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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

NOMADIX, INC.,

Plaintiff,

v.

GUEST-TEK INTERACTIVE
ENTERTAINMENT LTD.,

Defendant.

Case No.

CV16-08033 AB (FFMx)

[PROPOSED]

**STIPULATED PROTECTIVE
ORDER**

1 **1. STATEMENT OF GOOD CAUSE**

2 The parties agree that disclosure and discovery activities in this action are
3 likely to involve production of highly sensitive financial or business information or
4 proprietary information that has not been disseminated to the public at large, that is
5 not readily discoverable by competitors and that has been the subject of reasonable
6 efforts by the respective parties to maintain its secrecy, and for which special
7 protection from public disclosure would be warranted. Such information likely will
8 include, among other things, sensitive contracts, product information, product-
9 design and development materials, engineering materials, marketing and sales
10 information, purchase orders, invoices, distributor information, and customer infor-
11 mation relating to network gateway devices and high-speed Internet access
12 services.

13 Each party wishes to ensure that such confidential information shall not be
14 made public by the other party beyond the extent necessary for purposes of this
15 action. The parties therefore seek to facilitate the production and protection of such
16 information. The parties acknowledge that this Protective Order does not confer
17 blanket protections on all disclosures or responses to discovery and that the
18 protection it affords from public disclosure and use extends only to the limited
19 information or items that are entitled to confidential treatment under the applicable
20 legal principles. The parties further acknowledge that this Protective Order does
21 not itself entitle them to file confidential information under seal; Local Rule 79-5
22 sets forth the procedures that must be followed and the standards that will be
23 applied when a party seeks permission from the Court to file material under seal.

24 Good cause exists to enter the instant Protective Order to protect such
25 confidential information from public disclosure. The confidential information
26 includes information that could be used by actual or potential competitors to gain a
27 competitive advantage in the marketplace.

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1 Accordingly, based upon the parties’ agreement and for good cause shown,
2 it is hereby ordered that whenever in the course of these proceedings any party or
3 nonparty has occasion to disclose information deemed in good faith to constitute
4 confidential information, the parties and any such nonparty shall employ the
5 procedures set forth below.

6 **2. DEFINITIONS**

7 2.1 Challenging Party: a Party or Non-Party that challenges the
8 designation of information or items under this Order.

9 2.2 “CONFIDENTIAL” Information or Items: information (regardless of
10 how it is generated, stored, or maintained) or tangible things that qualify for
11 protection under Federal Rule of Civil Procedure 26(c).

12 2.3 Counsel: Outside Counsel of Record and House Counsel (as well as
13 their support staff).

14 2.4 Designating Party: a Party or Non-Party that designates information or
15 items that it produces in disclosures or in responses to discovery as
16 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
17 ONLY.”

18 2.5 Disclosure or Discovery Material: all items or information, regardless
19 of the medium or manner in which it is generated, stored, or maintained (including,
20 among other things, testimony, transcripts, and tangible things), that are produced
21 or generated in disclosures or responses to discovery in this matter.

22 2.6 Expert: a person with specialized knowledge or experience in a matter
23 pertinent to the litigation who (1) has been retained by a Party or its counsel to
24 serve as an expert witness or as a consultant in this action, (2) is not a past or
25 current employee of a Party or of a Party’s competitor, and (3) at the time of
26 retention, is not anticipated to become an employee of a Party or of a Party’s
27 competitor.

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1 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
2 Information or Items: extremely sensitive “Confidential Information or Items,”
3 disclosure of which to another Party or Non-Party would create a substantial risk of
4 serious harm that could not be avoided by less restrictive means.

5 2.8 House Counsel: attorneys or legal agents who are employees of a
6 party to this action. House Counsel does not include Outside Counsel of Record or
7 any other outside counsel.

8 2.9 Non-Party: any natural person, partnership, corporation, association,
9 or other legal entity not named as a Party to this action.

10 2.10 Outside Counsel of Record: attorneys who are not employees of a
11 party to this action but are retained to represent or advise a party to this action and
12 have appeared in this action on behalf of that party or are affiliated with a law firm
13 which has appeared on behalf of that party, and who are bound by orders of this
14 Court.

15 2.11 Party: any party to this action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of Record (and their
17 support staffs).

18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this action.

