, or other electronic, magnetic, or digital recording system) or reproduced by hand, as well as all materials underlying, supporting, or used in the preparation of such a Document: letters, correspondence, telegrams, telexes, facsimile transmissions, memoranda, records, summaries of personal conversations or interviews, notes, financial or statistical statements or compilations, contracts, agreements, analyses, pictures, films, plans, tape recordings, videotapes, disks, diskettes, web-sites, email and other electronically transmitted messages, text messages, chat or communicator transmissions, voicemail messages, online chat or instant messages (e.g., Slack, Teams, Discord, WhatsApp, or Signal messages), interoffice Communications, and any other writings, papers, or tangible things of whatever description; and including any Electronically-Stored Information (including (a) information on or in computer memory, (b) information on or in computer or network backup files, and (c) information which has been “deleted” or “erased” but is recoverable), whether located on-site or at an off-site facility.

6. “Electronically-Stored Information” or “ESI” means all “potentially discoverable electronically stored information” and refers to ESI that contains or potentially contains information relating to facts at issue in this litigation. ESI

includes, but is not limited to, all electronically stored Documents. ESI further includes, without limitation, the following: (a) information or data that is generated, received, processed, and recorded by computers and other electronic devices, including, without limitation, metadata (e.g., author, recipient, file creation date, file modification date, etc.); (b) internal or external web sites; (c) output resulting from the use of any software program, including, without limitation, word processing Documents, spreadsheets, database files, charts, graphs and outlines, electronic mail, online messaging platforms, such as Slack or Teams, including chats, messages, direct messages, and ticketing software, bulletin board programs, operating systems, source code, PRF files, PRC files, batch files, ASCII files, and all miscellaneous media on which they reside and regardless of whether said electronic data exists in an active file, a deleted file, or file fragment; (d) activity listings of electronic mail receipts and/or transmittals; and any and all items stored on computer memories, hard disks, floppy disks, thumb drives, flash drives, CD-ROM, magnetic tape, microfiche, or on any other media for digital data storage or transmittal, such as, but not limited to, cell phones, iPhones and other smart phones, personal digital assistants, handheld wireless devices, or similar devices, and file folder tabs, or containers and labels appended to, or relating to, any physical storage device associated with each original or copy of all Documents requested herein; (e) electronic information accessible via Twitter APIs or other data feeds, including

but not limited to the Twitter Firehose showing all public Tweets and like activity, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise>, the Compliance Firehose API, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise/compliance-firehose-api/overview>, the Follow, search, and get users API, as described here: <https://developer.twitter.com/en/docs/twitter-api/v1/accounts-and-users/follow-search-get-users/api-reference/get-followers-ids>, the Account Activity API, as described here: <https://developer.twitter.com/en/docs/twitter-api/enterprise/account-activity-api/overview>.

7. “Debt Commitment Letter” refers to the Commitment Letter, dated April 25, 2022, among Morgan Stanley Senior Funding, Inc. (acting through such of affiliates or branches as it deems appropriate), Bank of America, N.A., BofA Securities, Inc. (or any of its designated affiliates), Barclays Bank PLC, MUFG Bank, Ltd., BNP Paribas, BNP Paribas Securities Corp., Mizuho Bank, Ltd., and Societe Generale, X Holdings, II, Inc., and X Holdings, I, Inc., and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

8. “Equity Commitment Letter” refers to the Equity Commitment Letter dated May 24, 2022, between Elon R. Musk and X Holdings I, Inc.

9. “Fairness Opinion” means the opinions presented by Goldman Sachs and J.P. Morgan to the Twitter Board of Directors on April 25, 2022.

10. “Goldman Sachs” means Goldman Sachs Group Inc. and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

11. “J.P. Morgan” means J.P. Morgan Chase & Co. and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

12. “Limited Guaranty” refers to the Limited Guaranty dated April 25, 2022, between Elon R. Musk and Twitter, Inc.

13. “mDAU” has the meaning Twitter ascribes to it in its SEC filings.

14. “Merger” means the transaction described in the Merger Agreement and the other transaction documents described therein.

15. “Merger Agreement” refers to the Agreement and Plan of Merger by and among X Holdings I, Inc., X Holdings II, Inc., and Twitter, Inc., dated as of April 25, 2022, including all exhibits and incorporated documents thereto as well as any drafts or prior iterations of this document.

16. “Person” or “Persons” means natural persons, proprietorships,

corporations, partnerships, trusts, joint ventures, groups, associations, organizations, government agencies, regulatory bodies, and all other entities.

17. “Plaintiff” or “Twitter” refers to the Plaintiff in this Action, Twitter Inc., and—to the extent necessary to bring within the scope of the Requests all information that might otherwise be construed to be outside of its scope—the Plaintiff’s parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on its behalf.

18. “Simpson Thacher” means the law firm of Simpson Thacher & Bartlett LLP and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

19. “Wilson Sonsini” means the law firm of Wilson Sonsini Goodrich & Rosati and all parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on their respective behalves.

20. “You” or “Your” refers to The Goldman Sachs Group Inc., as well as

any parents, subsidiaries, affiliates, predecessors, successors, assigns, members, principals, partners, directors, officers, employees, agents, representatives, consultants, attorneys, or anyone else acting or purporting to act on its behalf.

