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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

HESTAN COMMERCIAL CORPORATION, a Delaware Corporation,  
Plaintiff,  
v.  
JADE RANGE, LLC, a Delaware limited liability company,  
Defendant.  
AND RELATED CLAIMS.

Case No. 8:16-cv-02036-JLS-KES  
**PROTECTIVE ORDER**

1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be

1 followed and the standards that will be applied when a party seeks permission from the  
2 court to file material under seal.

3 B. GOOD CAUSE STATEMENT

4 This action involves direct competitors in the commercial range industry, and is  
5 likely to involve the discovery of trade secrets, customer and pricing lists and other  
6 valuable research, development, commercial, financial, technical and/or proprietary  
7 information for which special protection from public disclosure and disclosure to the  
8 competitive parties is warranted. In addition, this action involves the actions of  
9 individual employees which may require the disclosure of personnel files and other  
10 information that would be considered private under various privacy laws.

11 Such confidential and proprietary materials and information consist of, among  
12 other things, confidential business or financial information, information regarding  
13 confidential business practices, or other confidential research, development, or  
14 commercial information (including information implicating privacy rights of both parties  
15 and third parties), information otherwise generally unavailable to the public, or which  
16 may be privileged or otherwise protected from disclosure under state or federal statutes,  
17 court rules, case decisions, or common law.

18 Accordingly, to expedite the flow of information, to facilitate the prompt resolution  
19 of disputes over confidentiality of discovery materials, to adequately protect information  
20 the parties are entitled to keep confidential, to ensure that the parties are permitted  
21 reasonable necessary uses of such material in preparation for and in the conduct of trial,  
22 to address their handling at the end of the litigation, and serve the ends of justice, a  
23 protective order for such information is justified in this matter. The information shall not  
24 be designated as confidential for tactical reasons and nothing shall be so designated  
25 without a good faith belief that it has been maintained in a confidential, non-public  
26 manner, and there is good cause why it should not be part of the public record of this  
27 case.

1    2.    DEFINITIONS

2           2.1.    Action: This pending federal law suit, including the counterclaims and third  
3 party claims.

4           2.2.    Challenging Party: a Party or Non-Party that challenges the designation of  
5 information or items under this Order.

6           2.3.    “CONFIDENTIAL” Information or Items: information (regardless of how it  
7 is generated, stored or maintained) or tangible things that qualify for protection under  
8 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause  
9 Statement.

10          2.4.    Counsel: Outside Counsel of Record (as well as their support staff).

11          2.5.    Designating Party: a Party or Non-Party that designates information or  
12 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL,”  
13 “EMPLOYEE CONFIDENTIAL - ATTORNEYS’ EYES ONLY” or “HIGHLY  
14 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

15          2.6.    Disclosure or Discovery Material: all items or information, regardless of the  
16 medium or manner in which it is generated, stored, or maintained (including, among  
17 other things, testimony, transcripts, and tangible things), that are produced or generated in  
18 disclosures or responses to discovery in this matter.

19          2.7.    “EMPLOYEE CONFIDENTIAL - ATTORNEYS’ EYES ONLY”  
20 Information or Items: Extremely sensitive “Confidential Information or Items” relating to  
21 an Individual the disclosure of which to other Individuals, a competitor or other Non-  
22 Party would create a substantial risk of serious harm that could not be avoided by less  
23 restrictive means.

24          2.8.    Expert: a person with specialized knowledge or experience in a matter  
25 pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
26 expert witness or as a consultant in this Action.

27          2.9.    “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information  
28 or Items: Extremely sensitive “Confidential Information or Items,” the disclosure of

1 which to a competitor or other Non-Party would create a substantial risk of serious harm  
2 that could not be avoided by less restrictive means.

3 2.10. Non-Party: any natural person, partnership, corporation, association, or  
4 other legal entity not named as a Party to this action.

5 2.11. Outside Counsel of Record: attorneys who are not employees of a party to  
6 this Action but are retained to represent or advise a party to this Action and have  
7 appeared in this Action on behalf of that party or are affiliated with a law firm which has  
8 appeared on behalf of that party, and includes support staff.

9 2.12. Party: any party to this Action, including all of its officers, directors,  
10 employees, consultants, retained experts, and Outside Counsel of Record (and their  
11 support staffs).

12 2.13. Privileged Material: Communications, documents or information protected  
13 by the attorney-client privilege, work product doctrine, or any other privilege.

14 2.14. Producing Party: a Party or Non-Party that produces Disclosure or  
15 Discovery Material in this Action.