20 2.13 Professional Vendors: persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
22 demonstrations, and organizing, storing, or retrieving data in any form or medium)
23 and their employees and subcontractors.

24 2.14 Protected Material: any Disclosure or Discovery Material that is
25 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
26 ATTORNEYS’ EYES ONLY.”

27 2.15 Receiving Party: a Party that receives Disclosure or Discovery
28 Material from a Producing Party.

1 **3. SCOPE**

2 The protections conferred by this Order cover not only Protected Material
3 (as defined above), but also (1) any information copied or extracted from Protected
4 Material; (2) all copies, excerpts, summaries, or compilations of Protected
5 Material; and (3) any testimony, conversations, or presentations by Parties or their
6 Counsel that might reveal Protected Material. However, the protections conferred
7 by this Order do not cover the following information: (a) any information that is in
8 the public domain at the time of disclosure to a Receiving Party or becomes part of
9 the public domain after its disclosure to a Receiving Party as a result of publication
10 not involving a violation of this Order, including becoming part of the public
11 record through trial or otherwise; and (b) any information known to the Receiving
12 Party prior to the disclosure or obtained by the Receiving Party after the disclosure
13 from a source who obtained the information lawfully and under no obligation of
14 confidentiality to the Designating Party. Any use of Protected Material at trial shall
15 be governed by a separate agreement or order.

16 **4. DURATION**

17 Even after final disposition of this litigation, the confidentiality obligations
18 imposed by this Order shall remain in effect until a Designating Party agrees
19 otherwise in writing or a court order otherwise directs. Final disposition shall be
20 deemed to occur when all claims in this action are disposed of through (1)
21 dismissal, with or without prejudice, (2) final judgment (after the completion and
22 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,
23 including the time limits for filing any motions or applications for extension of
24 time pursuant to applicable law), or (3) some combination thereof.

25 **5. DESIGNATING PROTECTED MATERIAL**

26 5.1 Exercise of Restraint and Care in Designating Material for Protection.

27 Each Party or Non-Party that designates information or items for protection under
28 this Order must take care to limit any such designation to specific material that

1 qualifies under the appropriate standards. To the extent it is practical to do so, the
2 Designating Party must designate for protection only those parts of material,
3 documents, items, or oral or written communications that qualify – so that other
4 portions of the material, documents, items, or communications for which
5 protection is not warranted are not swept unjustifiably within the ambit of this
6 Order.

7 Designations that are shown to be clearly unjustified or that have been made
8 for an improper purpose (e.g., to unnecessarily encumber or retard the case
9 development process or to impose unnecessary expenses and burdens on other
10 parties) expose the Designating Party to sanctions.

11 If it comes to a Designating Party’s attention that information or items that it
12 designated for protection do not qualify for protection at all or do not qualify for
13 the level of protection initially asserted, that Designating Party must promptly
14 notify all other parties that it is withdrawing the mistaken designation.

15 5.2 Manner and Timing of Designations. Except as otherwise provided in
16 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
17 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
18 under this Order must be clearly so designated before the material is disclosed or
19 produced.

20 Designation in conformity with this Order requires:

- 21 (a) for information in documentary form (e.g., paper or electronic
22 documents, including documents produced in accordance with
23 paragraphs 1 and 2 of the Parties’ Stipulated Discovery Order—
24 but excluding transcripts of depositions or other pretrial or trial
25 proceedings), that the Producing Party affix the legend
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY” to each page that contains
28 protected material.

1 A Party or Non-Party that makes original documents or
2 materials available for inspection need not designate them for
3 protection until after the inspecting Party has indicated which
4 material it would like copied and produced. During the
5 inspection and before the designation, all of the material made
6 available for inspection shall be deemed “HIGHLY
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
8 inspecting Party has identified the documents it wants copied
9 and produced, the Producing Party must determine which
10 documents, or portions thereof, qualify for protection under this
11 Order. Then, before producing the specified documents, the
12 Producing Party must affix the appropriate legend
13 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
14 ATTORNEYS’ EYES ONLY”) to each page that contains
15 Protected Material.

