

IN THE CIRCUIT COURT OF THE 15th
JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

EB-5 UNITED, LLC, a Washington limited
liability company, EB5 UNITED
OKEECHOBEE, LLC, a Delaware limited
liability company, and EB5U FL, LLC,
a Delaware limited liability company,

Plaintiffs,

CASE NO.: 50-2024-CA-001964-XXXX-MB (AA)

v.

EB5AN, LLC, a Florida limited liability
company,

Defendant.

_____ /

EB5AN, LLC, a Florida limited liability
company,

Counterclaim-Plaintiff,

v.

EB-5 UNITED, LLC, EB5 UNITED
OKEECHOBEE, LLC, EB5U FL, LLC,
and EB5 UNITED BIG SKY III, L.L.C.,

Counterclaim-Defendants.

_____ /

**DEFENDANT/COUNTERCLAIM-PLAINTIFF EB5AN, LLC'S MOTION TO
DE-DESIGNATE PLAINTIFFS' HIGHLY CONFIDENTIAL – ATTORNEYS'
EYES ONLY DESIGNATION OF CERTAIN DOCUMENTS**

Defendant/Counterclaim-Plaintiff, EB5AN, LLC ("EB5AN"), by and through undersigned
counsel, moves to de-designate the HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY
("AEO") designation applied by EB-5 United, LLC, EB5 United Okeechobee, LLC, and EB5U

FL, LLC (collectively, “Plaintiffs”) to certain documents produced in this litigation concerning Plaintiffs' Lakefront Estates and Villas at Lakefront Project — specifically, the Private Placement Memorandum (“PPM”) and the related offering documents identified below (collectively, the “Mis-Designated Documents”):

(1) EB5UNITED_00001992 — Confidential Private Placement Memorandum, dated October 26, 2022;

(2) EB5UNITED_00010855 — Confidential Private Placement Memorandum (EB5 United Okeechobee II), dated March 7, 2024;

(3) EB5UNITED_00024349 — Project Loan Agreement, dated December 7, 2022;

(4) EB5UNITED_00147425 — I-526E Denial Guaranty, dated January 17, 2023;

(5) EB5UNITED_00147674 — Completion Guaranty, dated February 23, 2023;

(6) EB5UNITED_00013945 — Lakefront Estates and Villas Comprehensive Business Plan, dated December 2022; and

(7) EB5UNITED_00030182 — Lakefront Estates and Villas Comprehensive Business Plan, dated March 2024.

In support thereof, EB5AN states as follows:

I. INTRODUCTION

Plaintiffs have designated as HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY a document that EB5AN already possesses, that Plaintiffs distributed without confidentiality restrictions, and that Plaintiffs themselves have placed at the center of this litigation. The document at issue — the Private Placement Memorandum for Plaintiffs’ Lakefront Estates and Villas at Lakefront Project — is the very foundation of Plaintiffs’ defamation claims. Yet Plaintiffs now

seek to prevent EB5AN's principals from reviewing it. This tactical misuse of the Protective Order cannot stand.

The Protective Order expressly prohibits the designation of publicly available documents as confidential. Plaintiffs distributed the PPM to third-party brokers and potential investors without requiring executed non-disclosure agreements. EB5AN received the PPM through those same market channels on January 30, 2024 — more than a month before Plaintiffs filed suit — without any confidentiality restriction. A document that was freely distributed to solicit investment, that the opposing party already lawfully possesses, and that is now over two and a half years old simply does not qualify for AEO treatment under any recognized standard.

The AEO designation prejudices EB5AN's ability to prepare its defense. EB5AN's defenses to the defamation claim are that the Summary Comments constitute pure opinion — or at worst, mixed opinion based on disclosed facts — and that the statements are substantially true based on the actual terms and disclosures in Plaintiffs' own PPM. To establish either defense, EB5AN must be able to demonstrate that its opinions were formed from, and its factual assertions accurately reflect, the contents of the PPM. The AEO designation restricts EB5AN's principals from reviewing the central document, participating meaningfully in depositions, assisting in briefing, or preparing for trial. Plaintiffs cannot be permitted to weaponize confidentiality protections to hamstring their adversary's defense while simultaneously relying on that very document to prove their claims.

Four independent grounds compel de-designation: the PPM is publicly available under the Protective Order; EB5AN already possesses it through lawful, non-litigation channels; it is stale; and Plaintiffs have placed it at the very center of their own claims. The burden to justify the AEO designation rests on Plaintiffs, and they cannot meet it. EB5AN respectfully requests that the Court

conduct an in-camera review of the PPM and de-designate it from HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.