21. A reference to an organization or other legal entity (whether formed as a corporation, trust, partnership, or otherwise) means that entity and each and all of its: (a) predecessors, successors, subsidiaries, divisions, partnerships, limited partners, related parties, joint ventures, or affiliates; (b) present and former officers, employees, agents, representatives, trustees, directors, or its board of directors (either generally or committees thereof); (c) its attorneys, accountants, agents, representatives, and advisors (including investment bankers and public relations or other media consultants); (d) any professional employed or retained by that entity; and (e) all other Persons acting or purporting to act on its behalf.

22. A reference to a natural Person includes that Person and each and all of his or her: (a) employees, agents, or representatives; (b) attorneys, accountants, agents, representatives, and advisors (including investment bankers and public relations or other media consultants); (c) any professional employed or retained by him or her; and (d) all other Persons acting or purporting to act on his or her behalf.

23. Whenever used herein: (a) the singular shall be deemed to include the plural, and the plural shall be deemed to include the singular; (b) the term “including” shall be deemed to mean “including, but not limited to,” and shall not

be construed to limit the scope of any definition or Request herein; (c) the masculine shall be deemed to include the feminine, and the feminine shall be deemed to include the masculine; (d) the disjunctive (“or”) shall be deemed to include the conjunctive (“and”), and the conjunctive (“and”) shall be deemed to include the disjunctive (“or”); and (e) each of the functional words “any,” “each,” “every,” and “all” shall be deemed to include each of the others.

24. The terms “concerning,” “reflecting,” “relating to,” “regarding,” and their variants are synonymous and mean analyzing, concerning, containing, dealing with, constituting, defining, describing, embodying, interpreting, evidencing, comprising, commenting on, recording, reflecting, relating to, regarding, responding to, explaining, identifying, discussing, mentioning, referring to, setting forth, showing, having any relationship or connection to, stating, summarizing, supporting, or in any way pertaining to the subject matter of the Request, explicitly or implicitly. For the avoidance of doubt, the terms “concerning,” “reflecting,” “relating to,” “regarding,” and their variants shall be construed to bring within the scope of the Request any information that was reviewed in conjunction with, or was generated as a result of, the subject matter of the Request. For ease of reference, more than one of these terms may be included in a particular Request, but such use shall not alter this definition in any way.

INSTRUCTIONS

1. Unless otherwise specified, the Relevant Period covered by each document request is the period commencing April 1, 2022 through and including the date of Your response to these Requests. All information and Documents which refer or relate to this period, whether prepared or collected before, during or afterward, are to be produced.

2. You are requested to produce all Documents described below which are in Your possession, custody, or control or are otherwise available to You.

3. Notwithstanding anything else to the contrary herein, each word, term, or phrase is intended to have the broadest meaning permitted under the Court of Chancery Rules.

4. A request for a Document shall be deemed to include a request for the original and final versions of the Document, all drafts, alterations, modifications, changes and amendments thereto, as well as all non-identical copies or drafts of such Documents, including any copy bearing non-identical markings or notations of any kind, as well as all transmittal sheets, cover letters, exhibits, enclosures, or attachments to the Document.

5. The Documents produced shall be produced as they are kept in the usual course of business and with the name of the person from whose files they were produced. Documents contained in file folders, loose-leaf binders, and notebooks

with tabs or labels, etc., are to be produced in a manner that duplicates such labels, markings, or organizational tools and that replicates the manner in which the Documents are or were maintained. Any forecasts, models, or valuations produced should be produced in native form with formulas embedded.

6. Each Document produced pursuant to a Request shall be produced in a manner that clearly identifies the source, location, and/or origin of said Document.

7. Each Request herein should be construed independently and not with reference to any other Request for the purpose of limitation.

8. If any Document responsive to a Request was in Your possession, custody, or control but has been disposed of, lost, discarded, destroyed, or is otherwise currently unavailable to You, furnish a list specifying each such Document and setting forth the following information: the type of document; the general subject matter of the Document; the date of the Document; the name(s) and address(es) of each person who prepared, received, viewed, or has or has had possession, custody, or control of the Document; the period in which the Document was within Your possession, custody, or control; the last known location(s) of each Document; any additional copies thereof; and the date or approximate time of the disposition, loss, destruction or discarding of each such Document, the reason therefor, and the person or persons responsible therefor.

9. If the attorney-client, work product, or other privilege is claimed as to any Document requested herein, state in writing, on or before the date of production: the nature or basis of the privilege or immunity that is being claimed; the type of document; the date of the Document; the general subject matter of the Document; the author(s) of the Document; the addressee(s) and/or recipient(s) of the Document; where not apparent, the relationship of the author(s) and addressee(s) to one another; and each and every fact or basis upon which You claim any such privilege. If a portion of a Document contains information subject to a claim of privilege, only that portion shall be redacted and the remainder shall be produced.

10. Each Request seeks production of each Document in its entirety, without abbreviation or redaction, and all drafts and non-identical copies of each Document.

11. If no Documents exist that are responsive to a particular Request, so state in writing.

12. These Requests are continuing in nature. If, after producing the requested Documents, You obtain or become aware of any further Documents responsive to any of these Requests, You are required promptly to amend and supplement Your prior responses in accordance with Court of Chancery Rule 26(e).