16 (b) for testimony given in deposition, that either (i) the Designating
17 Party identify on the record, before the close of the deposition,
18 all testimony or exhibits containing Protected Material and
19 specify the level of protection being asserted, or (ii) the
20 Designating Party provide written notice to the reporter and all
21 counsel of record, of any portion of the deposition transcript or
22 exhibits containing Protected Material, and the level of
23 protection being asserted, no later than twenty (20) business
24 days after the Designating Party receives written notice that a
25 final transcript is available for review, in which case all counsel
26 receiving such notice from the Designating Party shall be
27 responsible for marking the corresponding materials in their
28 possession or control as directed by the Designating Party. If

1 deposition testimony is designated pursuant to this subsection
2 (b)(ii), one of the following legends, some combination thereof,
3 or a legend substantially similar to the same shall be placed on
4 the front of any transcript or recording of such deposition:

5 Contains CONFIDENTIAL Information or Items.
6 Designated parts not to be used, copied or disclosed except
7 as authorized by court order or the party or parties whose
8 CONFIDENTIAL Information or Items is included.

9 or

10 Contains HIGHLY CONFIDENTIAL – ATTORNEYS’
11 EYES ONLY Information or Items. Designated parts not
12 to be used, copied or disclosed except as authorized by
13 court order or the party or parties whose HIGHLY
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY
15 Information or Items is included.

16
17 Regardless of whether testimony or exhibits have been
18 identified as Protected Material in accordance with subsection
19 (b)(i) hereof, from the time of any deposition through the end of
20 twenty-one (21) business days after a final transcript of the
21 deposition is made available by a reporter, the deposition
22 (including exhibits) and any transcript or recording thereof shall
23 be treated as “HIGHLY CONFIDENTIAL – ATTORNEYS’
24 EYES ONLY” Protected Material. At the end of the twenty-one
25 (21) business days, the deposition (including exhibits) and any
26 transcript or recording thereof shall be treated as public
27 information (with no confidentiality designation) except to the
28 extent designated pursuant to subsection (b)(ii) hereof.

1 The use of a document as an exhibit at a deposition shall not
2 in any way affect its designation as “CONFIDENTIAL” or
3 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 (c) for information produced in some form other than documentary
5 and for any other tangible items, that the Producing Party affix
6 in a prominent place on the exterior of the container or
7 containers in which the information or item is stored the legend
8 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
9 ATTORNEYS’ EYES ONLY.” If only a portion or portions of
10 the information or item warrant protection, the Producing Party,
11 to the extent practicable, shall identify the protected portion(s)
12 and specify the level of protection being asserted.

13 5.3 Inadvertent Failures to Designate. If a Producing Party corrects an
14 inadvertent failure to designate qualified information or items within a reasonable
15 amount of time from discovery of the inadvertent disclosures, that failure to
16 designate does not, standing alone, waive the Producing Party’s right to secure
17 protection under this Order for such material. Upon timely correction of a
18 designation, the Receiving Party must make reasonable efforts to assure that the
19 material is treated in accordance with the provisions of this Order. To correct the
20 designation, the Producing Party must provide the Receiving Party with written
21 notice of the error and substituted, correctly designated copies of the inadvertently
22 produced Disclosure or Discovery Material, including an appropriate Concordance
23 overlay indicating the corrected designations. Any Receiving Party provided with
24 such notice shall make reasonable efforts to retrieve and destroy all copies of the
25 incorrectly designated Disclosure or Discovery Material, including copies
26 disclosed or provided to others, as well as any notes or other materials relating to
27 the incorrectly designated Disclosure or Discovery Material that this Protective
28 Order would not have permitted had the Disclosure or Discovery Material been

1 correctly designated. The Receiving Party will not have violated, and will not be
2 liable under, this Protective Order by relying on the incorrect designation
3 (including the absence of any designation), including by, before receiving written
4 notice of the error, disclosing the Disclosure or Discovery Material or any
5 information contained therein consistent with this Protective Order and the
6 incorrect designation.

7 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

8 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
9 designation of confidentiality at any time. Unless a prompt challenge to a
10 Designating Party's confidentiality designation is necessary to avoid foreseeable,
11 substantial unfairness, unnecessary economic burdens, or a significant disruption
12 or delay of the litigation, a Party does not waive its right to challenge a
13 confidentiality designation by electing not to mount a challenge promptly after the
14 original designation is disclosed.

