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**UNITED STATES DISTRICT COURT**  
**FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**SOUTHERN DIVISION**

21 GOVINO, LLC, a Delaware limited liability  
 22 company,

23 Plaintiff,

24 v.

25 GOVERRE, INC., a Delaware corporation;  
 26 REGAN KELAHER, an individual; SHANNON  
 27 ZAPPALA, an individual; and DOES 1-10,

28 Defendants.

Case No. 8:17-cv-1237  
 JLS (JCGx)

**STIPULATED  
 PROTECTIVE ORDER  
 FOR LITIGATION  
 INVOLVING HIGHLY  
 SENSITIVE  
 CONFIDENTIAL  
 INFORMATION AND/  
 OR**

GOVERRE, INC., a Delaware corporation;  
REGAN KELAHER, an individual; and  
SHANNON ZAPPALA, an individual

Counter-Plaintiffs,

v.

GOVINO, LLC, a Delaware limited liability  
company,

Counter-Defendant

**1. PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are 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. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. 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 12.4, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

**2. DEFINITIONS**

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

2.2 “CONFIDENTIAL” Information or Items: information (regardless of

1 how it is generated, stored or maintained) or tangible things that qualify for  
2 protection under Federal Rule of Civil Procedure 26(c).

3       2.3 Counsel (without qualifier): Outside Counsel of Record and House  
4 Counsel (as well as their support staff).

5       2.4 Designated House Counsel: House Counsel who seek access to  
6 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this  
7 matter.

8       2.5 Designating Party: a Party or Non-Party that designates information or  
9 items that it produces in disclosures or in responses to discovery as  
10 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
11 ONLY”.

12       2.6 Disclosure or Discovery Material: all items or information, regardless  
13 of the medium or manner in which it is generated, stored, or maintained (including,  
14 among other things, testimony, transcripts, and tangible things), that are produced  
15 or generated in disclosures or responses to discovery in this matter.

16       2.7 Expert: a person with specialized knowledge or experience in a matter  
17 pertinent to the litigation who (1) has been retained by a Party or its counsel to  
18 serve as an expert witness or as a consultant in this action, (2) is not a past or  
19 current employee of a Party or of a Party’s competitor, and (3) at the time of  
20 retention, is not anticipated to become an employee of a Party or of a Party’s  
21 competitor.

22       2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
23 Information or Items: extremely sensitive “Confidential Information or Items,”  
24 disclosure of which to another Party or Non-Party would create a substantial risk of  
25 serious harm that could not be avoided by less restrictive means.

26       2.9 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           2.10 Non-Party: any natural person, partnership, corporation, association,  
2 or other legal entity not named as a Party to this action.

3           2.11 Outside Counsel of Record: attorneys who are not employees of a  
4 party to this action but are retained to represent or advise a party to this action and  
5 have appeared in this action on behalf of that party or are affiliated with a law firm  
6 which has appeared on behalf of that party.

7           2.12 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          2.13 Producing Party: a Party or Non-Party that produces Disclosure or  
11 Discovery Material in this action.

12          2.14 Professional Vendors: persons or entities that provide litigation  
13 support services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or  
14 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
15 and their employees and subcontractors.

16          2.15 Protected Material: any Disclosure or Discovery Material that is  
17 designated as “CONFIDENTIAL,” or as “HIGHLY CONFIDENTIAL –  
18 ATTORNEYS’ EYES ONLY.”

19          2.16 Receiving Party: a Party that receives Disclosure or Discovery  
20 Material from a Producing Party.

21 **3. SCOPE**

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

27          However, the protections conferred by this Stipulation and Order do not cover the  
28 following information: (a) any information that is in the public domain at the time

1 of disclosure to a Receiving Party or becomes part of the public domain after its  
2 disclosure to a Receiving Party as a result of publication not involving a violation  
3 of this Order, including becoming part of the public record through trial or  
4 otherwise; and (b) any information known to the Receiving Party prior to the  
5 disclosure or obtained by the Receiving Party after the disclosure from a source  
6 who obtained the information lawfully and under no obligation of confidentiality to  
7 the Designating Party. Any use of Protected Material at trial shall be governed by a  
8 separate agreement or order.

