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21 **UNITED STATES DISTRICT COURT**
 22 **CENTRAL DISTRICT OF CALIFORNIA**

23 CHURCH MUTUAL INSURANCE
 24 COMPANY, et al.,

25 Plaintiff(s),

26 v.

27 LOUISVILLE LADDER INC., et al.

28 Defendant(s).

Case No. 2:20-cv-10643 PA (MAAx)

**STIPULATED PROTECTIVE
 ORDER**

*Assigned to District Judge Percy
 Anderson and Magistrate Judge Maria
 A. Audero*

1 **PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Stipulated Protective Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and
9 use extends only to the limited information or items that are entitled to confidential
10 treatment under the applicable legal principles. The parties further acknowledge, as
11 set forth in Section 13.3 below, that this Stipulated Protective Order does not entitle
12 them to file confidential information under seal; Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a
14 party seeks permission from the Court to file material under seal. Discovery in this
15 action is likely to involve production of confidential, proprietary, or private
16 information for which special protection from public disclosure and from use for
17 any purpose other than prosecuting this litigation may be warranted.

18
19 **GOOD CAUSE STATEMENT**

20 This action is likely to involve trade secrets, customer and pricing lists and
21 other valuable research, development, commercial, financial, technical and/or
22 proprietary information for which special protection from public disclosure and
23 from use for any purpose other than prosecution of this action is warranted. Such
24 confidential and proprietary materials and information consist of, among other
25 things, confidential business or financial information, information regarding
26 confidential business practices, or other confidential research, development, or
27 commercial information (including information implicating privacy rights of third
28 parties), information otherwise generally unavailable to the public, or which may be

1 privileged or otherwise protected from disclosure under state or federal statutes,
2 court rules, case decisions, or common law. Accordingly, to expedite the flow of
3 information, to facilitate the prompt resolution of disputes over confidentiality of
4 discovery materials, to adequately protect information the parties are entitled to
5 keep confidential, to ensure that the parties are permitted reasonable necessary uses
6 of such material in preparation for and in the conduct of trial, to address their
7 handling at the end of the litigation, and to serve the ends of justice, a protective
8 order for such information is justified in this matter. It is the intent of the parties
9 that information will not be designated as confidential for tactical reasons and that
10 nothing be so designated without a good faith belief that it has been maintained in a
11 confidential, non-public manner, and there is good cause why it should not be part
12 of the public record of this case.

13 14 **3. DEFINITIONS**

15 3.1. Action: This pending federal lawsuit.

16 3.2. Challenging Party: A Party or Nonparty that challenges the
17 designation of information or items under this Stipulated Protective
18 Order.

19 3.3. “CONFIDENTIAL” Information or Items: Information (regardless of
20 how it is generated, stored or maintained) or tangible things that
21 qualify for protection under Federal Rule of Civil Procedure 26(c), and
22 as specified above in the Good Cause Statement.

23 3.4. Counsel: Outside Counsel of Record and In-House Counsel (as well
24 as their support staff).

25 3.5. Designating Party: A Party or Nonparty that designates information or
26 items that it produces in disclosures or in responses to discovery as
27 “CONFIDENTIAL.”

28 3.6. Disclosure or Discovery Material: All items or information, regardless

1 of the medium or manner in which it is generated, stored, or
2 maintained (including, among other things, testimony, transcripts, and
3 tangible things), that is produced or generated in disclosures or
4 responses to discovery in this matter.

5 3.7. Expert: A person with specialized knowledge or experience in a
6 matter pertinent to the litigation who has been retained by a Party or its
7 counsel to serve as an expert witness or as a consultant in this Action.

8 3.8. In-House Counsel: Attorneys who are employees of a party to this
9 Action. In-House Counsel does not include Outside Counsel of
10 Record or any other outside counsel.

11 3.9. Nonparty: Any natural person, partnership, corporation, association,
12 or other legal entity not named as a Party to this action.

13 3.10. Outside Counsel of Record: Attorneys who are not employees of a
14 party to this Action but are retained to represent or advise a party to
15 this Action and have appeared in this Action on behalf of that party or
16 are affiliated with a law firm which has appeared on behalf of that
17 party, and includes support staff.

18 3.11. Party: Any party to this Action, including all of its officers, directors,
19 employees, consultants, retained experts, In-House Counsel, and
20 Outside Counsel of Record (and their support staffs).

21 3.12. Producing Party: A Party or Nonparty that produces Disclosure or
22 Discovery Material in this Action.