15 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
16 resolution process by providing written notice of each designation it is challenging
17 and describing the basis for each challenge. To avoid ambiguity as to whether a
18 challenge has been made, the written notice must recite that the challenge to
19 confidentiality is being made in accordance with this specific paragraph of the
20 Protective Order. The parties shall attempt to resolve each challenge in good faith
21 and must begin the process by conferring directly (in voice to voice dialogue; other
22 forms of communication are not sufficient) within 14 days of the date of service of
23 notice. In conferring, the Challenging Party must explain the basis for its belief that
24 the confidentiality designation was not proper and must give the Designating Party
25 an opportunity to review the designated material, to reconsider the circumstances,
26 and, if no change in designation is offered, to explain the basis for the chosen
27 designation. A Challenging Party may proceed to the next stage of the challenge
28 process only if it has engaged in this meet and confer process first or establishes

1 that the Designating Party is unwilling to participate in the meet and confer process
2 in a timely manner.

3 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
4 court intervention, the Designating Party shall serve its portion of a joint
5 stipulation under Civil Local Rule 37-2 on a motion to retain confidentiality. The
6 Designating Party must serve its portion of the joint stipulation within 21 days of
7 the initial notice of challenge or within 14 days of the parties agreeing that the
8 meet and confer process will not resolve their dispute, whichever is later; failure by
9 the Designating Party to comply with this deadline shall automatically waive the
10 confidentiality designation for each challenged designation, in which case the new
11 designation will coincide with the Challenging Party's position.

12 The burden of persuasion in any such challenge proceeding shall be on the
13 Designating Party. Frivolous challenges and those made for an improper purpose
14 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
15 expose the Challenging Party to sanctions. Unless the Designating Party has
16 waived the confidentiality designation by failing to serve its portion of a joint
17 stipulation as described above and then reasonably promptly filing its motion in
18 accordance with Local Rule 37-2, all parties shall continue to afford the material in
19 question the level of protection to which it is entitled under the Designating Party's
20 designation until the Court rules on the challenge or the Designating Party revokes
21 the designation.

22 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

23 7.1 Basic Principles. A Receiving Party may use Protected Material that is
24 disclosed or produced by another Party or by a Non-Party in connection with this
25 case only for prosecuting, defending, or attempting to settle this litigation. But
26 nothing in this Protective Order prevents a Receiving Party from relying on its
27 knowledge, awareness, and memories of Protected Material produced in this case
28 in other litigation—for example, as a basis for requesting production of documents

1 in a different litigation—though the Order may require the Receiving Party to
2 follow procedures in the other litigation to protect the Protected Material (see, e.g.,
3 section 8). A Receiving Party may disclose Protected Material only to the
4 categories of persons and under the conditions described in this Order. When the
5 litigation has been terminated, a Receiving Party must comply with the provisions
6 of section 13 below (FINAL DISPOSITION).

7 Protected Material must be stored and maintained by a Receiving Party at a
8 location and in a secure manner that ensures that access is limited to the persons
9 authorized under this Order. The Receiving Party shall maintain the Protected
10 Material in a secure and safe area and shall exercise at least the same standard of
11 due and proper care with respect to the storage, custody, use, and dissemination of
12 such information as is exercised by the Receiving Party with respect to its own
13 proprietary information.

14 7.2 Disclosure of “CONFIDENTIAL” Information or Items. A Receiving
15 Party may disclose any information or item designated “CONFIDENTIAL” only
16 to:

- 17 (a) Any Party’s Outside Counsel of Record in this action, as well
18 as employees of said Outside Counsel of Record;
- 19 (b) One (1) House Counsel of the Receiving Party and who has
20 signed the “Acknowledgment and Agreement to Be Bound”
21 (Exhibit A);
- 22 (c) Experts (as defined in this Order) of the Receiving Party who
23 have signed the “Acknowledgment and Agreement to Be
24 Bound” (Exhibit A) and as to whom the procedures of section
25 7.4 have been followed;
- 26 (d) the Court and its personnel;
- 27 (e) court reporters and their staff and Professional Vendors to
28 whom disclosure is reasonably necessary for this litigation;

