

1 Imran F. Vakil, Esq. (Bar No. 248859)
2 ivakil@nexiolaw.com
3 **NEXIO, PC**
4 245 Fischer Avenue
5 Suite C3
6 Costa Mesa, CA 92626
7 Phone: (949) 478-6830
8 Facsimile: (949) 478-1275
9 *Attorneys for Plaintiff, Sream, Inc.*

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

SREAM, INC, a California corporation,

Plaintiff,

v.

HITESHWAR NAHAL, *et al.*,

Defendants.

No. 2:18-cv-00283 TLN DB

**STIPULATION AND PROTECTIVE
ORDER**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Plaintiff Sream, Inc. (“Plaintiff”), and Defendant Hiteshwar Nahal (“Defendant”), through counsel undersigned, jointly submit this Stipulated Protective Order to govern the handling of information and materials produced in the course of discovery or filed with the Court in this action;

1. PURPOSES AND LIMITATIONS.

1.1. Purpose 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.

1 The parties acknowledge that this Order does not confer blanket protections on all
2 disclosures or responses to discovery and that the protection it affords from public
3 disclosure and use extends only to the limited information or items that are entitled
4 to confidential treatment under the applicable legal principles. The parties further
5 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
6 Order does not entitle them to file confidential information under seal; Civil Local
7 Rule 141 sets forth the procedures that must be followed and the standards that will
8 be applied when a party seeks permission from the court to file material under seal.
9

10 **2. DEFINITIONS.**

- 11 2.1. Action: The above captioned federal lawsuit.
- 12 2.2. “ATTORNEYS’ EYES ONLY” Information or Items: extremely sensitive
13 “Confidential Information or Items,” disclosure of which to another Party or Non-
14 Party would create a substantial risk of serious harm that could not be avoided by
15 less restrictive means.
- 16 2.3. Challenging Party: a Party or Non-Party that challenges the designation of
17 information or items under this Order.
- 18 2.4. “CONFIDENTIAL” Information or Items: information (regardless of how it is
19 generated, stored or maintained) or tangible things that qualify for protection under
20 Federal Rule of Civil Procedure 26(c).
- 21 2.5. Counsel (without qualifier): Outside Counsel of Record and House Counsel (as well
22 as their support staff).
- 23 2.6. Designating Party: a Party or Non-Party that designates information or items that it
24 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or
25 “ATTORNEYS’ EYES ONLY”.
- 26 2.7. Disclosure or Discovery Material: all items or information, regardless of the
27 medium or manner in which it is generated, stored, or maintained (including, among
28

1 other things, testimony, transcripts, and tangible things), that are produced or
2 generated in disclosures or responses to discovery in this matter.

3 2.8. Expert: a person with specialized knowledge or experience in a matter pertinent to
4 the litigation who (1) has been retained by a Party or its counsel to serve as an
5 expert witness or as a consultant in this action, (2) is not a past or current employee
6 of a Party or of a Party's competitor, and (3) at the time of retention, is not
7 anticipated to become an employee of a Party or of a Party's competitor.

8 2.9. House Counsel: attorneys who are employees of a party to this action. House
9 Counsel does not include Outside Counsel of Record or any other outside counsel.

10 2.10. Non-Party: any natural person, partnership, corporation, association, or other legal
11 entity not named as a Party to this action.

12 2.11. Outside Counsel of Record: attorneys who are not employees of a party to this
13 action but are retained to represent or advise a party to this action and have appeared
14 in this action on behalf of that party or are affiliated with a law firm which has
15 appeared on behalf of that party.

16 2.12. Party: any party to this action, including all of its officers, directors, employees,
17 consultants, retained experts, and Outside Counsel of Record (and their support
18 staffs).

19 2.13. Producing Party: a Party or Non-Party that produces Disclosure or Discovery
20 Material in this action.

21 2.14. Professional Vendors: persons or entities that provide litigation support services
22 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations,
23 and organizing, storing, or retrieving data in any form or medium) and their
24 employees and subcontractors.

25 2.15. Protected Material: any Disclosure or Discovery Material that is designated as
26 "CONFIDENTIAL," or as "ATTORNEYS' EYES ONLY."