Although the PPM is the central Mis-Designated Document, the same considerations support de-designation of the related offering materials that are incorporated into or accompany it — the Project Loan Agreement and the I-526E Denial and Completion Guaranties referenced in the PPM, and the Comprehensive Business Plans that Plaintiffs distributed as part of the same offering package. These materials contain the very terms, valuations, and disclosures that EB5AN addressed in the Summary Comments, are either already in EB5AN’s possession or reflect a concluded offering that is no longer competitively sensitive, and have been placed at issue by Plaintiffs’ own claims. EB5AN therefore seeks de-designation of all of the Mis-Designated Documents.

II. BACKGROUND

1. This action arises from Plaintiffs' claims that EB5AN published false and defamatory statements about Plaintiffs' EB-5 investment projects in a document titled "Lakefront EB5 United Project Summary Comments" (the "Summary Comments"). Plaintiffs' Amended Complaint asserts three counts: (1) Defamation; (2) Tortious Interference with Business Relationships; and (3) Permanent Injunction.

2. EB5AN's defenses to the defamation claim are twofold: first, that the statements in the Summary Comments constitute pure opinion — or at worst, mixed opinion based on disclosed facts — and are therefore constitutionally protected; and second, that the statements are substantially true, based on the actual terms, valuations, and disclosures contained in Plaintiffs' own PPM for the Lakefront Estates and Villas at Lakefront Project.

3. On January 30, 2024, EB5AN received the PPM from a third-party broker through

ordinary market channels, without any non-disclosure agreement or confidentiality restriction.

4. This was more than one month before Plaintiffs filed their Complaint on March 1, 2024.

5. The Summary Comments that are at the center of Plaintiffs' claims were drafted by EB5AN based on the contents of the PPM.

6. On January 5, 2026, the Court entered the parties' Stipulated Protective and Claw-Back Order (the "Protective Order"). A copy of the Protective Order is attached as **Exhibit A**.

7. Pursuant to the Protective Order, Plaintiffs produced documents in discovery. A significant portion of those documents were designated HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY.

8. Among the AEO-designated documents are the PPM and the related offering documents for Plaintiffs' Lakefront Estates and Villas at Lakefront Project — i.e., the Mis-Designated Documents identified above.

9. The Protective Order provides that only documents containing "highly-sensitive competitive information, confidential information, or any other such information that might incur a competitive harm on either party, such as sales information, advertising expenditures, pricing information, and financial data" may be designated AEO. Protective Order ¶ 5(c).

10. The Protective Order further provides that "[i]nformation or documents that are publicly available may not be designated as Confidential Information." Protective Order ¶ 2. Similarly, "[p]ublic records and other information or Documents that are publicly available may not be designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." Protective Order ¶ 3.

11. Under the AEO designation, EB5AN is restricted in how it may use the PPM in this

litigation — including at depositions, in motion practice, in expert consultations, and in trial preparation — even though EB5AN already possesses this same document independently through non-litigation channels.

III. LEGAL STANDARD

Florida Rule of Civil Procedure 1.280(c) authorizes courts, "for good cause shown," to "make any order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense that justice requires," including an order "that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way." When a party challenges a confidentiality designation, "[t]he burden is on the party resisting discovery to show 'good cause' for protecting or limiting discovery by demonstrating that the information sought is a trade secret or confidential business information and that disclosure may be harmful." *American Exp. Travel Related Services, Inc. v. Cruz*, 761 So. 2d 1206, 1209 (Fla. 4th DCA 2000). Here, the Protective Order itself places the burden squarely on Plaintiffs: "The burden of persuasion in any such challenge proceeding shall be on the designating party." Protective Order ¶ 10(b).

IV. ARGUMENT

A. The PPM Is Not Entitled to AEO Protection

Plaintiffs cannot meet their threshold burden of establishing that the PPM constitutes a trade secret or confidential commercial information entitled to AEO protection. EB5AN received the PPM from a third-party broker on January 30, 2024 — more than a month before Plaintiffs filed their Complaint — without executing any non-disclosure agreement or confidentiality restriction. Plaintiffs distributed the PPM to brokers and migration agents through ordinary market channels, and whatever confidentiality interest Plaintiffs may claim in the abstract, they did not

enforce any such restriction in practice. The Protective Order prohibits the designation of publicly available documents. Paragraph 2 provides that "[i]nformation or documents that are publicly available may not be designated as Confidential Information." Paragraph 3 similarly states that "[p]ublic records and other information or Documents that are publicly available may not be designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." Because Plaintiffs distributed the PPM without requiring executed confidentiality agreements, and because EB5AN obtained the document through those same market channels without any restriction, the PPM is publicly available within the meaning of the Protective Order.