9 **4. DURATION**

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

18 **5. DESIGNATING PROTECTED MATERIAL**

19 5.1 Exercise of Restraint and Care in Designating Material for Protection.

20 Each Party or Non-Party that designates information or items for protection under  
21 this Order must take care to limit any such designation to specific material that  
22 qualifies under the appropriate standards. To the extent it is practical to do so, the  
23 Designating Party must designate for protection only those parts of material,  
24 documents, items, or oral or written communications that qualify – so that other  
25 portions of the material, documents, items, or communications for which  
26 protection is not warranted are not swept unjustifiably within the ambit of this  
27 Order.

28 Mass, indiscriminate, or routinized designations are prohibited. Designations

1 that are shown to be clearly unjustified or that have been made for an improper  
2 purpose (*e.g.*, to unnecessarily encumber or retard the case development process or  
3 to impose unnecessary expenses and burdens on other parties) expose the  
4 Designating Party to sanctions.

5 If it comes to a Designating Party's attention that information or items that it  
6 designated for protection do not qualify for protection at all or do not qualify for  
7 the level of protection initially asserted, that Designating Party must promptly  
8 notify all other parties that it is withdrawing the mistaken designation.

9 5.2 Manner and Timing of Designations. Except as otherwise provided in  
10 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise  
11 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection  
12 under this Order must be clearly so designated before the material is disclosed or  
13 produced. Designation in conformity with this Order requires:

14 (a) for information in documentary form (*e.g.*, paper or electronic  
15 documents, but excluding transcripts of depositions or other pretrial or trial  
16 proceedings), that the Producing Party affix the legend "CONFIDENTIAL" or  
17 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" to each page that  
18 contains protected material. If only a portion or portions of the material on a page  
19 qualifies for protection, the Producing Party also must clearly identify the protected  
20 portion(s) (*e.g.*, by making appropriate markings in the margins) and must specify,  
21 for each portion, the level of protection being asserted.

22 A Party or Non-Party that makes original documents or materials  
23 available for inspection need not designate them for protection until after the  
24 inspecting Party has indicated which material it would like copied and produced.  
25 During the inspection and before the designation, all of the material made available  
26 for inspection shall be deemed "HIGHLY CONFIDENTIAL – ATTORNEYS'  
27 EYES ONLY." After the inspecting Party has identified the documents it wants  
28 copied and produced, the Producing Party must determine which documents, or

1 portions thereof, qualify for protection under this Order. Then, before producing  
2 the specified documents, the Producing Party must affix the appropriate legend  
3 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
4 ONLY”) to each page that contains Protected Material. If only a portion or portions  
5 of the material on a page qualifies for protection, the Producing Party also must  
6 clearly identify the protected portion(s) (e.g., by making appropriate markings in  
7 the margins) and must specify, for each portion, the level of protection being  
8 asserted.

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

24 Parties shall give the other parties notice if they reasonably expect a  
25 deposition, hearing or other proceeding to include Protected Material so that the  
26 other parties can ensure that only authorized individuals who have signed the  
27 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those  
28 proceedings. The use of a document as an exhibit at a deposition shall not in any

1 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL  
2 – ATTORNEYS’ EYES ONLY.”

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

13 (c) for information produced in some form other than documentary  
14 and for any other tangible items, that the Producing Party affix in a prominent  
15 place on the exterior of the container or containers in which the information or item  
16 is stored the legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
17 ATTORNEYS’ EYES ONLY”. If only a portion or portions of the information or  
18 item warrant protection, the Producing Party, to the extent practicable, shall  
19 identify the protected portion(s) and specify the level of protection being asserted.