27 2.16. Receiving Party: a Party that receives Disclosure or Discovery Material from a
28 Producing Party.

1
2 **3. SCOPE.** The protections conferred by this Stipulation and Order cover not only
3 Protected Material (as defined above), but also (1) any information copied or extracted
4 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
5 Protected Material; and (3) any testimony, conversations, or presentations by Parties or
6 their Counsel that might reveal Protected Material. Any use of Protected Material at
7 trial shall be governed by the orders of a trial judge. This Order does not govern the use
8 of Protected Material at trial.

9 3.1. Exclusions. The protections conferred by this Stipulation and Order do not cover the
10 following information: (a) any information that is in the public domain at the time of
11 disclosure to a Receiving Party or becomes part of the public domain after its
12 disclosure to a Receiving Party as a result of publication not involving a violation of
13 this Order, including becoming part of the public record through trial or otherwise;
14 (b) any information known to the Receiving Party prior to the disclosure or obtained
15 by the Receiving Party after the disclosure from a source who obtained the
16 information lawfully and under no obligation of confidentiality to the Designating
17 Party; and (c) any Protected Material that is disclosed at trial that was not afforded
18 protection by the trial judge.

19
20 **4. DURATION.** Consistent with the exclusions set forth in Section 3.1, even after final
21 disposition of this litigation, the confidentiality obligations imposed by this Order shall
22 remain in effect until a Designating Party agrees otherwise in writing or a court order
23 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all
24 claims and defenses in this action, with or without prejudice; and (2) final judgment
25 herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or
26 reviews of this action, including the time limits for filing any motions or applications for
27 extension of time pursuant to applicable law.
28

1 **5. DESIGNATING PROTECTED MATERIAL.**

2 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Party or
3 Non-Party that designates information or items for protection under this Order must
4 take care to limit any such designation to specific material that qualifies under the
5 appropriate standards. To the extent it is practical to do so, the Designating Party
6 must designate for protection only those parts of material, documents, items, or oral
7 or written communications that qualify – so that other portions of the material,
8 documents, items, or communications for which protection is not warranted are not
9 swept unjustifiably within the ambit of this Order. Mass, indiscriminate, or
10 routinized designations are prohibited. Designations that are shown to be clearly
11 unjustified or that have been made for an improper purpose (e.g., to unnecessarily
12 encumber or retard the case development process or to impose unnecessary
13 expenses and burdens on other parties) expose the Designating Party to sanctions. If
14 it comes to a Designating Party’s attention that information or items that it
15 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
17 other parties that it is withdrawing the mistaken/inapplicable designation.

18 5.2. Manner and Timing of Designations. Except as otherwise provided in this Order
19 (see, e.g., second paragraph of section 5.2.1 below), or as otherwise stipulated or
20 ordered, Disclosure or Discovery Material that qualifies for protection under this
21 Order must be clearly so designated before the material is disclosed or produced.
22 Designation in conformity with this Order requires:

23 5.2.1. **Documents:** for information in documentary form (e.g., paper or electronic
24 documents, but excluding transcripts of depositions or other pretrial or trial
25 proceedings), that the Producing Party affix the legend “CONFIDENTIAL” or
26 “ATTORNEYS’ EYES ONLY” to each page that contains protected material. If
27 only a portion or portions of the material on a page qualifies for protection, the
28 Producing Party also must clearly identify the protected portion(s) (e.g., by

1 making appropriate markings in the margins) and must specify, for each portion,
2 the level of protection being asserted.

3 **5.2.2. Originals:** A Party or Non-Party that makes original documents or materials
4 available for inspection need not designate them for protection until after the
5 inspecting Party has indicated which material it would like copied and produced.
6 During the inspection and before the designation, all of the material made
7 available for inspection shall be deemed “ATTORNEYS’ EYES ONLY.” After
8 the inspecting Party has identified the documents it wants copied and produced,
9 the Producing Party must determine which documents, or portions thereof,
10 qualify for protection under this Order. Then, before producing the specified
11 documents, the Producing Party must affix the appropriate legend
12 (“CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” to each page that
13 contains Protected Material. If only a portion or portions of the material on a
14 page qualifies for protection, the Producing Party also must clearly identify the
15 protected portion(s) (e.g., by making appropriate markings in the margins) and
16 must specify, for each portion, the level of protection being asserted.