Simply claiming that a document relates to a party's business does not make it a trade secret. *See American Exp. Travel Related Services, Inc.*, 761 So. 2d at 1208-09 (party resisting discovery must demonstrate both that information is a trade secret and that disclosure may be harmful). The PPM is an offering document that Plaintiffs distributed to third-party brokers for the express purpose of soliciting investors. EB5AN received the PPM through that distribution network without signing any agreement restricting its use. Plaintiffs cannot now claim trade secret protection for a document they distributed without enforceable confidentiality restrictions. Nor can Plaintiffs retroactively impose confidentiality restrictions on a document that their adversary already possessed through independent, lawful means. The purposes of a protective order — to prevent the disclosure of genuinely confidential information to persons who would not otherwise have access — are not served by designating a document AEO when the opposing party already reviewed that very document before litigation commenced. A party cannot create confidentiality after the fact by designating in litigation what it freely distributed before litigation.

B. The AEO Designation Improperly Restricts EB5AN's Litigation Activities

Even assuming *arguendo* that the PPM constitutes a trade secret, which it does not, the AEO designation improperly restricts EB5AN's litigation activities with respect to a document it already possesses. The PPM is the central document in this case. It contains the actual terms, valuations, and disclosures that EB5AN critiqued in the Summary Comments — the very statements Plaintiffs allege are defamatory. EB5AN's defenses to this defamation claim are that its statements constitute pure opinion based on disclosed facts, and that they are substantially true based on the contents of the PPM itself. To prevail on either defense, EB5AN must demonstrate that its opinions were formed from facts set forth in the PPM and that its factual assertions accurately reflect its contents. Yet the AEO designation prevents EB5AN's principals — the individuals who actually reviewed the PPM, identified its discrepancies, and prepared the Summary Comments — from accessing the litigation copy of that document.

The Protective Order itself recognizes this concern. Paragraph 5(c) expressly states that “[t]he Parties are sensitive to the ability of their principals to fully participate in the litigation process without information access restrictions.” Yet the AEO designation does precisely what the Order cautioned against: it excludes EB5AN's principals from category (3) of Paragraph 5(b), which permits “[i]ndividual parties and employees of a party” to review CONFIDENTIAL documents. Under the AEO designation, only outside counsel, in-house counsel, the Court, court reporters, and outside experts may view the PPM — not the party itself.

The practical consequences are severe. EB5AN's principals cannot be present during any portion of any deposition in which the PPM is discussed. Protective Order ¶ 4. They cannot review the PPM in preparation for their own depositions. They cannot assist counsel in preparing cross-examination of Plaintiffs' witnesses on the very document that forms the basis of Plaintiffs' claims.

They cannot participate meaningfully in trial preparation or assist in identifying the specific provisions that demonstrate the accuracy of EB5AN's statements. And they cannot be shown the PPM at trial to refresh their recollection or to lay foundation for testimony.

This is not a case where the AEO designation protects information from reaching a competitor who would not otherwise have access. EB5AN already possesses the PPM independently. EB5AN's principals already reviewed it before this lawsuit began. The AEO designation serves only to create procedural obstacles to EB5AN's defense while Plaintiffs freely wield the PPM as the foundation of their claims. Plaintiffs cannot be permitted to use the Protective Order as a sword to hamstring EB5AN's defense while simultaneously relying on the very same document to prove their case.

C. Plaintiffs Cannot Demonstrate Competitive Harm

For the AEO designation to stand under Paragraph 5(c) of the Protective Order, Plaintiffs must demonstrate that the PPM contains "highly-sensitive competitive information" such that disclosure "might incur a competitive harm on either party." This showing is impossible here. EB5AN already possesses the PPM — its team received it on January 30, 2024, before this lawsuit was filed. There is no competitive harm from de-designating a document that EB5AN already has in its possession through independent, non-litigation channels. "A party seeking confidential information must show a need for that information which outweighs the opposing party's need to keep the information confidential." *Cordis Corp. v. O'Shea*, 988 So. 2d 1163, 1166 (Fla. 4th DCA 2008). Here, the inverse is true. Plaintiffs have no cognizable need to keep confidential a document that their adversary already possesses and that Plaintiffs freely distributed to brokers and investors without restriction. Indeed, Plaintiffs have identified no concrete competitive harm that de-

designation would cause, and none exists. Because the burden of persuasion rests on Plaintiffs, that failure of proof is by itself dispositive.

