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15
 16 **UNITED STATES DISTRICT COURT**
 17 **CENTRAL DISTRICT OF CALIFORNIA**
 18

19 THR PROPERTY MANAGEMENT
 L.P., and INVITATION HOMES
 20 INC.,

21 Plaintiffs,

22 v.

23 UNITED DWELLING, INC.;
 24 UNITED DWELLING
 CONSTRUCTION, INC.; and
 25 STEVEN DIETZ, inclusive,

26 Defendants.
 27
 28

Case No. 2:23-cv-06686-CAS (ASx)

PROTECTIVE ORDER

Complaint Filed: August 15, 2023
 Trial Date: April 23, 2024

1 **1. INTRODUCTION**

2 **1.1 PURPOSES AND LIMITATIONS**

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

15 **1.2 GOOD CAUSE STATEMENT**

16 In the course of litigating and taking discovery in this action, the parties, or third
17 parties in connection with the action, may need to produce competitively sensitive,
18 confidential, and proprietary business information and/or private personal, financial
19 information, including the following categories:

- 20 a. documents that reveal confidential information about a party's
21 business or commercial information about a party's business; or
22 b. documents that reveal personal confidential financial information.

23 Accordingly, to expedite the flow of information, to facilitate the prompt
24 resolution of disputes over confidentiality of discovery materials, to adequately protect
25 information the parties are entitled to keep confidential, to ensure that the parties are
26 permitted reasonable necessary uses of such material in preparation for and in the
27 conduct of trial, to address their handling at the end of the litigation, and to serve the
28 ends of justice, a protective order for such information is justified in this matter. It is

1 the intent of the parties that information will not be designated as confidential for
2 tactical reasons and that nothing be so designated without a good faith belief that it has
3 been maintained in a confidential, non-public manner, and there is good cause why it
4 should not be part of the public record of this case.

5 **2. DEFINITIONS**

6 **2.1 Action:** *THR Property Management L.P. et al. v. United Dwelling, Inc. et*
7 *al.* (Case No. 2:23-cv-06686-CAS-AS)

8 **2.2 Challenging Party:** a Party or Non-Party that challenges the designation
9 of information or items under this Order.

10 **2.3 “CONFIDENTIAL” Information or Items:** information (regardless of
11 how it is generated, stored or maintained) or tangible things that qualify for protection
12 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
13 Statement.

14 **2.4 Counsel:** Outside Counsel of Record and House Counsel (as well as their
15 support staff).

16 **2.5 Designating Party:** a Party or Non-Party that designates information or
17 items that it produces in disclosures or in responses to discovery as
18 “CONFIDENTIAL.”

19 **2.6 Disclosure or Discovery Material:** all items or information, regardless
20 of the medium or manner in which it is generated, stored, or maintained (including,
21 among other things, testimony, transcripts, and tangible things), that are produced or
22 generated in disclosures or responses to discovery in this matter.

23 **2.7 Expert:** a person with specialized knowledge or experience in a matter
24 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
25 expert witness or as a consultant in this Action.

26 **2.8 House Counsel:** attorneys who are employees of a party to this Action.
27 House Counsel does not include Outside Counsel of Record or any other outside
28 counsel.

1 **2.9 Non-Party:** any natural person, partnership, corporation, association, or
2 other legal entity not named as a Party to this action.

3 **2.10 Outside Counsel of Record:** attorneys who are not employees of a party
4 to this Action but are retained to represent or advise a party to this Action and have
5 appeared in this Action on behalf of that party or are affiliated with a law firm which
6 has appeared on behalf of that party, and includes support staff.

7 **2.11 Party:** any party to this Action, including all of its officers, directors,
8 employees, consultants, retained experts, and Outside Counsel of Record (and their
9 support staffs).

10 **2.12 Producing Party:** a Party or Non-Party that produces Disclosure or
11 Discovery Material in this Action.

12 **2.13 Professional Vendors:** persons or entities that provide litigation support
13 services (e.g., photocopying, videotaping, translating, preparing exhibits or
14 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
15 their employees and subcontractors.

16 **2.14 Protected Material:** any Disclosure or Discovery Material that is
17 designated as “CONFIDENTIAL.”

18 **2.15 Receiving Party:** a Party that receives Disclosure or Discovery Material
19 from a Producing Party.

20 **3. SCOPE**

21 The protections conferred by this Stipulation and Order cover not only Protected
22 Material (as defined above), but also (1) any information copied or extracted from
23 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
24 Material; and (3) any testimony, conversations, or presentations by Parties or their
25 Counsel that might reveal Protected Material.

26 Any use of Protected Material at trial will be governed by the orders of the trial
27 judge. This Order does not govern the use of Protected Material at trial.