17 **5.2.3. Testimony:** for testimony given in deposition that the Designating Party
18 identify on the record, before the close of the deposition, all protected testimony
19 and specify the level of protection being asserted. When it is impractical to
20 identify separately each portion of testimony that is entitled to protection and it
21 appears that substantial portions of the testimony may qualify for protection, the
22 Designating Party may invoke on the record (before the deposition, hearing, or
23 other proceeding is concluded) a right to have up to 21 days to identify the
24 specific portions of the testimony as to which protection is sought and to specify
25 the level of protection being asserted. Only those portions of the testimony that
26 are appropriately designated for protection within the 21 days shall be covered
27 by the provisions of this Stipulated Protective Order.
28

1 5.2.4. **Other items:** for information produced in some form other than documentary
2 and for any other tangible items, that the Producing Party affix in a prominent
3 place on the exterior of the container or containers in which the information or
4 item is stored the legend “CONFIDENTIAL” or “ATTORNEYS’ EYES
5 ONLY”. If only a portion or portions of the information or item warrant
6 protection, the Producing Party, to the extent practicable, shall identify the
7 protected portion(s) and specify the level of protection being asserted.

8 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
9 designate qualified information or items does not, standing alone, waive the
10 Designating Party’s right to secure protection under this Order for such material.
11 Upon timely correction of a designation, the Receiving Party must make reasonable
12 efforts to assure that the material is treated in accordance with the provisions of this
13 Order.

14 15 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS.**

16 6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of
17 confidentiality at any time that is consistent with the Court’s scheduling Order.
18 Unless a prompt challenge to a Designating Party’s confidentiality designation is
19 necessary to avoid foreseeable, substantial unfairness, unnecessary economic
20 burdens, or a significant disruption or delay of the litigation, a Party does not waive
21 its right to challenge a confidentiality designation by electing not to mount a
22 challenge promptly after the original designation is disclosed

23 6.2. Meet and Confer. The Challenging Party shall initiate the dispute resolution process
24 by providing written notice of each designation it is challenging and describing the
25 basis for each challenge. To avoid ambiguity as to whether a challenge has been
26 made, the written notice must recite that the challenge to confidentiality is being
27 made in accordance with this specific paragraph of the Protective Order. The parties
28 shall attempt to resolve each challenge in good faith and must begin the process by

1 conferring directly (in voice to voice dialogue; other forms of communication are
2 not sufficient) within 14 days of the date of service of notice. In conferring, the
3 Challenging Party must explain the basis for its belief that the confidentiality
4 designation was not proper and must give the Designating Party an opportunity to
5 review the designated material, to reconsider the circumstances, and, if no change in
6 designation is offered, to explain the basis for the chosen designation. A
7 Challenging Party may proceed to the next stage of the challenge process only if it
8 has engaged in this meet and confer process first or establishes that the Designating
9 Party is unwilling to participate in the meet and confer process in a timely manner.

10 6.3. Judicial Intervention. If the Parties cannot resolve a challenge without court
11 intervention, the Designating Party shall file and serve a motion to retain
12 confidentiality under Civil Local Rule 140, 230, and 251 (and in compliance with
13 Civil Local Rule 141, if applicable) within 21 days of the initial notice of challenge
14 or within 14 days of the parties agreeing that the meet and confer process will not
15 resolve their dispute, whichever is earlier. Each such motion must be accompanied
16 by a competent declaration affirming that the movant has complied with the meet
17 and confer requirements imposed in the preceding paragraph. Failure by the
18 Designating Party to make such a motion including the required declaration within
19 21 days (or 14 days, if applicable) shall automatically waive the confidentiality
20 designation for each challenged designation. In addition, the Challenging Party may
21 file a motion challenging a confidentiality designation at any time if there is good
22 cause for doing so, including a challenge to the designation of a deposition transcript
23 or any portions thereof. Any motion brought pursuant to this provision must be
24 accompanied by a competent declaration affirming that the movant has complied
25 with the meet and confer requirements imposed by the preceding paragraph.