D. The PPM Is Stale and No Longer Warrants Confidential Protection

Even if the PPM once contained information that could be considered confidential, any such protection has long since expired. The PPM at issue dates from January 2024 — more than two and a half years ago. EB5AN received this document on January 30, 2024, before Plaintiffs even filed their Complaint. In the intervening years, market conditions, project valuations, investment terms, and competitive dynamics in the EB-5 industry have evolved substantially. Indeed, the regulatory landscape governing the EB-5 program continues to evolve. On July 2, 2026, the Department of Homeland Security, through U.S. Citizenship and Immigration Services, published a Notice of Proposed Rulemaking proposing sweeping revisions to the EB-5 program's job-creation and bridge-financing standards, among others. *See* EB-5 Reform and Integrity Act of 2022; Ensuring the Integrity of the EB-5 Program; Automatic Revocation of Petitions for Immigrant Classification, 91 Fed. Reg. 40676 (proposed July 2, 2026) (to be codified at 8 C.F.R. pt. 204) (DHS Docket No. USCIS-2026-0100). A stale offering document from early 2024 provides no current competitive intelligence and confers no present competitive advantage on Plaintiffs. Nor can Plaintiffs claim any present competitive advantage in an offering that has already closed. Plaintiffs' own public-facing website markets the Lakefront Estates and Villas project as fully subscribed, confirming that the EB-5 capital raise is complete and that the PPM now serves only as a historical record of a concluded offering rather than as a live competitive instrument.

Furthermore, Plaintiffs themselves have placed the PPM at the center of this litigation. Their Amended Complaint alleges that EB5AN's Summary Comments were based on the

“investment terms and other pertinent information” contained in the PPM. Plaintiffs cannot simultaneously rely on the PPM as the evidentiary foundation of their defamation claims while also insisting that its contents are so sensitive that EB5AN’s principals cannot review it. By making the PPM the centerpiece of their case, Plaintiffs have waived any continuing confidentiality interest in its contents. *See* Fla. R. Civ. P. 1.280(c)(6) (party may not claim privilege or work product protection for materials the party intends to use at trial).

The Protective Order requires that information designated as confidential be “proprietary information that the party has maintained as confidential and that confers on that party a competitive advantage from not being commonly known.” Protective Order ¶ 2. A PPM that was distributed without confidentiality restrictions over two years ago, that was obtained by EB5AN through ordinary market channels before this lawsuit began, and that Plaintiffs have placed at the heart of their claims, simply does not meet this standard. Whatever confidentiality interest may have existed in early 2024 has been extinguished by time, broad distribution, and Plaintiffs’ own litigation conduct.

Maintaining the AEO designation serves no legitimate purpose and will only waste party and judicial resources. Under the Protective Order, the AEO designation excludes EB5AN’s principals from reviewing the PPM, bars them from attending depositions where the PPM is discussed, and prevents them from assisting counsel in trial preparation. Protective Order ¶¶ 4, 5(c). Yet the PPM will inevitably be used at trial — in a public setting, on the record — to prove or disprove the truth of the statements at issue. Plaintiffs’ claims depend on it; EB5AN’s defenses require it. Any confidentiality protection will necessarily fall away when the PPM is introduced in open court. Requiring the parties to litigate this case under artificial AEO restrictions — only to

have the document disclosed publicly at trial — serves no purpose other than to impose unnecessary expense, delay, and burden on both the parties and this Court.

WHEREFORE, Defendant EB5AN, LLC respectfully requests that this Court:

(i) conduct an *in camera* review of the Mis-Designated Documents to determine whether they constitute trade secrets or confidential commercial information;

(ii) determine that the Mis-Designated Documents are not entitled to HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY treatment under applicable law or the terms of the Protective Order;

(iii) de-designate the Mis-Designated Documents from HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY to CONFIDENTIAL, thereby permitting EB5AN’s principals to review the documents, participate in depositions, and prepare for trial;

(iv) in the alternative, if the Court determines that some AEO protection remains warranted, enter an order permitting EB5AN’s principals to review the Mis-Designated Documents solely for purposes of preparing for depositions, assisting counsel in trial preparation, and testifying at trial, subject to appropriate confidentiality restrictions;

(v) in the further alternative, remove the confidentiality designation entirely; and

(vi) grant such other and further relief as this Court deems just and proper.

CERTIFICATE OF COMPLIANCE WITH MEET-AND-CONFER REQUIREMENTS

The undersigned counsel of record for Defendant/Counterclaim-Plaintiff EB5AN, LLC hereby certifies compliance with the meet-and-confer requirements of Paragraph 10(a) of the Stipulated Protective and Claw-Back Order entered on January 5, 2026, as follows:

1. On July 15, 2026, undersigned counsel emailed counsel for Plaintiffs regarding EB5AN's challenge to the HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY designation applied to the Private Placement Memorandum and the related offering documents for Plaintiffs' Lakefront Estates and Villas at Lakefront Project (collectively, the "Mis-Designated Documents").

