

**Sample Provisions for Confidentiality Agreement
in Books-and-Records Request Context**

(Note: specific provisions depend heavily on particular facts and circumstances)

Use Of Confidential Information In Litigation

“If the Shareholder Parties desire to use Confidential Information in connection with litigation concerning possible mismanagement by the Company’s officers and directors, they shall inform the Company at least fourteen (14) days prior to serving and filing the papers concerning the Confidential Information, shall cooperate with the Company to seek court approval for a reasonable order of confidentiality, and shall otherwise use their best efforts to file the Confidential Information under seal. While a motion or joint motion for a reasonable order of confidentiality is pending, the Shareholder Parties shall serve and file any papers concerning Confidential Information under seal.”

Production Of Privileged Information

“If Confidential Information alleged to be subject to attorney-client privilege, attorney work product, or any other applicable privilege or immunity is disclosed to the Shareholder Parties, such disclosure shall in no way prejudice or otherwise constitute a waiver of, or estoppel as to, any claim of privilege, work product, or other applicable privilege or immunity that the Company otherwise would have, and the Shareholder Parties agree not to assert that voluntary production of such Confidential Information pursuant to this Agreement constitutes a waiver of any privilege or immunity.”

Standstill

“In exchange for obtaining the documents described in paragraphs [●],[●] and [●], the Shareholder Parties shall forbear from initiating any proceeding to enforce its Demand or from initiating any shareholder derivative litigation in any court until no sooner than the earliest of the following three dates: (A) the date there is a publicly disclosed significant action regarding the [investigation]; or (B) any shareholder derivative complaint is filed in any court by any other shareholder of the Company not represented by [shareholder’s counsel]; or (C) [date].”