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 16 **UNITED STATES DISTRICT COURT**
 17 **CENTRAL DISTRICT OF CALIFORNIA**
 18 **WESTERN DIVISION**

19 DARRELL GREENLAND,
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 Plaintiff,
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 v.
 22 HARBOR FREIGHT TOOLS USA, INC.
 23
 Defendant.
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 25 AND RELATED COUNTERCLAIMS.
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Case No. 2:14-cv-5867-RGK (Ex)
~~PROPOSED~~ STIPULATION FOR PROTECTIVE ORDER
 Judge: Hon. R. Gary Klausner
 Magistrate: Hon. Charles F. Eick

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On consideration of the Stipulation for Protection of Confidential Materials jointly submitted by Plaintiff Darrell Greenland and Defendant Harbor Freight Tools USA, Inc., the reasons set forth therein, and it appearing to the Court that such a Protective Order is necessary and appropriate and will facilitate discovery,

IT IS THEREFORE ORDERED THAT:

Stipulated Protective Order

The production of documents and other disclosure of information in this litigation shall be subject to the requirements and obligations set forth herein and in accordance with Rule 26(c) of the Federal Rules of Civil Procedure.

DEFINITIONS

1. “Party” shall mean: any party to this action, including all of its officers, directors, employees, consultants, retained experts, and outside counsel (and their support staff).
2. “Disclosure or Discovery Material” shall mean: all items or information, regardless of the medium or manner generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.
3. “CONFIDENTIAL” shall mean: any Party’s or non-party’s confidential and nonpublic information, the disclosure of which the Producing Party and/or the non-party contends could cause harm to the business operations of the Producing Party and/or the non-party, or provide improper advantage to others, and that is not otherwise marked or designated by the Producing Party as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”
4. “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” shall mean: any Party’s and any non-party’s highly confidential and proprietary business, commercial, competitive, financial, marketing, sales and technical information

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5. "Receiving Party" shall mean: a Party that receives Disclosure or Discovery Material from a Producing Party.

6. "Producing Party" shall mean: a Party or non-party that produces Disclosure or Discovery Material in this action.

7. "Designating Party" shall mean: a Party or non-party that designates information or items that it produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

8. "Protected Material" shall mean: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

9. "Outside Counsel" shall mean: attorneys and their support staff who are not employees of a Party but who are retained to represent or advise a Party in this action.

10. "In-House Counsel" shall mean: attorneys and their support staff who are employees of a Party.

11. "Counsel" (without qualifier) shall mean: Outside Counsel and In-House Counsel as well as their respective support staff.

12. "Expert" shall mean: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its Counsel to serve as an expert witness or as a consultant in this action. This definition includes a professional jury or trial consultant retained in connection with this litigation.

13. "Professional Vendor" shall mean: Persons or entities that provide litigation support services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing, storing, or retrieving data in any form or medium; etc.) and their employees and subcontractors.

1. **SCOPE**

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The protections conferred by this Order cover not only Protected Material, but also any information copied or extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or presentations by Parties or Counsel to or in court or in other settings that might reveal Protected Material.

2. DURATION

After the termination of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs.

3. DESIGNATING PROTECTED MATERIAL

3.1 Manner and Timing of Designations

Except as otherwise provided in this Order, or as otherwise stipulated or ordered, material that qualifies for protection under this Order must be so designated before the material is disclosed or produced. Designation in conformity with this Order requires the following:

(a) For information in documentary form (apart from transcripts of depositions or other pretrial or trial proceedings), the Producing Party must affix the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at the bottom of each page that contains Protected Material. If only a portion or portions of the material qualifies for protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each portion, the level of protection being asserted. A Party or non-party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting Party has indicated which material it would like copied and produced. After the inspecting Party has identified the documents it would like copied and produced, the Producing Party must determine which documents, or portions thereof, qualify for protection under this Order, then, before producing the specified

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2 documents, the Producing Party must affix the appropriate legend
3 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
4 ONLY”) at the bottom of each page that contains Protected Material. If only a
5 portion or portions of the material on a page qualifies for protection, the Producing
6 Party also must clearly identify the protected portion(s) (e.g., by making
7 appropriate markings in the margins) and must specify, for each portion, the level
8 of protection being asserted.

9 (b) For testimony given during a deposition or other pretrial or trial
10 proceeding, each Party and/or each Party’s Counsel present during the giving of
11 such testimony may identify testimony that it seeks to designate as
12 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –ATTORNEYS’ EYES
13 ONLY.” Once identified as such, this material shall be designated
14 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –ATTORNEYS’ EYES
15 ONLY” and immediately treated as such under the provisions of this Protective
16 Order. Each Party additionally may have up to 30 days after receipt of the formal
17 transcript of the given testimony to identify any material that it seeks to designate
18 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –ATTORNEYS’ EYES
19 ONLY.” The Party seeking such protection shall so notify the other Party in
20 writing and identify the portions of the testimony for which protection is sought.
21 Once identified, both Parties shall treat such material in accordance with the
22 provisions in this Protective Order.