2. In that email, undersigned counsel identified the Mis-Designated Documents and explained in detail the bases for EB5AN's position that the AEO designation is improper.

3. Undersigned counsel afforded Plaintiffs' counsel a full opportunity to review the Mis-Designated Documents, reconsider the designation, and explain any basis for maintaining the AEO designation.

4. Despite having had a reasonable opportunity to respond, Plaintiffs' counsel has not responded to EB5AN's meet-and-confer correspondence and has neither withdrawn nor modified the HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY designation applied to the Mis-Designated Documents.

5. Because Plaintiffs' counsel has not responded, the parties have been unable to resolve this dispute, leaving EB5AN no alternative but to seek judicial intervention pursuant to Paragraph 10(b) of the Protective Order.

Dated: July 23, 2026

Respectfully submitted,

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*By: /s/ Geoffrey Lottenberg*_____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 23, 2026 a true and correct copy of the foregoing was filed electronically through the Florida Court's E-Filing Portal, which, in turn, serves a copy of the instant filing to all counsel of record.

By: */s/ Geoffrey Lottenberg*

EXHIBIT A

IN THE FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2024-CA-001964-XXXX-MB (AA)

EB-5 UNITED, LLC, EB5 UNITED
OKEECHOBEE, LLC, and EB5U FL,
LLC,

Plaintiffs,

v.

EB5AN, LLC,

Defendant.

_____ /

STIPULATED PROTECTIVE AND CLAW-BACK ORDER

The Parties have agreed to the terms of this Order; accordingly, it is ORDERED:

1. **Scope.** All materials produced, filed, exchanged, or adduced in the course of discovery, including responses to discovery requests, responses to third-party subpoenas, deposition testimony and exhibits, and information derived directly therefrom (hereinafter collectively “documents”), shall be subject to this Order.

2. **Confidential Information.** “Confidential Information” as used in this Order shall refer collectively to all information designated “CONFIDENTIAL” and “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to Paragraph 3 and includes: (a) information prohibited from disclosure by statute; (b) information that reveals trade secrets; (c) research, technical, commercial, financial, or proprietary information that the party has maintained as confidential and that confers on that party a competitive advantage from not being commonly known; (d) medical information concerning any individual; (e) personal identity information; or (f) personnel or employment records of a person who is not a party to the case, or any such documents that either party has a good faith belief that

disclosure would create a competitive harm. Information or documents that are publicly available may not be designated as Confidential Information.

3. **Documents Which May be Designated CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY.** Subject to the additional requirements for designating Documents as HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY provided in Paragraph 5(c), below, any party or non-party who is producing documents may designate Documents as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY upon making a good faith determination that the Documents contain information protected from disclosure by statute or that should be protected from disclosure as confidential personal information, medical or psychiatric information, trade secrets, personnel records, or such other sensitive commercial information that is not publicly available, or any other such highly sensitive documents that either party has a good faith belief that disclosure would create a competitive harm. Public records and other information or Documents that are publicly available may not be designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY.

4. **Depositions.** Deposition testimony shall be deemed CONFIDENTIAL or HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY only if designated as such during the deposition or within thirty (30) days following the designating party's receipt of the deposition transcript, or as otherwise agreed to in writing by the parties. Such designation shall be specific as to the portions of the testimony, transcript or any exhibit to be designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY. Only those persons authorized to have access to CONFIDENTIAL or HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY Documents pursuant to Paragraphs 5(b) – 5(d) may be present during any portion of any deposition

in which such information is being discussed or disclosed, provided that counsel for any party indicates on the record that the Documents, including for the sake of clarity testimony, are or are likely to reveal CONFIDENTIAL or HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY information. Pending the expiration of thirty (30) days after a deposition transcript is received by the deponent or its counsel, all parties and persons shall treat the deposition transcript as if it had been designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY" except that the deponent and the deponent's counsel may review the transcript of that deponent's own deposition. Thereafter, the deposition transcripts and any of those portions so designated shall be protected as CONFIDENTIAL or HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY pending objection, under the terms of this Order.