28

1 **4. DURATION**

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

9 **5. DESIGNATING PROTECTED MATERIAL**

10 **5.1 Exercise of Restraint and Care in Designating Material for**
11 **Protection.** Each Party or Non-Party that designates information or items for protection
12 under this Order must take care to limit any such designation to specific material that
13 qualifies under the appropriate standards. The Designating Party must designate for
14 protection only those parts of material, documents, items, or oral or written
15 communications that qualify so that other portions of the material, documents, items,
16 or communications for which protection is not warranted are not swept unjustifiably
17 within the ambit of this Order.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations
19 that are shown to be clearly unjustified or that have been made for an improper purpose
20 (e.g., to unnecessarily encumber the case development process or to impose
21 unnecessary expenses and burdens on other parties) may expose the Designating Party
22 to sanctions.

23 If it comes to a Designating Party's attention that information or items that it
24 designated for protection do not qualify for protection, that Designating Party must
25 promptly notify all other Parties that it is withdrawing the inapplicable designation.

26 **5.2 Manner and Timing of Designations.** Except as otherwise provided in
27 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
28 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection

1 under this Order must be clearly so designated before the material is disclosed or
2 produced.

3 Designation in conformity with this Order requires:

4 (a) for information in documentary form (e.g., paper or electronic documents,
5 but excluding transcripts of depositions or other pretrial or trial proceedings), that the
6 Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter
7 “CONFIDENTIAL legend”), to each page that contains protected material. If only a
8 portion or portions of the material on a page qualifies for protection, the Producing
9 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
10 markings in the margins).

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

22 (b) for testimony given in depositions that the Designating Party identifies the
23 Disclosure or Discovery Material within 15 days of the Designating Party’s receipt of
24 the deposition transcript.

25 (c) for information produced in some form other than documentary and for any
26 other tangible items, that the Producing Party affix in a prominent place on the exterior
27 of the container or containers in which the information is stored the legend
28 “CONFIDENTIAL.” If only a portion or portions of the information warrants

1 protection, the Producing Party, to the extent practicable, will identify the protected
2 portion(s).

3 **5.3 Inadvertent Failures to Designate.** If timely corrected, an inadvertent
4 failure to designate qualified information or items does not, standing alone, waive the
5 Designating Party's right to secure protection under this Order for such material. Upon
6 timely correction of a designation, the Receiving Party must make reasonable efforts to
7 assure that the material is treated in accordance with the provisions of this Order.

8 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

9 **6.1 Timing of Challenges.** Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court's Scheduling
11 Order.

12 **6.2 Meet and Confer.** The Challenging Party will initiate the dispute
13 resolution process under Local Rule 37.1 et seq.

14 **6.3 Burden.** The burden of persuasion in any such challenge proceeding will
15 be on the Designating Party. Frivolous challenges, and those made for an improper
16 purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties)
17 may expose the Challenging Party to sanctions. Unless the Designating Party has
18 waived or withdrawn the confidentiality designation, all parties will continue to afford
19 the material in question the level of protection to which it is entitled under the
20 Producing Party's designation until the Court rules on the challenge.

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

22 **7.1 Basic Principles.** A Receiving Party may use Protected Material that is
23 disclosed or produced by another Party or by a Non-Party in connection with this
24 Action only for prosecuting, defending, or attempting to settle this Action. Such
25 Protected Material may be disclosed only to the categories of persons and under the
26 conditions described in this Order. When the Action has been terminated, a Receiving
27 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).
28

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

4 **7.2 Disclosure of “CONFIDENTIAL” Information or Items.** Unless
5 otherwise ordered by the court or permitted in writing by the Designating Party, a
6 Receiving Party may disclose any information or item designated “CONFIDENTIAL”
7 only to:

8 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
9 as employees of said Outside Counsel of Record to whom it is reasonably necessary to
10 disclose the information for this Action;

11 (b) the officers, directors, and employees (including House Counsel) of
12 the Receiving Party to whom disclosure is reasonably necessary for this Action;

13 (c) Experts (as defined in this Order) of the Receiving Party to whom
14 disclosure is reasonably necessary for this Action and who have signed the
15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16 (d) the Court and its personnel;

17 (e) court reporters and their staff;

18 (f) professional jury or trial consultants, mock jurors, and Professional
19 Vendors to whom disclosure is reasonably necessary for this Action and who have
20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21 (g) the author or recipient of a document containing the information or a
22 custodian or other person who otherwise possessed or knew the information;

23 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
25 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will
26 not be permitted to keep any confidential information unless they sign the
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
28 by the Designating Party or ordered by the court. Pages of transcribed deposition

1 testimony or exhibits to depositions that reveal Protected Material may be separately
2 bound by the court reporter and may not be disclosed to anyone except as permitted
3 under this Stipulated Protective Order; and

4 (i) any mediator or settlement officer, and their supporting personnel,
5 mutually agreed upon by any of the parties engaged in settlement discussions.