13. These Requests are provided without prejudice to, or waiver of, Defendants' right to conduct further discovery.

DOCUMENT REQUESTS

1. Documents and Communications relating to the Merger or Merger Agreement.
2. Documents and Communications regarding Twitter.
3. Documents and Communications reflecting Your discussions with Twitter about the Merger; the Merger Agreement; the associated debt financing, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee; and conditions to consummate the Merger.
4. Documents and Communications concerning Your retention by Twitter.
5. Documents and Communications relating to Your analysis of Twitter's financial condition, performance, and operations, including any forecasts, model(s), or valuation(s) of Twitter.
6. Documents and Communications relating to Your Fairness Opinion, including but not limited to (a) any assumptions, facts, inputs, performance indicators, forecasts, and models relating to the Fairness Opinion; (b) all analyses performed in connection therewith, including Your public trading comparables analysis, basis for choosing the comparable companies analyzed as part of such trading comparables analysis, and discounted cash flow analysis; and (c) any

Documents read, consulted, reviewed, or relied upon in preparing the Fairness Opinion.

7. Documents and Communications concerning Your discussions with or about potential purchasers of Twitter other than Defendants.

8. Documents sufficient to show all individuals or entities, other than Defendants, that You considered contacting or actually contacted concerning an acquisition involving Twitter.

9. Documents and Communications reflecting, referring to, or relating to any analysis of the value or valuation of Twitter in whole or in part, or of the value of its stock, its business (in whole or in part), assets, or subsidiaries, including but not limited to any valuations performed other than the Fairness Opinion for purposes of negotiating or consummating a merger or acquisition of Twitter.

10. Documents sufficient to identify any code names used to discuss the Merger or the Merger Agreement.

11. Documents and Communications regarding Defendants.

12. Documents and Communications reflecting your discussions with Twitter about the economic impact of mDAU or false or spam Twitter accounts and Twitter's financial condition, performance, and operations.

13. Documents and Communications regarding any diligence performed regarding Defendants, Twitter, and any potential financing for the transaction

contemplated by the Merger Agreement, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee.

14. Documents and Communications exchanged with Twitter or Defendants.

15. Documents and Communications exchanged between You and J.P. Morgan and between You and Allen & Co. regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

16. Documents and Communications exchanged between You and Simpson Thacher and between You and Wilson Sonsini regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

SCHEDULE B

The Definitions and Instructions in Schedule A attached hereto are incorporated by reference.

TOPICS FOR DEPOSITION

1. Twitter and Your retention by Twitter.
2. The Merger, the Merger Agreement, the transaction contemplated by the Merger Agreement, and Your activities in relation to the Merger.
3. Your analysis of Twitter's financial condition, performance, and operations, including any forecasts, model(s), or valuation(s) of Twitter.
4. Your Fairness Opinion, including but not limited to (a) any assumptions, facts, inputs, performance indicators, forecasts, and models relating to the Fairness Opinion; (b) all analyses performed in connection therewith, including Your public trading comparables analysis, basis for choosing the comparable companies analyzed as part of such trading comparables analysis, and discounted cash flow analysis; and (c) Documents You read, consulted, reviewed, or relied upon in preparing the Fairness Opinion.
5. Your discussions with Twitter about the Merger; the Merger Agreement; the associated debt financing, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee; the conditions to consummate the Merger; Defendants; potential purchasers; and the economic impact of mDAU

or false or spam Twitter accounts and Twitter's financial condition, performance, and operations.

6. Any analysis of the value or valuation of Twitter in whole or in part, or of the value of its stock, its business (in whole or in part), assets, or subsidiaries, including but not limited to any valuations performed other than the Fairness Opinion for purposes of negotiating or consummating a merger or acquisition of Twitter.

7. Any diligence performed regarding Defendants, Twitter, and any potential financing for the transaction contemplated by the Merger Agreement, including the Debt Commitment Letter, Equity Commitment Letter, and Limited Guarantee.

8. Any Documents and Communications exchanged with Twitter or Defendants.

9. Your discussions with or about potential purchasers of Twitter other than Defendants.

10. Individuals or entities, other than Defendants, that You considered contacting or actually contacted concerning an acquisition involving Twitter.

11. Any Communications between You and J.P. Morgan and between You and Allen & Co. regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

12. Any Communications between You and Simpson Thacher and between You and Wilson Sonsini regarding the Merger, Merger Agreement, Defendants, Twitter, or this Action.

13. Code names used to discuss the Merger or the Merger Agreement.

14. Your Communications regarding this Action.

15. The Documents You produced in response to the Requests contained in Schedule A.

SCHEDULE C

(continued on next page)



GRANTED

EFiled: Jul 22 2022 04:45PM EDT
Transaction ID 67851718
Case No. 2022-0613-KSJM



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

TWITTER, INC.,

Plaintiff,

v.

ELON R. MUSK, X HOLDINGS I, INC.,
and X HOLDINGS II, INC.,

Defendants.

