SEARCH ORDER

IN THE HIGH COURT OF JUSTICE
[ ] DIVISION

Before The Honourable Mr Justice

[ ]

Claim No.

Dated

Applicant

Seal

Respondent

Name, address and reference of Respondent

PENAL NOTICE

IF YOU [ ][1] DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.

ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING WHICH HELPS OR PERMITS THE RESPONDENT TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.

1. Insert name of Respondent.

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THIS ORDER

1. This is a Search Order made against [ ] ('the Respondent') on [ ] by Mr Justice [ ] on the application of [ ] ('the Applicant'). The Judge read the Affidavits listed in Schedule F and accepted the undertakings set out in Schedules C, D and E at the end of this order.

2. This order was made at a hearing without notice to the Respondent. The Respondent has a right to apply to the court to vary or discharge the order— see paragraph 27 below.

3. There will be a further hearing in respect of this order on [ ] ('the return date').

4. If there is more than one Respondent–

   (a) unless otherwise stated, references in this order to 'the Respondent' mean both or all of them; and

   (b) this order is effective against any Respondent on whom it is served or who is given notice of it.

5. This order must be complied with by–

   (a) the Respondent;

   (b) any director, officer, partner or responsible employee of the Respondent; and

   (c) if the Respondent is an individual, any other person having responsible control of the premises to be searched.

THE SEARCH

6. The Respondent must permit the following persons[8]–

   (a) [ ] ('the Supervising Solicitor');

   (b) [ ], a solicitor in the firm of [ ], the Applicant's solicitors; and

   (c) up to [ ] other persons[9] being *[their identity or capacity]* accompanying them,

   (together 'the search party'), to enter the premises mentioned in Schedule A to this order and any other premises of the Respondent disclosed under paragraph 18 below and any vehicles under the Respondent's control on or around the premises ('the premises') so that

8. Where the premises are likely to be occupied by an unaccompanied woman and the Supervising Solicitor is a man, at least one of the persons accompanying him should be a woman.
9. None of these persons should be people who could gain personally or commercially from anything they might read or see on the premises, unless their presence is essential.

they can search for, inspect, photograph or photocopy, and deliver into the safekeeping of the Applicant's solicitors all the documents and articles which are listed in Schedule B to this order ('the listed items').

7. Having permitted the search party to enter the premises, the Respondent must allow the search party to remain on the premises until the search is complete. In the event that it becomes necessary for any of those persons to leave the premises before the search is complete, the Respondent must allow them to re-enter the premises immediately upon their seeking re-entry on the same or the following day in order to complete the search.

RESTRICTIONS ON SEARCH

8. This order may not be carried out at the same time as a police search warrant.

9. Before the Respondent allows anybody onto the premises to carry out this order, he is entitled to have the Supervising Solicitor explain to him what it means in everyday language.

10. The Respondent is entitled to seek legal advice and to ask the court to vary or discharge this order. Whilst doing so, he may ask the Supervising Solicitor to delay starting the search for up to 2 hours or such other longer period as the Supervising Solicitor may permit. However, the Respondent must–

    (a) comply with the terms of paragraph 27 below;

    (b) not disturb or remove any listed items; and

    (c) permit the Supervising Solicitor to enter, but not start to search.

11. (1) Before permitting entry to the premises by any person other than the Supervising Solicitor, the Respondent may, for a short time (not to exceed two hours, unless the Supervising Solicitor agrees to a longer period) –

    (a) gather together any documents he believes may be incriminating or privileged; and

    (b) hand them to the Supervising Solicitor for him to assess whether they are incriminating or privileged as claimed.

    (2) If the Supervising Solicitor decides that the Respondent is entitled to withhold production of any of the documents on the ground that they are privileged or incriminating, he will exclude them from the search, record them in a list for inclusion in his report and return them to the Respondent.

    (3) If the Supervising Solicitor believes that the Respondent may be entitled to withhold production of the whole or any part of a document on the ground that it or part of it may be privileged or incriminating, or if the Respondent claims to be entitled to withhold production on those grounds, the Supervising Solicitor will exclude it from the search and retain it in his possession pending further order of the court.

12. If the Respondent wishes to take legal advice and gather documents as permitted, he must first inform the Supervising Solicitor and keep him informed of the steps being taken.

13. No item may be removed from the premises until a list of the items to be removed has been prepared, and a copy of the list has been supplied to the Respondent, and he has been given a reasonable opportunity to check the list.