23 3.13. Professional Vendors: Persons or entities that provide litigation
24 support services (e.g., photocopying, videotaping, translating,
25 preparing exhibits or demonstrations, and organizing, storing, or
26 retrieving data in any form or medium) and their employees and
27 subcontractors.

28 3.14. Protected Material: Any Disclosure or Discovery Material that is

1 designated as “CONFIDENTIAL.”

2 3.15. Receiving Party: A Party that receives Disclosure or Discovery
3 Material from a Producing Party.

4 **4. SCOPE**

5 The protections conferred by this Stipulated Protective Order cover not only
6 Protected Material, but also (1) any information copied or extracted from Protected
7 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material;
8 and (3) any testimony, conversations, or presentations by Parties or their Counsel
9 that might reveal Protected Material.

10 Any use of Protected Material at trial shall be governed by the orders of the
11 trial judge. This Stipulated Protective Order does not govern the use of Protected
12 Material at trial.

13
14 **5. DURATION**

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

23
24 **6. DESIGNATING PROTECTED MATERIAL**

25 6.1. Exercise of Restraint and Care in Designating Material for Protection.

26 Each Party or Nonparty that designates information or items for
27 protection under this Stipulated Protective Order must take care to
28 limit any such designation to specific material that qualifies under the

1 appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items, or oral or
3 written communications that qualify so that other portions of the
4 material, documents, items, or communications for which protection is
5 not warranted are not swept unjustifiably within the ambit of this
6 Stipulated Protective Order.

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

13 6.2. Manner and Timing of Designations.

14 Except as otherwise provided in this Stipulated Protective Order
15 (*see, e.g.*, Section 6.2(a)), or as otherwise stipulated or ordered,
16 Disclosure or Discovery Material that qualifies for protection under
17 this Stipulated Protective Order must be clearly so designated before
18 the material is disclosed or produced.

19 ///

20 Designation in conformity with this Stipulated Protective Order
21 requires the following:

- 22 (a) For information in documentary form (*e.g.*, paper or electronic
23 documents, but excluding transcripts of depositions or other
24 pretrial or trial proceedings), that the Producing Party affix at a
25 minimum, the legend “CONFIDENTIAL” to each page that
26 contains protected material. If only a portion or portions of the
27 material on a page qualifies for protection, the Producing Party
28 also must clearly identify the protected portion(s) (*e.g.*, by

1 making appropriate markings in the margins).

2 A Party or Nonparty that makes original documents
3 available for inspection need not designate them for protection
4 until after the inspecting Party has indicated which documents it
5 would like copied and produced. During the inspection and
6 before the designation, all of the material made available for
7 inspection shall be deemed “CONFIDENTIAL.” 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 Stipulated Protective Order. Then, before producing the
12 specified documents, the Producing Party must affix the legend
13 “CONFIDENTIAL” to each page that contains Protected
14 Material. If only a portion or portions of the material on a page
15 qualifies for protection, the Producing Party also must clearly
16 identify the protected portion(s) (*e.g.*, by making appropriate
17 markings in the margins).

18 (b) For testimony given in depositions, that the Designating Party
19 identify the Disclosure or Discovery Material on the record,
20 before the close of the deposition, all protected testimony.

21 (c) For information produced in nondocumentary form, and for any
22 other tangible items, that the Producing Party affix in a
23 prominent place on the exterior of the container or containers in
24 which the information is stored the legend “CONFIDENTIAL.”
25 If only a portion or portions of the information warrants
26 protection, the Producing Party, to the extent practicable, shall
27 identify the protected portion(s).

28 6.3. Inadvertent Failure to Designate.

1 If timely corrected, an inadvertent failure to designate qualified
2 information or items does not, standing alone, waive the Designating
3 Party’s right to secure protection under this Stipulated Protective Order
4 for such material. Upon timely correction of a designation, the
5 Receiving Party must make reasonable efforts to assure that the
6 material is treated in accordance with the provisions of this Stipulated
7 Protective Order.

8
9 **7. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

10 7.1. Timing of Challenges.

11 Any Party or Nonparty may challenge a designation of
12 confidentiality at any time that is consistent with the Court’s
13 Scheduling Order.

14 7.2. Meet and Confer.

15 The Challenging Party shall initiate the dispute resolution process,
16 which shall comply with Local Rule 37.1 et seq., and with Section 4 of
17 Judge Audero’s Procedures (“Mandatory Telephonic Conference for
18 Discovery Disputes”).¹

19 7.3. Burden of Persuasion.