16 2.15. Professional Vendors: persons or entities that provide litigation support  
17 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
18 demonstrations, and organizing, storing, or retrieving data in any form or medium) and  
19 their employees and subcontractors.

20 2.16. Protected Material: Any Disclosure or Discovery Material that is designated  
21 as “CONFIDENTIAL,” “EMPLOYEE CONFIDENTIAL - ATTORNEYS’ EYES  
22 ONLY” or as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

23 2.17. Receiving Party: a Party that receives Disclosure or Discovery Material  
24 from a Producing Party.

### 25 3. SCOPE

26 The protections conferred by this Order cover not only Protected Material (as  
27 defined above), but also (1) any information copied or extracted from Protected Material;  
28 (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any

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

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

13 4. DURATION

14 Once a case proceeds to trial, all of the information that was designated as  
15 confidential or maintained pursuant to this protective order and introduced at trial  
16 becomes public and will be presumptively available to all members of the public,  
17 including the press, unless compelling reasons supported by specific factual findings to  
18 proceed otherwise are made to the trial judge in advance of the trial. *See Kamakana v.*  
19 *City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th Cir. 2006) (distinguishing  
20 “good cause” showing for sealing documents produced in discovery from “compelling  
21 reasons” standard when merits-related documents are part of court record).

22 Regarding Protected Material never made party of the court record, even after final  
23 disposition of this litigation, the confidentiality obligations imposed by this Order shall  
24 remain in effect until a Designating Party agrees otherwise in writing or a court order  
25 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all  
26 claims and defenses in this Action, with or without prejudice; and (2) final judgment  
27 herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or  
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1 reviews of this Action, including the time limits for filing any motions or applications for  
2 extension of time pursuant to applicable law.

3 **5. DESIGNATING PROTECTED MATERIAL**

4 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each  
5 Party or Non-Party that designates information or items for protection under this Order  
6 must take care to limit any such designation to specific material that qualifies under the  
7 appropriate standards. The Designating Party must designate for protection only those  
8 parts of material, documents, items, or oral or written communications that qualify so that  
9 other portions of the material, documents, items, or communications for which protection  
10 is not warranted are not swept unjustifiably within the ambit of this Order.

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

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

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

22 Designation in conformity with this Order requires:

23 (a) for information in documentary form (*e.g.*, paper or electronic  
24 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),  
25 that the Producing Party affix at a minimum, the legend "CONFIDENTIAL,"  
26 "EMPLOYEE CONFIDENTIAL – ATTORNEYS' EYES ONLY" or "HIGHLY  
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY" (or a substantially similar legend), to  
28 each page that contains protected material. If only a portion or portions of the material on

1 a page qualifies for protection, the Producing Party also must clearly identify the  
2 protected portion(s) (e.g., by making appropriate markings in the margins). To the extent  
3 documents are produced in native format, it shall be sufficient for the Producing Party to  
4 either include the terms “CONFIDENTIAL,” “EMPLOYEE CONFIDENTIAL –  
5 ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY” (or a substantially similar legend) in the file name for the document and/or to  
7 include an associated placeholder document bearing the terms “CONFIDENTIAL,”  
8 “EMPLOYEE CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (or a substantially similar legend).

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

24 (b) for testimony given in depositions that the Designating Party shall  
25 identify on the record, before the close of the deposition, hearing, or other proceeding, all  
26 protected testimony and specify the level of protection being asserted. Alternatively, the  
27 Designating Party may identify the specific portions of the testimony as to which  
28 protection is sought and to specify the level of protection being asserted within 30 days

1 following receipt of the reporter’s transcript of the deposition, hearing, or other  
2 proceeding (or longer if agreed to by the Parties). Only those portions of the testimony  
3 that are appropriately designated for protection within the 30 days (or longer if agreed to  
4 by the Parties) shall be covered by the provisions of this Order. A Designating Party may  
5 specify, at the deposition or within 30 days of receipt of the reporter’s transcript (or  
6 longer if agreed to by the Parties) that the entire transcript shall be treated as  
7 “CONFIDENTIAL,” “EMPLOYEE CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
8 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to the extent such a  
9 designation is consistent with the other terms of this Order. The use of a document as an  
10 exhibit at a deposition shall not in any way affect its designation as “CONFIDENTIAL,”  
11 “EMPLOYEE CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY  
12 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

13 Transcripts containing Protected Material shall have an obvious legend on the title  
14 page that the transcript contains Protected Material, and the title page shall be followed  
15 by a list of all pages (including line numbers as appropriate) that have been designated as  
16 Protected Material and the level of protection being asserted by the Designating Party.  
17 The Designating Party shall inform the court reporter of these requirements. Any  
18 transcript that is prepared before the expiration of a 30-day period for designation shall be  
19 treated during that period as if it had been designated “HIGHLY CONFIDENTIAL –  
20 ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the  
21 expiration of that period, the transcript shall be treated only as actually designated.

