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16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18

19 HIGH TEK USA, INC., a California
 20 corporation,
 21 Plaintiff,
 22 v.
 23 HEAT AND CONTROL, INC., a California
 24 corporation, and Does 1-10, inclusive,
 25 Defendants.

Case No. C 12-00805 YGR

**STIPULATED PROTECTIVE
 ORDER**

1 2.5 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL,”
3 “HIGHLY CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
4 ONLY.”

5 2.6 Disclosure or Discovery Material: all items or information, regardless of
6 the medium or manner in which it is generated, stored, or maintained (including, among other
7 things, testimony, transcripts, and tangible things), that are produced or generated in disclosures
8 or responses to discovery in this matter.

9 2.7 Expert: a person with specialized knowledge or experience in a matter
10 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert
11 witness or as a consultant in this action.

12 2.8 “HIGHLY CONFIDENTIAL” Information or Items: extremely sensitive
13 Confidential Information or Items, disclosure of which to another Party or Non-Party would
14 create a substantial risk of serious harm that could not be avoided by less restrictive means.

15 2.9 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
16 Information or Items: information comprising, incorporating, or referring to customer-specific
17 prices or price information.

18 2.10 House Counsel: attorneys who are employees of a party to this action.
19 House Counsel does not include Outside Counsel of Record or any other outside counsel.

20 2.11 Non-Party: any natural person, partnership, corporation, association, or
21 other legal entity not named as a Party to this action.

22 2.12 Outside Counsel of Record: attorneys who are not employees of a party to
23 this action but are retained to represent or advise a party to this action and have appeared in this
24 action on behalf of that party or are affiliated with a law firm which has appeared on behalf of
25 that party.

26 2.13 Party: any party to this action, including all of its officers, directors,
27 employees, consultants, retained experts, and Outside Counsel of Record (and their support
28 staffs).

1 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this action.

3 2.15 Professional Vendors: persons or entities that provide litigation support
4 services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
5 organizing, storing, or retrieving data in any form or medium) and their employees and
6 subcontractors.

7 2.16 Protected Material: any Disclosure or Discovery Material that is
8 designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

10 2.17 Receiving Party: a Party that receives Disclosure or Discovery Material
11 from a Producing Party.

12 3. SCOPE

13 The protections conferred by this Stipulation and Order cover not only Protected
14 Material (as defined above), but also (1) any information copied or extracted from Protected
15 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any
16 testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected
17 Material. However, the protections conferred by this Stipulation and Order do not cover the
18 following information: (a) any information that is in the public domain at the time of disclosure to
19 a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party
20 as a result of publication not involving a violation of this Order, including becoming part of the
21 public record through trial or otherwise; and (b) any information known to the Receiving Party
22 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
23 obtained the information lawfully and under no obligation of confidentiality to the Designating
24 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

25 4. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations
27 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing
28 or a court order otherwise directs. Final disposition shall be deemed to be the later of

1 (1) dismissal of all claims and defenses in this action, with or without prejudice; and (2) final
2 judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or
3 reviews of this action, including the time limits for filing any motions or applications for
4 extension of time pursuant to applicable law.

5 5. DESIGNATING PROTECTED MATERIAL

6 5.1 Exercise of Restraint and Care in Designating Material for Protection.

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

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

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

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

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (e.g., paper or electronic documents,
26 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing
27 Party affix the legend "CONFIDENTIAL," "HIGHLY CONFIDENTIAL," or "HIGHLY
28 CONFIDENTIAL – ATTORNEYS' EYES ONLY," to each page that contains protected

1 material. If only a portion or portions of the material on a page qualifies for protection, the
2 Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate
3 markings in the margins).

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

18 (b) for testimony given in deposition or in other pretrial or trial proceedings,
19 that the Designating Party identify on the record, before the close of the deposition, hearing, or
20 other proceeding, all protected testimony.

