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9

10 **UNITED STATES DISTRICT COURT**
 11 **EASTERN DISTRICT OF CALIFORNIA**

12 SARA BURGESS, an individual; ANGELA
 ALVAREZ, an individual; MICHAEL
 13 ARNDT, an individual; TERESA ALFORD,
 an individual; JESSICA CARTER, an
 14 individual; STEVEN PIECH, an individual;
 JEN REDFORD, an individual; CHERI
 15 MADDOX, an individual; ELIZABETH
 TARTER, an individual; and STACEY
 16 TAYLOR, an individual,

17 Plaintiffs,

18 v.

19 ALTERNATIVE SIERRA INVESTMENTS,
 LLC, a California limited liability company;
 20 FREDERICK WENTWORTH, an individual;
 JUDY A. WENTWORTH, an individual;
 21 RONALD L. POLHEMUS, an individual;
 CLYTA L. POLHEMUS, an individual;
 22 ESTATE OF KENNETH B. KESSEL,
 DECEASED, an individual; MARY E.
 23 KESSEL, an individual; ESTATE OF JULIE
 OGG, DECEASED, an individual and dba as
 24 Heritage Dry Cleaners; ARLENE LAENG, an
 individual and dba as Heritage Dry Cleaners;
 25 JAMES E. LAENG, an individual and dba as
 Heritage Dry Cleaners; ESTATE OF SALLY
 26 HOENES, DECEASED, an individual and dba
 as Heritage Dry Cleaners; and DOES 1 through
 27 10, inclusive,

28 Defendants.

Case No. 1:23-cv-01641-JLT-BAM

**STIPULATION AND ~~PROPOSED~~
 PROTECTIVE ORDER**

Action filed: November 24, 2023

1 AND RELATED CROSSCLAIMS

2

3 **1. PURPOSES AND LIMITATIONS**

4 Disclosure and discovery activity in this action are likely to involve production of
5 confidential, proprietary, or private information for which special protection from public disclosure
6 and from use for any purpose other than prosecuting this action may be warranted. Accordingly,
7 the parties hereby stipulate to and petition the court to enter the following Stipulated Protective
8 Order (“Order”). The parties acknowledge that this Order does not confer blanket protections on
9 all disclosures or responses to discovery and that the protection it affords from public disclosure
10 and use extends only to the limited information or items that are entitled to confidential treatment
11 under the applicable legal principles. The parties further acknowledge that, as set forth in Section
12 12.3 of this Order (Filing Protected Material), this Stipulated Protective Order does not entitle them
13 to file confidential information under seal; this Court’s Local Rules (*e.g.*, Local Rule 141) set forth
14 the procedures that must be followed and the standards that will be applied when a Party seeks
15 permission from the court to file material under seal.

16 **2. DEFINITIONS**

17 2.1 Challenging Party: a Party or Non-Party that challenges the designation of
18 information or items under this Order.

19 2.2 “CONFIDENTIAL” Information or Items: information (regardless of how it is
20 generated, stored or maintained) or tangible things that qualify for protection under Federal Rule
21 of Civil Procedure 26(c).

22 2.3 Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
23 as their support staff).

24 2.4 Court: any judge to whom this action may be assigned, including the Honorable
25 Judge Jennifer L. Thurston and the Honorable Judge Barbara A. McAuliffe of the United States
26 District Court for the Eastern District of California.

27 2.5 Designated House Counsel: House Counsel who seek access to “HIGHLY
28 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this action.

1 2.6 Designating Party: a Party or Non-Party that designates information or items that it
2 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
3 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 2.7 Disclosure or Discovery Material: all items or information, regardless of the
5 medium or manner in which it is generated, stored, or maintained (including, among other things,
6 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
7 responses to discovery in this action.

8 2.8 Expert: a person with specialized knowledge or experience that is pertinent to this
9 action and who (1) has been retained by a Party or its counsel to serve as an expert witness or as a
10 consultant in this action; (2) is not a past or current employee of a Party or of a Party’s competitor;
11 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party’s
12 competitor.

13 2.9 Final Disposition: the later of (a) dismissal of all claims and defenses in this action,
14 with or without prejudice or (b) final judgment issued in this action; provided, however, that with
15 respect to each of the foregoing, the respective time periods for the completion and exhaustion of
16 all appeals, re-hearings, remands, trials, or reviews of this action—including the time limits for
17 filing any motions or applications for extension of time pursuant to applicable law—have elapsed.