- 1 (f) jury or trial consultants and mock jurors who have signed the
2 “Acknowledgment and Agreement to Be Bound” (Exhibit A),
3 as long as such consultant or mock juror is not an officer,
4 director, employee, or House Counsel of the Receiving Party;
- 5 (g) the Producing Party, including any person affiliated with the
6 Producing Party for purposes of this litigation (such as experts
7 and designees under Federal Rule of Civil Procedure 30(b)(6));
- 8 (h) authors, actual recipients, and named recipients (as expressly
9 identified on the face of such Protected Material) of such
10 Protected Material, even if such authors or recipients are not
11 currently employed by any Party; but if such authors or
12 recipients are not currently employed by any Party, the
13 Receiving Party must not provide them with their own copies of
14 such Protected Material—authors or recipients not currently
15 employed by any Party may only review such Protected
16 Material without retaining it; and
- 17 (i) any other person (i) agreed to by the Producing Party in writing
18 or (ii) authorized by the Court in an order subsequent to this
19 Order.

20 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
21 ONLY” Information or Items. A Receiving Party may disclose any information or
22 item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
23 only to the persons identified in sections 7.2(a) and 7.2(c)–(i).

24 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
25 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to
26 Experts.

- 27 (a) Unless otherwise ordered by the court or agreed to in writing by
28 the Designating Party, a Party that seeks to disclose to an

1 Expert (as defined in this Order) any information or item that
2 has been designated “HIGHLY CONFIDENTIAL –
3 ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b)
4 first must make a written request to the Designating Party that
5 (1) sets forth the full name of the Expert, (2) sets forth the city
6 and state of his or her primary residence, (3) attaches a copy of
7 the Expert’s current resume, (4) identifies the Expert’s current
8 employer(s), (5) identifies any past or present employment or
9 consulting or litigation-related (such as acting as an expert
10 witness) relationship, or a relationship by which the Expert has
11 otherwise provided professional services, with any Party, any
12 related company, or any company whose business relates to
13 computer technologies, as well as an identification of the
14 subject matter of any work performed in the course of such
15 relationship, and (6) identifies (by name and number of the
16 case, filing date, and location of court if applicable) a
17 description of the expert or consultant’s employment and
18 consulting during the preceding four years, including an
19 identification of the subject matter of any work performed in
20 the course of such employment or consulting and, unless the
21 employment or consulting was confidential, the name of each
22 person or entity who employed or used the services of the
23 Expert.

24 (b) A Party that makes a request and provides the information
25 specified in the preceding respective paragraph may disclose
26 Protected Material for which it is a Receiving Party to the
27 identified Expert unless, within 14 days of delivering the
28 request, the Receiving Party receives a written objection from

1 the Designating Party. Any such objection must set forth in
2 detail the grounds on which it is based.

3 (c) A Designating Party that makes a timely written objection must
4 meet and confer with the Receiving Party (through direct voice
5 to voice dialogue) to try to resolve the matter by agreement
6 within seven days of the written objection. If no agreement is
7 reached, the Designating Party must serve its portion of a Local
8 Rule 37-2 joint stipulation on a motion to prohibit the proposed
9 disclosure within fourteen days of the Designating Party's
10 original written objection. Absent good cause (such as the
11 discovery of new information about the Expert's employment
12 relationships) failure to comply with this deadline will result in
13 the Designating Party waiving its objection to the Expert.

14 (d) In any such proceeding, the Party opposing disclosure to the
15 Expert shall bear the burden of proving that the risk of harm
16 that the disclosure would entail (under the safeguards proposed)
17 outweighs the Receiving Party's need to disclose the Protected
18 Material to its Expert.

19 (e) If the Designating Party serves its portion of the joint
20 stipulation in accordance with section 7.4(c) and proceeds to
21 reasonably promptly file its motion in accordance with Local
22 Rule 37-2, the Receiving Party may not disclose Protected
23 Material to the person objected to until, and only to the extent
24 to which, (i) the Receiving Party and Designating Party resolve
25 their dispute as memorialized in writing or (ii) the Court denies
26 the Designating Party's motion.

27 7.5 If Protected Material is to be disclosed during a deposition, any
28 persons present at the deposition who are not authorized to receive such Protected

1 Material under this Protective Order shall be asked to leave the deposition during
2 the testimony concerning such Protected Material.