20 The burden of persuasion in any such challenge proceeding shall
21 be on the Designating Party. Frivolous challenges, and those made for
22 an improper purpose (*e.g.*, to harass or impose unnecessary expenses
23 and burdens on other parties) may expose the Challenging Party to
24 sanctions. Unless the Designating Party has waived or withdrawn the
25 confidentiality designation, all parties shall continue to afford the
26 material in question the level of protection to which it is entitled under
27

28 ¹ Judge Audero’s Procedures are available at
<https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 the Producing Party’s designation until the Court rules on the
2 challenge.

3
4 **8. ACCESS TO AND USE OF PROTECTED MATERIALS**

5 8.1. Basic Principles.

6 A Receiving Party may use Protected Material that is disclosed
7 or produced by another Party or by a Nonparty in connection with this
8 Action only for prosecuting, defending, or attempting to settle this
9 Action. Such Protected Material may be disclosed only to the
10 categories of persons and under the conditions described in this
11 Stipulated Protective Order. When the Action reaches a final
12 disposition, a Receiving Party must comply with the provisions of
13 Section 14 below.

14 Protected Material must be stored and maintained by a
15 Receiving Party at a location and in a secure manner that ensures that
16 access is limited to the persons authorized under this Stipulated
17 Protective Order.

18 8.2. Disclosure of “CONFIDENTIAL” Information or Items.

19 Unless otherwise ordered by the Court or permitted in writing
20 by the Designating Party, a Receiving Party may disclose any
21 information or item designated “CONFIDENTIAL” only to:

- 22 (a) The Receiving Party’s Outside Counsel of Record, as well as
23 employees of said Outside Counsel of Record to whom it is
24 reasonably necessary to disclose the information for this Action;
25 (b) The officers, directors, and employees (including In-House
26 Counsel) of the Receiving Party to whom disclosure is
27 reasonably necessary for this Action;
28 (c) Experts of the Receiving Party to whom disclosure is reasonably

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- necessary for this Action and who have signed the
“Acknowledgment and Agreement to Be Bound” (Exhibit A);
- (d) The Court and its personnel;
 - (e) Court reporters and their staff;
 - (f) Professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary or this Action and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A);
 - (g) The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;
 - (h) During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (i) the deposing party requests that the witness sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (ii) the witness will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound,” unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and
 - (i) Any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

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

3 If a Party is served with a subpoena or a court order issued in other litigation
4 that compels disclosure of any information or items designated in this Action as
5 “CONFIDENTIAL,” that Party must:

- 6 (a) Promptly notify in writing the Designating Party. Such notification
7 shall include a copy of the subpoena or court order;
- 8 (b) Promptly notify in writing the party who caused the subpoena or order
9 to issue in the other litigation that some or all of the material covered
10 by the subpoena or order is subject to this Stipulated Protective Order.
11 Such notification shall include a copy of this Stipulated Protective
12 Order; and
- 13 (c) Cooperate with respect to all reasonable procedures sought to be
14 pursued by the Designating Party whose Protected Material may be
15 affected.

16 If the Designating Party timely seeks a protective order, the Party served with
17 the subpoena or court order shall not produce any information designated in this
18 action as “CONFIDENTIAL” before a determination by the Court from which the
19 subpoena or order issued, unless the Party has obtained the Designating Party’s
20 permission. The Designating Party shall bear the burden and expense of seeking
21 protection in that court of its confidential material and nothing in these provisions
22 should be construed as authorizing or encouraging a Receiving Party in this Action
23 to disobey a lawful directive from another court.

24
25 **10. A NONPARTY’S PROTECTED MATERIAL SOUGHT TO BE**
26 **PRODUCED IN THIS LITIGATION**

27 10.1. Application.

28 The terms of this Stipulated Protective Order are applicable to

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information produced by a Nonparty in this Action and designated as “CONFIDENTIAL.” Such information produced by Nonparties in connection with this litigation is protected by the remedies and relief provided by this Stipulated Protective Order. Nothing in these provisions should be construed as prohibiting a Nonparty from seeking additional protections.

10.2. Notification.

In the event that a Party is required, by a valid discovery request, to produce a Nonparty’s confidential information in its possession, and the Party is subject to an agreement with the Nonparty not to produce the Nonparty’s confidential information, then the Party shall:

- (a) Promptly notify in writing the Requesting Party and the Nonparty that some or all of the information requested is subject to a confidentiality agreement with a Nonparty;
- (b) Promptly provide the Nonparty with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and
- (c) Make the information requested available for inspection by the Nonparty, if requested.