18 2.10 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
19 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
20 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less
21 restrictive means.

22 2.11 House Counsel: attorneys, if any, who are employees of a party to this action. House
23 Counsel does not include Outside Counsel of Record or any other outside counsel.

24 2.12 Non-Party: any natural person, partnership, corporation, association, or other legal
25 entity not named as a Party to this action.

26 2.13 Outside Counsel of Record: attorneys who are not employees of a party to this action
27 but are retained to represent or advise a party to this action and have appeared in this action on
28 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

1 2.14 Party: any party to this action, including (i) any individual; and (ii) any entity and
2 all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of
3 Record (and their support staffs).

4 2.15 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
5 Material in this action.

6 2.16 Professional Vendors: persons or entities that provide litigation support services for
7 this action (*e.g.*, photocopying, videotaping, translating, preparing exhibits or demonstrations, and
8 organizing, storing, or retrieving data in any form or medium) and their employees and
9 subcontractors.

10 2.17 Protected Material: any Disclosure or Discovery Material that is designated as
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

12 2.18 Receiving Party: a Party that receives Disclosure or Discovery Material from a
13 Producing Party.

14 **3. SCOPE**

15 3.1 The protections conferred by this Order cover not only Protected Material (as
16 defined above), but also (i) any information copied or extracted from Protected Material; (ii) all
17 copies, excerpts, summaries, or compilations of Protected Material; and (iii) any testimony,
18 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
19 However, the protections conferred by this Order do not cover the following information: (a) any
20 information that is in the public domain at the time of disclosure to a Receiving Party or becomes
21 part of the public domain after its disclosure to a Receiving Party as a result of publication not
22 involving a violation of this Order, including becoming part of the public record through trial or
23 otherwise; and (b) any information either (i) known to the Receiving Party prior to the disclosure
24 or (ii) obtained by the Receiving Party after the disclosure from a source who obtained the
25 information lawfully and under no obligation of confidentiality to the Designating Party. Any use
26 of Protected Material at trial shall be governed by a separate agreement or order.

27 **4. DURATION**

28 Even after Final Disposition of this action, the confidentiality obligations imposed by this

1 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
2 otherwise directs.

3 **5. DESIGNATING PROTECTED MATERIAL**

4 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
5 or Non-Party that designates information or items for protection under this Order must take care to
6 limit any such designation to specific material that qualifies under the appropriate standards. To
7 the extent it is practical to do so, the Designating Party must designate for protection only those
8 parts of material, documents, items, or oral or written communications that qualify – so that other
9 portions of the material, documents, items, or communications for which protection is not
10 warranted are not swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
11 routinized designations are prohibited. Designations that are shown to be clearly unjustified or that
12 have been made for an improper purpose (*e.g.*, to unnecessarily encumber or retard the case
13 development process or to impose unnecessary expenses and burdens on other parties) expose the
14 Designating Party to sanctions. If it comes to a Designating Party’s attention that information or
15 items that it designated for protection do not qualify for protection at all or do not qualify for the
16 level of protection initially asserted, that Designating Party must promptly notify all other parties
17 that it is withdrawing the mistaken designation.

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

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

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

13 (b) for testimony given in deposition or in other pretrial or trial proceedings that the
14 Designating Party identifies on the record, before the close of the deposition, hearing, or other
15 proceeding, all protected testimony and specify the level of protection being asserted. When it is
16 impractical to identify separately each portion of testimony that is entitled to protection and it
17 appears that substantial portions of the testimony may qualify for protection, the Designating Party
18 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right
19 to have up to 15 court days (following receipt of the transcript of the deposition) to identify the
20 specific portions of the testimony as to which protection is sought and to specify the level of
21 protection being asserted. Only those portions of the testimony that are appropriately designated
22 for protection within the aforementioned 15 court days shall be covered by the provisions of this
23 Order. Alternatively, a Designating Party may specify, at the deposition or up to 15 court days
24 following receipt of the transcript if that period is properly invoked, that the entire transcript shall
25 be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
26 ONLY.” In the event that there is a change to the transcript of the deposition pursuant to FRCP
27 30(e), at the time of the change, the designation of confidentiality may be made within 15 days of
28 receipt of the change (without resulting in a waiver of the Designating Party’s rights set forth in

1 this Section 5.2).