26 6.4. The burden of persuasion in any such challenge proceeding shall be on the
27 Designating Party. Frivolous challenges and those made for an improper purpose
28 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may

1 expose the Challenging Party to sanctions. Unless the Designating Party has waived
2 the confidentiality designation by failing to file a motion to retain confidentiality as
3 described above, all parties shall continue to afford the material in question the level
4 of protection to which it is entitled under the Producing Party's designation until the
5 court rules on the challenge.
6

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

8 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or
9 produced by another Party or by a Non-Party in connection with this case only for
10 prosecuting, defending, or attempting to settle this litigation. Such Protected
11 Material may be disclosed only to the categories of persons and under the conditions
12 described in this Order. When the litigation has been terminated, a Receiving Party
13 must comply with the provisions of section 13 below (FINAL DISPOSITION).

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

17 7.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered
18 by the court or permitted in writing by the Designating Party, a Receiving Party may
19 disclose any information or item designated "CONFIDENTIAL" only to:

20 7.2.1. the Receiving Party's Outside Counsel of Record in this action, as well as
21 employees of said Outside Counsel of Record to whom it is reasonably
22 necessary to disclose the information for this Action;

23 7.2.2. the officers, directors, and employees (including House Counsel) of the
24 Receiving Party to whom disclosure is reasonably necessary for this litigation
25 and who have signed the "Acknowledgment and Agreement to Be Bound"
26 (Exhibit A);
27
28

1 7.2.3. Experts (as defined in this Order) of the Receiving Party to whom disclosure is
2 reasonably necessary for this litigation and who have signed the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 7.2.4. the court and its personnel;

5 7.2.5. court reporters and their staff;

6 7.2.6. professional jury or trial consultants, and Professional Vendors to whom
7 disclosure is reasonably necessary for this litigation and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 7.2.7. the author or recipient of a document containing the information or a custodian
10 or other person who otherwise possessed or knew the information;

11 7.2.8. during their depositions, witnesses in the action to whom disclosure is
12 reasonably necessary and who have signed the “Acknowledgment and
13 Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the
14 Designating Party or ordered by the court. Pages of transcribed deposition
15 testimony or exhibits to depositions that reveal Protected Material must be
16 separately bound by the court reporter and may not be disclosed to anyone
17 except as permitted under this Stipulated Protective Order; and

18 7.2.9. Any mediator or settlement officer, and their supporting personnel, mutually
19 agreed upon by any of the parties engaged in settlement discussions.

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

24 7.3.1. the Receiving Party’s Outside Counsel of Record in this action, as well as
25 employees of said Outside Counsel of Record to whom it is reasonably
26 necessary to disclose the information for this Action;

1 7.3.2. Experts of the Receiving Party (1) to whom disclosure is reasonably necessary
2 for this litigation, and (2) who have signed the “Acknowledgment and
3 Agreement to Be Bound” (Exhibit A);

4 7.3.3. the court and its personnel;

5 7.3.4. court reporters and their staff;

6 7.3.5. professional jury or trial consultants, and Professional Vendors to whom
7 disclosure is reasonably necessary for this litigation and who have signed the
8 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

9 7.3.6. the author or recipient of a document containing the information or a custodian
10 or other person who otherwise possessed or knew the information; and

11 7.3.7. Any mediator or settlement officer, and their supporting personnel, mutually
12 agreed upon by any of the parties engaged in settlement discussions.

13 7.4. Procedures for Approving or Objecting to Disclosure of “ATTORNEYS’ EYES
14 ONLY” Information or Items to Designated House Counsel or Experts.