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

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

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

13 (b) promptly notify in writing the party who caused the subpoena or order to
14 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 will include a copy of this
16 Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be pursued by
18 the Designating Party whose Protected Material may be affected.

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

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

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

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

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 Non-
19 Party, if requested.

20 (c) If the Non-Party fails to seek a protective order from this court within 14
21 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.
23 If the Non-Party timely seeks a protective order, the Receiving Party will not produce
24 any information in its possession or control that is subject to the confidentiality
25 agreement with the Non-Party before a determination by the court. Absent a court
26 order to the contrary, the Non-Party will bear the burden and expense of seeking
27 protection in this 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. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
11 **PROTECTED MATERIAL**

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

22 **12. MISCELLANEOUS**

23 **12.1 Right to Further Relief.** Nothing in this Order abridges the right of any
24 person to seek its modification by the Court in the future.

25 **12.2 Right to Assert Other Objections.** By stipulating to the entry of this
26 Protective Order no Party waives any right it otherwise would have to object to
27 disclosing or producing any information or item on any ground not addressed in this
28

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

3 **12.3 Filing Protected Material.** A Party that seeks to file under seal any
4 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
5 only be filed under seal pursuant to a court order authorizing the sealing of the specific
6 Protected Material at issue. If a Party's request to file Protected Material under seal is
7 denied by the court, then the Receiving Party may file the information in the public
8 record unless otherwise instructed by the court.

9 **12.4 Effective Upon Signing.** This Order will become effective and the
10 Parties will be bound to it upon the signature of each Party or Non-Party's attorney of
11 record.

12 **13. FINAL DISPOSITION**

13 After the final disposition of this Action, as defined in paragraph 4, within 60
14 days of a written request by the Designating Party, each Receiving Party must return
15 all Protected Material to the Producing Party or destroy such material. As used in this
16 subdivision, "all Protected Material" includes all copies, abstracts, compilations,
17 summaries, and any other format reproducing or capturing any of the Protected
18 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
19 must submit a written certification to the Producing Party (and, if not the same person
20 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
21 category, where appropriate) all the Protected Material that was returned or destroyed
22 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
23 compilations, summaries or any other format reproducing or capturing any of the
24 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
25 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
26 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
27 attorney work product, and consultant and expert work product, even if such materials
28 contain Protected Material. Any such archival copies that contain or constitute

1 Protected Material remain subject to this Protective Order as set forth in Section 4
2 (DURATION).

3 **14. VIOLATION OF ORDER**

4 Any willful violation of this Order may be punished by civil or criminal
5 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
6 authorities, or other appropriate action at the discretion of the Court.
7

8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD
9

10 Dated: March 26, 2024

Respectfully submitted,

11 FAEGRE DRINKER BIDDLE & REATH
12 LLP

13 By: 

14 Kristopher S. Davis
David A. Belcher

15 Attorneys for Plaintiffs
16 THR PROPERTY MANAGEMENT L.P. and
17 INVITATION HOMES INC.

18 Dated: March 26, 2024

BLANK ROME LLP

19 By: 

20 Greg Bordo
21 Benjamin M. Wigley

22 Attorneys for Defendant
23 STEVEN DIETZ

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

26 DATED: March 28, 2024

/ s / Sagar

27 Honorable Alka Sagar
28 United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3
4 I, _____ [full name], of _____
5 [full address], declare under penalty of perjury that I have read in its entirety and
6 understand the Stipulated Protective Order that was issued by the United States
7 District Court for the Central District of California on [date] in the case of *THR*
8 *Property Management L.P. et al. v. United Dwelling, Inc. et al.* (Case No. 2:23-
9 cv-06686-CAS (ASx)). I agree to comply with and to be bound by all the terms
10 of this Stipulated Protective Order and I understand and acknowledge that
11 failure to so comply could expose me to sanctions and punishment in the nature
12 of contempt. I solemnly promise that I will not disclose in any manner any
13 information or item that is subject to this Stipulated Protective Order to any person
14 or entity except in strict compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court
16 for the Central District of California for the purpose of enforcing the terms of this
17 Stipulated Protective Order, even if such enforcement proceedings occur after
18 termination of this action. I hereby appoint _____ [full
19 name] of _____ [full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where signed: _____

25 Printed name: _____

26 Signature: _____

27
28