23 (c) For information produced in some form other than documentary,
24 and for any other tangible items, the Producing Party must affix in a prominent
25 place on the exterior of the container or containers in which the information or item
26 is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY.” If only portions of the information or item warrant
28 protection, the Producing Party, to the extent practicable, shall identify the

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2 protected portions, specifying whether they qualify as “CONFIDENTIAL” or as
3 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 3.2 Inadvertent Failures to Designate

5 If the Designating Party, within a reasonable time after producing documents
6 to the Receiving Party, discovers an inadvertent failure to designate qualified
7 information or items as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY,” the Designating Party will not be deemed to have
9 waived its right to secure protection under this Order for such material. The
10 Designating Party shall, within a reasonable time, identify in writing to the
11 Receiving Party such materials or items the Designating Party seeks to designate
12 with the corrected level of protection indicated for those materials or items. Upon
13 receipt of such written notification, the Receiving Party shall make reasonable
14 efforts to assure that the material is treated in accordance with the provisions of this
15 Order.

16 3.3 Inadvertent Production of Privileged Information

17 (a) The inadvertent production of privileged or work product documents
18 will not waive the attorney-client privilege or the attorney-work product privilege;
19 provided, however, that this Order shall not prevent any party from moving to
20 compel production of allegedly privileged or work product documents on any
21 grounds other than the inadvertent production of such documents.

22 (b) Upon a request from a party which has inadvertently produced any
23 document which it believes may be subject to the attorney-client or attorney-work
24 product privilege, any party receiving the document and or non-party to whom the
25 document has been disclosed shall immediately return it to the producing party and
26 destroy all copies thereof. Nothing in this Order shall prevent the discovering party
27 from preparing a record for his or her own use containing the date, author,
28 addresses, and topic of the document and such other information reasonably
necessary to identify the document and describe its nature to the Court in any

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2 motion to compel the document's production. Such a record of the identity and
3 nature of a document may not be used for any purpose other than preparation of
4 such a motion to compel in this matter.

5 **4. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 **4.1 Timing of Challenges**

7 Unless a prompt challenge to a Designating Party's confidentiality
8 designation is necessary to avoid foreseeable substantial unfairness, unnecessary
9 economic burdens, or a later significant disruption or delay of the litigation, a Party
10 does not waive its right to challenge a confidentiality designation by electing not to
11 pursue a challenge promptly after the original designation is disclosed.

12 **4.2 Meet and Confer**

13 A Party that elects to initiate a challenge to a Designating Party's
14 confidentiality designation must do so in good faith and must begin the process by
15 conferring with counsel for the Designating Party. This conferring may be done by
16 telephone. In conferring, the challenging Party must explain the basis for its belief
17 that the confidentiality designation was not proper and must give the Designating
18 Party an opportunity to review the designated material, to reconsider the
19 circumstances, and, if no change in designation is offered, to explain the basis for
20 the chosen designation. A challenging Party may proceed to the next stage of the
21 challenge process only if it has engaged in this meet and confer process first.

22 **4.3 Challenging a Designation**

23 If the parties are unable to agree as to whether the designation of discovery
24 material is appropriate, the party or parties receiving the Protected Materials
25 wishing to contest the designation may file a motion with the Court with regard to
26 any Protected Materials in dispute. All Protected Materials are entitled to
27 confidential treatment pursuant to the terms of this Order until and unless the
28 parties formally agree in writing to the contrary or a contrary determination is made

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2 by the Court as to whether all or a portion of the Protected Material is entitled to
3 confidential treatment.

4 **5. ACCESS TO AND USE OF PROTECTED MATERIAL**

5 5.1 Basic Principles

6 A Receiving Party may use Protected Material that is disclosed or produced
7 by another Party or by a non-party in connection with this case only for this
8 litigation. Such Protected Material may be disclosed only to the categories of
9 persons and under the conditions described in this Order. When the litigation has
10 been terminated, a Receiving Party must comply with the provisions of Section 10
11 of this Protective Order, "Final Disposition."

12 5.2 Disclosure of "CONFIDENTIAL" Information

13 Unless otherwise ordered by the court upon good cause shown or permitted
14 in writing by the Designating Party, a Receiving Party may disclose information or
15 items designated "CONFIDENTIAL" only to:

16 (a) the Receiving Party's Outside Counsel in this action and
17 employees of said Outside Counsel to whom it is reasonably necessary to disclose
18 the information for this litigation;

19 (b) the officers, directors, and employees, including In-House
20 Counsel, of the Receiving Party to whom disclosure is reasonably necessary for this
21 litigation;

22 (c) Experts (1) to whom disclosure is reasonably necessary for this
23 litigation and who have signed the Acknowledgment and Agreement to Be Bound
24 attached as Exhibit A ("Agreement to Be Bound") attached hereto,;

25 (d) the Court and its personnel;

26 (e) court reporters, their staff, and Professional Vendors to whom
27 disclosure is reasonably necessary for this litigation;
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(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the Agreement to Be Bound; and

(g) the author of the designated document or the original source of the information, any person to whom such "CONFIDENTIAL" information was previously communicated, or any person to whom disclosure was in fact made during the regular course of business.

