

EXHIBIT 1

MASTER FILE NO. 2021-15294

IN RE: JANUARY 24 TH	§	IN THE DISTRICT COURT OF
EXPLOSION LITIGATION	§	HARRIS COUNTY TEXAS
This Document Relates to All Cases	§	11 TH JUDICIAL DISTRICT

AGREED CONFIDENTIALITY AND PROTECTIVE ORDER

The Parties to the January 24th Explosion Litigation¹ recognize that discovery herein may involve confidential and sensitive personal, medical, business, financial, and/or proprietary information considered by one or more Parties to be confidential and, therefore, certain documents and information should be produced and/or disclosed only subject to a protective order. Thus, the Court hereby enters this Agreed Confidentiality and Protective Order (the “Protective Order”) as follows:

1. All “Protected Information” as defined below shall be used solely and exclusively for the preparation and conduct of litigation in the January 24th Explosion Litigation and shall not, unless directed by an appropriate court, be used, made available, disclosed, or disseminated in any manner for any other purpose. Any person or entity receiving Protected Information shall hold it in confidence and not divulge it to any person or entity not authorized to receive the information under this Protective Order unless otherwise directed by an appropriate court. Under no circumstances shall any person or entity receiving Protected Information sell, offer for sale, advertise, or publicize the Protected Information. A copy of this Protective Order shall be attached to any discovery request made by a Party to any third-party.

¹ Capitalized terms used but not defined herein shall have the meaning(s) ascribed thereto in Case Management Order No. 1 (“CMO #1”).

2. Definitions:

- a. “Document” shall mean any information in written, electronic, magnetic, digital, or recorded form and includes information commonly considered ESI or electronically stored information.
- b. “Party” or “Parties” means Plaintiffs and Defendants in the January 24th Explosion Litigation, whether individually or collectively.
- c. “Producing Party” means the Party producing Protected Information in the January 24th Explosion Litigation.
- d. “Protected Information” means all non-public information that a Party reasonably believes in good faith to be confidential, classified, proprietary, sensitive, or private, including but not limited to:
 - i. information that qualifies as a “trade secret” under the Texas Uniform Trade Secret Act, or
 - ii. sensitive financial, medical, or personally identifying information, such as account statements, tax returns, tax identification numbers, social security numbers, or medical records that is not publicly known and is subject to reasonable efforts to maintain the confidential nature of the information.
- e. “Receiving Party” means the Party(s) receiving Protected Information in the January 24th Explosion Litigation.

3. Only documents containing Protected Information may be designated “Confidential” or “Highly Confidential—Attorneys Eyes Only.” The producing party will make such a designation only as to those documents or discovery responses that are in good faith believed to contain or constitute Protected Information.

4. A document may be designated “Confidential” if it, in the good faith estimation of counsel for the Producing Party, contains Protected Information. Protected Information may not be publicly disseminated or disclosed by the Receiving Party and may be disclosed only to (a) the Parties and officers or employees of the Parties to whom it is necessary that the Protected Information be disclosed for purposes of the January 24th Explosion Litigation, (b) counsel acting on behalf of the Receiving Party who has made any appearance in the January 24th

Explosion Litigation and any attorneys, paralegals, or other employees employed in the same law firm as said counsel, (c) any retained experts, consultants, or agents of said counsel who agree to be bound by this Protective Order and have signed the Certificate of Acknowledgement attached to this Protective Order as Exhibit A, (d) any authors or recipients of the Confidential Protected Information; (e) stenographers and/or videographers transcribing or otherwise documenting testimony or argument at a deposition, hearing, or trial; (f) the Court, Court personnel, and court reporters; (g) independent third-party litigation support vendors providing graphics, design, photocopy, document imaging, document processing, translation, or database services to counsel for any Party; (h) mediators engaged by the Parties to assist in the January 24th Explosion Litigation; (i) deposition witnesses who agree to be bound by this Protective Order and have signed the Certificate of Acknowledgement attached to this Protective Order as Exhibit A; and (j) such other person as this Court may designate after notice and an opportunity to be heard.

5. A document may be designated “Highly Confidential-Attorneys Eyes Only,” if and only if, in the good faith estimation of counsel for the Producing Party, the document contains non-public current business or financial information and/or information that qualifies as a “trade secret” under the Texas Uniform Trade Secret Act and/or applicable laws in effect in any jurisdiction where the disclosure of such information was made. A Highly Confidential-Attorneys Eyes Only document may not be publicly disseminated or disclosed by the Receiving Party. A Highly Confidential-Attorneys Eyes Only document may be disclosed only to (a) counsel acting on behalf of a Party who has made an appearance in the January 24th Explosion Litigation and any attorneys, paralegals, or other employees employed in the same law firm as said counsel, (b) any retained experts, consultants, or agents of said counsel who agree to be bound by this Protective Order and have signed the Certificate of Acknowledgement attached to

this Protective Order as Exhibit A, (c) one member of the general counsel's office of any Party, who shall be an attorney responsible for day-to-day oversight of the January 24th Explosion Litigation, agrees to be bound by this Protective Order, and has signed the Certificate of Acknowledgement attached to this Protective Order as Exhibit A, (d) any authors or recipients of the Highly Confidential-Attorneys Eyes Only Protected Information, (e) stenographers and/or videographers transcribing or otherwise documenting testimony or argument at a deposition, hearing, or trial; (f) the Court, Court personnel and court reporters; (g) mediators engaged by the Parties to assist in the January 24th Explosion Litigation; and (h) such other person as this Court may designate after notice and an opportunity to be heard. In the course of rendering legal advice, counsel for a Party may provide a high-level summary of Highly Confidential-Attorneys Eyes Only documents to the parties he/she represents, and any such summary shall be treated as "Confidential" according to Section 4 above.

6. Except for Protected Information provided to the Court, court personnel, and court reporters, counsel for each Party providing Protected Information to any person pursuant to this Protective Order shall give a copy of this Protective Order to all such persons to whom Protected Information is disclosed, and each person is hereby bound by this Protective Order and enjoined from disclosing such Protected Information to any other person or using such Protected Information outside the terms of this Protective Order.

7. Any qualifying documents shall be designated as Confidential or Highly Confidential-Attorneys Eyes Only by stamping the legend "Confidential" or "Highly Confidential-Attorneys Eyes Only," respectively, on each page of such qualifying documents as to which the designation is claimed. At the Producing Party's option, the Producing Party may designate a document consisting of more than five (5) pages as "Confidential" or "Highly

Confidential-Attorneys Eyes Only” by affixing a cover page to the document which cover page bears the appropriate stamp designation and lists the identification number (by Bates number) of each page of the set intended to be so designated.

8. All parties recognize that native format documents cannot be so marked, and thus, to the extent that native format documents are produced, the Producing Party will make reasonable provision for marking native format documents, in the file name, on the disk on which the native format documents are produced, or in any other reasonable way in connection with the transmission or retention of such documents on office systems.

9. All copies of documents designated as “Confidential” or “Highly Confidential-Attorneys Eyes Only” shall again be stamped or otherwise labeled “Confidential” or “Highly Confidential-Attorneys Eyes Only”, respectively, if the duplicating process by which copies of such documents are made does not reproduce the original stamp.

10. Any deposition transcripts or any portion thereof, including exhibits, may also be designated as Confidential or Highly Confidential-Attorneys Eyes Only by:

- a. stating orally on the record of a deposition that certain exhibits or aspects of testimony are Confidential or Highly Confidential-Attorneys Eyes Only; and/or
- b. sending written notice no later than within thirty (30) days of receipt of the transcript or the deposition, through designations by page and line, of those portions of the transcript and/or the exhibits that the Party designates as Confidential or Highly Confidential-Attorneys Eyes Only.

11. Until the thirty-day period for designation of deposition testimony as Confidential or Highly Confidential-Attorneys Eyes Only has expired, the deposition transcript shall be treated as Confidential unless previously designated as Highly Confidential-Attorneys Eyes Only.

12. All Protected Information produced or exchanged during the January 24th Explosion Litigation (not including information that is publicly available) shall be used by the Party or Parties to whom the information is produced solely for the purpose of the January 24th Explosion Litigation.

13. A Receiving Party may use any document produced under this Protective Order in any deposition of any Party or Party-representative and in any trial or hearing in the January 24th Explosion Litigation without limitation. Nothing in this Protective Order shall limit or restrict Counsel from providing legal and strategic advice to a client. Any Confidential or Highly Confidential-Attorneys Eyes Only document used in a deposition shall retain its protections, and any testimony revealing the substance of the document shall likewise carry the same designation as the document.