10.3. Conditions of Production.

If the Nonparty fails to seek a protective order from this Court within fourteen (14) days after receiving the notice and accompanying information, the Receiving Party may produce the Nonparty’s confidential information responsive to the discovery request. If the Nonparty timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to

1 the confidentiality agreement with the Nonparty before a
2 determination by the Court. Absent a court order to the contrary, the
3 Nonparty shall bear the burden and expense of seeking protection in
4 this Court of its Protected Material.
5

6 **11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

7 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
8 Protected Material to any person or in any circumstance not authorized under this
9 Stipulated Protective Order, the Receiving Party immediately must (1) notify in
10 writing the Designating Party of the unauthorized disclosures, (2) use its best
11 efforts to retrieve all unauthorized copies of the Protected Material, (3) inform the
12 person or persons to whom unauthorized disclosures were made of all the terms of
13 this Stipulated Protective Order, and (4) request such person or persons to execute
14 the “Acknowledgment and Agreement to be Bound” (Exhibit A).
15

16 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
17 **PROTECTED MATERIAL**

18 When a Producing Party gives notice to Receiving Parties that certain
19 inadvertently produced material is subject to a claim of privilege or other
20 protection, the obligations of the Receiving Parties are those set forth in Federal
21 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
22 whatever procedure may be established in an e-discovery order that provides for
23 production without prior privilege review. Pursuant to Federal Rule of Evidence
24 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure
25 of a communication or information covered by the attorney-client privilege or work
26 product protection, the parties may incorporate their agreement in the Stipulated
27 Protective Order submitted to the Court.
28

1 **13. MISCELLANEOUS**

2 13.1. Right to Further Relief.

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

5 13.2. Right to Assert Other Objections.

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

12 13.3. Filing Protected Material.

13 A Party that seeks to file under seal any Protected Material must
14 comply with Local Rule 79-5. Protected Material may only be filed
15 under seal pursuant to a court order authorizing the sealing of the
16 specific Protected Material at issue. If a Party's request to file
17 Protected Material under seal is denied by the Court, then the
18 Receiving Party may file the information in the public record unless
19 otherwise instructed by the Court.
20

21 **14. FINAL DISPOSITION**

22 After the final disposition of this Action, within sixty (60) days of a written
23 request by the Designating Party, each Receiving Party must return all Protected
24 Material to the Producing Party or destroy such material. As used in this
25 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
26 summaries, and any other format reproducing or capturing any of the Protected
27 Material. Whether the Protected Material is returned or destroyed, the Receiving
28 Party must submit a written certification to the Producing Party (and, if not the

1 same person or entity, to the Designating Party) by the 60-day deadline that
2 (1) identifies (by category, where appropriate) all the Protected Material that was
3 returned or destroyed and (2) affirms that the Receiving Party has not retained any
4 copies, abstracts, compilations, summaries or any other format reproducing or
5 capturing any of the Protected Material. Notwithstanding this provision, Counsel is
6 entitled to retain an archival copy of all pleadings; motion papers; trial, deposition,
7 and hearing transcripts; legal memoranda; correspondence; deposition and trial
8 exhibits; expert reports; attorney work product; and consultant and expert work
9 product, even if such materials contain Protected Material. Any such archival
10 copies that contain or constitute Protected Material remain subject to this Stipulated
11 Protective Order as set forth in Section 5.

12 **15. VIOLATION**

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

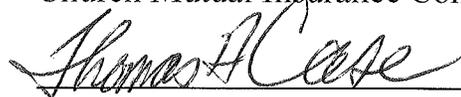
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17 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

18 Dated: February 15, 2021



19 _____
Katherine A. Sandoval
20 Attorney(s) for Plaintiff(s)
Church Mutual Insurance Company

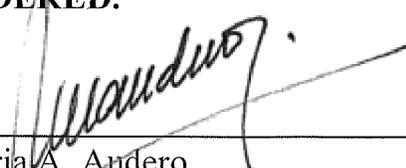
21 Dated: February 16, 2021



22 _____
Thomas H. Case
23 Attorney(s) for Defendant(s)
Louisville Ladder Inc.

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25 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

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27 Dated: 02/17/21



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Maria A. Audero
United States Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [full name], of _____
_____ [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 _____
[case name and number]. 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. I hereby appoint _____ [full name]
of _____ [address and telephone number]
as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Stipulated Protective Order.

Signature: _____
Printed Name: _____
Date: _____
City and State Where Sworn and Signed: _____