20 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
21 failure to designate qualified information or items does not, standing alone, waive  
22 the Designating Party’s right to secure protection under this Order for such  
23 material. Upon timely correction of a designation, the Receiving Party must make  
24 reasonable efforts to assure that the material is treated in accordance with the  
25 provisions of this Order.

## 26 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

27 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
28 designation of confidentiality at any time. Unless a prompt challenge to a



1 Designating Party’s confidentiality designation is necessary to avoid foreseeable,  
2 substantial unfairness, unnecessary economic burdens, or a significant disruption  
3 or delay of the litigation, a Party does not waive its right to challenge a  
4 confidentiality designation by electing not to mount a challenge promptly after the  
5 original designation is disclosed.

6       6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
7 resolution process by providing written notice of each designation it is challenging  
8 and describing the basis for each challenge. To avoid ambiguity as to whether a  
9 challenge has been made, the written notice must recite that the challenge to  
10 confidentiality is being made in accordance with this specific paragraph of the  
11 Protective Order. The parties shall attempt to resolve each challenge in good faith  
12 and must begin the process by conferring directly (in voice to voice dialogue; other  
13 forms of communication are not sufficient) within 14 days of the date of service of  
14 notice. In conferring, the Challenging Party must explain the basis for its belief that  
15 the confidentiality designation was not proper and must give the Designating Party  
16 an opportunity to review the designated material, to reconsider the circumstances,  
17 and, if no change in designation is offered, to explain the basis for the chosen  
18 designation. A Challenging Party may proceed to the next stage of the challenge  
19 process only if it has engaged in this meet and confer process first or establishes  
20 that the Designating Party is unwilling to participate in the meet and confer process  
21 in a timely manner.

22       6.3 Judicial Intervention. If the Parties cannot resolve a challenge without  
23 court intervention, the Designating Party shall file and serve a motion to retain  
24 confidentiality under Civil Local Rule 7 (and in compliance with Civil Local Rule  
25 79-5, if applicable) within 21 days of the initial notice of challenge or within 14  
26 days of the parties agreeing that the meet and confer process will not resolve their  
27 dispute, whichever is earlier. Each such motion must be accompanied by a  
28 competent declaration affirming that the movant has complied with the meet and

1 confer requirements imposed in the preceding paragraph. Failure by the  
2 Designating Party to make such a motion including the required declaration within  
3 21 days (or 14 days, if applicable) shall automatically waive the confidentiality  
4 designation for each challenged designation. In addition, the Challenging Party  
5 may file a motion challenging a confidentiality designation at any time if there is  
6 good cause for doing so, including a challenge to the designation of a deposition  
7 transcript or any portions thereof. Any motion brought pursuant to this provision  
8 must be accompanied by a competent declaration affirming that the movant has  
9 complied with the meet and confer requirements imposed by the preceding  
10 paragraph.

11 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  
13 (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may  
14 expose the Challenging Party to sanctions. Unless the Designating Party has  
15 waived the confidentiality designation by failing to file a motion to retain  
16 confidentiality as described above, all parties shall continue to afford the material  
17 in question the level of protection to which it is entitled under the Producing  
18 Party's designation until the court rules on the challenge.

## 19 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

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

27 Protected Material must be stored and maintained by a Receiving Party at a  
28 location and in a secure manner that ensures that access is limited to the persons

1 authorized under this Order.