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



1           5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure  
2 to designate qualified information or items does not, standing alone, waive the  
3 Designating Party's right to secure protection under this Order for such material. Upon  
4 timely correction of a designation, the Receiving Party must make reasonable efforts to  
5 assure that the material is treated in accordance with the provisions of this Order.

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.

9           6.2. Meet and Confer. The Challenging Party shall initiate the dispute resolution  
10 process under Local Rule 37.1 *et seq.*

11           6.3. The burden of persuasion in any such challenge proceeding shall be on the  
12 Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to  
13 harass or impose unnecessary expenses and burdens on other parties) may expose the  
14 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn  
15 the confidentiality designation, all parties shall continue to afford the material in question  
16 the level of protection to which it is entitled under the Producing Party's designation until  
17 the Court rules on the challenge.

18       7. ACCESS TO AND USE OF PROTECTED MATERIAL

19           7.1. Basic Principles. A Receiving Party may use Protected Material that is  
20 disclosed or produced by another Party or by a Non-Party in connection with this Action  
21 only for prosecuting, defending, or attempting to settle this Action. Such Protected  
22 Material may be disclosed only to the categories of persons and under the conditions  
23 described in this Order. When the Action has been terminated, a Receiving Party must  
24 comply with the provisions of Section 13 below (FINAL DISPOSITION).

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

1           7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
2 ordered by the court or permitted in writing by the Designating Party, a Receiving Party  
3 may disclose any information or item designated “CONFIDENTIAL” only to:

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

7           (b) the officers, directors, and employees of the Receiving Party to whom  
8 disclosure is reasonably necessary for this Action;

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

12           (d) the court and its personnel;

13           (e) court reporters and their staff;

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

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

19           (h) during their depositions, witnesses, and attorneys for witnesses, in the  
20 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
21 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not  
22 be permitted to keep any confidential information unless they sign the “Acknowledgment  
23 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating  
24 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to  
25 depositions that reveal Protected Material may be separately bound by the court reporter  
26 and may not be disclosed to anyone except as permitted under this Protective Order; and

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

1           7.3. Disclosure of “EMPLOYEE CONFIDENTIAL – ATTORNEYS’ EYES  
2 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in  
3 writing by the Designating Party, a Receiving Party may disclose any information or item  
4 designated “EMPLOYEE CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:  
5           (a) The Receiving Party’s Outside Counsel of Record in this action, as  
6 well as employees of said Outside Counsel of Record to whom it is reasonably necessary  
7 to disclose the information for this litigation;  
8           (b) The Individual Defendant to whom the information relates;  
9           (c) Experts of the Receiving Party (1) to whom disclosure is reasonably  
10 necessary for this litigation, and (2) who have signed the “Acknowledgment and  
11 Agreement to Be Bound” (Exhibit A);  
12           (d) The Court and its personnel;  
13           (e) Court reporters and their staff and professional jury or trial consultants  
14 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);  
15           (f) Professional Vendors to whom disclosure is reasonably necessary for  
16 this litigation;  
17           (g) the author or recipient of a document containing the information or a  
18 custodian or other person who otherwise possessed or knew the information;  
19           (h) during their depositions, witnesses, and attorneys for witnesses, in the  
20 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
21 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not  
22 be permitted to keep any confidential information unless they sign the “Acknowledgment  
23 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating  
24 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to  
25 depositions that reveal Protected Material may be separately bound by the court reporter  
26 and may not be disclosed to anyone except as permitted under this Protective Order; and  
27           (i) any mediator or settlement officer, and their supporting personnel,  
28 mutually agreed upon by any of the parties engaged in settlement discussions.