C.A. No. 2022-0613-KSJM

**STIPULATION AND [PROPOSED] ORDER FOR THE
PRODUCTION AND EXCHANGE OF CONFIDENTIAL
AND HIGHLY CONFIDENTIAL INFORMATION**

WHEREAS, the parties to the above-captioned action (the “Litigation”) will engage, or are engaged, in discovery proceedings, which may include, among other things, producing documents, responding to written discovery requests, and taking depositions; and

WHEREAS, those discovery proceedings will involve the production of certain information that one or more of the parties to the Litigation (collectively the “Parties,” and each a “Party”) believe to be confidential and sensitive commercial, financial, personal, or business information;

IT IS HEREBY STIPULATED AND AGREED, by the Parties hereto, through their undersigned counsel, subject to the approval of the Court, pursuant to Court of Chancery Rules 5.1 and 26(c), that this Stipulation and Order for the

Production and Exchange of Confidential and Highly Confidential Information (this “Stipulation”) will govern the handling of documents, deposition testimony, deposition exhibits, deposition transcripts, written discovery requests, interrogatory responses, responses to requests for admissions, responses to requests for documents, electronically stored information, and any other information or material produced, given, or exchanged, including any information contained therein or derived therefrom (“Discovery Material”) by or among any Party or non-Party providing Discovery Material (each a “Producing Party”) in the Litigation.

1. Any Producing Party may designate any Discovery Material as “Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that such Discovery Material contains nonpublic, confidential, personal, business, strategic, proprietary, or commercially sensitive information that requires the protections provided in this Stipulation (“Confidential Discovery Material”). Any Producing Party may designate any Discovery Material as “Highly Confidential” under the terms of this Stipulation if such Producing Party in good faith and reasonably believes that disclosure of the Discovery Material other than as permitted pursuant to Paragraph 6 of this Stipulation is substantially likely to cause injury to the Producing Party (“Highly Confidential Discovery Material”).

2. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall be made in the following manner:

a. In the case of documents or other materials (apart from depositions or other pre-trial testimony): (i) by affixing the legend “Confidential” or “Highly Confidential” to each page containing any Confidential or Highly Confidential Discovery Material, except that in the case of multi-page documents bound together by staple or other permanent binding, the word “Confidential” or “Highly Confidential” need only be stamped on the first page of the document in order for the entire document to be treated in accordance with its designation; or (ii) in the case of electronically stored information produced in native format, by including “Confidential” or “Highly Confidential” in the file or directory name, or by affixing the legend “Confidential” or “Highly Confidential” to the media containing the Discovery Material (*e.g.*, CD-ROM, DVD flash drive), as applicable.

b. In the case of depositions or other pretrial testimony: (i) by a statement on the record, by counsel, at the time of such disclosure or before the conclusion of the deposition or testimony; or (ii) by written notice, sent to all Parties within five (5) business days of receipt of the rough or final transcript (whichever is received first) designating the entire transcript or portions thereof; provided that only those portions of the transcript designated as Confidential or Highly Confidential Discovery Material shall be deemed

Confidential or Highly Confidential Discovery Material. All depositions and other pretrial testimony will be deemed to be Highly Confidential Discovery Material until the expiration of the 5th business day after counsel receive a copy of the rough or final transcript (whichever is received first), after which such deposition and other pretrial testimony will be treated in accordance with its confidentiality designation, if any. The Parties may modify this procedure for any deposition or other pretrial testimony, through agreement on the record at such deposition or testimony, without further order of the Court.

c. In the case of any other Discovery Material, by written notice that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, as applicable.

3. The designation of Discovery Material as Confidential or Highly Confidential Discovery Material shall constitute a representation that such Discovery Material has been reviewed by an attorney representing the Party making the designation, and that there is a good-faith basis for such designation.

4. Inadvertent failure to designate Discovery Material as Confidential or Highly Confidential Discovery Material shall not constitute a waiver of such claim and may be corrected promptly upon discovery of such failure. A Producing Party may designate as “Confidential” or “Highly Confidential” any Discovery Material that has already been produced, including Discovery Material

that the Producing Party inadvertently failed to designate as Confidential or Highly Confidential Discovery Material, (i) by notifying in writing the Party to whom the production has been made that the Discovery Material constitutes Confidential or Highly Confidential Discovery Material, or (ii) in a manner consistent with Paragraph 2. The Party making the designation shall mark and replace previously supplied Discovery Material. Upon receiving notice of the inadvertent failure to designate, the Parties shall thereafter treat the Discovery Material so designated as Confidential or Highly Confidential Discovery Material, and such Discovery Material shall be fully subject to this Stipulation from the date of such supplemental notice forward. The Party receiving such notice shall make a reasonable, good-faith effort to ensure that any analyses, memoranda, notes, or other such materials generated based upon such newly designated information are immediately treated as containing Confidential or Highly Confidential Discovery Material. In addition, upon receiving such supplemental written notice, any receiving Party that disclosed the Discovery Material before its designation as Confidential or Highly Confidential Discovery Material shall exercise its best efforts to ensure (i) the return or destruction of such Discovery Material by any person not authorized to receive the Confidential or Highly Confidential Discovery Material under the terms of this Stipulation, (ii) that any documents or other materials derived from such Discovery Material are treated as if the Discovery Material had been designated as

Confidential or Highly Confidential Discovery Material when originally produced, (iii) that such Discovery Material is not further disclosed except in accordance with the terms of this Stipulation, and (iv) that any such Discovery Material, and any information derived therefrom, is used solely for the purposes described in Paragraph 10 of this Stipulation.

5. Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in accordance with this Stipulation:

a. The Parties and the directors, officers, and employees of the Parties who are assisting with or making decisions concerning the Litigation, to the extent deemed reasonably necessary by counsel of record for the purpose of assisting in the prosecution or defense of the Litigation;

b. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

c. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries,

clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

d. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

e. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

f. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

g. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Confidential Discovery

Material being disclosed, provided that such person signs an undertaking in the form attached as Exhibit A hereto.

6. Highly Confidential Discovery Material may be disclosed, summarized, described, characterized, or otherwise communicated or made available in whole or in part only to the following persons for use in connection with the Litigation and in accordance with this Stipulation:

a. Counsel who represent Parties in the Litigation (including in-house counsel), and the partners, counsel, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such counsel (including outside copying and litigation support services) who are assisting with the Litigation;

b. Subject to Paragraph 8, experts or consultants assisting counsel for the Parties, and partners, associates, paralegals, secretaries, clerical, regular and temporary employees, and service vendors of such experts or consultants (including outside copying services and outside support services) who are assisting with the Litigation;

c. Subject to Paragraph 9, witnesses or deponents, and their counsel, only to the extent necessary to conduct or prepare for depositions or testimony or to prepare and submit declarations or affidavits in the Litigation;

d. Any person indicated on the face of a document or accompanying cover letter, email, or other communication to be the author, addressee, or an actual or intended recipient of the document, (or indicated as a blind copy recipient in such document/communication's metadata); any person indicated as the custodian of the document/communication in corresponding metadata or as confirmed by the Producing Party; or, in the case of meeting minutes and presentations, an attendee of the meeting;

e. The Court, persons employed by the Court, and court reporters transcribing any hearing, trial, or deposition in the Litigation or any appeal therefrom; and

f. Any other person only upon (i) order of the Court entered upon notice to the Parties, or (ii) written stipulation of, or statement on the record by, the Producing Party who provided the Highly Confidential Discovery Material being disclosed, and provided that such person signs an undertaking in the form attached as Exhibit A hereto.

7. Subject to Paragraph 25, to the extent that testimony is sought concerning Confidential or Highly Confidential Discovery Material during any deposition or in any other pretrial venue, any Party may exclude any person from the deposition or other venue during such testimony if the Confidential or Highly

Confidential Discovery Material may not be disclosed to such person under the terms of this Stipulation.

8. Notwithstanding Paragraphs 5(c) and 6(b), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only to the extent necessary for such expert or consultant to prepare a written opinion, to prepare to testify, or to assist counsel in the Litigation, provided that such expert or consultant (i) is not currently an employee of, or advising or discussing employment with, or consultant to (aside from expert services provided in connection with the Litigation), any Party or any known Competitor (as defined below) or potential transaction counterparty of the Producing Party designating the Confidential or Highly Confidential Discovery Material, as far as the expert or consultant can reasonably determine, and (ii) is using said Confidential or Highly Confidential Discovery Material pursuant to and in accordance with the terms of this Stipulation; and further provided that such expert or consultant agrees to be bound by the terms of this Stipulation by signing an undertaking in the form attached as Exhibit A hereto. Counsel for the Party showing, providing, or disclosing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before provision of the Confidential or Highly Confidential Material to such expert or consultant. Under no circumstances shall an

expert or consultant who is a Competitor of the Producing Party, or who is providing services to any of the foregoing, as far as the expert or consultant can reasonably determine, be provided access to Confidential or Highly Confidential Discovery Material absent further order of the Court or consent of the Producing Party. “Competitors” are persons or entities engaged in the same or similar lines of business as the Producing Party.

9. Notwithstanding Paragraphs 5(d) and 6(c), Confidential or Highly Confidential Discovery Material may be provided to persons listed therein only after (i) such persons confirm their understanding and agreement to abide by the terms of this Stipulation by making such a statement on the record, and/or by signing an undertaking in the form attached as Exhibit A hereto, or (ii) a court of competent jurisdiction orders them to abide by the terms of this Stipulation. Counsel for the Party showing Confidential or Highly Confidential Discovery Material to any person required to execute an undertaking pursuant to this Paragraph shall be responsible for obtaining and retaining such signed undertaking before the provision of such Confidential or Highly Confidential Discovery Material to such person.

10. Discovery Material shall be used solely for purposes of the Litigation and shall not be used for any other purpose, including, without limitation, any personal, business, or commercial purpose; provided, however, that the foregoing shall not apply to Discovery Material that is or properly becomes part of

the public record; and further provided that the restrictions on the use of Discovery Material may be modified for good cause shown.

11. Every person to whom Confidential or Highly Confidential Discovery Material is disclosed, summarized, described, characterized, or otherwise communicated or made available, in whole or in part, shall be advised that the information is being disclosed pursuant and subject to the terms of this Stipulation and may not be disclosed or used for purposes other than those permitted hereunder. Each such person shall maintain the Confidential or Highly Confidential Discovery Material, or information derived therefrom, in a manner reasonably calculated to prevent unauthorized disclosure. Any Party issuing a subpoena to a non-Party shall enclose a copy of this Stipulation and notify the non-Party that the protections of this Stipulation are available to such non-Party.

