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10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 L.A. GEM & JEWELRY DESIGN, INC., a
 13 California Corporation,

14 Plaintiff,

15 v.

16 SHARON KIM, an individual dba
 17 NINETYONE BOUTIQUE, and DOES
 18 1-10,
 19 Defendants.

Case No. 2:17-cv-06456-TJH-(SKx)

**STIPULATED PROTECTIVE
 ORDER**

Discovery Document: Referred to
 Magistrate Judge Steve Kim

STIPULATED PROTECTIVE ORDER

1 1. A. PURPOSES AND LIMITATIONS
2

3 Discovery in this action is likely to involve production of confidential, proprietary,
4 or private information for which special protection from public disclosure and from use
5 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the
6 parties hereby stipulate to and petition the Court to enter the following Stipulated
7 Protective Order (“Stipulated Protective Order or “Order”). The parties acknowledge that
8 this Order does not confer blanket protections on all disclosures or responses to discovery
9 and that the protection it affords from public disclosure and use extends only to the
10 limited information or items that are entitled to confidential treatment under the
11 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3,
12 below, that this Stipulated Protective Order does not entitle them to file confidential
13 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
14 followed and the standards that will be applied when a party seeks permission from the
15 court to file material under seal.

16 Nothing in this Stipulated Protective Order shall be deemed in any way to restrict
17 the use of documents or information which are lawfully obtained or publicly available to
18 a party independently of discovery in this Action, whether or not the same material has
19 been obtained during the course of discovery in the Action and whether or not such
20 documents or information have been designated hereunder. However, in the event of a
21 dispute regarding such independent acquisition, a party wishing to use any independently
22 acquired documents or information shall bear the burden of proving independent
23 acquisition.
24

25 B. GOOD CAUSE STATEMENT
26

27 It is the intent of the parties and the Court that information will not be designated
28 as confidential for tactical reasons in this case and that nothing shall be designated

1 without a good faith belief that there is good cause why it should not be part of the public
2 record of this case. Examples of confidential information that the parties may seek to
3 protect from unrestricted or unprotected disclosure include, but are not limited to:

- 4 (a) Information that is the subject of a non-disclosure or confidentiality
5 agreement or obligation;
- 6 (b) The names, or other information tending to reveal the identity of a
7 party's supplier, designer, distributor, or customer;
- 8 (c) Agreements with third-parties, including license agreements,
9 distributor agreements, manufacturing agreements, design agreements,
10 development agreements, supply agreements, sales agreements, or
11 service agreements;
- 12 (d) Research and development information;
- 13 (e) Proprietary engineering or technical information, including product
14 design, manufacturing techniques, processing information, drawings,
15 memoranda and reports;
- 16 (f) Information related to budgets, sales, profits, costs, margins, licensing
17 of technology or designs, product pricing, or other internal
18 financial/accounting information, including non-public information
19 related to financial condition or performance and income or other non-
20 public tax information;
- 21 (g) Information related to internal operations including personnel
22 information;
- 23 (h) Information related to past, current and future product development;
- 24 (i) Information related to past, current and future market analyses and
25 business and marketing development, including plans, strategies,
26 forecasts and competition; and
- 27 (j) Trade secrets (as defined by the jurisdiction in which the information
28 is located).

1 Unrestricted or unprotected disclosure of such confidential technical, commercial,
2 financial, or personal information would result in prejudice or harm to the producing
3 party by revealing the producing party's competitive confidential information, which has
4 been developed at the expense of the producing party and which represents valuable
5 tangible and intangible assets of that party. Additionally, privacy interests must be
6 safeguarded. Accordingly, the parties respectfully submit that there is good cause for the
7 entry of this Stipulated Protective Order.

8 The parties agree, subject to the Court's approval, that the following terms and
9 conditions shall apply to this civil Action. The parties acknowledge that this Stipulated
10 Protective Order does not confer blanket protections on all disclosures or responses to
11 discovery and that the protection it affords from public disclosure and use extends only to
12 the limited information or items that are entitled to confidential treatment under the
13 applicable legal principles. Nothing herein shall prevent any Party from withholding or
14 redacting any documents and/or information that the Party deems privileged, irrelevant,
15 or otherwise objectionable.

16
17 **2. DEFINITIONS**

18 2.1 Action: this pending federal law suit captioned, case number 2:17-cv-06456-
19 TJH-SKx].

20 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
21 information or items under this Order.