14. Any Party desiring to file Protected Information, or a document that quotes from or substantially reveals the contents of Protected Information (collectively “Sealable Protected Information”), with the Court shall file said Sealable Protected Information under seal according to the rules of this court for the filing of documents under seal. A Party seeking to file Sealable Protected Information must also file a motion to seal, pursuant to Texas Rule of Civil Procedure 76a. A Party seeking to file Sealable Protected Information at the same time it files a motion to seal such information under Texas Rule of Civil Procedure 76a must file only a redacted copy of the Sealable Protected Information for the public file. An unredacted copy of the filing must be served contemporaneously on each Party and the Court in addition to a redacted public filing.

15. When filing a motion to seal under Texas Rule of Civil Procedure 76a, it shall be sufficient for the filing Party to state in a temporary motion to seal that subject matter of the filing includes Protected Information that was marked as Confidential or Highly Confidential-

Attorneys Eyes Only pursuant to the terms of this Protective Order. However, upon the filing of a temporary motion to seal, the Producing Party bears the burden of proving that the materials are properly subject to permanent sealing prior to the hearing on the motion. In the event the Court denies a motion to permanently seal a record, then the Party that originally filed the redacted document shall file an unredacted version of the document that, in a footnote on the first page, refers back to both the redacted filing and the Court's order denying sealing. Any such unredacted filing shall relate back to the original date of the redacted filing and no new deadlines will be triggered by such filing.

16. The existence of this Protective Order, the filing of the documents under seal, or the designation of the documents as Confidential or Highly Confidential-Attorneys Eyes Only shall not serve as a concession or evidence that any particular document or information is or is not Protected Information, privileged, qualified for protection under applicable law, or admissible at a hearing or trial.

17. Nothing in this Protective Order precludes a party from seeking relief from the Court with regards to the production of documents or information. Further, nothing in this Protective Order shall be construed as an agreement or acknowledgement by any non-producing party that any document, testimony, or other information designated as Confidential or Highly Confidential-Attorneys Eyes Only constitutes a trade secret or is in fact confidential.

18. Once approved and signed by the Parties' counsel, the Parties are to be bound by the provisions of this Protective Order as a valid agreement under Texas Rule of Civil Procedure 11, until such time as the Protective Order is signed and entered by the Court. Once signed and entered, the Parties shall be bound by the provisions of this Protective Order as an order of this Court, which may be modified or amended only by a subsequent Court order.

19. In the event that a Party discovers it inadvertently has produced Protected Information that has not been designated as such in advance of production or disclosure or otherwise determines previously produced or disclosed documents or information should be treated as Protected Information, the Party may designate the documents or information as Protected Information by subsequent notice to all Parties in writing. No person or Party shall incur any liability or sanction with respect to any disclosure or dissemination of such documents or information occurring prior to receipt of written notice of a belated designation.

20. In the event that a Party discovers it inadvertently received Protected Information that has not been designated as such in advance of production or disclosure, or if such Party otherwise determines previously produced or disclosed documents or information should be treated as Protected Information, nothing herein shall limit the Party's obligation to timely inform the Producing Party.

21. If any Party objects to the designation of any document as Confidential or Highly Confidential-Attorneys Eyes Only, the Party shall state the objection by letter to counsel for the Party making the designation and shall identify by bates number each document and/or page to which the Party objects. If the Parties are then unable to resolve the objection, the Party seeking to maintain the designation shall have fourteen (14) days from receipt of such written notice within which to move the Court for a judicial determination of whether the materials were properly designated as Confidential or Highly Confidential-Attorneys Eyes Only. Until the Court rules on any such motion, the document(s) shall continue to be deemed Confidential or Highly Confidential-Attorneys Eyes Only under the terms of this Protective Order. If the Party does not move the Court for a judicial determination within fourteen (14) days from receipt of

such written notice, the document(s) shall no longer be designated as Confidential or Highly Confidential-Attorney Eyes Only.