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

8 Transcripts containing Protected Material shall have an obvious legend on the title page that
9 the transcript contains Protected Material, and the title page shall be followed by a list of all pages
10 (including line numbers as appropriate) that have been designated as Protected Material and the
11 level of protection being asserted by the Designating Party. The Designating Party shall inform the
12 court reporter of these requirements. Any transcript that contains a designation that the transcript
13 contains Protected Material shall be treated as if it had been precisely designated, at the indicated
14 level of protection (as set forth in this Section 5.2(b)), in its entirety until the designations are more
15 precisely made, or the above-referenced 15 court days passes without any designation (upon which
16 expiration the transcript shall be deemed not to have been designated).

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

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

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1 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of
3 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality
4 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
5 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to
6 challenge a confidentiality designation by electing not to mount a challenge promptly after the
7 original designation is disclosed.

8 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process
9 by providing written notice of each designation it is challenging and describing the basis for each
10 challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must
11 recite that the challenge to confidentiality is being made in accordance with this Order.. The parties
12 shall attempt to resolve each challenge in good faith and must begin the process by conferring
13 directly (in voice-to-voice dialogue; other forms of communication are not sufficient) within 14
14 days of the date of service of notice. In conferring, the Challenging Party must explain the basis
15 for its belief that the confidentiality designation was not proper and must give the Designating Party
16 an opportunity to review the designated material, to reconsider the circumstances, and, if no change
17 in designation is offered, to explain the basis for the chosen designation.

18 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court
19 intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil
20 Local Rule 230 (and in compliance with Civil Local Rule 141, if applicable) within 28 days of the
21 initial notice of challenge or within 14 days of the parties agreeing that the meet and confer process
22 will not resolve their dispute, whichever is earlier. Each such motion must be accompanied by a
23 competent declaration affirming that the movant has complied with the meet and confer
24 requirements imposed in Section 6.2 of this Order. Failure by the Designating Party to make such
25 a motion including the required declaration within 28 days (or 14 days, if applicable) shall
26 automatically waive the confidentiality designation for each challenged designation. In addition,
27 the Challenging Party may file a motion challenging a confidentiality designation at any time if
28 there is good cause for doing so, including a challenge to the designation of a deposition transcript

1 or any portions thereof. Any motion brought pursuant to this provision must be accompanied by a
2 competent declaration affirming that the movant has complied with the meet and confer
3 requirements imposed by Section 6.2 of this Order.

4 The burden of persuasion in any such challenge proceeding shall be on the Designating
5 Party. Frivolous challenges and those made for an improper purpose (*e.g.*, to harass or impose
6 unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions.
7 Frivolous designation of information or documents and those made for an improper purpose (*e.g.*,
8 to harass or impose unnecessary expenses and burdens on other parties) may expose the
9 Designation Party to sanctions. Unless the Designating Party has waived the confidentiality
10 designation by failing to file a motion to retain confidentiality as described above, all parties shall
11 continue to afford the material in question the level of protection to which it is entitled under the
12 Producing Party's designation until the Court rules on the challenge.

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

14 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
15 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
16 defending, or attempting to settle this action, except as otherwise agreed in writing by the Producing
17 Party. Such Protected Material may be disclosed only to the categories of persons and under the
18 conditions described in this Order. When the action has been terminated and a Final Disposition
19 has been received for this action, a Receiving Party must comply with the provisions of Section 13
20 of this Order (FINAL DISPOSITION). Protected Material must be stored and maintained by a
21 Receiving Party at a location and in a secure manner that ensures that access is limited to the persons
22 authorized under this Order.