22 2.3 "CONFIDENTIAL"

23 Subject to the limitations set forth in this Stipulated Protective Order, Designated
24 Material may be marked "CONFIDENTIAL" for the purpose of preventing the disclosure
25 of information or materials that the designating party in good faith believes is
26 confidential. Before designating any specific information or material
27 "CONFIDENTIAL," the Designating Party's Counsel shall make a good faith
28

1 determination that the information warrants protection under Rule 26(c) of the Federal
2 Rules of Civil Procedure. Such information may include, but is not limited to:

3 (a) Technical data, research and development data, and any other
4 confidential commercial information, including but not limited to trade secrets of the
5 Designating Party;

6 (b) Information which the Designating Party believes in good faith falls
7 within the right to privacy guaranteed by the laws of the United States or California;

8 (c) Information which the Designating Party believes in good faith to
9 constitute, contain, reveal or reflect proprietary, financial, business, technical, or other
10 confidential information which is not otherwise protected as “Highly Confidential –
11 Attorneys’ Eyes Only”.

12 (d) The fact that an item or category is listed as an example in this or
13 other sections of this Stipulated Protective Order does not, by itself, render the item or
14 category discoverable.

15 2.4 Consultant: A person, including non-party expert and/or consultant, retained
16 or employed by Counsel to assist in the preparation of the case, to the extent that they are
17 reasonably necessary to render professional services in this Action, and subject to the
18 disclosure requirements within this Stipulated Protective Order.

19 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their
20 support staff).

21 2.6 Designating Party: a Party or Non-Party that designates information or
22 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL”
23 or “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES ONLY”

24 2.7 Disclosure or Discovery Material: all items or information, regardless
25 of the medium or manner in which it is generated, stored, or maintained (including,
26 among other things, testimony, transcripts, and tangible things), that are produced or
27 generated in disclosures or responses to discovery in this matter.

28 2.8 Expert: a person with specialized knowledge or experience in a matter

1 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
2 expert witness or as a consultant in this Action.

3 2.9 House Counsel: attorneys who are employees of a party to this Action
4 including their associates, clerks, legal assistants, stenographic, videographic and support
5 personnel. House Counsel does not include Outside Counsel of Record or any other
6 outside counsel.

7 2.10 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”: Subject to
8 the limitations in this Stipulated Protective Order, Designated Materials may be marked
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” for the purpose of
10 preventing the disclosure of information or materials which, if disclosed to the receiving
11 party, might cause competitive harm to the Designating Party. Information and material
12 that may be subject to this protection includes, but is not limited to, technical and/or
13 research and development data, intellectual property, financial, marketing and other sales
14 data, and/or information having strategic commercial value pertaining to the Designating
15 Party’s trade or business. Nothing in Section 2.3 shall limit the information or material
16 that can be designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
17 under this Section. Before designating any specific information “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” the Designating Party’s Counsel
19 shall make a good faith determination that the information warrants such protection. Such
20 information may include, but is not limited to:

21 (a) The financial performance or results of the Designating Party,
22 including without limitation income statements, profit and loss statements, balance
23 sheets, cash flow analyses, budget projections, purchase and sale records and present
24 value calculations;

25 (b) Corporate and strategic planning by the Designating Party, including
26 without limitation marketing plans, competitive intelligence reports, sales projections and
27 competitive strategy documents;

1 (c) Names, addresses, and other information that would identify
2 customers or prospective customers, or the distributors or prospective distributors of the
3 Designating Party; and

4 (d) Information used by the Designating Party in or pertaining to its trade
5 or business, which information the Designating Party believes in good faith has
6 competitive value, which is not generally known to others and which the Designating
7 Party would not normally reveal to third parties except in confidence, or has undertaken
8 with others to maintain in confidence;

9 2.11 Non-Party: any natural person, partnership, corporation, association, or other
10 legal entity not named as a Party to this action.

11 2.12 Outside Counsel of Record: attorneys who are not employees of a party to
12 this Action but are retained to represent or advise a party to this Action and have
13 appeared in this Action on behalf of that party or are affiliated with a law firm which has
14 appeared on behalf of that party, and includes support staff.

15 2.13 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 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.

20 2.15 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 2.16 Protected Material: any Disclosure or Discovery Material that is
25 designated as “CONFIDENTIAL” Or “HIGHLY CONFIDENTIAL –ATTORNEYS’
26 EYES ONLY.”

27 2.17 Receiving Party: a Party that receives Disclosure or Discovery
28 Material from a Producing Party.

1 3. SCOPE

2 The protections conferred by this Stipulation and Order cover not only Protected
3 Material (as defined above), but also (1) any information copied or extracted from
4 Protected 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. Any use of Protected Material at trial shall
7 be governed by the orders of the trial judge. This Order does not govern the use of
8 Protected Material at trial.

9
10 4. DURATION

11 Even after final disposition of this litigation, the confidentiality obligations
12 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in
13 writing or a court order otherwise directs. Final disposition shall be deemed to be the later
14 of (1) dismissal of all claims and defenses in this Action, with or without prejudice; and
15 (2) final judgment herein after the completion and exhaustion of all appeals, rehearings,
16 remands, trials, or reviews of this Action, including the time limits for filing any
17 motions or applications for extension of time pursuant to applicable law.