3 7.6 Notwithstanding the foregoing, if Protected Material makes reference
4 to the actual or alleged conduct or statements of a person who will be a witness,
5 counsel for the Receiving Party may discuss the conduct or statements with the
6 witness without revealing any other portion of the Protected Material, and that
7 discussion shall not constitute disclosure in violation of this Protective Order.

8 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
9 **PRODUCED IN OTHER LITIGATION**

10 8.1 If a Party is served with a subpoena or a court order issued in other
11 litigation that compels disclosure of any information or items designated in this
12 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
13 EYES ONLY” that Party must:

- 14 (a) promptly notify in writing the Designating Party. Such
15 notification shall include a copy of the subpoena or court order;
- 16 (b) promptly notify in writing the party who caused the subpoena
17 or order to issue in the other litigation that some or all of the
18 material covered by the subpoena or order is subject to this
19 Protective Order. Such notification shall include a copy of this
20 Stipulated Protective Order; and
- 21 (c) cooperate with respect to all reasonable procedures sought to be
22 pursued by the Designating Party whose Protected Material
23 may be affected.

24 8.2 If the Designating Party timely seeks a protective order, the Party
25 served with the subpoena or court order shall not produce any information
26 designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
27 ATTORNEYS’ EYES ONLY” before a determination by the court from which the
28 subpoena or order issued, unless the Party has obtained the Designating Party’s

1 permission. The Designating Party shall bear the burden and expense of seeking
2 protection in that court of its confidential material—and nothing in these
3 provisions should be construed as authorizing or encouraging a Receiving Party in
4 this action to disobey a lawful directive from another court.

5 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**
6 **PRODUCED IN THIS LITIGATION**

7 9.1 The terms of this Order are applicable to information produced by a
8 Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced
10 by Non-Parties in connection with this litigation is protected by the remedies and
11 relief provided by this Order. Nothing in these provisions should be construed as
12 prohibiting a Non-Party from seeking additional protections.

13 9.2 In the event that a Party is required, by a valid discovery request, to
14 produce a Non-Party’s confidential information in its possession, and the Party is
15 subject to an agreement with the Non-Party not to produce the Non-Party’s
16 confidential information, then the Party shall:

- 17 (a) promptly notify in writing the Requesting Party and the Non-
18 Party that some or all of the information requested is subject to
19 a confidentiality agreement with a Non-Party;
20 (b) promptly provide the Non-Party with a copy of the Stipulated
21 Protective Order in this litigation, the relevant discovery
22 request(s), and a reasonably specific description of the
23 information requested; and
24 (c) make the information requested available for inspection by the
25 Non-Party.

26 9.3 If the Non-Party fails to object or seek a protective order from this
27 court within 21 days of receiving the notice and accompanying information, the
28 Receiving Party may produce the Non-Party’s confidential information responsive

1 to the discovery request. If the Non-Party timely seeks a protective order, the
2 Receiving Party shall not produce any information in its possession or control that
3 is subject to the confidentiality agreement with the Non-Party before a
4 determination by the court. Absent a court order to the contrary, the Non-Party
5 shall bear the burden and expense of seeking protection in this court of its
6 Protected Material.

7 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

8 If a Receiving Party learns that, by inadvertence or otherwise, it has
9 disclosed Protected Material to any person or in any circumstance not authorized
10 under this Stipulated Protective Order, the Receiving Party must immediately (a)
11 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
12 best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
13 the person or persons to whom unauthorized disclosures were made of all the terms
14 of this Order, and (d) request such person or persons to execute the
15 “Acknowledgment and Agreement to Be Bound” that is attached hereto as
16 Exhibit A.

17 **11. EXEMPTIONS**

18 Nothing in this Protective Order shall bar or otherwise restrict counsel from
19 rendering advice to his or her client with respect to this action and, in the course
20 thereof, relying in a general way upon his or her examination of Protected Material
21 produced in this action. But in rendering such advice and in otherwise
22 communicating with his or her client, counsel shall not disclose the contents of
23 Protected Material produced by any other Producing Party except as otherwise
24 permitted by this Protective Order.

25 **12. MISCELLANEOUS**

26 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
27 person to seek its modification by the Court in the future or precludes any

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1 12.2 Producing Party from seeking additional protection of information,
2 including, for example, an order that certain matters may not be discovered at all.