23 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
24 by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any
25 information or item designated "CONFIDENTIAL" only to:

26 (a) the Receiving Party's Outside Counsel of Record in this action, as well as employees of
27 said Outside Counsel of Record to whom disclosure is reasonably necessary for this action;

28 (b) in the case of a Receiving Party that is an individual, such individual; and in the case of

1 a Receiving Party that is an entity, the officers, directors, and employees (including in-house
2 counsel) of such entity, to whom disclosure is reasonably necessary for this action, and who have
3 signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A;

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

7 (d) the Court and its personnel;

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

11 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
12 necessary for this action and who have signed the “Acknowledgment and Agreement to Be Bound”
13 (Exhibit A), provided that pages of transcribed deposition testimony or exhibits to depositions that
14 reveal Protected Material must be separately bound by the court reporter and may not be disclosed
15 to anyone except as permitted under this Order; and

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

18 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
19 Information or Items. Unless otherwise ordered by the Court or permitted in writing by the
20 Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY
21 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

22 (a) the Receiving Party’s Outside Counsel of Record in this action, including employees of
23 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for
24 this action;

25 (b) the Receiving Party’s Designated House Counsel (1) who has no involvement in
26 competitive decision-making; (2) to whom disclosure is reasonably necessary for this action; (3)
27 who has signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A); and (4) as to
28 whom the procedures set forth in Section 7.4(a)(1), below, have been followed;

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

4 (d) the Court and its personnel;

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

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

10 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL
11 – ATTORNEYS’ EYES ONLY” Information or Items to Designated House Counsel or Experts.

12 (a)(1) Unless otherwise ordered by the Court or agreed to in writing by the Designating
13 Party, a Party that seeks to disclose to Designated House Counsel any information or item that has
14 been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to
15 Section 7.3(b) first must make a written request to the Designating Party that (i) sets forth the full
16 name of the Designated House Counsel and the city and state of his or her residence; (ii) describes
17 the Designated House Counsel’s current and reasonably foreseeable future primary job duties and
18 responsibilities in sufficient detail to determine if the Designated House Counsel is involved, or
19 may become involved, in any competitive decision-making; and (iii) identifies all information and
20 items which the Designating Party has designated as “HIGHLY CONFIDENTIAL –
21 ATTORNEYS’ EYES ONLY” and which such Party wishes to disclose to the Designated House
22 Counsel.

23 (a)(2) Unless otherwise ordered by the Court or agreed to in writing by the Designating
24 Party, a Party that seeks to disclose to an Expert (as defined in this Order) any information or item
25 that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant
26 to Section 7.3(c) may, without first disclosing the identity of the Expert, disclose such information
27 or item to the Expert, as long as the Expert is not a current officer, director, or employee of a
28 competitor of a party or anticipated to become one.

1 (b) A Party that makes a request and provides the information specified in the preceding
2 respective Section 7.4(a)(1) may disclose the subject Protected Material to the identified
3 Designated House Counsel unless, within 14 court days of delivering the request, the Party receives
4 a written objection from the Designating Party. Any such objection must set forth in detail the
5 grounds on which it is based.

6 (c) A Party that receives a timely written objection must meet and confer with the
7 Designating Party (through direct voice to voice dialogue) to try to resolve the matter by agreement
8 within seven days of the written objection. If no agreement is reached, the Party seeking to make
9 the disclosure to Designated House Counsel may file a motion as provided in Civil Local Rule 230
10 (and in compliance with Civil Local Rule 141, if applicable) seeking permission from the Court to
11 do so. Any such motion must describe the circumstances with specificity, set forth in detail the
12 reasons why the disclosure to Designated House Counsel is reasonably necessary, assess the risk
13 of harm that the disclosure would entail, and suggest any additional means that could be used to
14 reduce that risk. In addition, any such motion must be accompanied by a competent declaration
15 describing the parties' efforts to resolve the matter by agreement (*i.e.*, the extent and the content of
16 the meet and confer discussions) and setting forth the reasons advanced by the Designating Party
17 for its refusal to approve the disclosure.

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

22 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
23 **OTHER LITIGATION**

24 If a Party is served with a subpoena or a court order issued in other litigation that compels
25 disclosure of any information or items designated in this action as "CONFIDENTIAL" or
26 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," that Party must:

27 (a) promptly notify in writing the Designating Party (such notification shall include a copy
28 of the subpoena or court order);

1 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
2 other litigation that some or all of the material covered by the subpoena or order is subject to this
3 Order (such notification shall include a copy of this Order); and

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

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

14 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
15 **THIS ACTION**

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

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

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

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

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

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

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

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

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

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

27 **12. MISCELLANEOUS**

28 12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to

1 seek its modification by the Court in the future.

2 12.2 Right to Assert Other Objections. By stipulating to the entry of this protective
3 Order, no Party waives any right it otherwise would have to object to disclosing or producing any
4 information or item on any ground not addressed in this Order. Similarly, no Party waives any
5 right to object on any ground to use in evidence of any of the material covered by this Order.