12. Any pleading, brief, memorandum, motion, letter, affidavit, exhibit, or other document filed with the Court that discloses, summarizes, describes, characterizes, includes, attaches, or otherwise communicates Confidential or Highly Confidential Discovery Material (a “Confidential Filing”) must be filed confidentially and not available for public access (“Confidential Treatment”) in accordance with the provisions of Court of Chancery Rules 5.1 and 79.1 and the Administrative Directive of the Chancellor of the Court of Chancery of the State of Delaware Amended No. 2003-1, dated March 15, 2007, regarding e-File

Administrative Procedures, which may be accomplished by submitting documents, every page of which shall have a footer stating:

**THIS DOCUMENT IS A CONFIDENTIAL FILING.
ACCESS IS PROHIBITED EXCEPT AS
AUTHORIZED BY COURT ORDER.**

In addition, every Confidential Filing must be submitted with a cover page bearing the title of the Litigation, the title of the Confidential Filing, and stating:

**YOU ARE IN POSSESSION OF A CONFIDENTIAL
FILING FROM THE COURT OF CHANCERY OF
THE STATE OF DELAWARE.**

**If you are not authorized by Court order to view or
retrieve this document, read no further than this page.
You should contact the following person:**

**[Filing Attorney or Party Name]
[Filing Attorney Law Firm]
[Filing Attorney or Party Address]
[Filing Attorney or Party Telephone Number]**

If a public version of the Confidential Filing will be filed in accordance with Court of Chancery Rule 5.1(d), then the cover page shall also state:

**A public version of this document will be filed on or
before [DATE].**

If a paper copy of that document is to be submitted to the Court for any reason, that document shall be submitted in a sealed envelope or package marked with the title of the Litigation and bearing a statement substantially in the following form:

CONFIDENTIAL

**FILED UNDER SEAL PURSUANT TO A
PROTECTIVE ORDER DATED _____, 20 __,
GOVERNING CONFIDENTIALITY OF
DOCUMENTS AND INFORMATION OBTAINED
DURING THE COURSE OF THIS LITIGATION.**

**THIS ENVELOPE IS NEITHER TO BE OPENED
NOR THE CONTENTS THEREOF DISPLAYED OR
REVEALED EXCEPT BY OR TO QUALIFIED
PERSONS OR BY COURT ORDER.**

13. A Party making a Confidential Filing must comply with the provisions of Court of Chancery Rule 5.1. The definition of Confidential or Highly Confidential in this Stipulation may encompass Confidential or Highly Confidential Discovery Material that falls within a broader range of material than is covered by Rule 5.1. Nevertheless, when complying with Rule 5.1, parties must file a copy of the Confidential Filing for public inspection that omits only such Confidential or Highly Confidential Discovery Material as to which the Producing Party reasonably and in good faith believes the public interest in access to Court proceedings is outweighed by the harm public disclosure of such Discovery Material would cause because it contains sensitive, non-public information. For avoidance of doubt, the Parties have no obligation to file public versions of any exhibits, affidavits, declarations, or other attachments filed as part of a Confidential Filing, except as required by Court of Chancery Rule 5.1(f)(1) or if otherwise ordered by the Court or required by the Register in Chancery.

14. All materials filed pursuant to Paragraph 12 shall be released from Confidential Treatment (as defined in Court of Chancery Rule 5.1) by the Register in Chancery only as provided in Court of Chancery Rules 5.1(d) and 5.1(g), as applicable, or upon further order of this Court. When any Party receives a notice from the Register in Chancery pursuant to Rule 5.1 concerning the release of Confidential Filings that were filed with the Court by such Party but contain Discovery Material designated as Confidential or Highly Confidential Discovery Material by another Producing Party, the Party receiving the notice shall deliver a copy of such notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of the receipt of such notice, if such notice is not otherwise sent to such Producing Party by the Register in Chancery, so as to enable the latter to seek further Confidential Treatment or to have the documents returned or destroyed. The provisions of this Paragraph may be waived only with the prior written consent of the Producing Party.

15. In accordance with the provisions of Court of Chancery Rule 5.1(f), any Party who objects to the continued restriction on public access to any Confidential Filing, or any portion thereof, shall give written notice of the objection to the Producing Party. If the Confidential Filing was a document for which the filing of a public version was not required under Rule 5.1(d), the Producing Party seeking to continue the restriction on public access to the

Confidential Filing, or any portion thereof, shall provide the notices and public filings within the time periods required by Rule 5.1(f)(1). To the extent that the Producing Party seeks to continue the restriction on public access to the Confidential Filing, or any portion thereof, to which a public version is available, the Producing Party shall file a motion with the Court within the five-day period mandated by Court of Chancery Rule 5.1(f)(2). The filing of the motion constitutes a certification that the signer of the motion personally reviewed the Confidential Filing and that continued Confidential Treatment is appropriate. The person challenging Confidential Treatment shall have five (5) days to file an opposition. The Court shall then determine whether Confidential Treatment will be maintained, or whether a reply, hearing, or further proceedings are warranted. If a motion seeking continued Confidential Treatment is not timely filed, then the Confidential Filing shall become part of the public record, and the Register in Chancery shall permit access to the Confidential Filing on the docket system to the same extent as any other public filing. If an opposition to the motion is not timely filed, then the challenge shall be deemed withdrawn and the Confidential Filing shall continue to receive Confidential Treatment.

16. During the pendency of the Litigation, any Party objecting to the designation of any Discovery Material as Confidential or Highly Confidential Discovery Material may, after making a good-faith effort to resolve any such

objection, move on reasonable notice for an order vacating the designation. While such a motion is pending, the Discovery Material in question shall be treated as Confidential or Highly Confidential Discovery Material pursuant to this Stipulation. The provisions of this Stipulation are not intended to shift any burdens of proof, including the burden of establishing that any Discovery Material validly constitutes Confidential or Highly Confidential Discovery Material, which burden remains on the Producing Party that designates such Discovery Material as Confidential or Highly Confidential Discovery Material.