18 The use of Designated Materials at depositions or trial does not void the
19 documents' status as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
20 ATTORNEYS' EYES ONLY" material or void the restrictions on the use of the
21 Designated Materials. Upon request of a party, the parties shall meet and confer
22 concerning the use and protection of Designated Material in open court at any hearing.

23 At deposition, the party using Designated Material must request that the portion of
24 the proceeding where use is made be conducted so as to exclude persons not qualified to
25 receive such Designated Material.

26 At trial, the party using Designated Material must request that the portion of the
27 proceeding where use is made be conducted so as to exclude persons not qualified to
28 receive such Designated Material.

1 Prior to the pretrial conference, the parties shall meet and confer concerning
2 appropriate methods for dealing with Designated Material at trial.

3
4 5. DESIGNATING PROTECTED MATERIAL

5 5.1 Designated Material. Information or material may be designated for
6 confidential treatment pursuant to this Stipulated Protective Order by the Designating
7 Party, if: (a) produced or served, formally or informally, pursuant to the Federal Rules of
8 Civil Procedure or in response to any other formal or informal discovery request in this
9 Action; and/or (b) filed or lodged with the Court. Each Party or Non-Party that
10 designates information or items for protection under this Order must take care to limit
11 any such designation to specific material that qualifies under the appropriate standards.
12 The Designating Party must designate for protection only those parts of material,
13 documents, items, or oral or written communications that qualify so that other portions of
14 the material, documents, items, or communications for which protection is not warranted
15 are not swept unjustifiably within the ambit of this Order.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that
17 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
18 to unnecessarily encumber the case development process or to impose unnecessary
19 expenses and burdens on other parties) may expose the Designating Party to sanctions. If
20 it comes to a Designating Party's attention that information or items that it designated for
21 protection do not qualify for protection, that Designating Party must promptly notify all
22 other Parties that it is withdrawing the inapplicable designation.

23 5.2 Manner and Timing of Designations. Except as otherwise provided in this
24 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or
25 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
26 must be clearly so designated before the material is disclosed or produced.

27 Designation in conformity with this Order requires:
28

1 (a) for information in documentary form (e.g., paper or electronic
2 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
3 that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” or
4 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If the first or cover page
5 of a multi-page document bears the legend “CONFIDENTIAL” or “HIGHLY
6 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” the entire document shall be deemed
7 so designated, and the absence of marking each page shall not constitute a waiver of the
8 terms of this Stipulated Protective Order. If the label affixed to a computer disk
9 containing multiple files bears the legend “CONFIDENTIAL” or “HIGHLY
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” the entire disk shall be deemed so
11 protected, and the absence of marking of each file shall not constitute a waiver of the
12 terms of this Stipulated Protective Order. If only a portion or portions of the material on
13 a page qualifies for protection, the Producing Party also must clearly identify the
14 protected portion(s) (e.g., by making appropriate markings in the margins).

15 (b) A Party or Non-Party that makes original documents available for
16 inspection need not designate them for protection until after the inspecting Party has
17 indicated which documents it would like copied and produced. During the inspection and
18 before the designation, all of the material made available for inspection shall be deemed
19 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
20 copied and produced, the Producing Party must determine which documents, or portions
21 thereof, qualify for protection under this Order. Then, before producing the specified
22 documents, the Producing Party must affix the legend “CONFIDENTIAL” or “HIGHLY
23 CONFIDENTIAL- ATTORNEYS’ EYES ONLY” to each page that contains Protected
24 Material. If only a portion or portions of the material on a page qualifies for protection,
25 the Producing Party also must clearly identify the protected portion(s) (e.g., by making
26 appropriate markings in the margins).

27 (c) Deposition transcripts and portions thereof taken in this Action may
28 be designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’

1 EYES ONLY” during the deposition or after, in which case the portion of the transcript
2 containing Designated Material shall be identified in the transcript by the Court Reporter
3 as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
4 ONLY.” The designated testimony shall be bound in a separate volume and marked by
5 the reporter accordingly.

6 Where testimony is designated during the deposition, the Designating Party shall
7 have the right to exclude, at those portions of the deposition, all persons not authorized
8 by the terms of this Stipulated Protective Order to receive such Designated Material.

9 Within sixty (60) days after a deposition transcript is certified by the court reporter,
10 any party may designate pages of the transcript and/or its exhibits as Designated Material.
11 During such sixty (60) day period, the transcript in its entirety shall be treated as
12 “CONFIDENTIAL” (except for those portions identified earlier as “HIGHLY
13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” which shall be treated accordingly
14 from the date of designation). If any party so designates such material, the parties shall
15 provide written notice of such designation to all parties within the sixty (60) day period.
16 Designated Material within the deposition transcript or the exhibits thereto may be
17 identified in writing by page and line, or by underlining and marking such portions
18 “CONFIDENTIAL” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and
19 providing such marked-up portions to all Counsel.