6 12.3 Filing Protected Material. Without written permission from the Designating Party or a
7 court order secured after appropriate notice to all interested persons, a Party may not file in the public record
8 in this action any Protected Material. A Party that seeks to file under seal any Protected Material must
9 comply with Civil Local Rule 141. Protected Material may only be filed under seal pursuant to a court order
10 authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 141, a sealing
11 order will issue only upon a request establishing that the Protected Material at issue is privileged, protectable
12 as a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request to file
13 Protected Material under seal pursuant to Civil Local Rule 141 is denied by the court, then the Receiving
14 Party may file the Protected Material in the public record pursuant to Civil Local Rule 141 unless otherwise
15 instructed by the Court.

16 **13. FINAL DISPOSITION**

17 Within 60 days after the Final Disposition of this action, as defined in Section 2 of this
18 Order (DEFINITIONS), each Receiving Party must return all Protected Material to the Producing
19 Party or destroy such material. As used in this subdivision, "all Protected Material" includes all
20 copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of
21 the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving
22 Party must submit a written certification to the Producing Party (and, if not the same person or
23 entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where
24 appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the
25 Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format
26 reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel
27 are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing
28 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney

1 work product, and consultant and expert work product, even if such materials contain Protected
2 Material. Any such archival copies that contain or constitute Protected Material remain subject to
3 this Order as set forth in Section 4 of this Order (DURATION).

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

5 Dated: August 27, 2024

PALADIN LAW GROUP ® LLP

7 By: /s/ John R. Till

8 JOHN R. TILL
9 KIRK M. TRACY
10 Attorneys for Plaintiffs
11 SARA BURGESS, ANGELA ALVAREZ, MICHAEL
12 ARNDT, TERESA ALFORD, JESSICA CARTER,
13 STEVEN PIECH, JEN REDFORD, CHERI
14 MADDOX, ELIZABETH TARTER, and STACEY
15 TAYLOR

13 Dated: August 27, 2024

MURPHY AUSTIN ADAMS SCHOENFELD LLP

15 By: /s/ Michael R. O’Neil

16 MICHAEL R. O’NEIL
17 LISA D. NICOLLS
18 PETER A. AUSTIN
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20 Attorneys for Defendant and Cross-Claimant
21 ALTERNATIVE SIERRA INVESTMENTS, LLC

20 Dated: August 15, 2024

ABBOT & KINDERMANN, INC.

22 By: /s/ J. Gage Marchini

23 GLEN C. HANSEN
24 DIANE G. KINDERMANN HENDERSON
25 J. GAGE MARCHINI
26 Attorneys for Defendants and Cross-Claimants
27 FREDERICK WENTWORTH and
28 JUDY A. WENTWORTH

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order (“Order”) that was issued by the United States District Court for the Eastern District of California on _____ [date] in the case of *Burgess, et al. v. Alternative Sierra Investments, et al.*, LLC, U.S. District Court, E.D. Cal., Case No. 1:23-cv-01641-JLT-BAM.

I agree to comply with and to be bound by all the terms of this Protective Order, and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that constitutes Protected Material under the aforementioned Order, unless such disclosure is permitted by and in strict compliance with the terms and conditions of such Order.

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

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

Executed this ____ day of _____, 2024, at _____
_____ [place].

Signature

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ORDER

Having considered the parties’ stipulated protective order, and finding good cause, the Court adopts the stipulated protective order (Doc. 58), subject to the following:

Page 9, Line 9: “Designation Party” corrected to “Designating Party.”

The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents subject to the protective order to be filed under seal must be accompanied by a written request which complies with Local Rule 141 prior to sealing. The party making a request to file documents under seal shall be required to show good cause for documents attached to a non-dispositive motion or compelling reasons for documents attached to a dispositive motion. *Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 677-78 (9th Cir. 2009). Within five (5) days of any approved document filed under seal, the party shall file a redacted copy of the sealed document. The redactions shall be narrowly tailored to protect only the information that is confidential or was deemed confidential.

Additionally, the parties shall consider resolving any dispute arising under the stipulated protective order according to the Court’s informal discovery dispute procedure.

IT IS SO ORDERED.

Dated: August 28, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE