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 8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

11 SA Recycling LLC, a Delaware limited
 liability company,
 12
 13 Plaintiff,
 14 vs.
 15 Express Metals Recycling, a California
 business entity,
 16 Defendant.

CASE NO. 12CV 01607 AG(JPRx)
 Hon. Andrew J. Guilford

**STIPULATED PROTECTIVE
 ORDER FOR LITIGATION
 INVOLVING PATENTS, HIGHLY
 SENSITIVE CONFIDENTIAL
 INFORMATION AND/OR TRADE
 SECRETS**

21 1. PURPOSES AND LIMITATIONS

22 Disclosure and discovery activity in this action are likely to involve
 23 production of confidential, proprietary, or private information for which special
 24 protection from public disclosure and from use for any purpose other than
 25 prosecuting this litigation may be warranted. Accordingly, the parties hereby
 26 stipulate to and petition the court to enter the following Stipulated Protective Order.
 27 The parties acknowledge that this Order does not confer blanket protections on all
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1 disclosures or responses to discovery and that the protection it affords from public
2 disclosure and use extends only to the limited information or items that are entitled
3 to confidential treatment under the applicable legal principles. The parties further
4 acknowledge, as set forth in Section 14.4, below, that this Stipulated Protective
5 Order does not entitle them to file confidential information under seal; Civil Local
6 Rule 79-5 set forth the procedures that must be followed and the standards that will
7 be applied when a party seeks permission from the court to file material under seal.

8 **2. DEFINITIONS**

9 2.1 Challenging Party: a Party or Non-Party that challenges the designation
10 of information or items under this Order.

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

14 2.3 Counsel (without qualifier): Outside Counsel of Record and House
15 Counsel (as well as their support staff).

16 2.4 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” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
19 ONLY”.

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

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

3 2.7 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”

4 Information or Items: extremely sensitive “Confidential Information or Items,”
5 disclosure of which to another Party or Non-Party would create a substantial risk of
6 serious harm that could not be avoided by less restrictive means.

7 2.8 Non-Party: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 2.9 Outside Counsel of Record: attorneys who are not employees of a party
10 to this action but are retained to represent or advise a party to this action and have
11 appeared in this action on behalf of that party or are affiliated with a law firm which
12 has appeared on behalf of that party.

13 2.10 Party: any party to this action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (and their
15 support staffs).

16 2.11 Producing Party: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this action.

18 2.12 Professional Vendors: persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)
21 and their employees and subcontractors.

22 2.13 Protected Material: any Disclosure or Discovery Material that is
23 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –
24 ATTORNEYS’ EYES ONLY.”

25 2.14 Receiving Party: a Party that receives Disclosure or Discovery Material
26 from a Producing Party.

27 3. SCOPE

28 The protections conferred by this Stipulation and Order cover not only

1 Protected Material (as defined above), but also (1) any information copied or
2 extracted from Protected Material; (2) all copies, excerpts, summaries, or
3 compilations of Protected Material; and (3) any testimony, conversations, or
4 presentations by Parties or their Counsel that might reveal Protected Material.

5 However, the protections conferred by this Stipulation and Order do not cover the
6 following information: (a) any information that is in the public domain at the time of
7 disclosure to a Receiving Party or becomes part of the public domain after its
8 disclosure to a Receiving Party as a result of publication not involving a violation of
9 this Order, including becoming part of the public record through trial or otherwise;
10 and (b) any information known to the Receiving Party prior to the disclosure or
11 obtained by the Receiving Party after the disclosure from a source who obtained the
12 information lawfully and under no obligation of confidentiality to the Designating
13 Party. Any use of Protected Material at trial and/or at any other court hearing shall be
14 governed by a separate agreement or order.

15 4. DURATION

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

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection.

26 Each Party or Non-Party that designates information or items for protection under
27 this Order must take care to limit any such designation to specific material that
28 qualifies under the appropriate standards. To the extent it is practical to do so, the

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

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

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

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (e.g., paper or electronic
21 documents, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
23 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
24 contains protected material. If only a portion or portions of the material on a page
25 qualifies for protection, the Producing Party also must clearly identify the protected
26 portion(s) (e.g., by making appropriate markings in the margins) and must specify,
27 for each portion, the level of protection being asserted.

28 A Party or Non-Party that makes original documents or materials available for

1 inspection need not designate them for protection until after the inspecting Party has
2 indicated which material it would like copied and produced. During the inspection
3 and before the designation, all of the material made available for inspection shall be
4 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
5 inspecting Party has identified the documents it wants copied and produced, the
6 Producing Party must determine which documents, or portions thereof, qualify for
7 protection under this Order. Then, before producing the specified documents, the
8 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or
9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
10 contains Protected Material. If only a portion or portions of the material on a page
11 qualifies for protection, the Producing Party also must clearly identify the protected
12 portion(s) (e.g., by making appropriate markings in the margins) and must specify,
13 for each portion, the level of protection being asserted.

14 (b) for testimony given in deposition, that the Designating Party identify
15 on the record, before the close of the deposition, hearing, or other proceeding, all
16 protected testimony and specify the level of protection being asserted. When it is
17 impractical to identify separately each portion of testimony that is entitled to
18 protection and it appears that substantial portions of the testimony may qualify for
19 protection, the Designating Party may invoke on the record (before the deposition,
20 or other proceeding is concluded) a right to have up to 21 days to identify the
21 specific portions of the testimony as to which protection is sought and to specify the
22 level of protection being asserted. Only those portions of the testimony that are
23 appropriately designated for protection within the 21 days shall be covered by the
24 provisions of this Stipulated Protective Order. Alternatively, a Designating Party
25 may specify, at the deposition or up to 21 days afterwards if that period is properly
26 invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or
27 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

28 Parties shall give the other parties notice if they reasonably expect a deposition

1 or other proceeding to include Protected Material so that the other parties can ensure
2 that only authorized individuals who have signed the “Acknowledgment and
3 Agreement to Be Bound” (Exhibit A) are present at those proceedings. The use of a
4 document as an exhibit at a deposition shall not in any way affect its designation as
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
6 ONLY.”

7 Transcripts containing Protected Material shall have an obvious legend on the
8 title page that the transcript contains Protected Material, and the title page shall be
9 followed by a list of all pages (including line numbers as appropriate) that have been
10 designated as Protected Material and the level of protection being asserted by the
11 Designating Party. The Designating Party shall inform the court reporter of these
12 requirements. Any transcript that is prepared before the expiration of a 21-day period
13 for designation shall be treated during that period as if it had been designated
14 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless
15 otherwise agreed. After the expiration of that period, the transcript shall be treated
16 only as actually designated.

17 (c) for information produced in some form other than documentary and
18 for any other tangible items, that the Producing Party affix in a prominent place on
19 the exterior of the container or containers in which the information or item is stored
20 the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
21 EYES ONLY.” If only a portion or portions of the information or item warrant
22 protection, the Producing Party, to the extent practicable, shall identify the protected
23 portion(s) and specify the level of protection being asserted. The terms set forth in
24 this paragraph 5.2 do not bind any future presiding judicial officer to the procedures
25 set forth herein, but continue to bind the parties absent agreement and/or court order
26 otherwise.

27 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
28 failure to designate qualified information or items does not, standing alone, waive

1 the Designating Party's right to secure protection under this Order for such material.
2 Upon timely correction of a designation, the Receiving Party must make reasonable
3 efforts to assure that the material is treated in accordance with the provisions of this
4 Order.

5 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
7 designation of confidentiality at any time. Unless a prompt challenge to a
8 Designating Party's confidentiality designation is necessary to avoid foreseeable,
9 substantial unfairness, unnecessary economic burdens, or a significant disruption or
10 delay of the litigation, a Party does not waive its right to challenge a confidentiality
11 designation by electing not to mount a challenge promptly after the original
12 designation is disclosed.