5. Protection of Confidential Material.

a. **General Protections.** Subject to the limitations of Paragraphs 5(c) and 5(d) below, Documents designated CONFIDENTIAL or HIGHLY-CONFIDENTIAL ATTORNEYS' EYES ONLY under this Order shall not be used or disclosed by the parties, counsel for the parties, or any other person identified in Paragraph 5(b) for any purpose whatsoever other than to prepare for and to conduct discovery, prepare and file motions in this proceeding, and prepare for and to conduct trial in this action, including any appeal thereof.

b. **Limited Third-Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any CONFIDENTIAL or HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY Documents to any third person or entity except as set forth in Paragraphs 5(b) – 5(d) of this Order. Subject to these requirements, the following categories of persons may be allowed to review Documents that have been

designated CONFIDENTIAL:

- (1) **Outside Counsel.** Counsel for the parties and employees of counsel who have responsibility for the above-captioned action;
- (2) **In-House Counsel,** In-house counsel for a party;
- (3) **Parties.** Individual parties and employees of a party other than in-house counsel for a party;
- (4) **The Court and its personnel;**
- (5) **Court Reporters and Recorders.** Court reporters and recorders engaged for depositions;
- (6) **Outside Consultants, Investigators, and Experts.** Outside Consultants, investigators, or experts (hereinafter referred to collectively as "experts") retained by the parties or outside counsel for the parties to assist in the preparation and trial of this action but only after such persons have completed the certification contained in the "Acknowledgment and Agreement to Be Bound" appended hereto as Exhibit A;
- (7) **Witnesses at depositions.** During their depositions, witnesses in this action to whom disclosure of CONFIDENTIAL information is reasonably necessary. Witnesses shall not retain a copy of documents containing Confidential Information, except witnesses may receive a copy of all exhibits marked at their depositions in connection with the review of their individual transcripts. Pages of transcribed deposition testimony or exhibits to depositions that are designated as Confidential Information pursuant to the process set out in this Order must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Order.
- (8) **Author or recipient.** The author or recipient of the document (not including a person who received the document in the course of litigation); and
- (9) **Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed upon or ordered.

c. **Further Limitations on Disclosure of HIGHLY CONFIDENTIAL –**

ATTORNEYS' EYES ONLY Documents. The Parties are sensitive to the ability of their principals to fully participate in the litigation process without information access restrictions. Therefore, only Documents that a party believes in good faith contain highly-sensitive competitive information, confidential information, or any other such information that might incur a competitive harm on either party, such as sales information, advertising expenditures, pricing information, and financial data, may be designated as **HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY**. Documents that are designated **HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY** may be disclosed only to categories (1), (2), (4), (5), (6), (8) and potentially (9) in Paragraph 5(b) above.

d. **Control of Documents.** Counsel for the parties shall make reasonable efforts to prevent unauthorized or inadvertent disclosure of Confidential Information. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of three years after the termination of the captioned matter.

6. **Copies.** Prior to production to another party, all copies, electronic images, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as "copies") of Documents designated as **CONFIDENTIAL** or **HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY** under this Order, or any individual portion of such a document, shall be affixed with the designation "**CONFIDENTIAL**" or "**HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY**," as appropriate, if the words do not already appear on the copy. All such copies shall thereafter be entitled to the protection of this Order. The term "copies" shall not include indices, electronic databases or lists of Documents, provided these indices, electronic databases or lists do not contain substantial portions or images of the text of confidential Documents or otherwise disclose the substance of the confidential information

contained in those Documents.

7. **Failure to Designate.** The failure to label or otherwise designate a document as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at the time of production shall not waive the right to so designate the document. If a party designates a document as Confidential Information after it was initially produced, the receiving party, on notification of the designation, must make a reasonable effort to assure that the document is treated in accordance with the provisions of this Order. However, no party shall be found to have violated this Order for failing to maintain the confidentiality of material during a time when that material had not been designated as Confidential Information, even where the failure to so designate was inadvertent and where the material is subsequently designated as Confidential Information.

8. **Filing of Confidential Information.** This Order does not, by itself, authorize the filing of any document under seal. Any party wishing to file a document designated as Confidential Information in connection with a motion, brief or other submission to the Court must comply with the Court’s rules regarding same.

9. **No Greater Protection of Specific Documents.** Except on privilege grounds, no party may withhold information from discovery on the ground that it requires protection greater than that afforded by this Order unless the party moves for an order providing such additional, special protection.

10. **Challenges by a Party to Designation as Confidential Information.** The designation of any material or document as Confidential Information, whether as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is subject to challenge by any party. The following procedure shall apply to any such challenge.

a. **Meet-and-Confer.** A party challenging the designation of Confidential Information must do so in good faith and must begin the process by conferring directly with counsel for the designating party. In conferring, the challenging party must explain the basis for its belief that the confidentiality designation was not proper and must give the designating party an opportunity to review the designated material, to reconsider the designation, and, if no change in designation is offered, to explain the basis for the designation. The designating party must respond to the challenge within 5 business days.

b. **Judicial Intervention.** A party that elects to challenge a confidentiality designation may file and serve a motion that identifies the challenged material and sets forth in detail the basis for the challenge. Each such motion must be accompanied by a competent declaration that affirms that the movant has complied with the meet and confer requirements of this procedures and Order. The burden of persuasion in any such challenge proceeding shall be on the designating party. Until the Court rules on the challenge, all parties shall continue to treat the materials as Confidential Information under the terms of this Order.