20 (d) for information produced in some form other than documentary
21 and for any other tangible items, that the Producing Party affix in a prominent place on the
22 exterior of the container or containers in which the information is stored the legend
23 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES ONLY.” If
24 only a portion or portions of the information warrants protection, the Producing Party, to
25 the extent practicable, shall identify the protected portion(s).

26 (e) Copies. All complete or partial copies of a document that disclose
27 Designated Materials shall be subject to the terms of this Stipulated Protective Order.
28

1 5.3 When a party wishes to designate as “CONFIDENTIAL” or “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” materials produced by someone
3 other than the Designating Party (a “Producing Party”), such designation shall be made:

4 (a) Within forty-five (45) business days from the date that the
5 Designating Party receives copies of the materials from the producing or disclosing entity;
6 and

7 (b) By notice to all parties to this Action and to the Producing Party, if
8 such party is not a party to this Action, identifying the materials to be designated with
9 particularity (either by production numbers or by providing other adequate identification
10 of the specific material). Such notice shall be sent by email.

11 5.4 A party shall be permitted to designate as “CONFIDENTIAL” or “HIGHLY
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” material produced by a Producing
13 Party only where:

14 (a) The material being produced was provided to or developed by such
15 Producing Party: (i) under a written confidentiality agreement with the Designating Party;
16 or (ii) within a relationship with the Designating Party (or a party operating under the
17 control thereof) in which confidentiality is imposed by law (including, but not limited, to
18 the employment relationship and the vendor-customer relationship); or

19 (b) The material being produced could be considered “CONFIDENTIAL”
20 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” material of the
21 Designating Party under Section 2.3 or Section 2.10 of this Stipulated Protective Order if
22 it were in the possession of the Designating Party.

23 5.5 Upon notice of designation, all persons receiving notice of the requested
24 designation of materials shall:

25 (a) Make no further disclosure of such Designated Material or
26 information contained therein, except as allowed in this Stipulated Protective Order;

1 (b) Take reasonable steps to notify any persons known to have possession
2 of or access to such Designated Materials of the effect of such designation under this
3 Stipulated Protective Order.

4 (c) If “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
5 ATTORNEYS’ EYES ONLY” material or information contained therein is disclosed to
6 any person other than those entitled to disclosure in the manner authorized by this
7 Stipulated Protective Order, the party responsible for the disclosure shall, immediately
8 upon learning of such disclosure, inform the Designating Party in writing of all pertinent
9 facts relating to such disclosure, and shall make every effort to prevent further disclosure
10 by the unauthorized person(s).

11 5.6 Inadvertent Failures to Designate.

12 If any party required to produce documents contends that it inadvertently produced
13 any Designated Material without marking it with the appropriate legend, or inadvertently
14 produced any Designated Material with an incorrect legend, the producing party may
15 give written notice to the receiving party or parties, including appropriately stamped
16 substitute copies of the Designated Material. If the parties collectively agree to
17 replacement of the Designated Material, then the documents will be so designated.
18 Within five (5) business days of receipt of the substitute copies, the receiving party shall
19 return the previously unmarked or mismarked items and all copies thereof. If the parties
20 do not collectively agree to replacement of the Designated Material, the producing party
21 shall comply with the procedure of Local Rule 37 in seeking protection for the
22 inadvertently produced material.

23 Unless and until otherwise ordered by the Court or agreed to in writing by the
24 parties, all Designated Materials designated under this Stipulated Protective Order shall
25 be used by the parties and persons receiving such Designated Materials solely for
26 conducting the above-captioned litigation and any appellate proceeding relating thereto.
27 Designated Material shall not be used by any party or person receiving them for any
28 business or any other purpose. No party or person shall disclose Designated Material to

1 any other party or person not entitled to receive such Designated Material under the
2 specific terms of this Stipulated Protective Order. For purposes of this Stipulated
3 Protective Order, “disclose” or “disclosed” means to show, furnish, reveal or provide,
4 indirectly or directly, any portion of the Designated Material or its contents, orally or in
5 writing, including the original or any copy of the Designated Material.

6 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

7 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a designation
8 of confidentiality at any time that is consistent with the Court’s Scheduling Order. Unless
9 a prompt challenge to a Designating Party’s confidentiality designation is necessary to
10 avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant
11 disruption or delay of the litigation, a Party does not waive its right to challenge a
12 confidentiality designation by electing not to mount a challenge promptly after the
13 original designation is disclosed.

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

1 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
2 intervention, the Challenging Party shall file and serve a motion to challenge
3 confidentiality under Civil Local Rule 37-1 et seq. (and in compliance with Civil Local
4 Rule 79-5.1, if applicable) within twenty-one (21) days of the initial notice of challenge
5 or within 14 days of the parties agreeing that the meet and confer process will not resolve
6 their dispute, whichever is earlier. Each such motion must be accompanied by a
7 competent declaration affirming that the movant has complied with the meet and confer
8 requirements imposed in the preceding paragraph. Failure by the Challenging Party to
9 make such a motion including the required declaration within twenty-one (21) days (or
10 fourteen (14) days, if applicable) shall automatically waive the ability to challenge the
11 confidentiality designation for each challenged designation. In addition, the Designating
12 Party may file a motion for a protective order preserving the confidential designation at
13 any time if there is good cause for doing so. Any motion brought pursuant to this
14 provision must be accompanied by a competent declaration affirming that the movant has
15 complied with the meet and confer requirements imposed by the preceding paragraph.