3 12.3 Right to Assert Other Objections. By stipulating to the entry of this
4 Protective Order no Party waives any right it otherwise would have to object to
5 disclosing or producing any information or item on any ground not addressed in
6 this Stipulated Protective Order. Similarly, no Party waives any right to object on
7 any ground to use in evidence of any of the material covered by this Protective
8 Order.

9 12.4 Export Control. Disclosure of Protected Material shall be subject to all
10 applicable laws and regulations relating to the export of technical data contained in
11 such Protected Material, including the release of such technical data to foreign
12 persons or nationals in the United States or elsewhere. The Producing Party shall
13 be responsible for identifying any such controlled technical data, and the Receiving
14 Party shall take measures necessary to ensure compliance.

15 12.5 Filing Protected Material. Without written permission from the
16 Designating Party or a court order secured after appropriate notice to all interested
17 persons, a Party may not file in the public record in this action any Protected
18 Material. A Party that seeks to file under seal any Protected Material must comply
19 with Civil Local Rule 79-5. Protected Material may be filed under seal only
20 pursuant to a court order authorizing the sealing of the specific Protected Material
21 at issue.

22 12.6 No Effect on the Scope of Discovery. This Protective Order does not
23 alter the scope of discovery permitted under Rule 26(b)(1) of the Federal Rules of
24 Civil Procedure. Nor does this Protective Order relieve any Producing Party of the
25 obligation of producing information in the course of discovery.

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1 **13. FINAL DISPOSITION**

2 13.1 Within 60 days after the final disposition of this action, as defined in
3 section 4, each Receiving Party must return all Protected Material to the Producing
4 Party or destroy such material. As used in this subdivision, “all Protected Material”
5 includes all copies, abstracts, compilations, summaries, and any other format
6 reproducing or capturing any of the Protected Material. Whether the Protected
7 Material is returned or destroyed, the Receiving Party must submit a written
8 certification to the Producing Party (and, if not the same person or entity, to the
9 Designating Party) by the 60-day deadline that, to the best of the Receiving Party’s
10 knowledge, all Protected Material it received from the Producing Party, except as
11 specifically identified in section 13.2, has been returned or destroyed.

12 13.2 Notwithstanding section 13.1: Outside Counsel for a Party are entitled
13 to retain electronic copies and a single archival paper copy of any of the following
14 kinds of Disclosure or Discovery Material containing Protected Material: papers
15 served or filed in this action (including pleadings, motion papers, and discovery
16 papers such as expert reports); trial, deposition, and hearing transcripts; legal
17 memoranda; correspondence; hearing, deposition, and trial exhibits and
18 demonstratives; attorney work product; and consultant and expert work product.
19 Any such copies that contain or constitute Protected Material remain subject to this
20 Protective Order as set forth in section 4 (DURATION). House Counsel is
21 similarly entitled to retain electronic copies and a single archival paper copy of the
22 same kinds of Disclosure or Discovery Material containing Protected Material,
23 assuming such House Counsel was authorized to receive such Protected Material
24 under this Protective Order. To comply with section 13.1, Outside Counsel need

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1 not purge their document-management systems or archives. House Counsel shall
2 make a good-faith effort to purge their document-management systems or archives
3 of Protected Material within two (2) years of final disposition of this action.
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5 **IT IS SO ORDERED.**

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7 Dated: September 8, 2017

8 /S/ FREDERICK F. MUMM
9 Honorable Frederick F. Mumm
10 United States Magistrate Judge
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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or
5 type full address], declare under penalty of perjury that I have read in its entirety
6 and understand the Stipulated Protective Order that was issued on
7 _____ [date] by the United States District Court for the Central
8 District of California in the case of *Nomadix, Inc. v. Guest-Tek Interactive*
9 *Entertainment Ltd.*, Case No. CV16-08033 AB (FFMx). I agree to comply with
10 and to be bound by all the terms of this Stipulated Protective Order, and I
11 understand and acknowledge that failure to so comply could expose me to
12 sanctions and punishment in the nature of contempt. I solemnly promise that I will
13 not disclose in any manner any information or item that is subject to this Stipulated
14 Protective Order to any person or entity except in strict compliance with the
15 provisions of this Stipulated Protective Order.

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

20
21
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23 _____
24 Date

_____ Signature