15 7.4.1. Unless otherwise ordered by the court or agreed to in writing by the
16 Designating Party, a Party that seeks to disclose to Designated House Counsel
17 any information or item that has been designated “ATTORNEYS’ EYES
18 ONLY” pursuant to paragraph 7.3 et seq. first must make a written request to the
19 Designating Party that (1) sets forth the full name of the Designated House
20 Counsel and the city and state of his or her residence, and (2) describes the
21 Designated House Counsel’s current and reasonably foreseeable future primary
22 job duties and responsibilities in sufficient detail to determine if House Counsel
23 is involved, or may become involved, in any competitive decision-making.

24 7.4.2. Unless otherwise ordered by the court or agreed to in writing by the
25 Designating Party, a Party that seeks to disclose to an Expert (as defined in this
26 Order) any information or item that has been designated “ATTORNEYS’ EYES
27 ONLY” pursuant to paragraph 7.3 et seq. first must make a written request to the
28 Designating Party that (1) identifies the general categories of “ATTORNEYS’

1 EYES ONLY” information that the Receiving Party seeks permission to disclose
2 to the Expert, (2) sets forth the full name of the Expert and the city and state of
3 his or her primary residence, (3) attaches a copy of the Expert’s current resume,
4 (4) identifies the Expert’s current employer(s), (5) identifies each person or
5 entity from whom the Expert has received compensation or funding for work in
6 his or her areas of expertise or to whom the expert has provided professional
7 services, including in connection with a litigation, at any time during the
8 preceding five years, and (6) identifies (by name and number of the case, filing
9 date, and location of court) any litigation in connection with which the Expert
10 has offered expert testimony, including through a declaration, report, or
11 testimony at a deposition or trial, during the preceding five years.

12 7.4.3. A Party that makes a request and provides the information specified in the
13 preceding respective paragraphs may disclose the subject Protected Material to
14 the identified Designated House Counsel or Expert unless, within 14 days of
15 delivering the request, the Party receives a written objection from the
16 Designating Party. Any such objection must set forth in detail the grounds on
17 which it is based.

18 7.4.4. A Party that receives a timely written objection must meet and confer with the
19 Designating Party (through direct voice to voice dialogue) to try to resolve the
20 matter by agreement within seven days of the written objection. If no agreement
21 is reached, the Party seeking to make the disclosure to Designated House
22 Counsel or the Expert may file a motion as provided in Civil Local Rule 230
23 (and in compliance with Civil Local Rule 141, if applicable) seeking permission
24 from the court to do so. Any such motion must describe the circumstances with
25 specificity, set forth in detail the reasons why the disclosure to Designated
26 House Counsel or the Expert is reasonably necessary, assess the risk of harm
27 that the disclosure would entail, and suggest any additional means that could be
28 used to reduce that risk. In addition, any such motion must be accompanied by a

1 competent declaration describing the parties' efforts to resolve the matter by
2 agreement (i.e., the extent and the content of the meet and confer discussions)
3 and setting forth the reasons advanced by the Designating Party for its refusal to
4 approve the disclosure. **Any motion to challenge a Party's designation of**
5 **material as Protected Material or seeking permission to disclose Protected**
6 **Material to Designated House Counsel or an Expert must be brought in**
7 **strict compliance with Local Rules 140, 230, and 251, in their entirety.**

8 In any such proceeding, the Party opposing disclosure to Designated House Counsel
9 or the Expert shall bear the burden of proving that the risk of harm that the disclosure
10 would entail (under the safeguards proposed) outweighs the Receiving Party's need to
11 disclose the Protected Material to its Designated House Counsel or Expert.

12
13 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
14 **OTHER LITIGATION.** If a Party is served with a subpoena or a court order issued in
15 other litigation that compels disclosure of any information or items designated in this
16 action as "CONFIDENTIAL" or "ATTORNEYS' EYES ONLY" that Party must: (a)
17 promptly notify in writing the Designating Party. Such notification shall include a copy
18 of the subpoena or court order; (b) promptly notify in writing the party who caused the
19 subpoena or order to issue in the other litigation that some or all of the material covered
20 by the subpoena or order is subject to this Protective Order. Such notification shall
21 include a copy of this Stipulated Protective Order; and (c) cooperate with respect to all
22 reasonable procedures sought to be pursued by the Designating Party whose Protected
23 Material may be affected.

24 **8.1. Right to Seek Protective Order.** If the Designating Party timely seeks a protective
25 order, the Party served with the subpoena or court order shall not produce any
26 information designated in this action as "CONFIDENTIAL" or "ATTORNEYS'
27 EYES ONLY" before a determination by the court from which the subpoena or
28 order issued, unless the Party has obtained the Designating Party's permission. The

1 Designating Party shall bear the burden and expense of seeking protection in that
2 court of its confidential material – and nothing in these provisions should be
3 construed as authorizing or encouraging a Receiving Party in this action to disobey a
4 lawful directive from another court.

5
6 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN**
7 **THIS LITIGATION.**

8 9.1. The terms of this Order are applicable to information produced by a Non-Party in
9 this action and designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES
10 ONLY”. Such information produced by Non-Parties in connection with this
11 litigation is protected by the remedies and relief provided by this Order. Nothing in
12 these provisions should be construed as prohibiting a Non-Party from seeking
13 additional protections.

14 9.2. In the event that a Party is required, by a valid discovery request, to produce a Non-
15 Party’s confidential information in its possession, and the Party is subject to an
16 agreement with the Non-Party not to produce the Non-Party’s confidential
17 information, then the Party shall: (a) promptly notify in writing the Requesting Party
18 and the Non-Party that some or all of the information requested is subject to a
19 confidentiality agreement with a Non-Party; (b) promptly provide the Non-Party
20 with a copy of the Stipulated Protective Order in this litigation, the relevant
21 discovery request(s), and a reasonably specific description of the information
22 requested; and (c) make the information requested available for inspection by the
23 Non-Party.

24 9.3. If the Non-Party fails to object or seek a protective order from this court within 14
25 days of receiving the notice and accompanying information, the Receiving Party
26 may produce the Non-Party’s confidential information responsive to the discovery
27 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
28 not produce any information in its possession or control that is subject to the

1 confidentiality agreement with the Non-Party before a determination by the court.
2 Absent a court order to the contrary, the Non-Party shall bear the burden and
3 expense of seeking protection in this court of its Protected Material.
4

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

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

27 **12.MISCELLANEOUS.**
28

1 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to
2 seek its modification by the court in the future.

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

8 12.3. Filing Protected Material. Without written permission from the Designating Party or
9 a court order secured after appropriate notice to all interested persons, a Party may
10 not file in the public record in this action any Protected Material. A Party that seeks
11 to file under seal any Protected Material must comply with Civil Local Rule 141.
12 Protected Material may only be filed under seal pursuant to a court order authorizing
13 the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule
14 141, a sealing order will issue only upon a request establishing that the Protected
15 Material at issue is privileged, protectable as a trade secret, or otherwise entitled to
16 protection under the law. If a Receiving Party's request to file Protected Material
17 under seal pursuant to Civil Local Rule 141 is denied by the court, then the
18 Receiving Party may file the Protected Material in the public record pursuant to
19 Civil Local Rule 141(d) unless otherwise instructed by the court.
20

21 **13.FINAL DISPOSITION.** Within 60 days after the final disposition of this action, as
22 defined in paragraph 4, each Receiving Party must return all Protected Material to the
23 Producing Party or destroy such material. As used in this subdivision, “all Protected
24 Material” includes all copies, abstracts, compilations, summaries, and any other format
25 reproducing or capturing any of the Protected Material. Whether the Protected Material
26 is returned or destroyed, the Receiving Party must submit a written certification to the
27 Producing Party (and, if not the same person or entity, to the Designating Party) by the
28 60-day deadline that (1) identifies (by category, where appropriate) all the Protected

1 Material that was returned or destroyed and (2) affirms that the Receiving Party has not
2 retained any copies, abstracts, compilations, summaries or any other format reproducing
3 or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
4 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
5 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
6 expert reports, attorney work product, and consultant and expert work product, even if
7 such materials contain Protected Material. Any such archival copies that contain or
8 constitute Protected Material remain subject to this Protective Order as set forth in
9 Section 4 (DURATION).

10 **14. REMEDIES.** Any violation of this Order may be punished by any and all appropriate
11 measures including, without limitation, contempt proceedings and/or monetary
12 sanctions.

13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14
15 Dated: May 30, 2018

NEXIO, PC

17 By: /s/ Imran F. Vakil /
18 Imran F. Vakil,
19 *Attorneys for Plaintiff, Sream Inc.*

20 Dated: May 30, 2018

**GRANT, GENOVESE & BARATTA,
LLP**

22 By: /s/ Jason S. Roberts /
23 Jason S. Roberts
24 *Attorneys for Defendant*
25 *Hiteshwar Nahal*

1 ORDER

2 Pursuant to the parties' stipulation, IT IS SO ORDERED.

3 IT IS FURTHER ORDERED THAT:

4 1. Requests to seal documents shall be made by motion before the same judge who will
5 decide the matter related to that request to seal.

6 2. The designation of documents (including transcripts of testimony) as confidential
7 pursuant to this order does not automatically entitle the parties to file such a document with the
8 court under seal. Parties are advised that any request to seal documents in this district is governed
9 by Local Rule 141. In brief, Local Rule 141 provides that documents may only be sealed by a
10 written order of the court after a specific request to seal has been made. L.R. 141(a). However, a
11 mere request to seal is not enough under the local rules. In particular, Local Rule 141(b) requires
12 that "[t]he 'Request to Seal Documents' shall set forth the statutory or other authority for sealing,
13 the requested duration, the identity, by name or category, of persons to be permitted access to the
14 document, and all relevant information." L.R. 141(b).

15 3. A request to seal material must normally meet the high threshold of showing that
16 "compelling reasons" support secrecy; however, where the material is, at most, "tangentially
17 related" to the merits of a case, the request to seal may be granted on a showing of "good cause."
18 Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1096-1102 (9th Cir. 2016); Kamakana
19 v. City and County of Honolulu, 447 F.3d 1172, 1178-80 (9th Cir. 2006).

20 4. Nothing in this order shall limit the testimony of parties or non-parties, or the use of
21 certain documents, at any court hearing or trial – such determinations will only be made by the
22 court at the hearing or trial, or upon an appropriate motion.


23 5. With respect to motions regarding any disputes concerning this protective order which
24 the parties cannot informally resolve, the parties shall follow the procedures outlined in Local
25 Rule 251. Absent a showing of good cause, the court will not hear discovery disputes on an ex
26 parte basis or on shortened time.

1 6. The parties may not modify the terms of this Protective Order without the court's
2 approval. If the parties agree to a potential modification, they shall submit a stipulation and
3 proposed order for the court's consideration.

4 7. Pursuant to Local Rule 141.1(f), the court will not retain jurisdiction over enforcement
5 of the terms of this Protective Order after the action is terminated.

6 8. Any provision in the parties' stipulation that is in conflict with anything in this order is
7 hereby DISAPPROVED.

8 Dated: June 6, 2018

9
10
11 
12 _____
13 DEBORAH BARNES
14 UNITED STATES MAGISTRATE JUDGE
15
16
17
18
19
20
21
22

23 DLB:6
24 DB\orders\orders.civil\stream0283.stip.prot.ord
25
26
27
28

ATTACHMENT A

1
2 I, _____ [*print or type full name*], of _____
3 _____ [*print or type full address*], declare under penalty of perjury
4 that I have read in its entirety and understand the Stipulated Protective Order that was
5 issued by the United States District Court for the Eastern District of California in the case
6 of *Sream, Inc. v. Hiteshwar Nahal, et al.*, Case No. 2:18-CV-00283-TLN-DB. I agree to
7 comply with and to be bound by all the terms of this Stipulated Protective Order and I
8 understand and acknowledge that failure to so comply could expose me to sanctions and
9 punishment in the nature of contempt. I solemnly promise that I will not disclose in any
10 manner any information or item that is subject to this Stipulated Protective Order to any
11 person or entity except in strict compliance with the provisions of this Order.

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

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

20
21 Date: _____

22 City and State where sworn and signed: _____

23 Printed name: _____

24
25 Signature: _____
26
27
28