14. The premises must not be searched, and items must not be removed from them, except in the presence of the Respondent.

15. If the Supervising Solicitor is satisfied that full compliance with paragraphs 13 or 14 is not practicable, he may permit the search to proceed and items to be removed without fully complying with them.

DELIVERY UP OF ARTICLES/DOCUMENTS

16. The Respondent must immediately hand over to the Applicant's solicitors any of the listed items, which are in his possession or under his control, save for any computer or hard disk integral to any computer. Any items the subject of a dispute as to whether they are listed items must immediately be handed over to the Supervising Solicitor for safe keeping pending resolution of the dispute or further order of the court.

17. The Respondent must immediately give the search party effective access to the computers on the premises, with all necessary passwords, to enable the computers to be searched. If they contain any listed items the Respondent must cause the listed items to be displayed so that they can be read and copied[10]. The Respondent must provide the Applicant's Solicitors with copies of all listed items contained in the computers. All reasonable steps shall be taken by the Applicant and the Applicant's solicitors to ensure that no damage is done to any computer or data. The Applicant and his representatives may not themselves search the Respondent's computers unless they have sufficient expertise to do so without damaging the Respondent's system.

PROVISION OF INFORMATION

18. The Respondent must immediately inform the Applicant's Solicitors (in the presence of the Supervising Solicitor) so far as he is aware–

    (a) where all the listed items are;

    (b) the name and address of everyone who has supplied him, or offered to supply him, with listed items;

    (c) the name and address of everyone to whom he has supplied, or offered to supply, listed items; and

    (d) full details of the dates and quantities of every such supply and offer.

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10. If it is envisaged that the Respondent's computers are to be imaged (i.e. the hard drives are to be copied wholesale, thereby reproducing listed items and other items indiscriminately), special provision needs to be made and independent computer specialists need to be appointed, who should be required to give undertakings to the court.

19. Within [ ] working days after being served with this order the Respondent must swear and serve an affidavit setting out the above information[11].

PROHIBITED ACTS

20. Except for the purpose of obtaining legal advice, the Respondent must not directly or indirectly inform anyone of these proceedings or of the contents of this order, or warn anyone that proceedings have been or may be brought against him by the Applicant until 4.30 p.m. on the return date or further order of the court.

21. Until 4.30 p.m. on the return date the Respondent must not destroy, tamper with, cancel or part with possession, power, custody or control of the listed items otherwise than in accordance with the terms of this order.

22. [Insert any negative injunctions.]

23. [Insert any further order]

COSTS

24. The costs of this application are reserved to the judge hearing the application on the return date.

RESTRICTIONS ON SERVICE

25. This order may only be served between [ ] a.m./p.m. and [ ] a.m./ p.m. [and on a weekday][12].

26. This order must be served by the Supervising Solicitor, and paragraph 6 of the order must be carried out in his presence and under his supervision.

VARIATION AND DISCHARGE OF THIS ORDER

27. Anyone served with or notified of this order may apply to the court at any time to vary or discharge this order (or so much of it as affects that person), but they must first inform the Applicant's solicitors. If any evidence is to be relied upon in support of the application, the substance of it must be communicated in writing to the Applicant's solicitors in advance.

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11. The period should ordinarily be longer than the period in paragraph (2) of Schedule D, if any of the information is likely to be included in listed items taken away of which the Respondent does not have copies.
12. Normally, the order should be served in the morning (not before 9.30 a.m.) and on a weekday to enable the Respondent more readily to obtain legal advice.

INTERPRETATION OF THIS ORDER

28. Any requirement that something shall be done to or in the presence of the Respondent means–

    (a) if there is more than one Respondent, to or in the presence of any one of them; and

    (b) if a Respondent is not an individual, to or in the presence of a director, officer, partner or responsible employee.

29. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.

30. A Respondent which is not an individual which is ordered not to do something must not do it itself or by its directors, officers, partners, employees or agents or in any other way.

COMMUNICATIONS WITH THE COURT

All communications to the court about this order should be sent to–

[Insert the address and telephone number of the appropriate Court Office]

If the order is made at the Royal Courts of Justice, communications should be addressed as follows–

Where the order is made in the Chancery Division

The Senior Associate, Fifth Floor, The Rolls Building, 7 Rolls Building, Fetter Lane, London EC4A 1NL, quoting the case number. The telephone number is 020 7947 6733. The office is open between 10 a.m. and 4.30 p.m. Monday to Friday.

