

**JOINT DEFENSE AND COMMON INTEREST PRIVILEGE AGREEMENT**

1. This Joint Defense and Common Interest Privilege Agreement, dated as of [ ] [\_\_\_\_], 2015 (this “Agreement”), by and among \_\_\_\_\_ (collectively, the “Parties”) and their counsel, will memorialize certain understandings pertaining to the common interest and defense of the Parties hereto in each matter set forth on Schedule A hereto (each, a “Matter” and, collectively, the “Litigation”).
2. The Parties believe that there is a mutuality of interest in their common defense in the Litigation. In this regard, the Parties wish to continue to pursue their separate but common interests, and avoid any suggestion of waiver of privileged communications.
3. Accordingly, it is the Parties’ intention and understanding that communications among the Parties, joint interviews of prospective witnesses and other sharing of information, whether written or verbal, are confidential and are protected from disclosure to any third party by the clients’ attorney-client privilege, the attorneys’ work product privileges, the joint defense privilege and the common interest privilege. Such communications and/or exchanges of information in connection with the undersigned Parties’ common defense efforts is not intended to waive any attorney-client, work product, joint defense, or common interest privileges otherwise available. The Parties consider such mutual sharing and disclosure of matters of common concern essential to the preparation of an effective defense by the clients with respect to each Matter, and essential to the effective representation by counsel of their clients. These mutual disclosures and exchanges of information, therefore, are protected by the “joint defense privilege” and “common interest privilege” recognized in cases such as *In re United Mine Workers of America Employee Benefit Plans Litig.*, 159 F.R.D. 307 (D.D.C. 1994).
4. It is also understood and agreed that all memoranda of law, debriefing memoranda, factual summaries, digests, draft pleadings and affidavits, and other written materials which would otherwise be protected from disclosure to third parties on grounds of privilege, and which are or have been exchanged among the undersigned counsel and their respective clients in connection with any of the Matters referenced in Paragraph 1 above, will remain confidential and protected from disclosure to any third party by the attorney-client, attorney work product, joint defense and common interest privileges.
5. Except for purposes of enforcing this Agreement or otherwise obtaining the benefits intended to be obtained from this Agreement, the fact of this Agreement and its contents shall remain confidential and protected from disclosure to any third party by the attorney-client, attorney work product, joint defense and common interest privileges.
6. None of the documents and other information shared among the Parties and their counsel pursuant to this Agreement shall be disclosed to third parties. It is understood that information and documents obtained by counsel pursuant to this Agreement may be used by counsel as a factual predicate to formulate questions of witnesses, including those witnesses who may be called to testify in the Matters or related proceedings. In propounding such questions, however, the protected information or documents may not be specifically described or otherwise disclosed.

7. The Parties understand and agree that all material and information disclosed or shared pursuant to this Agreement shall be used only in connection with the defense of clients involved in the Litigation and shall not be used for any other purpose without the prior express written consent of the Parties that provided the protected material.
8. Nothing in this Agreement shall obligate any of the undersigned attorneys or their respective clients to disclose or share any information or materials that he/she determines should not be disclosed. Nor shall anything in this Agreement prevent any of the undersigned attorneys or their respective clients from imposing additional conditions under which materials or information may be shared or disclosed. Notwithstanding the foregoing, nothing in this Agreement is intended to impair or limit any other agreement between or among any of the Parties with respect to access to books and records.
9. The Parties acknowledge that disclosure of any protected material in violation of the Agreement will cause irreparable harm to the undersigned and their respective clients for which there is no adequate remedy at law. Each of the Parties acknowledges that immediate injunctive relief is an appropriate and necessary remedy for any violation or threatened violation of the Agreement.
10. If any person or entity that is not a party to this Agreement requests or demands, by subpoena or otherwise, any protected material that has been provided to one of the Parties by another Party, the Party that has received the request shall immediately notify the supplying Party. Each Party will take all reasonable steps necessary to preserve all applicable rights and privileges with respect to such protected material and shall cooperate fully with the other Parties in any proceedings relating to the disclosure of such protected materials. This Agreement shall continue in effect notwithstanding any conclusion or resolution as to any Party in any of the Matters. The Parties understand and agree that they will continue to be bound by this Agreement following any such conclusion or resolution.
11. Any waiver in any particular instance of the rights and limitations contained herein shall not be deemed, and is not intended to be, a general waiver of any rights or limitations contained herein and shall not operate as a waiver beyond the particular instance.
12. The Parties and their counsel agree to the following procedures with respect to the conduct of their defense in each of the Matters:
13. The Parties understand and agree that modifications of this Agreement can be made only if such modifications are in writing and signed by counsel for all Parties.
14. By signing this Agreement, each of the undersigned attorneys certifies that he/she has explained the contents of the Agreement to his/her respective client(s) and that each agrees to abide by the understandings reflected herein.
15. Counsel may become a party to this Agreement on his/her own behalf and on behalf of his/her client by executing the original of this instrument, or a counterpart thereof. The execution of counterparts shall have the same effect as if all Parties had signed the same instrument.
16. This Agreement shall inure to the benefit of, and be binding upon counsel and their party and all successors-in-interest, assigns, and affiliates of each party.

17. All Parties will exercise their utmost good faith and diligence, and cooperate with each other in carrying out the provisions of this Agreement.
18. This Agreement and all disputes or controversies arising out of or related to this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of New York, without regard to the laws of any other jurisdiction that might be applied because of conflicts of laws principles of the State of New York.
19. The provisions of this agreement are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision.
20. Each signatory hereto represents and warrants that he, she or it has taken all steps necessary to obtain, and has in fact obtained, full authority to bind the party to the terms of this Agreement.

Each of the Parties whose signature appears below acknowledges that it has reviewed this Agreement and agrees to the terms embodied herein.