17. The Parties reserve the right to apply, upon short notice, for an order seeking additional safeguards with respect to the use and handling of Discovery Material or to modify the terms of this Stipulation. The Parties agree to meet and confer in good faith prior to moving the Court for any modifications or additional safeguards.

18. Entering into this Stipulation, or agreeing to and/or producing or receiving Discovery Material (regardless of confidentiality designation, if any) or otherwise complying with the terms of this Stipulation, shall not:

a. Prejudice in any way the rights of any Party to (i) seek production of documents or information the Party considers subject to discovery, or (ii) object to the production of documents or information it considers not subject to discovery;

b. Operate as an admission by any Party that any Discovery Material constitutes Confidential or Highly Confidential Discovery Material or contains or reflects trade secrets or any other type of confidential information;

c. Prejudice in any way the rights of any Party to (i) petition the Court for a further protective order relating to any purportedly Confidential or Highly Confidential Discovery Material, or (ii) seek a determination by the Court whether any Discovery Material (regardless of confidentiality designation, if any) should be subject to the terms of this Stipulation;

d. Prevent any Party from agreeing in writing to alter or waive the provisions or protections provided herein with respect to any Discovery Material;

e. Prejudice in any way the rights of any Party to object to the relevance, authenticity, use, or admissibility into evidence of any document, testimony, or other evidence subject to this Stipulation;

f. Preclude any Party from objecting to discovery that it believes to be otherwise improper; or

g. Operate as a waiver of any attorney-client, work product, business strategy, trade secret, or other privilege, immunity, or protection.

19. This Stipulation has no effect upon, and shall not apply to, a Producing Party's use or disclosure of its own Discovery Material for any purpose. Nothing herein shall: (i) prevent a Producing Party from disclosing its own Confidential or Highly Confidential Discovery Material; or (ii) impose any restrictions on the use or disclosure by any person of documents, materials, or information designated as Confidential or Highly Confidential Discovery Material obtained lawfully by such person independently of the discovery proceedings in the Litigation, and not otherwise subject to confidentiality restrictions.

20. If Discovery Material that is subject to a claim of attorney-client privilege, attorney work product, or any other applicable privilege or immunity or ground on which production of that information should not be made to any Party ("Inadvertent Production Material") is inadvertently produced to that Party or Parties, such inadvertent production shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, work product, or other applicable privilege or immunity; provided further:

a. A claim of inadvertent production shall constitute a representation by that Producing Party that the Inadvertent Production Material has been reviewed by an attorney for such Producing Party and that there is a good-faith basis for such claim of inadvertent production.

b. If a claim of inadvertent production is made pursuant to this Stipulation, with respect to Discovery Material then in the custody of another Party, the Party possessing the Inadvertent Production Material shall: (i) refrain from any further examination or disclosure of the claimed Inadvertent Production Material; (ii) if requested, promptly make a good-faith effort to return the claimed Inadvertent Production Material and all copies thereof (including summaries and excerpts) to counsel for the Producing Party, or destroy all such claimed Inadvertent Production Material (including summaries and excerpts) and all copies thereof, and certify in writing to that fact; and (iii) not use the Inadvertent Production Material for any purpose until further order of the Court.

c. A Party may move the Court for an order compelling production of the claimed Inadvertent Production Material; and may retain a copy of the material on an attorney's eyes-only basis for the purpose of bringing such a motion; however, while such motion is pending, the Discovery Material in question shall be treated as Inadvertent Production Material, and such motion may not assert as a ground for entering such an order the fact or circumstance of the inadvertent production, nor shall such motion include or otherwise disclose, as an attachment, exhibit, or otherwise,

the Inadvertent Production Material (or any portion thereof) that is the subject of such motion.

21. Nothing herein shall be deemed to waive any applicable common law or statutory privilege or work product protection.

22. In the event additional Parties join or are joined in the Litigation, they shall not have access to Confidential or Highly Confidential Discovery Material until the newly joined Party by its counsel has executed and filed with the Court its agreement to be bound fully by this Stipulation.

23. The Parties agree to be bound by the terms of this Stipulation pending the entry by the Court of this Stipulation, and any violation of its terms shall be subject to the same sanctions and penalties as if this Stipulation had been entered by the Court.

24. Subject to the requirements of Court of Chancery Rule 5.1(g) and any applicable rule of the Delaware Supreme Court, the provisions of this Stipulation shall, absent written permission of the Producing Party or further order of the Court, continue to be binding throughout and after the conclusion of the Litigation, including, without limitation, any appeals therefrom, except as provided in Paragraph 25.

25. In the event that any Confidential or Highly Confidential Discovery Material is used in open court during any court proceeding or lodged as a

trial exhibit, the material shall lose its confidential status and become part of the public record, unless the Producing Party applies for and obtains an order from this Court specifically maintaining the confidential status of particular material. Prior to any court proceeding in which Confidential or Highly Confidential Discovery Material is to be used, counsel for the Parties shall confer in good faith on such procedures that may be necessary or advisable to protect the confidentiality of any such Confidential or Highly Confidential Discovery Material.