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

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

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

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

18           (d) the court and its personnel;

19           (e) court reporters and their staff, professional jury or trial  
20 consultants, and Professional Vendors to whom disclosure is reasonably necessary  
21 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
22 Bound” (Exhibit A);

23           (f) during their depositions, witnesses in the action to whom  
24 disclosure is reasonably necessary and who have signed the “Acknowledgment and  
25 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating  
26 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits  
27 to depositions that reveal Protected Material must be separately bound by the court  
28 reporter and may not be disclosed to anyone except as permitted under this

1 Stipulated Protective Order.

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

5 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
6 ONLY” Information or Items. Unless otherwise ordered by the court or permitted  
7 in writing by the Designating Party, a Receiving Party may disclose any  
8 information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’  
9 EYES ONLY” only to:

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

15 (b) Designated House Counsel of the Receiving Party (1) who has  
16 no involvement in competitive decision-making, (2) to whom disclosure is  
17 reasonably necessary for this litigation, (3) who has signed the “Acknowledgment  
18 and Agreement to Be Bound” (Exhibit A), and (4) as to whom the procedures set  
19 forth in paragraph 7.4(a)(1), below, have been followed;

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

24 (d) the court and its personnel;

25 (e) court reporters and their staff, professional jury or trial  
26 consultants, and Professional Vendors to whom disclosure is reasonably necessary  
27 for this litigation and who have signed the “Acknowledgment and Agreement to Be  
28 Bound” (Exhibit A); and

1 (f) the author or recipient of a document containing the  
2 information or a custodian or other person who otherwise possessed or knew the  
3 information.

4 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to  
6 Designated House Counsel or Experts.

7 (a)(1) Unless otherwise ordered by the court or agreed to in writing by  
8 the Designating Party, a Party that seeks to disclose to Designated House Counsel  
9 any information or item that has been designated “HIGHLY CONFIDENTIAL –  
10 ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(b) first must make a  
11 written request to the Designating Party that (1) sets forth the full name of the  
12 Designated House Counsel and the city and state of his or her residence, and (2)  
13 describes the Designated House Counsel’s current and reasonably foreseeable  
14 future primary job duties and responsibilities in sufficient detail to determine if  
15 House Counsel is involved, or may become involved, in any competitive decision-  
16 making.

17 (a)(2) Unless otherwise ordered by the court or agreed to in writing by  
18 the Designating Party, a Party that seeks to disclose to an Expert (as defined in this  
19 Order) any information or item that has been designated “HIGHLY  
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(c)  
21 first must make a written request to the Designating Party that (1) identifies the  
22 general categories of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
23 ONLY” information that the Receiving Party seeks permission to disclose to the  
24 Expert, (2) sets forth the full name of the Expert and the city and state of his or her  
25 primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies  
26 the Expert’s current employer(s), (5) identifies each person or entity from whom  
27 the Expert has received compensation or funding for work in his or her areas of  
28 expertise or to whom the expert has provided professional services, including in

1 connection with a litigation, at any time during the preceding five years<sup>1</sup>, and (6)  
2 identifies (by name and number of the case, filing date, and location of court) any  
3 litigation in connection with which the Expert has offered expert testimony,  
4 including through a declaration, report, or testimony at a deposition or trial, during  
5 the preceding five years.

6 (b) A Party that makes a request and provides the information  
7 specified in the preceding respective paragraphs may disclose the subject Protected  
8 Material to the identified Designated House Counsel or Expert unless, within 14  
9 days of delivering the request, the Party receives a written objection from the  
10 Designating Party. Any such objection must set forth in detail the grounds on  
11 which it is based.

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

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27 <sup>1</sup> If the Expert believes any of this information is subject to a confidentiality obligation to a third-party, then the  
28 Expert should provide whatever information the Expert believes can be disclosed without violating any  
confidentiality agreements, and the Party seeking to disclose to the Expert shall be available to meet and confer with  
the Designating Party regarding any such engagement.

1 In any such proceeding, the Party opposing disclosure to Designated  
2 House Counsel or the Expert shall bear the burden of proving that the risk of harm  
3 that the disclosure would entail (under the safeguards proposed) outweighs the  
4 Receiving Party’s need to disclose the Protected Material to its Designated House  
5 Counsel or Expert.

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

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

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

20 If the Designating Party timely seeks a protective order, the Party served  
21 with the subpoena or court order shall not produce any information designated in  
22 this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
23 ATTORNEYS’ EYES ONLY” before a determination by the court from which the  
24 subpoena or order issued, unless the Party has obtained the Designating Party’s  
25 permission. The Designating Party shall bear the burden and expense of seeking  
26 protection in that court of its confidential material – and nothing in these  
27 provisions should be construed as authorizing or encouraging a Receiving Party in  
28 this action to disobey a lawful 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  
4 Non-Party in this action and designated as “CONFIDENTIAL” or “HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. Such information produced  
6 by Non-Parties in connection with this litigation is protected by the remedies and  
7 relief provided by this Order. Nothing in these provisions should be construed as  
8 prohibiting a Non-Party from seeking additional protections.

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

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

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

19 3. make the information requested available for inspection by the  
20 Non-Party.

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



1 Protected Material.

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

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

12 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**  
13 **OTHERWISE PROTECTED MATERIAL**

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

24 **12. MISCELLANEOUS**

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

27 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
28 Protective Order no Party waives any right it otherwise would have to object to

1 disclosing or producing any information or item on any ground not addressed in  
2 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
3 any ground to use in evidence of any of the material covered by this Protective  
4 Order.

5       12.3 Export Control. Disclosure of Protected Material shall be subject to all  
6 applicable laws and regulations relating to the export of technical data contained in  
7 such Protected Material, including the release of such technical data to foreign  
8 persons or nationals in the United States or elsewhere. The Producing Party shall  
9 be responsible for identifying any such controlled technical data, and the Receiving  
10 Party shall take measures necessary to ensure compliance.

11       12.4 Filing Protected Material. Without written permission from the  
12 Designating Party or a court order secured after appropriate notice to all interested  
13 persons, a Party may not file in the public record in this action any Protected  
14 Material. A Party that seeks to file under seal any Protected Material must comply  
15 with Civil Local Rule 79-5. Protected Material may only be filed under seal  
16 pursuant to a court order authorizing the sealing of the specific Protected Material  
17 at issue. Pursuant to Civil Local Rule 79-5.2.2, a sealing order will issue only upon  
18 a request establishing that the Protected Material at issue is privileged, protectable  
19 as a trade secret, or otherwise entitled to protection under the law. If a Receiving  
20 Party's request to file Protected Material under seal pursuant to Civil Local Rule  
21 79-5.2.2 is denied by the court, then the Receiving Party may file the Protected  
22 Material in the public record pursuant to Civil Local Rule 79-5.2.2(b)(ii) unless  
23 otherwise instructed by the court.

24 **13. FINAL DISPOSITION**

25       Within 60 days after the final disposition of this action, as defined in  
26 paragraph 4, each Receiving Party must return all Protected Material to the  
27 Producing Party or destroy such material. As used in this subdivision, “all  
28 Protected Material” includes all copies, abstracts, compilations, summaries, and

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

15  
16 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

17  
18 Dated: October 24, 2017


19  
20   
21 \_\_\_\_\_  
22 **Jay C. Gandhi**  
23 United States Magistrate Judge  
24  
25  
26  
27  
28

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

1  
2  
3 I, \_\_\_\_\_ [print or type full name], of  
4 \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I  
5 have read in its entirety and understand the Stipulated Protective Order that was issued by  
6 the United States District Court for the Central District of California on \_\_\_\_\_ in the  
7 case of *govino, LLC v. GoVerre, Inc., et al.*; Case No. 8:17-cv-1237 JLS (JCGx). I agree  
8 to comply with and to be bound by all the terms of this Stipulated Protective Order and I  
9 understand and acknowledge that failure to so comply could expose me to sanctions and  
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any  
11 manner any information or item that is subject to this Stipulated Protective Order to any  
12 person or entity except in strict compliance with the provisions of this Order.

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

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

21  
22 Date: \_\_\_\_\_

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

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

25  
26 Signature: \_\_\_\_\_  
[signature]