13 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
14 resolution process by providing written notice of each designation it is challenging
15 and describing the basis for each challenge. To avoid ambiguity as to whether a
16 challenge has been made, the written notice must recite that the challenge to
17 confidentiality is being made in accordance with this specific paragraph of the
18 Protective Order. The parties shall attempt to resolve each challenge in good faith
19 and must begin the process by conferring directly (in voice to voice dialogue; other
20 forms of communication are not sufficient) within 10 days of the date of service of
21 notice. In conferring, the Challenging Party must explain the basis for its belief that
22 the confidentiality designation was not proper and must give the Designating Party
23 an opportunity to review the designated material, to reconsider the circumstances,
24 and, if no change in designation is offered, to explain the basis for the chosen
25 designation. A Challenging Party may proceed to the next stage of the challenge
26 process only if it has engaged in this meet and confer process first or establishes that
27 the Designating Party is unwilling to participate in the meet and confer process in a
28 timely manner. Any motion seeking the Court's resolution of a dispute about the

1 terms of this protective order must comply with Local Rules 37-1 and 37-2,
2 including the Joint Stipulation provision.

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

19 The burden of persuasion in any such challenge proceeding shall be on the
20 Designating Party. Frivolous challenges and those made for an improper purpose
21 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
22 expose the Challenging Party to sanctions. Unless the Designating Party has waived
23 the confidentiality designation by failing to file a motion to retain confidentiality as
24 described above, all parties shall continue to afford the material in question the level
25 of protection to which it is entitled under the Producing Party's designation until the
26 court rules on the challenge. Any motion seeking the Court's resolution of a dispute
27 about the terms of this protective order must comply with Local Rules 37-1 and 37-2,
28 including the Joint Stipulation provision.

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7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the litigation has been terminated, a Receiving Party must comply with the provisions of section 15 below (FINAL DISPOSITION).

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

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

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

(b) the officers, directors, and employees of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation 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, professional jury or trial consultants,

1 and Professional Vendors to whom disclosure is reasonably necessary for this
2 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
3 (Exhibit A);

4 (f) during their depositions, witnesses in the action to whom disclosure
5 is reasonably necessary and who have signed the “Acknowledgment and Agreement
6 to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or
7 ordered by the court. Pages of transcribed deposition testimony or exhibits to
8 depositions that reveal Protected Material must be separately bound by the court
9 reporter and may not be disclosed to anyone except as permitted under this
10 Stipulated Protective Order.

11 (g) the author or recipient of a document containing the information or a
12 custodian or other person who otherwise possessed or knew the information.

13 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
14 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
15 writing by the Designating Party, a Receiving Party may disclose any information or
16 item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only
17 to:

18 (a) the Receiving Party’s Outside Counsel of Record in this action, as
19 well as employees of said Outside Counsel of Record to whom it is reasonably
20 necessary to disclose the information for this litigation and who have signed the
21 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit
22 A;

23 (b) Experts of the Receiving Party (1) to whom disclosure is reasonably
24 necessary for this litigation, (2) who have signed the “Acknowledgment and
25 Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in
26 paragraph 7.4(a)(2), below, have been followed];

27 (c) the court and its personnel;

28 (d) court reporters and their staff, professional jury or trial consultants,

1 and Professional Vendors to whom disclosure is reasonably necessary for this
2 litigation and who have signed the “Acknowledgment and Agreement to Be Bound”
3 (Exhibit A); and

4 (e) the author or recipient of a document containing the information or a
5 custodian or other person who otherwise possessed or knew the information.

6 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts.

8 (a) Unless otherwise ordered by the court or agreed to in writing by the
9 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
10 Order) any information or item that has been designated “HIGHLY
11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b)
12 first must make a written request to the Designating Party that (1) identifies the
13 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
14 information that the Receiving Party seeks permission to disclose to the Expert, (2)
15 sets forth the full name of the Expert and the city and state of his or her primary
16 residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the
17 Expert’s current employer(s), (5) identifies each person or entity from whom the
18 Expert has received compensation or funding for work in his or her areas of expertise
19 or to whom the expert has provided professional services, including in connection
20 with a litigation, at any time during the preceding five years, and (6) identifies (by
21 name and number of the case, filing date, and location of court) any litigation in
22 connection with which the Expert has offered expert testimony, including through a
23 declaration, report, or testimony at a deposition or trial, during the preceding five
24 years.

25 (b) A Party that makes a request and provides the information specified
26 in the preceding respective paragraphs may disclose the subject Protected Material to
27 the identified Expert unless, within 14 days of delivering the request, the Party
28 receives a written objection from the Designating Party. Any such objection must set

1 forth in detail the grounds on which it is based.

2 (c) A Party that receives a timely written objection must meet and
3 confer with the Designating Party (through direct voice to voice dialogue) to try to
4 resolve the matter by agreement within seven days of the written objection. If no
5 agreement is reached, the Party seeking to make the disclosure to Designated House
6 Counsel or the Expert may file a motion as provided in Civil Local Rule 7 and in
7 compliance with Civil Local Rule 79-5, if applicable, seeking permission from the
8 court to do so. Any such motion must describe the circumstances with specificity, set
9 forth in detail the reasons why the disclosure to the Expert is reasonably necessary,
10 assess the risk of harm that the disclosure would entail, and suggest any additional
11 means that could be used to reduce that risk. In addition, any such motion must be
12 accompanied by a competent declaration describing the parties' efforts to resolve the
13 matter by agreement (i.e., the extent and the content of the meet and confer
14 discussions) and setting forth the reasons advanced by the Designating Party for its
15 refusal to approve the disclosure.

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

20 Any motion seeking the Court's resolution of a dispute about the terms of this
21 protective order must comply with Local Rules 37-1 and 37-2, including the Joint
22 Stipulation provision.

23 **8. PROSECUTION BAR**

24 Absent written consent from the Producing Party, any individual who actually
25 views or actually otherwise receives "CONFIDENTIAL" and/or "HIGHLY
26 CONFIDENTIAL – ATTORNEYS' EYES ONLY" information relating to any
27 apparatus or method of use of an apparatus by the Producing Party for loading a
28 freight container with scrap metal, shall not be involved in the prosecution of claims

1 for patents or patent applications relating to any apparatus or method of use of an
2 apparatus for loading a freight container with scrap metal, including without
3 limitation the patent asserted in this action, U.S. Patent No. 7,837,428, and including
4 without limitation any patent or application claiming priority to or otherwise related
5 to the patent asserted in this action, before any foreign or domestic agency, including
6 the United States Patent and Trademark Office (“the Patent Office”). For purposes of
7 this paragraph, “prosecution of claims” means directly or indirectly drafting,
8 amending, advising, or otherwise affecting the scope of patent claims. To avoid any
9 doubt, “prosecution of claims” as used in this paragraph does not include
10 representing a party challenging a patent before a domestic or foreign agency
11 (including, but not limited to, a reissue protest, *ex parte* reexamination or *inter partes*
12 reexamination). This Prosecution Bar shall begin when access to
13 “CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
14 ONLY” information is first received by the affected individual.

15 9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
16 OTHER LITIGATION

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

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

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

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

1 If the Designating Party timely seeks a protective order, the Party served
2 with the subpoena or court order shall not produce any information designated in this
3 action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
4 EYES ONLY” before a determination by the court from which the subpoena or order
5 issued, unless the Party has obtained the Designating Party’s permission or a court or
6 agency so orders. The Designating Party shall bear the burden and expense of
7 seeking protection in that court of its confidential material – and nothing in these
8 provisions should be construed as authorizing or encouraging a Receiving Party in
9 this action to disobey a lawful directive from another court.