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

28

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

6 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

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

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

28

1 6.3 Judicial Intervention. If the Parties cannot resolve a challenge without
2 court intervention, they shall file a joint letter brief with the Court within 21 days of the initial
3 notice of challenge or within 14 days of the Parties agreeing that the meet and confer process will
4 not resolve their dispute, whichever is later. The joint brief must be no longer than four (4) pages.
5 The burden of persuasion in any such challenge proceeding shall be on the Designating Party.
6 Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose
7 unnecessary expenses and burdens on other parties) may expose the Challenging Party to
8 sanctions. Unless the Designating Party has waived the confidentiality designation by failing to
9 seek judicial action to retain confidentiality as described above, all parties shall continue to afford
10 the material in question the level of protection to which it is entitled under the Producing Party’s
11 designation until the court rules on the challenge.

12 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

22 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
23 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
24 disclose any information or item designated “CONFIDENTIAL” only to:

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

1 (b) Non-Parties specifically retained to assist the attorneys of record or a party
2 in copying or computer coding of documents, organizing, filing, translating, converting, storing or
3 retrieving data, or designing programs for handling data connected with this proceeding,
4 including the performance of such duties in relation to a computerized litigation support system,
5 and graphics or design services used for preparation of demonstrative or other exhibits for
6 deposition, trial or other court proceedings in this action, but only for purposes of performing
7 such services in connection with this proceeding;

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

11 (d) Experts (as defined in this Order) of the Receiving Party to whom
12 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment
13 and Agreement to Be Bound” (Exhibit A), and as to whom the procedures set forth in paragraph
14 7.4 below, have been followed;

15 (e) the court and its personnel;

16 (f) court reporters and their staff, professional jury or trial consultants, mock
17 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation
18 and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

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

25 (h) the author or recipient of a document containing the HIGHLY
26 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
27 information.

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1 7.3 Disclosure of “HIGHLY CONFIDENTIAL” or “HIGHLY
2 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise
3 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
4 disclose any information or item designated “HIGHLY CONFIDENTIAL” or “HIGHLY
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

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

10 (b) Non-Parties specifically retained to assist the attorneys of record or a party
11 in copying or computer coding of documents, organizing, filing, translating, converting, storing or
12 retrieving data, or designing programs for handling data connected with this proceeding,
13 including the performance of such duties in relation to a computerized litigation support system,
14 and graphics or design services used for preparation of demonstrative or other exhibits for
15 deposition, trial or other court proceedings in this action, but only for purposes of performing
16 such services in connection with this proceeding;

17 (c) Experts (as defined in this Order) of the Receiving Party to whom
18 disclosure is reasonably necessary for this litigation, who have signed the “Acknowledgment and
19 Agreement to Be Bound” (Exhibit A), and as to whom the procedures set forth in paragraph 7.4
20 below, have been followed;

21 (d) the court and its personnel;

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

25 (f) the author or recipient of a document containing the HIGHLY
26 CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
27 information;

28

1 (g) except in the case of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
2 ONLY” Information and Items, one Designated Employee.

3 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
4 CONFIDENTIAL” and “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
5 Information or Items to Experts.

6 (a) Unless otherwise ordered by the court or agreed to in writing by the
7 Designating Party, a Party that seeks to disclose to an Expert (as defined in this Order) any
8 information or item that has been designated “HIGHLY CONFIDENTIAL” or “HIGHLY
9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3(c) first must make
10 a written request to the Designating Party that (1) identifies the general categories of “HIGHLY
11 CONFIDENTIAL” and/or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
12 information that the Receiving Party seeks permission to disclose to the Expert, (2) sets forth the
13 full name of the Expert and the city and state of his or her primary residence, (3) attaches a copy
14 of the Expert’s current resume, and (4) identifies the Expert’s current employer(s).

15 (b) A Party that makes a request and provides the information specified in the
16 preceding paragraph may disclose the subject Protected Material to the identified Expert unless,
17 within 14 days of delivering the request, the Party receives a written objection from the
18 Designating Party. Any such objection must set forth in detail the grounds on which it is based.

19 (c) A Party that receives a timely written objection must meet and confer in
20 person with the Designating Party to try to resolve the matter by agreement within seven days of
21 the written objection. If the Parties cannot resolve a challenge without court intervention, they
22 shall file a joint letter brief with the Court within 21 days of the objection or within 14 days of the
23 Parties agreeing that the meet and confer process will not resolve their dispute, whichever is later.
24 The joint brief must be no longer than four pages. In any such proceeding, the Party opposing
25 disclosure to the Expert shall bear the burden of proving that the risk of harm that the disclosure
26 would entail (under the safeguards proposed) outweighs the Receiving Party’s need to disclose
27 the Protected Material to its Expert.

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

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

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

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

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

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

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

25 (a) The terms of this Order are applicable to information produced by a
26 Non-Party in this action and designated as “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,”
27 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” Such information produced
28 by Non-Parties in connection with this litigation is protected by the remedies and relief provided

1 by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from
2 seeking additional protections.

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

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

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

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

15 (c) If the Non-Party fails to object or seek a protective order from this court
16 within 14 days of receiving the notice and accompanying information, the Receiving Party may
17 produce the Non-Party's confidential information responsive to the discovery request. If the
18 Non-Party timely seeks a protective order, the Receiving Party shall not produce any information
19 in its possession or control that is subject to the confidentiality agreement with the Non-Party
20 before a determination by the court.¹ Absent a court order to the contrary, the Non-Party shall
21 bear the burden and expense of seeking protection in this court of its Protected Material.

22 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

23 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
24 Protected Material to any person or in any circumstance not authorized under this Stipulated
25 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating
26 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of

27 _____
28 ¹ The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a
Non-Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this court.

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

4 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
5 PROTECTED MATERIAL

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

15 12. MISCELLANEOUS

16 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
17 person to seek its modification by the court in the future.

18 12.2 Right to Assert Other Objections. By stipulating to the entry of this
19 Protective Order no Party waives any right it otherwise would have to object to disclosing or
20 producing any information or item on any ground not addressed in this Stipulated Protective
21 Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of
22 the material covered by this Protective Order.

23 12.3 Filing Protected Material. Without written permission from the
24 Designating Party or a court order secured after appropriate notice to all interested persons, a
25 Party may not file in the public record in this action any Protected Material. A Party that seeks to
26 file under seal any Protected Material must comply with Civil Local Rule 79-5 and General Order
27 62. Protected Material may only be filed under seal pursuant to a court order authorizing the
28 sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General

1 Order 62, a sealing order will issue only upon a request establishing that the Protected Material at
2 issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law.
3 If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule
4 79-5(d) and General Order 62 is denied by the court, then the Receiving Party may file the
5 information in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed
6 by the court.

7 13. FINAL DISPOSITION

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

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1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2
3 Dated: 12/04/12

/s/ Shaye Schrick

Shaye Schrick
Downey Brand LLP
Attorneys for Plaintiff
High Tek USA, Inc.


6
7 Dated: 12/04/12

/s/ Russell P. Cohen

Russell P. Cohen
Orrick, Herrington & Sutcliffe LLP
Attorneys for Defendant
Heat and Control, Inc.

10 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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12 Dated: January 3, 2013


The Honorable Yvonne Gonzalez Rogers
United States District Court Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____, of _____,
declare under penalty of perjury that I have read in its entirety and understand the Stipulated
Protective Order that was issued by the United States District Court for the Northern District of
California on _____ in the case of *High Tek USA, Inc. v. Heat and Control, Inc.*,
United States District Court for the Northern District of California, Case No. C 12-00805 YGR. I
agree to comply with and to be bound by all the terms of this Stipulated 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 is subject to this Stipulated Protective Order to any person or entity
except in strict compliance with the provisions of this Order.

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

I hereby appoint _____
_____ as my California agent for service of
process in connection with this action or any proceedings related to enforcement of this Stipulated
Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____