16 6.4 The burden of persuasion in any such challenge proceeding shall be on the
17 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to
18 harass or impose unnecessary expenses and burdens on other parties) may expose the
19 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn
20 the confidentiality designation, all parties shall continue to afford the material in question
21 the level of protection to which it is entitled under the Producing Party's designation until
22 the Court rules on the challenge.

23
24 7. ACCESS TO AND USE OF PROTECTED MATERIAL

25 7.1 Basic Principles. A Receiving Party may use Protected Material that is
26 disclosed or produced by another Party or by a Non-Party in connection with this Action
27 only for prosecuting, defending, or attempting to settle this Action. Such Protected
28 Material may be disclosed only to the categories of persons and under the conditions

1 described in this Order. When the Action has been terminated, a Receiving Party must
2 comply with the provisions of section 13 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a
4 location and in a secure manner that ensures that access is limited to the persons
5 authorized under this Order.

6 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
7 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
8 may disclose any information or item designated "CONFIDENTIAL" only to:

9 (a) Any person who appears on the face of the Designated Material
10 marked "CONFIDENTIAL" as an author, addressee, or recipient thereof;

11 (b) Outside Counsel of Record to the parties in this Action, House
12 counsel, and their respective associates, clerks, legal assistants, stenographic,
13 videographic and support personnel, and other employees of such outside litigation
14 attorneys, and organizations retained by such attorneys to provide litigation support
15 services in this Action and the employees of said organizations;

16 (c) Experts, Consultants, including non-party experts and consultants
17 retained or employed by Counsel to assist in the preparation of the case, to the extent they
18 are reasonably necessary to render professional services in this Action, and subject to the
19 disclosure requirements of Section 7.1. Each Expert or Consultant must sign a
20 certification (see "Exhibit A") that he or she has read this Stipulated Protective Order,
21 will abide by its provisions, and will submit to the jurisdiction of this Court regarding the
22 enforcement of this Stipulated Protective Order's provisions;

23 (d) A party's officers and/or employees, which may include House
24 Counsel;

25 (e) The Court, its clerks, and Court officials, employees, secretaries, and
26 any court reporter retained to record proceedings before the Court. Designated Material
27 may be disclosed to any special master, referee, expert, technical advisor or Third-Party
28

1 Consultant appointed by the Court, to the jury in this Action, and any interpreters
2 interpreting on behalf of any party or deponent.; and

3 (f) Any mediator or settlement officer, and their supporting personnel,
4 mutually agreed upon by those parties engaged in settlement discussions. Each mediator
5 or settlement officer must sign a certification that he or she has read this Stipulated
6 Protective Order, will abide by its provisions, and will submit to the jurisdiction of this
7 Court regarding the enforcement of this Stipulated Protective Order’s provisions.

8 7.3 Disclosure of “HIGHLY CONFIDENTIAL- ATTORNEYS’ EYES ONLY”
9 Information or Items. Materials designated “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY” may be disclosed only to the following Designees:

11 (a) Any person who appears on the face of the Designated Material
12 marked “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” as an author,
13 addressee, or recipient thereof;

14 (b) Counsel to the parties in this Action, including any Outside Counsel
15 of Record and House Counsel, and their respective associates, clerks, legal assistants,
16 stenographic, videographic and support personnel, and other employees of such outside
17 litigation attorneys, and organizations retained by such attorneys to provide litigation
18 support services in this Action and the employees of said organizations. Counsel herein
19 explicitly include any House Counsel, whether or not they are attorneys of record in this
20 Action. Notwithstanding the foregoing or anything to the contrary contained herein, any
21 items designated under this Section 7.3 by a defendant in this Action shall not be
22 disclosed to any co-defendants’ House Counsel, if the same are designated as “HIGHLY
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”, without the express written consent
24 of the Designating Party that produced the documents. Notwithstanding the foregoing or
25 anything to the contrary contained herein, any items designated under this Section 7.3 in
26 this Action shall not be disclosed by any House Counsel to any present or former officers,
27 directors, shareholders, partners, managers, members, employees, agents, insurers, or
28

1 representatives of the receiving party without the express written consent of the
2 Designating Party;

3 (c) Experts or Consultants for the parties to this Action, as defined herein;
4 and

5 (d) The Court, its clerks, Court officials, employees, any special master,
6 referee, expert, technical advisor or Third-Party Consultant appointed by the Court, to
7 the jury in this Action, and any interpreters interpreting on behalf of any party or
8 deponent;

9 (e) Court reporters retained to transcribe depositions and/or retained to
10 record proceedings before the Court; and.

11 (f) Any mediator or settlement officer, and their supporting personnel,
12 mutually agreed upon by those parties engaged in settlement discussions provided that he
13 or she sign a certification that he or she has read this Stipulated Protective Order, will
14 abide by its provisions, and will submit to the jurisdiction of this Court regarding the
15 enforcement of this Stipulated Protective Order's provisions.

16 7.4 If any party wishes to disclose information or materials designated under this
17 Stipulated Protective Order as "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL –
18 ATTORNEYS' EYES ONLY" to any Expert and/or Consultant, it must first identify that
19 individual to the Counsel for the Designating Party and submit a Certification pursuant to
20 Section 7.8.

21 7.5 Legal Effect of Designation. The designation of any information or
22 materials as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
23 ONLY" is intended solely to facilitate the conduct of this litigation. Neither such
24 designation nor treatment in conformity with such designation shall be construed in any
25 way as an admission or agreement by any party that the Designated Materials constitute
26 or contain any trade secret or confidential information. Except as provided in this
27 Stipulated Protective Order, no party to this Action shall be obligated to challenge the
28

1 propriety of any designation, and a failure to do so shall not preclude a subsequent attack
2 on the propriety of such designation.

3 7.6 Nothing herein in any way restricts the ability of the receiving party to use
4 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
5 material produced to it in examining or cross-examining any employee or consultant of
6 the Designating Party.¹

7 7.7 The parties agree that Counsel for LA Gem may be provided by defendants a
8 summary of revenues and gross profits numbers. In turn, such information in summary
9 format may be provided to Plaintiff and Defendants notwithstanding any party’s
10 designation of documents showing such information as “HIGHLY CONFIDENTIAL –
11 ATTORNEYS’ EYES ONLY”. Plaintiff and Defendant may not disclose the
12 information from such Designated Materials to any party other than the Designating
13 Party.

14 7.8 Certificates Concerning Designated Materials. Each Expert and/or
15 Consultant, to whom any Designated Materials will be disclosed shall, prior to disclosure
16 of such material, execute the Acknowledgement and Agreement to be Bound
17 (“Acknowledgement”) in the form attached hereto as “Exhibit A.” Counsel who makes
18 any disclosure of Designated Materials shall retain each executed Acknowledgement and
19 shall circulate copies to all Counsel for the opposing party concurrently with the
20 identification of the Expert and/or Consultant to the attorneys for the Designating Party.

21 7.9 Use of Designated Materials by Designating Party. Nothing in this
22 Stipulated Protective Order shall limit a Designating Party’s use of its own information or
23 materials, or prevent a Designating Party from disclosing its own information or
24 materials to any person. Such disclosure shall not affect any designations made pursuant
25

26
27
28 ¹Parties and representatives of parties not entitled to receive the “CONFIDENTIAL” or
“HIGHLY CONFIDENTIAL-ATTORNEYS’ EYES ONLY” material must leave the
room for said portion of the deposition.

1 to the terms of this Stipulated Protective Order, so long as the disclosure is made in a
2 manner that is reasonably calculated to maintain the confidentiality of the information.

3
4
5 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
6 PRODUCED IN OTHER LITIGATION

7 If a Party is served with a subpoena or a court order issued in other litigation that
8 compels disclosure of any information or items designated in this Action as
9 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
10 that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification
12 shall include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order
14 to issue in the other litigation that some or all of the material covered by the subpoena or
15 order is subject to this Protective Order. Such notification shall include a copy of this
16 Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be
18 pursued by the Designating Party whose Protected Material may be affected. If the
19 Designating Party timely seeks a protective order, the Party served with the subpoena or
20 court order shall not produce any information designated in this action as
21 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
22 before a determination by the court from which the subpoena or order issued, unless the
23 Party has obtained the Designating Party’s permission. The Designating Party shall bear
24 the burden and expense of seeking protection in that court of its confidential material and
25 nothing in these provisions should be construed as authorizing or encouraging a
26 Receiving Party in this Action to disobey a lawful directive from another court.

27
28 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE

1 PRODUCED IN THIS LITIGATION

2 (a) The terms of this Order are applicable to information produced by a
3 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
4 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced by Non-
5 Parties in connection with this litigation is protected by the remedies and relief provided
6 by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party
7 from seeking additional protections.

8 (b) In the event that a Party is required, by a valid discovery request, to
9 produce a Non-Party’s confidential information in its possession, and the Party is subject
10 to an agreement with the Non-Party not to produce the Non-Party’s confidential
11 information, then the Party shall:

12 (1) promptly notify in writing the Requesting Party and the Non-Party
13 that some or all of the information requested is subject to a confidentiality agreement
14 with a Non-Party;

15 (2) promptly provide the Non-Party with a copy of the Stipulated
16 Protective Order in this Action, the relevant discovery request(s), and a reasonably
17 specific description of the information requested; and

18 (3) make the information requested available for inspection by the
19 Non-Party, if requested.

20 (c) If the Non-Party fails to seek a protective order from this court within
21 14 days of receiving the notice and accompanying information, the Receiving Party may
22 produce the Non-Party’s confidential information responsive to the discovery request. If
23 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any
24 information in its possession or control that is subject to the confidentiality agreement
25 with the Non-Party before a determination by the court. Absent a court order to the
26 contrary, the Non-Party shall bear the burden and expense of seeking protection in this
27 court of its Protected Material.
28

1 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

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

10
11 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
12 PROTECTED MATERIAL

13 Any inadvertent production of documents containing privileged information shall
14 not be deemed to be a waiver of the attorney-client privilege, work product doctrine, or
15 any other applicable privilege or doctrines. All parties specifically reserve the right to
16 demand the return of any privileged documents that it may produce inadvertently during
17 discovery if the producing party determines that such documents contain privileged
18 information. After receiving notice of such inadvertent production by the producing
19 party, the receiving party, within five (5) business days of receiving any such notice,
20 agrees to locate and return to the producing party all such inadvertently produced
21 documents, or certify the destruction thereof.

22
23 12. MISCELLANEOUS

24 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
25 person to seek its modification by the Court in the future.

26 12.2 Right to Assert Other Objections. By stipulating to the entry of this Order no
27 Party waives any right it otherwise would have to object to disclosing or producing any
28 information or item on any ground not addressed in this Stipulated Protective Order.

1 Similarly, no Party waives any right to object on any ground to use in evidence of any of
2 the material covered by this Order.

3 12.3 Filing Protected Material. A Party that seeks to file under seal any Protected
4 Material must comply with Civil Local Rule 79-5 and ensure the materials are marked
5 with the legend: “CONFIDENTIAL” or HIGHLY CONFIDENTIAL – ATTORNEYS’
6 EYES ONLY INFORMATION SUBJECT TO PROTECTIVE ORDER.”

7 (a) Filing the document under seal shall not bar any party from
8 unrestricted use or dissemination of those portions of the document that do not contain
9 material designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
10 ATTORNEYS’ EYES ONLY.”

11 (b) If a filing party fails to seek to file under seal items which a party in
12 good faith believes to have been designated as or to constitute “CONFIDENTIAL” or
13 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” material, such party may
14 move the Court to file said information under seal within four (4) days of service of the
15 original filing. Notice of such designation shall be given to all parties. Nothing in this
16 provision relieves a party of liability for damages caused by failure to properly seek the
17 filing of Designated Material under seal in accordance with Local Rule 79-5.2.2.

18 (c) If a Party's request to file Protected Material under seal is denied by
19 the court, then the Receiving Party may file the information in the public record unless
20 otherwise instructed by the Court.

21 (d) Retrieval of Designated Materials. The party responsible for lodging
22 or filing the Designated Materials shall be responsible for retrieving such Designated
23 Materials from the Court following the final termination of the Action (including after
24 any appeals), to the extent the Court permits such retrieval.

25 12.4 Client Communication. Nothing in this Stipulated Protective Order shall
26 prevent or otherwise restrict Counsel from rendering advice to their clients and, in the
27 course of rendering such advice, relying upon the examination of Designated Material.
28 In rendering such advice and otherwise communicating with the client, however, Counsel

1 shall not disclose any Designated Material, except as otherwise permitted by this
2 Stipulated Protective Order.

3 12.5 No Contract. This Stipulated Protective Order shall not be construed to
4 create a contract between the parties or between the parties and their respective counsel.

5 12.6 Court's Retention of Jurisdiction. The Court retains jurisdiction after final
6 termination of the Action prior to trial, to enforce this Stipulation.

7 12.7 This Stipulated Protective Order shall not diminish any existing obligation
8 or right with respect to Designated Material, nor shall it prevent a disclosure to which the
9 Designating Party consented in writing before the disclosure takes place.

10 12.8 Unless the parties stipulate otherwise, evidence of the existence or
11 nonexistence of a designation under this Stipulated Protective Order shall not be
12 admissible for any purpose during any proceeding on the merits of this Action.

13 12.9 By stipulating to the entry of this Stipulated Protective Order no Party
14 waives any right it otherwise would have to object to disclosing or producing any
15 information or item on any ground not addressed in this Stipulated Protective Order.
16 Similarly, no Party waives any right to object on any ground to use in evidence any of the
17 material covered by this Stipulated Protective Order. Moreover, this Stipulated
18 Protective Order shall not preclude or limit any Party's right to seek further and
19 additional protection against or limitation upon production of documents produced in
20 response to discovery. The parties reserve their rights to object to, redact or withhold any
21 information, including confidential, proprietary, or private information, on any other
22 applicable grounds permitted by law, including third-party rights and relevancy.

23 12.10 Nothing in this Stipulated Protective Order shall require disclosure of
24 materials that a Party contends are protected from disclosure by the attorney-client
25 privilege or the attorney work-product doctrine. This provision shall not, however, be
26 construed to preclude any Party from moving the Court for an order directing the
27 disclosure of such materials where it disputes the claim of attorney-client privilege or
28 attorney work-product doctrine.

1
2 13. FINAL DISPOSITION

3 13.1 Modification. The parties reserve the right to seek modification of this
4 Stipulated Protective Order at any time for good cause. The parties agree to meet and
5 confer prior to seeking to modify this Stipulated Protective Order for any reason. The
6 restrictions imposed by this Stipulated Protective Order may only be modified or
7 terminated by written stipulation of all parties or by order of this Court. Parties entering
8 into this Stipulated Protective Order will not be deemed to have waived any of their
9 rights to seek later amendment to this Stipulated Protective Order.

10 13.2 Survival and Return of Designated Material. After the final disposition of
11 this Action, as defined in paragraph 4, within 60 days of a written request by the
12 Designating Party, each Receiving Party must return all Protected Material to the
13 Producing Party or destroy such material provided that no party will be required to
14 expunge any system back-up media such as copies of any computer records or files
15 containing Protected Material which have been created pursuant to automatic archiving
16 or back-up procedures on secured central storage servers and which cannot reasonably be
17 expunged, and further provided that any destruction does not destroy or affect the
18 destroying party's computer programs, hardware, software, servers, or the like. As used
19 in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
20 summaries, and any other format reproducing or capturing any of the Protected Material.
21 Whether the Protected Material is returned or destroyed, the Receiving Party must submit
22 a written certification to the Producing Party (and, if not the same person or entity, to the
23 Designating Party) by the 60 day deadline that (1) identifies (by category, where
24 appropriate) all the Protected Material that was returned or destroyed and (2) affirms that
25 the Receiving Party has not retained any copies, abstracts, compilations, summaries or
26 any other format reproducing or capturing any of the Protected Material. Notwithstanding
27 this provision, Counsel are entitled to retain an archival copy of all pleadings, motion
28 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,

1 deposition and trial exhibits, expert reports, attorney work product, and consultant and
2 expert work product, even if such materials contain Protected Material. Any such archival
3 copies that contain or constitute Protected Material remain subject to this Protective
4 Order as set forth in Section 4 (DURATION).

5
6 14. Any violation of this Order may be punished by any and all appropriate measures
7 including, without limitation, contempt proceedings and/or monetary sanctions.

8
9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

10
11 DATED: April 18, 2018

12 /s/ Milord A. Keshishian

13 Milord A. Keshishian, Esq.
14 MILORD & ASSOCIATES, PC
15 Attorneys for Plaintiff LA Gem & Jewelry Design, Inc.

16 DATED: April 18, 2018

17 /s/ Stephen M. Rinka

18 Stephen M. Rinka
19 The Rinka Law Firm, P.C.
20 Attorney for Defendant
21 SHARON KIM DBA NINETYONE BOUTIQUE

22 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

23
24 DATED: April 18, 2018

25
26 
27 _____
28 Honorable Steve Kim
United States Magistrate Judge

1 **Attestation Pursuant to L.R. 5-4.3.4(a)(2)(i)**

2 I hereby attest that all other signatories listed, and on whose behalf the filing is
3 submitted, concur in the filing's content and have authorized the filing.
4

5 Dated: April 17, 2018

/s/ Milord A. Keshishian
Milord A Keshishian

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1 **EXHIBIT A**

2 **UNITED STATES DISTRICT COURT**
3 **CENTRAL DISTRICT OF CALIFORNIA**

4
5 L.A. GEM & JEWELRY DESIGN, INC., a
6 California Corporation,;

Case No. 2:17-cv-06456-TJH-
SKx

7 Plaintiff,

**STIPULATED PROTECTIVE
ORDER**

8 v.

9
10 SHARON KIM, an individual dba
11 NINETYONE BOUTIQUE, and DOES
1-10,

12 Defendants.
13

14
15 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

16 I, _____ [print or type full name], of
17 _____ [print or type full address], declare under penalty of perjury
18 that I have read in its entirety and understand the Stipulated Protective Order that
19 was issued by the United States District Court for the Central District of California on
20 [date] in the LA Gem & Jewelry Design, Inc. v. Sharon Kim, et al 2:17-cv-06456 TJH-
21 SKx. I agree to comply with and to be bound by all the terms of this Stipulated Protective
22 Order and I understand and acknowledge that failure to so comply could expose me to
23 sanctions and punishment in the nature of contempt. I solemnly promise that I will not
24 disclose in any manner any information or item that is subject to this Stipulated
25 Protective Order to any person or entity except in strict compliance with the provisions of
26 this Order.
27
28

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

5 Date: _____
6

7 Printed name: _____
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9 Signature: _____
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