10 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
11 PRODUCED IN THIS LITIGATION

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

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

22 1. promptly notify in writing the Requesting Party and the Non-
23 Party that some or all of the information requested is subject to a confidentiality
24 agreement with a Non-Party;

25 2. promptly provide the Non-Party with a copy of the Stipulated
26 Protective Order in this litigation, the relevant discovery request(s), and a reasonably
27 specific description of the information requested; and

28 3. make the information requested available for inspection by the

1 Non-Party.

2 (c) If the Non-Party fails to object or seek a protective order from
3 this court within 14 days of receiving the notice and accompanying information, the
4 Receiving Party may produce the Non-Party's confidential information responsive to
5 the discovery request. If the Non-Party timely seeks a protective order, the Receiving
6 Party shall not produce any information in its possession or control that is subject to
7 the confidentiality agreement with the Non-Party before a determination by the
8 court. Absent a court order to the contrary, the Non-Party shall bear the burden and
9 expense of seeking protection in this court of its Protected Material.

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

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

19 **12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
20 **PROTECTED MATERIAL**

21 If a Producing Party claims to have inadvertently produced information
22 covered by the attorney-client privilege or work product protection, that Producing
23 Party shall promptly after discovery of such an inadvertent production notify the
24 Receiving Party in writing, provide a privilege log describing the information, and
25 request the return or destruction of such information and shall explain the basis for
26 the claim. After being notified, the Receiving Party must, regardless of whether it
27 agrees with the claim, within ten (10) days return or destroy the specified
28 information and any copies it has; must not use or disclose the information until the

1 claim is resolved; and must take reasonable steps to retrieve the information if the
2 Receiving Party disclosed it before being notified. If, after receiving a privilege log
3 describing the information, there remains disagreement about the claim of attorney-
4 client privilege or work product protection, the Receiving Party shall move the
5 Court, within ten (10) business days of receiving the privilege log, for a
6 determination of the claim. The Producing Party shall have the burden of proving
7 that such attorney-client privilege or work product protection exists.

8 Any motion seeking the Court's resolution of a dispute about the terms of this
9 protective order must comply with Local Rules 37-1 and 37-2, including the Joint
10 Stipulation provision.

11 13. MISCELLANEOUS

12 13.1 Right to Further Relief. Nothing in this Order abridges the right of any
13 person to seek its modification by the court in the future.

14 13.2 Right to Assert Other Objections. By stipulating to the entry of this
15 Protective Order no Party waives any right it otherwise would have to object to
16 disclosing or producing any information or item on any ground not addressed in this
17 Stipulated Protective Order. Similarly, no Party waives any right to object on any
18 ground to use in evidence of any of the material covered by this Protective Order.

19 13.3 Filing Protected Material. Without written permission from the
20 Designating Party or a court order secured after appropriate notice to all interested
21 persons, a Party may not file in the public record in this action any Protected
22 Material. A Party that seeks to file under seal any Protected Material must comply
23 with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant
24 to a court order authorizing the sealing of the specific Protected Material at issue. If a
25 Receiving Party's request to file Protected Material under seal pursuant to Civil
26 Local Rule 79-5 is denied by the court, then the Receiving Party may file the
27 Protected Material in the public record unless otherwise instructed by the court.
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PURSUANT TO STIPULATION, IT IS SO ORDERED.



DATED: June 10, 2013

Hon. Jean P. Rosenbluth
United States Magistrate Judge

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of

4 _____ [print or type full address],

5 declare under penalty of perjury that I have read in its entirety and understand the
6 Stipulated Protective Order that was issued by the United States District Court for
7 the Central District of California on _____ in the case of SA
8 Recycling, LLC. v. Express Metals Recycling. CASE NO. SACV 01607 AG(JPRx).

9 I agree to comply with and to be bound by all the terms of this Stipulated Protective
10 Order and I understand and acknowledge that failure to so comply could expose me
11 to sanctions and punishment in the nature of contempt. I solemnly promise that I will
12 not disclose in any manner any information or item that is subject to this Stipulated
13 Protective Order to any person or entity except in strict compliance with the
14 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.

19 I hereby appoint _____ [print or type full name] of
20 _____ [print or type full address and
21 telephone number] as my California agent for service of process in connection with
22 this action or any proceedings related to enforcement of this Stipulated Protective
23 Order.

24 City and State where sworn and signed: _____

25 Printed name: _____

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27 Signature: _____ Date: _____

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