26. Within thirty (30) days after receiving notice of the entry of an order, judgment, or decree finally disposing of the Litigation, or any other proceeding in which Confidential or Highly Confidential Discovery Material is permitted to be used, including the exhaustion of all possible appeals, and upon the written request of the Producing Party, all persons having received Confidential or Highly Confidential Discovery Material shall either (i) make a good-faith and reasonable effort to return such material and all copies thereof (including summaries, excerpts, and derivative works) to counsel for the Producing Party; or (ii) make a good-faith and reasonable effort to destroy all Confidential or Highly Confidential Discovery Material and, if so requested, to certify to that fact in writing to counsel for the Producing Party. However, counsel for the Parties shall be entitled to retain court papers, deposition and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential

Discovery Material), provided that such counsel, and employees of such counsel, shall maintain the confidentiality thereof and shall not disclose such court papers, correspondence, pleadings, depositions and trial transcripts, and litigation files (including attorney work product and discovery material containing Confidential or Highly Confidential Discovery Material), to any person except pursuant to a court order, agreement by the Producing Party, or as otherwise required by law. For purposes of this Paragraph, good-faith reasonable efforts to return or destroy material need not include destroying Discovery Material residing on back-up tapes or other disaster recovery systems, so long as the person who has received such Discovery Material maintains the confidentiality of such material. All materials returned to the Parties or their counsel by the Court likewise shall be disposed of in accordance with this Paragraph.

27. If any person subject to Stipulation in possession of Confidential or Highly Confidential Discovery Material (the “Receiver”) receives a subpoena or other compulsory process seeking the production or other disclosure of Confidential or Highly Confidential Discovery Material produced or designated by a Producing Party other than the Receiver (collectively, a “Demand”), the Receiver shall give written notice (by hand, email, or facsimile transmission) to counsel for the Producing Party (or Producing Parties) within three (3) business days of receipt of such Demand (or, if a response to the Demand is due in less than three (3) business

days, at least twenty-four (24) hours prior to the deadline for a response to the Demand), identifying the Confidential or Highly Confidential Discovery Material sought and enclosing a copy of the Demand, and must object to the production of the Confidential or Highly Confidential Discovery Material on the grounds of the existence of this Stipulation. The burden of opposing the enforcement of the Demand will fall on the Producing Party. Nothing herein shall be construed as requiring the Receiver or anyone else covered by this Stipulation to challenge or appeal any order requiring production of Confidential or Highly Confidential Discovery Material covered by this Stipulation, or to subject itself to any penalties for noncompliance with any legal process or order, or to seek any relief from this Court or any other court. Compliance by the Receiver with any order directing production pursuant to a Demand of any Confidential or Highly Confidential Discovery Material will not constitute a violation of this Stipulation.

28. No Receiver shall reveal any Confidential or Highly Confidential Discovery Material, or the information contained therein, to anyone not entitled to receive such Confidential or Highly Confidential Discovery Material under the terms of this Stipulation. In the event that Confidential or Highly Confidential Discovery Material is disclosed to any person other than in the manner authorized by this Stipulation, or that any information comes to the Receiver's attention that may indicate there was or is likely to be a loss of confidentiality of

any Confidential or Highly Confidential Discovery Material, the Receiver responsible for the disclosure or loss of confidentiality shall immediately inform the Producing Party of all pertinent facts relating to the disclosure or loss of confidentiality, including, if known, the name, address, and employer of each person to whom the disclosure was made. The Receiver responsible for the disclosure or loss of confidentiality shall also make reasonable efforts to prevent disclosure of Confidential or Highly Confidential Discovery Material by each unauthorized person who receives the information.

29. The Parties agree that the production of any Discovery Material by any non-Party shall be subject to and governed by the terms of this Stipulation.

30. To the extent of any conflict between this Stipulation and Rule 5.1, Rule 5.1 shall control.

31. This Stipulation, and any dispute arising out of or relating in any way to this Stipulation, whether in contract, tort, or otherwise, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to conflict of laws principles. Each of the Parties (i) irrevocably submits to the personal jurisdiction of any state or federal court sitting in the State of Delaware, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, in any suit, action, or proceeding arising out of or relating to this Stipulation, (ii) agrees that all claims in respect of such suit, action, or proceeding shall be

brought, heard, and determined exclusively in the Delaware Court of Chancery (provided that, in the event that subject matter jurisdiction is unavailable in that Court, then all such claims shall be brought, heard, and determined exclusively in any other state or federal court sitting in the State of Delaware), (iii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from such court, (iv) agrees not to bring any suit, action, or proceeding arising out of or relating to this Stipulation in any other court, and (v) expressly waives, and agrees not to plead or to make any claim that any such suit, action, or proceeding is subject (in whole or in part) to a jury trial. Each of the Parties waives any defense of inconvenient forum to the maintenance of any suit, action, or proceeding brought in accordance with this Paragraph. Each of the Parties further agrees to waive any bond, surety, or other security that might be required of any other party with respect to any suit, action, or proceeding, including, without limitation, an appeal thereof. Each of the Parties further consents and agrees that process in any suit, action, or proceeding may be served on such Party by certified mail, return receipt requested, addressed to such Party or such Party's registered agent in the state of its incorporation or organization, or in any other manner provided by law.

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IT IS SO ORDERED this ____ day of _____, 2022.

Chancellor Kathaleen St. J McCormick

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Kathaleen St Jude McCormick

File & Serve

Transaction ID: 67850662

Current Date: Jul 22, 2022

Case Number: 2022-0613-KSJM

Case Name: Twitter, Inc. v. Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc.

Court Authorizer: Kathaleen St Jude McCormick

/s/ Judge Kathaleen St Jude McCormick