5.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information

Unless otherwise ordered by the court upon good cause shown, or permitted in writing by the Designating Party, a Receiving Party may only disclose information or items designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" to:

(a) the Receiving Party's Outside Counsel in this action and employees of said Outside Counsel to whom it is reasonably necessary to disclose the information for this litigation;

(b) Experts (1) to whom disclosure is reasonably necessary for this litigation, (2) who have signed the Agreement to Be Bound attached hereto

(c) the Court and its personnel;

(d) court reporters, their staffs,

(e) Professional Vendors to whom disclosure is reasonably necessary for this litigation; and

(f) the author of the designated document or the original source of the information, any person to whom such "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information was previously communicated, or any person to whom disclosure would have been made during the regular course of business.

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5.4 Disclosure of CONFIDENTIAL and HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY information to persons permitted by the parties pursuant to paragraphs 5.2(b)-(c) and (e)-(f) and 5.3(b), (d)-(e) above shall be made only after such persons are shown a copy of this Order and have agreed to be bound by its terms by executing Agreement to Be Bound attached hereto.

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7. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION**

If a Receiving Party is served with a subpoena or an order issued in other litigation that seeks disclosure of any information or items designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the Receiving Party must so notify the Designating Party in writing upon learning that the subpoena or order seeks disclosure of such information or items. Such notification must include a copy of the subpoena or court order. The Receiving Party also must promptly inform in writing the Party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must deliver a copy of this Stipulated Protective Order promptly to the Party in the other action that caused the subpoena or order to issue. The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued. The Designating Party shall bear the burdens and the expenses of seeking protection in that court of its confidential material –

8. **UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this

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2 Protective Order, the Receiving Party must immediately (a) notify in writing the
3 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
4 all copies of the Protected Material, (c) inform the person or persons to whom
5 unauthorized disclosures were made of all the terms of this Order, and (d) request
6 such person or persons to execute the Agreement to Be Bound.

7 **9. FILING PROTECTED MATERIAL**

8 Any filing of Protected Material may be filed under seal without a separate
9 court order provided the pleadings have a reference to this section of this Protective
10 Order.

11 **10. FINAL DISPOSITION**

12 Unless otherwise ordered or agreed in writing by the Producing Party, within
13 sixty (60) days after the final termination of this action, each Receiving Party must
14 return all Protected Material to the Producing Party or destroy all Protected
15 Material. As used in this subdivision, "all Protected Material" includes all copies,
16 abstracts, compilations, summaries or any other form of reproducing or capturing
17 any of the Protected Material. Whether the Protected Material is returned or
18 destroyed, the Receiving Party must submit a written certification to the Producing
19 Party (and, if not the same person or entity, to the Designating Party) by the sixty-
20 day deadline that confirms all Protected Material was returned or destroyed and
21 that affirms that the Receiving Party has not retained any copies, abstracts,
22 compilations, summaries or other forms of reproducing or capturing any of the
23 Protected Material or any information copied or extracted therefrom.

24 Notwithstanding this provision, Outside Counsel are entitled to retain an archival
25 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence
26 and attorney work product, even if such materials contain Protected Material. Any
27 such archival copies that contain or constitute Protected Material remain subject to
28 this Protective Order as set forth in Section 2 of this Protective Order, "Duration."

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11. MISCELLANEOUS

11.1 Right to Further Relief

Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

11.2 Right to Assert Other Objections

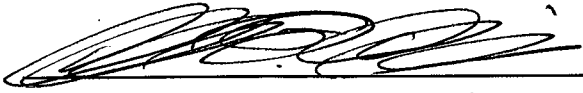
By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence any of the material covered by this Protective Order.

Dated: January 28, 2015 /s/ Patrick F. Bright
Patrick F. Bright
Attorneys for Plaintiff Darrell Greenland

Dated: January , 2015 /s/
Mark J. Rosenberg (admitted *pro hac vice*)
Attorneys for Defendant Harbor Freight Tools
USA, Inc.

IT IS SO ORDERED.

Dated: 1/28/15



The Honorable Charles F. Eick
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on _____ [date] in the case of *Darrell Greenland v. Harbor
Freight Tools USA, Inc.*, Case No. 2:14-cv-5867-RGK (Ex). I agree to comply
with and to be bound by all the terms of this Stipulated Protective Order and I
understand and acknowledge that failure to so comply could expose me to
sanctions and punishment in the nature of contempt. I solemnly promise that I
will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance
with the provisions of this Stipulated Protective Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the
terms of this Stipulated Protective Order, even if such enforcement
proceedings occur after termination of this action.

Date: _____
City and State where sworn and signed: _____
Printed name: _____
Signature: _____