Where the order is made in the Queen's Bench Division

Room WG08, Royal Courts of Justice, Strand, London WC2A 2LL quoting the case number. The telephone number is 020 7947 6010.

Where the order is made in the Commercial Court

Room EB09, Royal Courts of Justice, Strand, London WC2A 2LL quoting the case number. The telephone number is 0207 947 6826.

The offices are open between 10 a.m. and 4.30 p.m. Monday to Friday.

SCHEDULE A

THE PREMISES

SCHEDULE B

THE LISTED ITEMS

SCHEDULE C

UNDERTAKINGS GIVEN TO THE COURT BY THE APPLICANT

(1) If the court later finds that this order or carrying it out has caused loss to the Respondent, and decides that the Respondent should be compensated for that loss, the Applicant will comply with any order the court may make. Further if the carrying out of this order has been in breach of the terms of this order or otherwise in a manner inconsistent with the Applicant's solicitors' duties as officers of the court, the Applicant will comply with any order for damages the court may make.

[(2) As soon as practicable the Applicant will issue a claim form [in the form of the draft produced to the court] [claiming the appropriate relief].]

(3) The Applicant will [swear and file an affidavit] [cause an affidavit to be sworn and filed] [substantially in the terms of the draft affidavit produced to the court] [confirming the substance of what was said to the court by the Applicant's counsel/solicitors].

(4) The Applicant will not, without the permission of the court, use any information or documents obtained as a result of carrying out this order nor inform anyone else of these proceedings except for the purposes of these proceedings (including adding further Respondents) or commencing civil proceedings in relation to the same or related subject matter to these proceedings until after the return date.

[(5) The Applicant will maintain pending further order the sum of £ [ ] in an account controlled by the Applicant's solicitors.]

[(6) The Applicant will insure the items removed from the premises.]

SCHEDULE D

UNDERTAKINGS GIVEN BY THE APPLICANT'S SOLICITORS

(1) The Applicant's solicitors will provide to the Supervising Solicitor for service on the Respondent–

(i) a service copy of this order;

(ii) the claim form (with defendant's response pack) or, if not issued, the draft produced to the court;

(iii) an application for hearing on the return date;

(iv) copies of the affidavits *[or draft affidavits]* and exhibits capable of being copied containing the evidence relied upon by the applicant;

(v) a note of any allegation of fact made orally to the court where such allegation is not contained in the affidavits or draft affidavits read by the judge; and

(vi) a copy of the skeleton argument produced to the court by the Applicant's [counsel/solicitors].

(2) The Applicants' solicitors will answer at once to the best of their ability any question whether a particular item is a listed item.

(3) Subject as provided below the Applicant's solicitors will retain in their own safe keeping all items obtained as a result of this order until the court directs otherwise.

(4) The Applicant's solicitors will return the originals of all documents obtained as a result of this order (except original documents which belong to the Applicant) as soon as possible and in any event within [two] working days of their removal.

SCHEDULE E

UNDERTAKINGS GIVEN BY THE SUPERVISING SOLICITOR

(1) The Supervising Solicitor will use his best endeavours to serve this order upon the Respondent and at the same time to serve upon the Respondent the other documents required to be served and referred to in paragraph (1) of Schedule D.

(2) The Supervising Solicitor will offer to explain to the person served with the order its meaning and effect fairly and in everyday language, and to inform him of his right to take legal advice (such advice to include an explanation that the Respondent may be entitled to avail himself of [the privilege against self-incrimination or] [legal professional privilege]) and to apply to vary or discharge this order as mentioned in paragraph 27 above.

(3) The Supervising Solicitor will retain in the safe keeping of his firm all items retained by him as a result of this order until the court directs otherwise.

(4) Within [48] hours of completion of the search the Supervising Solicitor will make and provide to the Applicant's solicitors, the Respondent or his solicitors and to the judge who made this order (for the purposes of the court file) a written report on the carrying out of the order.

(5) Within [48] hours of completion of the search the Supervising Solicitor will make and provide to the Applicant's solicitors, the Respondent or his solicitors and to the judge who made this order (for the purposes of the court file) a written report on the carrying out of the order.

SCHEDULE F

AFFIDAVITS

The Applicant relied on the following affidavits–

[name]	[number of affidavit]	[date sworn]	[filed on behalf of]
(1)			
(2)			

NAME AND ADDRESS OF APPLICANT'S SOLICITORS

The Applicant's solicitors are–

[Name, address, reference, fax and telephone numbers both in and out of office hours.]