11. **Action by the Court.** Applications to the Court for an order relating to materials or documents designated as Confidential Information shall be by motion. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make orders concerning the disclosure of documents produced in discovery or at trial.

12. **Use of Confidential Documents or Information at Trial.** Nothing in this Order shall be construed to affect the use of any document, material, or information at any trial or hearing. A party that intends to present, or that anticipates that another party may present, Confidential Information at a hearing or trial shall bring that issue to the Court's and parties' attention by motion or in a pretrial memorandum without disclosing the Confidential

Information. The Court may thereafter make such orders as are necessary to govern the use of such documents or information at trial.

13. Confidential Information Subpoenaed in Other Litigation.

a. If a receiving party is served with a subpoena or an order issued in other litigation that would compel disclosure of any material or document designated in this action as Confidential Information, the receiving party must so notify the designating party, in writing, immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

b. The receiving party also must immediately inform, in writing, the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is the subject of this Order. In addition, the receiving party must deliver a copy of this Order promptly to the party in the other action that caused the subpoena to issue.

c. The purpose of imposing these duties is to alert the interested persons to the existence of this Order and to afford the designating party in this case an opportunity to try to protect its Confidential Information in the court from which the subpoena or order issued. The designating party shall bear the burden and the expense of seeking protection in that court of its Confidential Information, and nothing in these provisions should be construed as authorizing or encouraging a receiving party in this action to disobey a lawful directive from another court. The obligations set forth in this paragraph remain in effect while the party has in its possession, custody or control Confidential Information by the other party to this case.

14. Obligations on Conclusion of Litigation.

a. **Order Continues in Force.** Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.

b. **Obligations at Conclusion of Litigation.** Within sixty (60) days after dismissal or entry of final judgment not subject to further appeal, all Confidential Information and documents marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under this Order, including copies as defined in ¶ 3(a), shall be destroyed by the receiving party unless the document has been offered into evidence or filed without restriction as to disclosure. The party in receipt of the Confidential Information shall provide the producing party with a certification attesting to the fact of destruction.

c. **Retention of Work Product and One Set of Filed Documents.**

Notwithstanding the above requirements to return or destroy documents, counsel may retain: (1) attorney work product, including an index that refers or relates to designated Confidential Information so long as that work product does not duplicate verbatim substantial portions of the Confidential Information, and (2) one complete set of all documents filed with the Court including those filed under seal. Any retained Confidential Information shall continue to be protected under this Order. An attorney may use his or her work product in any subsequent litigation, provided that its use does not disclose or use the Confidential Information.

15. Claw-Back of Privileged Documents Produced During Discovery.

a. The parties agree to implement and adhere to reasonable procedures to ensure that ESI and other documents that are privileged are identified and withheld from production.

b. Notwithstanding the previous paragraph, the production of documents protected by the attorney-client or work product privileges during the course of document discovery shall not constitute a waiver of the privileges or protections from discovery in this case or in any other federal or state proceeding. This presumption of non-waiver shall apply without inquiry into: (a) whether a parties' production of the document was inadvertent or otherwise, (b) the adequacy or reasonableness of the document review procedures or efforts to rectify any errors made by the party who produced the privileged information or its efforts to rectify the error, or (c) the prejudice which might result from the return and/or inability to use the documents.

c. Nothing contained herein is intended to, or shall serve to, limit a party's right to conduct a review of the documents, ESI or information (including metadata) for relevance, responsiveness and/or segregation of privileged and/or protected information before production.

d. If a party discovers that it has received documents or ESI that the party knows or reasonably should know that the document was protected by the attorney-client or work product privileges, such party shall promptly notify the producing party, in writing, of the disclosure. If requested to do so, the receiving party shall delete or, if deletion is not feasible, segregate the privileged document, and shall not use such information for any purpose.

e. If a party discovers that it has produced documents or ESI that the party believes are protected by the attorney-client or work product privileges, the producing party shall promptly notify the receiving party in writing, of the disclosure. If the receiving party agrees that the document is privileged, the party shall delete the document or, if deletion

is not feasible, segregate the privileged document, and refrain from using it for any purpose. If the receiving party disputes whether the document is privileged, the party shall advise, in writing, within 10 days of the producing party's notice of inadvertent production. If the parties cannot resolve the matter after a meet and confer, the party asserting that the document is privileged shall file a motion with the Court seeking a ruling.

f. Even where no notifications under paragraphs (d) and (e) have been made, nothing shall preclude any party from asserting an objection to the use of any documents for any purpose and at any time during the course of this litigation on the basis that it is privileged.

g. Nothing herein shall prevent a receiving party from challenging a producing party's designation of information, ESI or documents produced as Confidential Information or prevent a receiving party from seeking relief from the Court through a motion to compel or otherwise.

h. This Order shall be interpreted to provide the maximum protection allowed by Florida Rules of Civil Procedure as well as any and all applicable provisions of the Florida Evidence Code.