22. Notwithstanding any challenge to the designation of material as Confidential or Highly Confidential-Attorneys Eyes Only, all documents shall be treated as such and shall be subject to the provisions hereof unless and until one of the following occurs:

- a. The Party or non-party who claims that the material is Confidential or Highly Confidential-Attorneys Eyes Only withdraws such designation in writing; or
- b. The Court rules the material is not Confidential or Highly Confidential-Attorneys Eyes Only.

23. This Protective Order shall not apply to any document or information that is available publicly, is a matter of public record on file with any court or governmental or regulatory agency or board, or is or becomes available by any lawful and unrestricted means. The burden of proving that the document or information was obtained from outside the discovery process in this litigation shall be upon the Party receiving the information from the alleged outside source.

24. Any witness or other person, firm, or entity from which discovery is sought shall be considered a Producing Party entitled to protection under the terms of the Protective Order.

25. If, at any time, any Receiving Party receives a subpoena or other compulsory process commanding production of Protected Information, the Party to whom the subpoena or request is directed shall, except where prohibited by law, reasonably provide prompt written notice to the Producing Party within three (3) business days of receipt of such subpoena. It is the intent of this paragraph to allow at least ten (10) days, where possible, for the Producing Party to take protective action regarding the subpoenaed documents before the Protected Information is produced. The Party to whom the subpoena or request is directed shall not take any position

concerning the propriety of such subpoena or request or the discoverability of the information sought thereby. It shall be the obligation of the Producing Party, if it chooses, to file a motion for protection or otherwise oppose or respond to such a subpoena or request. Other than the obligation to comply with the requirements stated herein, this Protective Order does not affect a Party's obligation to respond to such a subpoena or request. Any retained expert who has agreed to be bound by this Protective Order and has signed the Certificate of Acknowledgement attached to this Protective Order as Exhibit A, when testifying in another, unrelated case, shall advise the Court for the case in which he or she is testifying of the existence of this Protective Order before responding to any questions regarding Confidential Information and, only if ordered by such Court to respond, may respond to questions regarding Confidential Information without being in violation of this Order.

26. This Court retains and shall have continuing jurisdiction over the Parties and recipients of the Protected Information for enforcement of the provisions of this Protective Order following the termination of the January 24th Explosion Litigation.

27. Within sixty (60) days after dismissal of or entry of final judgment not subject to further appeal in the January 24th Explosion Litigation, all discovery materials produced must be either destroyed or returned to the Producing Party. If destroyed, an affidavit by the Receiving Party with an attached certificate of destruction must be produced to the Producing Party no later than thirty (30) days after the termination of the January 24th Explosion Litigation. Failure to provide the affidavit and certificate of destruction shall be deemed as a violation of the Court's order by the Receiving Party, if after receiving notice from the Producing Party and fourteen (14) days to cure, the Receiving Party still does not provide the affidavit and certificate of destruction.

28. The attorneys signing this Protective Order have the authority to bind their respective clients to this Protective Order and do so by their signatures.

IT IS SO ORDERED.

Signed on this 7th day of May, 2021.



Hon. Judge Mark Davidson

Exhibit A

MASTER FILE NO. 2021-15294

IN RE: JANUARY 24TH	§	IN THE DISTRICT COURT OF
	§	
EXPLOSION LITIGATION	§	HARRIS COUNTY TEXAS
	§	
This Document Relates to All Cases	§	11th JUDICIAL DISTRICT

**CERTIFICATE OF ACKNOWLEDGEMENT OF AGREED
CONFIDENTIALITY AND PROTECTIVE ORDER**

STATE OF _____ §
 COUNTY OF _____ §

I, _____, declare that I have been provided a copy of and have read the Agreed Confidentiality and Protective Order (the "Protective Order") entered in the above-referenced case. I agree to abide by the Protective Order and therefore agree not to reveal or otherwise communicate or disclose to any person or entity, or use, any of the documents or information designated as Protected Information that are disclosed to me, except in accordance with the Protective Order. I acknowledge and understand that any violation of the Protective Order may be punishable by contempt of Court or result in civil liability, or both, and irrevocably submit to the jurisdiction of the 11th Judicial District Court of Harris County Texas for all matters relating to such Protective Order. I declare that the statements made and information provided in this Certificate of Acknowledgement of Agreed Confidentiality and Protective Order are true and correct.

My name is _____, my date of birth is _____, and my address is _____. I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____, on the ____ day of _____, 202__.

Signature of Declarant