1           7.4. Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
2 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted in  
3 writing by the Designating Party, a Receiving Party may disclose any information or item  
4 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

5           (a) The Receiving Party’s Outside Counsel of Record in this action, as  
6 well as employees of said Outside Counsel of Record to whom it is reasonably necessary  
7 to disclose the information for this litigation;

8           (b) Experts of the Receiving Party (1) to whom disclosure is reasonably  
9 necessary for this litigation, and (2) who have signed the “Acknowledgment and  
10 Agreement to Be Bound” (Exhibit A);

11           (c) The Court and its personnel;

12           (d) Court reporters and their staff and professional jury or trial consultants  
13 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

14           (e) Professional Vendors to whom disclosure is reasonably necessary for  
15 this litigation;

16           (f) the author or recipient of a document containing the information or a  
17 custodian or other person who otherwise possessed or knew the information;

18           (g) during their depositions, witnesses, and attorneys for witnesses, in the  
19 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
20 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not  
21 be permitted to keep any confidential information unless they sign the “Acknowledgment  
22 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating  
23 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to  
24 depositions that reveal Protected Material may be separately bound by the court reporter  
25 and may not be disclosed to anyone except as permitted under this Protective Order; and

26           (h) any mediator or settlement officer, and their supporting personnel,  
27 mutually agreed upon by any of the parties engaged in settlement discussions.  
28

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

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

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

9 (b) promptly notify in writing the party who caused the subpoena or order  
10 to issue in the other litigation that some or all of the material covered by the subpoena or  
11 order is subject to this Protective Order. Such notification shall include a copy of this  
12 Protective 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 affected.

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

24 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED  
25 IN THIS LITIGATION

26 (a) The terms of this Order are applicable to information produced by a  
27 Non-Party in this Action and designated as “CONFIDENTIAL,” “EMPLOYEE  
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL –

1 ATTORNEYS' EYES ONLY" (or a substantially similar legend). Such information  
2 produced by Non-Parties in connection with this litigation is protected by the remedies  
3 and relief provided by this Order. Nothing in these provisions should be construed as  
4 prohibiting a Non-Party from seeking additional protections.

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

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

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

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

17 (c) If the Non-Party fails to seek a protective order from this court within  
18 14 days of receiving the notice and accompanying information, the Receiving Party may  
19 produce the Non-Party's confidential information responsive to the discovery request. If  
20 the Non-Party timely seeks a protective order, the Receiving Party shall not produce any  
21 information in its possession or control that is subject to the confidentiality agreement  
22 with the Non-Party before a determination by the court. Absent a court order to the  
23 contrary, the Non-Party shall bear the burden and expense of seeking protection in this  
24 court of its Protected Material.

## 25 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

26 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
27 Protected Material to any person or in any circumstance not authorized under this  
28 Protective Order, the Receiving Party must immediately (a) notify in writing the

1 Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all  
2 unauthorized copies of the Protected Material, (c) inform the person or persons to whom  
3 unauthorized disclosures were made of all the terms of this Order, and (d) request such  
4 person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is  
5 attached hereto as Exhibit A.

6 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
7 PROTECTED MATERIAL

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

17 12. MISCELLANEOUS

18 12.1. Right to Further Relief. Nothing in this Order abridges the right of any  
19 person to seek its modification by the Court in the future.

20 12.2. Right to Assert Other Objections. No Party waives any right it otherwise  
21 would have to object to disclosing or producing any information or item on any ground  
22 not addressed in this Protective Order. Similarly, no Party waives any right to object on  
23 any ground to use in evidence of any of the material covered by this Protective Order.

24 12.3. Filing Protected Material. A Party that seeks to file under seal any Protected  
25 Material must comply with Civil Local Rule 79-5. Protected Material may only be filed  
26 under seal pursuant to a court order authorizing the sealing of the specific Protected  
27 Material at issue. If a Party's request to file Protected Material under seal is denied by the  
28

1 court, then the Receiving Party may file the information in the public record unless  
2 otherwise instructed by the court.

3 13. FINAL DISPOSITION

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

21 14. VIOLATIONS

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

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

25 Dated: March 08, 2017

26   
27 \_\_\_\_\_  
28 Honorable Karen E. Scott  
United States Magistrate Judge



1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I  
6 have read in its entirety and understand the Protective Order that was issued by the  
7 United States District Court for the Central District of California on \_\_\_\_\_ [date] in  
8 the case of *Hestan Commercial Corporation v. Hestan Commercial Corp., et al.*, Case  
9 No. 8:16-cv-02036-JLS-KES. I agree to comply with and to be bound by all the terms of  
10 this Protective Order and I understand and acknowledge that failure to so comply could  
11 expose me to sanctions and punishment in the nature of contempt. I solemnly promise  
12 that I will not disclose in any manner any information or item that is subject to this  
13 Protective Order to any person or entity except in strict compliance with the provisions of  
14 this Order.

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

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

22 Date: \_\_\_\_\_

23 City and State where sworn and signed: \_\_\_\_\_

24 Printed name: \_\_\_\_\_  
25 [printed name]

26 Signature: \_\_\_\_\_  
27 [signature]