16. **Third-Party Disclosures.** In the event that a non-party to this action produces Documents or information to either party to this litigation pursuant to a subpoena ("Third-Party Discloser"), and the Third-Party Discloser reasonably and in good faith considers such Documents or information to constitute either CONFIDENTIAL or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY material of the Third-Party Discloser, the Third-Party Discloser may execute the Third-Party Disclosure Agreement attached hereto as Exhibit B. In the event that the Third-Party Discloser executes the Third-Party Disclosure Agreement, the Third-Party

Discloser shall be deemed a "party" to this Protective Order, and the parties to this litigation shall comply with all of the restrictions applicable to Documents and information designated by the Third-Party Discloser as CONFIDENTIAL or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY as if such Documents and information had been disclosed by a party to this litigation under this Protective Order. The Third-Party Discloser shall provide copies of any executed Third-Party Disclosure Agreement to each party to this litigation.

17. **Order Subject to Modification.** This Order shall be subject to modification by the Court on its own initiative or on motion of a party or any other person with standing concerning the subject matter.

18. **No Prior Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any document or material designated Confidential Information by counsel or the parties is entitled to protection under the Florida Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific document or issue.

19. **Persons Bound.** This Order shall take effect on the date of entry and shall be binding upon all counsel of record and their law firms, the parties, and persons made subject to this Order by its terms.

DONE AND ORDERED in West Palm Beach, Palm Beach County, Florida.

502024CA001964XXXAMB 01/05/2026

Gregory M. Keyser Circuit Judge

502024CA001964XXXAMB 01/05/2026
Gregory M. Keyser
Circuit Judge

EXHIBIT A TO STIPULATED PROTECTIVE ORDER

IN THE FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2024-CA-001964-XXXX-MB (AA)

EB-5 UNITED, LLC, a Washington
Limited Liability Company, EB5
UNITED OKEECHOBEE, LLC, a
Delaware Limited Liability Company,
and EB5U FL, LLC, a Delaware
Limited Liability Company,

Plaintiffs

v.

EB5AN, LLC, a Florida Limited Liability
Company.

Defendant

EB5AN, LLC,

Counterclaim-Plaintiff,

v.

EB-5 UNITED, LLC,
EB5 UNITED OKEECHOBEE, LLC,
EB5U FL, LLC, and EB5 UNITED
BIG SKY III, L.L.C.,

Counterclaim-Defendants.

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the Protective

Order dated _____ in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the Fifteenth Judicial Circuit Court of Palm Beach County in matters relating to the Protective Order and understands that the terms of the Protective Order obligate him/her to use materials designated as Confidential Information in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such Confidential Information to any other person, firm or concern. The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

EXHIBIT B TO STIPULATED PROTECTIVE ORDER

IN THE FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 50-2024-CA-001964-XXXX-MB (AA)

EB-5 UNITED, LLC, a Washington
Limited Liability Company, EB5
UNITED OKEECHOBEE, LLC, a
Delaware Limited Liability Company,
and EB5U FL, LLC, a Delaware
Limited Liability Company,

Plaintiffs

v.

EB5AN, LLC, a Florida Limited Liability
Company.

Defendant

EB5AN, LLC,

Counterclaim-Plaintiff,

v.

EB-5 UNITED, LLC,
EB5 UNITED OKEECHOBEE, LLC,
EB5U FL, LLC, and EB5 UNITED
BIG SKY III, L.L.C.,

Counterclaim-Defendants.

THIRD-PARTY DISCLOSURE AGREEMENT

The undersigned party has read and understands the Stipulated Protective Order entered by the Court in this litigation on _____, to which this agreement is attached and agrees to be bound by the terms of the Stipulated Protective Order as a party thereto. The party is producing documents and information to another party to this litigation under the terms and conditions of this Stipulated Protective

Order, and has a reasonable and good faith belief that any documents that it has designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY qualify for such designations under the terms of the Stipulated Protective Order. The party agrees to provide copies of this Third-Party Disclosure Agreement to each party to this litigation.

Agreed to on behalf of _____ [Name of Third-Party Entity]

Printed Name:

Signature:

Title:

Date: