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19 And Arben Kryeziu

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 AQUA CONNECT, a Nevada
23 Corporation,

24 Plaintiff,

25 vs.

26 CODE REBEL, LLC, a Hawaii Limited
27 Liability Company; ARBEN KRYEZIU,
28 an individual; VLADIMIR BICKOV, an
individual; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO. CV11-5764 RSWL (MANx)

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

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I.

INTRODUCTION

This action involves claims of breach of contract, false promise and related claims brought by Plaintiff Aqua Connect, Inc. (“Aqua Connect”) against Defendants Code Rebel, LLC (“Code Rebel”), Arben Kryeziu (“Kryeziu,” and collectively with Code Rebel, the “Defendants”) and, the as-yet unserved, Vladimir Bickov (“Bikov”). In connection with the claims and defenses in this case, the parties intend to request the discovery of documents and information that are particularly sensitive, including confidential, private and proprietary information relating to business transactions, corporate documents, computer source code, internal operating procedures, profits, marketing, business plans and the like.

In order to protect confidential business, private, computer source code and potential trade secret information consistent with the public's right of access to the Court's records and processes, the parties, by their undersigned counsel, hereby stipulate pursuant to Fed. R. Civ. P. 26(c)(1)(G), subject to approval and entry by the Court, as follows:

II.

GOOD CAUSE EXISTS FOR THIS ORDER

Defendant Code Rebel is a corporate entity, and Defendant Kryeziu is the managing member of Code Rebel. As such, Defendants contend that the details relating to their various corporate operations and computer source code are confidential business, private, proprietary and trade secret information. Defendants operate in a highly competitive industry, and contend that disclosure of non-public information about their internal operations and computer source code to their competitors and others would give their competitors and others an advantage to which they are not lawfully entitled. Good cause exists to protect the confidentiality of information relating to Defendants’ respective products, clients, producers, manufacturers, computer source code, and distributors, as well as their profits,

1 expenses, marketing, and business plans. As this type of confidential information is
2 not ordinarily available to other companies, Defendants contend that this information
3 requires special protection from disclosure beyond the parties, including their
4 attorneys of record, of this lawsuit, subject to the terms and conditions of this Order.

5 Plaintiff Aqua Connect, Inc. contends that the details relating to their various
6 corporate operations and computer source code are confidential business, private,
7 proprietary and trade secret information. Plaintiff operates in a highly competitive
8 industry, and contends that disclosure of non-public information about its internal
9 operations and computer source code to its competitors and others would give its
10 competitors and others an advantage to which they are not lawfully entitled. Good
11 cause exists to protect the confidentiality of information relating to Plaintiff's
12 respective products, clients, producers, manufacturers, computer source code, and
13 distributors, as well as their profits, expenses, marketing, and business plans. As this
14 type of confidential information is not ordinarily available to other companies,
15 Plaintiff contends that this information requires special protection from disclosure
16 beyond the parties, including their attorneys of record, of this lawsuit, subject to the
17 terms and conditions of this Order.

18 III.

19 TERMS AND CONDITIONS

20 Definitions.

- 21 1. "CONFIDENTIAL": Information or Items: information (regardless of
22 how it is generated, stored or maintained) or tangible things that qualify
23 for protection under Federal Rule of Civil Procedure 26(c).
 - 24 2. Challenging Party: A Party or Non-Party that challenges the
25 designation of information or items under this Order.
 - 26 3. Counsel (without qualifier): Outside Counsel of Record and House
27 Counsel (as well as their support staff).
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- 4. Designating Party: A Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE”.
- 5. Confidential Discovery Material: All items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.
- 6. Expert: A person with specialized knowledge or experience in a matter pertinent to the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this action, (2) is neither a past or current employee of any Party or of any Party’s competitor, nor a person who worked on the design or programming of any of the software at issue in this case and (3) at the time of retention, is not anticipated to become an employee of any Party or of any Party’s competitor or anticipated to work on the design or programming of any of the software at issue in this case.
- 7. “ATTORNEYS’ EYES ONLY”: Information or Items: extremely sensitive “CONFIDENTIAL Information or Items,” disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.
- 8. “HIGHLY CONFIDENTIAL – SOURCE CODE”: Information or Items: extremely sensitive “CONFIDENTIAL Information or Items” representing computer code and associated comments and revision histories, formulas, engineering specifications, or schematics that define or otherwise describe in detail the algorithms or structure of software or hardware designs, disclosure of which to another Party or

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Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means.

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

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

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

12. Party: Any party to this action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

13. Producing Party: A Party or Non-Party that produces disclosure or discovery material in this action.

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

15. Protected Material: Any disclosure or discovery material that is designated as "CONFIDENTIAL," or as "ATTORNEYS' EYES ONLY," or as "HIGHLY CONFIDENTIAL – SOURCE CODE."

16. Receiving Party: A Party that receives Disclosure or Discovery Material from a Producing Party.

A. Materials That May Be Designated Confidential.

1. Any documents, answers to interrogatories, responses to requests for admission, deposition testimony, deposition transcripts and exhibits, other responses

1 to requests for information and/or other written information, whether produced
2 voluntarily or involuntarily, either during initial disclosures or in response to
3 discovery requests in this litigation by any Party, any information copied or extracted
4 from Protected Material, and all copies, excerpts, summaries, or compilations of
5 Protected Material, may be designated by a Producing Party as “CONFIDENTIAL”,
6 “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or “ATTORNEYS’ EYES
7 ONLY” under this Protective Order.

8 The designations “CONFIDENTIAL”, “ATTORNEYS’ EYES ONLY”, and
9 “HIGHLY CONFIDENTIAL – SOURCE CODE” shall be limited to Confidential
10 Discovery Materials which the Producing Party reasonably believes not to be in the
11 public domain and to contain any trade secret or other confidential, private,
12 proprietary, or competitively sensitive information. “CONFIDENTIAL”, “HIGHLY
13 CONFIDENTIAL – SOURCE CODE” and/or “ATTORNEYS’ EYES ONLY”
14 material shall not include information that was, is or becomes public knowledge, not
15 in violation of this Order or any other obligation of confidentiality, or was or is
16 acquired from a third party having no direct or indirect obligation of confidentiality
17 to the designating party.

18 **Procedures for Designating Discovery Materials as Confidential.** Any
19 Confidential Discovery Materials that are to be designated “CONFIDENTIAL”,
20 “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or “ATTORNEYS’ EYES
21 ONLY” may be so designated by the Producing Party by (i) stamping
22 “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or
23 “ATTORNEYS’ EYES ONLY” on the Confidential Discovery Materials, or (ii) by
24 furnishing a separate written notice to the undersigned counsel for the Party
25 receiving such Confidential Discovery Materials at the time of their production or as
26 soon thereafter as practicable (but in no event more than ten business days after
27 production of such Confidential Discovery Materials), specifically identifying the
28 documents or materials as “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL –

1 SOURCE CODE” and/or “ATTORNEYS’ EYES ONLY” and by providing copies
2 of the documents, material or information so designated.

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

19 All designations of Confidential Discovery Materials as “CONFIDENTIAL”,
20 “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or “ATTORNEYS’ EYES
21 ONLY” in this case must be made in good faith. Any party who either objects to any
22 such designation, or who, by contrast, requests still further limits on disclosure (such
23 as in camera review in extraordinary circumstances), may at any time prior to the
24 trial of this action serve upon counsel for the designating person or party a written
25 notice stating with particularity the grounds of the objection or request. If agreement
26 cannot be reached promptly, counsel for the objecting party may seek appropriate
27 relief from the Court in accordance with Local Rule 37 and the party asserting
28 confidentiality shall have the burden of proving same.

1 Inadvertent production of or failure to designate any information as
2 "CONFIDENTIAL", "HIGHLY CONFIDENTIAL – SOURCE CODE" and/or
3 "ATTORNEYS' EYES ONLY" shall not be deemed a waiver of the Producing
4 Party's claim of confidentiality as to such information, and the Producing Party may
5 thereafter designate such information as confidential as appropriate.

6 The Parties shall serve a copy of this Order simultaneously with any discovery
7 request made to a Non-Party in this action.

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

22 Parties shall give the other Parties notice if they reasonably expect a
23 deposition, hearing or other proceeding to include Protected Material so that the
24 other Parties can ensure that only authorized individuals who have signed the
25 "Acknowledgment and Agreement to Be Bound" (Exhibit A) are present at those
26 proceedings. The use of a document as an exhibit at a deposition shall not in any
27 way affect its designation as "CONFIDENTIAL", "HIGHLY CONFIDENTIAL –
28 SOURCE CODE", or "ATTORNEYS' EYES ONLY."

1 Parties shall further give the other Parties notice if they reasonably expect a
2 deposition to elicit “HIGHLY CONFIDENTIAL – SOURCE CODE” or
3 “ATTORNEYS’ EYES ONLY” testimony. If the response to a deposition question
4 requires the disclosure of “HIGHLY CONFIDENTIAL – SOURCE CODE” or
5 “ATTORNEYS’ EYES ONLY” testimony, the Designating Party may ask all
6 persons who are not authorized to hear that testimony to leave the deposition room
7 during said testimony. In the event the Parties cannot agree as to when all persons
8 who are not authorized to hear the “HIGHLY CONFIDENTIAL – SOURCE CODE”
9 or “ATTORNEYS’ EYES ONLY” testimony are to leave the deposition room, then
10 all persons who are not authorized to hear the “HIGHLY CONFIDENTIAL –
11 SOURCE CODE” or “ATTORNEYS’ EYES ONLY” testimony shall leave the
12 deposition room upon request of the Designating Party. The witness may answer any
13 pending question eliciting the “HIGHLY CONFIDENTIAL – SOURCE CODE” or
14 “ATTORNEYS’ EYES ONLY” testimony shall continue in absence of the
15 unauthorized parties. The Non-Designating Party may challenge a designation of
16 “HIGHLY CONFIDENTIAL – SOURCE CODE” or “ATTORNEYS’ EYES
17 ONLY” in accordance with paragraph D, below. Once that portion of the deposition
18 calling for the disclosure of “HIGHLY CONFIDENTIAL – SOURCE CODE” or
19 “ATTORNEYS’ EYES ONLY” testimony or information is over, party or parties
20 previously excluded by the Designating Party who were unauthorized to hear the
21 “HIGHLY CONFIDENTIAL – SOURCE CODE” or “ATTORNEYS’ EYES
22 ONLY” testimony may return to the deposition room, subject to subsequent and
23 further exclusion by the Designating Party, as discussed above.

24 Transcripts containing Protected Material shall have an obvious legend on the
25 title page that the transcript contains Protected Material, and the title page shall be
26 followed by a list of all pages (including line numbers as appropriate) that have been
27 designated as Protected Material and the level of protection being asserted by the
28 Designating Party. The Designating Party shall inform the court reporter of these

1 requirements. Any transcript that is prepared before the expiration of a 21-day
2 period for designation shall be treated during that period as if it had been designated
3 “ATTORNEYS’ EYES ONLY” in its entirety unless otherwise agreed. After the
4 expiration of that period, the transcript shall be treated only as actually designated.

5 For information produced in some form other than documentary and for any
6 other tangible items, that the Producing Party affix in a prominent place on the
7 exterior of the container or containers in which the information or item is stored the
8 legend “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY” or “HIGHLY
9 CONFIDENTIAL – SOURCE CODE”. If only a portion or portions of the
10 information or item warrant protection, the Producing Party, to the extent practicable,
11 shall identify the protected portion(s) and specify the level of protection being
12 asserted.

13 **B. Permissible Uses of Confidential Discovery Materials.**

14 Any person or Party subject to this Order who receives from any other person
15 or Party any Confidential Discovery Materials that is designated as
16 “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL – SOURCE CODE” and/or
17 “ATTORNEYS’ EYES ONLY” pursuant to the terms of this Order shall not disclose
18 such Confidential Discovery Materials to anyone else except as expressly permitted
19 hereunder.

20 Confidential Discovery Materials designated as “CONFIDENTIAL” may be
21 disclosed *only* to the following categories of persons:

- 22 1. the parties to this action and Order, including their employees;
- 23 2. counsel retained specifically for this action, including any paralegal,
24 clerical and other assistant employed by such counsel and assigned to
25 this matter;
- 26 3. its author, its addressee, and any other person indicated on the face of
27 the document as having received a copy;

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- 1 4. any person retained by a party to serve as an expert witness or otherwise
- 2 providing specialized advice to counsel in connection with this action,
- 3 provided such person has first executed a Non-Disclosure Agreement in
- 4 the form annexed as an Exhibit A hereto;
- 5 5. stenographers engaged to transcribe depositions conducted in this action
- 6 and their support personnel;
- 7 6. the Court and its support personnel; and
- 8 7. as required by law or court order upon notice to the designating party
- 9 sufficiently in advance of such disclosure to permit it to seek a
- 10 protective order.

11 By contrast, Confidential Discovery Materials designated as “ATTORNEYS’
12 EYES ONLY” may be disclosed *only* to the categories of persons identified in
13 subparagraphs (2) – (7) above. To be clear, the parties to this action shall *not* have
14 access to Confidential Discovery Materials designated as “ATTORNEYS’ EYES
15 ONLY.”

16 By further contrast, Confidential Discovery Materials designated as “HIGHLY
17 CONFIDENTIAL – SOURCE CODE” may be disclosed *only* to the categories of
18 persons identified in subparagraphs (2) – (7) above. To be clear, the parties to this
19 action shall *not* have access to Confidential Discovery Materials designated as
20 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

21 Prior to any disclosure of any Discovery Materials designated as
22 “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL – SOURCE CODE” or
23 “ATTORNEYS’ EYES ONLY” to any Expert referred to in subparagraph (4) above,
24 such person shall be provided by counsel with a copy of this Order and shall sign a
25 Non-Disclosure Agreement in the form annexed as an Exhibit A hereto, stating that
26 that person has read this Order and agrees to be bound by its terms. Said counsel
27 shall retain each signed Non-Disclosure Agreement, hold it in escrow, and upon
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1 request produce it to opposing counsel either prior to such person being permitted to
2 testify (at deposition or trial) or at the conclusion of the case, whichever comes first.

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

6 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
8 Order) any information or item that has been designated “ATTORNEYS’ EYES
9 ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” pursuant to paragraph
10 B, above, first must make a written request to the Designating Party that (1)
11 identifies the general categories of “ATTORNEYS’ EYES ONLY” or “HIGHLY
12 CONFIDENTIAL – SOURCE CODE” information that the Receiving Party seeks
13 permission to disclose to the Expert, (2) sets forth the full name of the Expert and the
14 city and state of his or her primary residence or primary place of business, (3)
15 attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current
16 employer(s), (5) identifies each person or entity from whom the Expert has received
17 compensation or funding for work in his or her areas of expertise or to whom the
18 expert has provided professional services, including in connection with any
19 litigation, at any time during the preceding five years, and (6) identifies (by name
20 and number of the case, filing date, and location of court) any litigation in connection
21 with which the Expert has offered expert testimony, including through a declaration,
22 report, or testimony at a deposition or trial, during the preceding five years.

23 A Party that makes a request and provides the information specified in the
24 preceding respective paragraphs may disclose the subject Protected Material to the
25 identified Expert unless, within Fourteen (14) days of delivering the request, the
26 Party receives a written objection from the Designating Party. Any such objection
27 must set forth in detail the grounds on which it is based.

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

14 In any such proceeding, the Party opposing disclosure to the Expert shall bear
15 the burden of proving that the risk of harm that the disclosure would entail (under the
16 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected
17 Material to its Expert.

18 **D. Challenging Confidentiality Designations.**

19 (a) Timing of Challenges. Any Party or Non-Party may challenge a
20 designation of confidentiality at any time. Unless a prompt challenge to a
21 Designating Party's confidentiality designation is necessary to avoid foreseeable,
22 substantial unfairness, unnecessary economic burdens, or a significant disruption or
23 delay of the litigation, a Party does not waive its right to challenge a confidentiality
24 designation by electing not to mount a challenge immediately after the original
25 designation is disclosed.

26 (b) Meet and Confer. The Challenging Party shall initiate the dispute
27 resolution process by providing written notice of each designation it is challenging
28 and describing the basis for each challenge. To avoid ambiguity as to whether a

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

14 (c) Judicial Intervention. If the Parties cannot resolve a challenge without
15 court intervention, the Designating Party shall file and serve a motion to retain
16 confidentiality under Local Rule (and in compliance with Local Rule 79-5, if
17 applicable) within 21 days of the initial notice of challenge or within 14 days of the
18 parties agreeing that the meet and confer process will not resolve their dispute,
19 whichever is earlier. Each such motion must be accompanied by a competent
20 declaration affirming that the movant has complied with the meet and confer
21 requirements imposed in the preceding paragraph. Failure by the Designating Party
22 to make such a motion including the required declaration within 21 days (or 14 days,
23 if applicable) shall automatically waive the confidentiality designation for each
24 challenged designation. In addition, the Challenging Party may file a motion
25 challenging a confidentiality designation at any time if there is good cause for doing
26 so, including a challenge to the designation of a deposition transcript or any portions
27 thereof. Any motion brought pursuant to this provision must be accompanied by a
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1 competent declaration affirming that the movant has complied with the meet and
2 confer requirements imposed by the preceding paragraph.

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

11 **E. Source Code.**

12 (a) To the extent production of source code becomes necessary in this case,
13 a Producing Party may designate source code as "HIGHLY CONFIDENTIAL -
14 SOURCE CODE" if it comprises or includes confidential, private, proprietary or
15 potential trade secret source code.

16 (b) Protected Material designated as "HIGHLY CONFIDENTIAL -
17 SOURCE CODE" shall be subject to all of the protections afforded to
18 "ATTORNEYS' EYES ONLY" information, and may be disclosed only to the
19 individuals to whom "ATTORNEYS' EYES ONLY" information may be disclosed,
20 as set forth in Paragraph C, above.

21 (c) Any source code produced in discovery shall be made available for
22 inspection, in a format allowing it to be reasonably reviewed and searched, during
23 normal business hours or at other mutually agreeable times, at an office of the
24 Producing Party's counsel or another mutually agreed upon location. The source
25 code shall be made available for inspection on a secured computer in a secured room
26 without Internet access or network access to other computers, and the Receiving
27 Party shall not copy, remove, or otherwise transfer any portion of the source code
28 onto any recordable media or recordable device. The Producing Party may visually

1 monitor the activities of the Receiving Party’s representatives during any source code
2 review, but only to ensure that there is no unauthorized recording, copying, or
3 transmission of the source code.

4 (d) The Receiving Party may request paper copies of limited portions of
5 source code that are reasonably necessary for the preparation of court filings,
6 pleadings, expert reports, or other papers, or for deposition or trial, but shall not
7 request paper copies for the purposes of reviewing the source code other than
8 electronically as set forth in paragraph (c) in the first instance. The Producing Party
9 shall provide all such source code in paper form including bates numbers and the
10 label “HIGHLY CONFIDENTIAL – SOURCE CODE.” The Producing Party may
11 challenge the amount of source code requested in hard copy form pursuant to the
12 dispute resolution procedure and timeframes set forth above in this Order whereby
13 the Producing Party is the “Challenging Party” and the Receiving Party is the
14 “Designating Party” for purposes of dispute resolution.

15 (e) The Receiving Party shall maintain a record of any individual who has
16 inspected any portion of the source code in electronic or paper form. The Receiving
17 Party shall maintain all paper copies of any printed portions of the source code in a
18 secured, locked area. The Receiving Party shall not create any electronic or other
19 images of the paper copies and shall not convert any of the information contained in
20 the paper copies into any electronic format. The Receiving Party shall only make
21 additional paper copies if such additional copies are (1) necessary to prepare court
22 filings, pleadings, or other papers (including a testifying expert’s expert report), (2)
23 necessary for deposition, or (3) otherwise necessary for the preparation of its case.
24 Any paper copies used during a deposition shall be retrieved by the Producing Party
25 at the end of each day and must not be given to or left with a court reporter or any
26 other individual. The nature of the source code at issue in a particular instance may
27 warrant additional protections or restrictions. For example, it may be appropriate
28 under certain circumstances to require the Receiving Party to provide notice to the

1 Producing Party before including “HIGHLY CONFIDENTIAL – SOURCE CODE”
2 information in a court filing, pleading, or expert report.

3
4 **F. Documents Not Under Seal.**

5 The Parties acknowledge that this Order creates no entitlement to file
6 Confidential Discovery Materials under seal. Local Rule 79-5 sets forth the
7 procedures that must be followed and reflects the standards that will be applied when
8 a party seeks permission from the Court to file materials under seal. No person or
9 party subject to the Order other than the Producing Party shall disclose any of the
10 Confidential Discovery Materials designated by the Producing Party and/or the
11 Designating Party as “CONFIDENTIAL”, “HIGHLY CONFIDENTIAL – SOURCE
12 CODE”, and/or “ATTORNEYS’ EYES ONLY” to any other person whomsoever,
13 except with written permission from the Designating Party or with a court order
14 secured after appropriate notice to all interested persons. Accordingly, at any time
15 prior to trial of this action, any party wishing to submit to the Court any Confidential
16 Discovery Materials must submit an application to do so in accordance with Local
17 Rule 79-5.1 and must submit such Confidential Discovery Materials under seal.

18 **G. Procedures Upon Termination of Action and Duration.**

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

27 Within Sixty (60) days after the final disposition of this action, as defined
28 hereinabove, each Receiving Party must return all Protected Material to the

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

16 **H. Reservation of Rights.**

17 This Order shall not affect the right of any Party or person subject to this Order
18 to oppose production of Confidential Discovery Materials on any ground permitted
19 by the Federal Rules of Civil Procedure, including any applicable privilege.
20 Moreover, this Order shall not affect the scope of discovery by any Party that is not
21 otherwise proper under the Federal Rules of Civil Procedure.

22 Nothing in this Order shall prejudice the right of any Party or person subject to
23 this Order to move the Court to broaden or restrict the rights of access to and use of
24 particular Confidential Discovery Materials, or to seek modifications of this Order
25 upon due notice to all other Parties and affected or protected persons.

26 All persons governed by this Order, by reviewing Confidential Discovery
27 Materials, or seeking the protections of this Order, shall agree to the jurisdiction of
28 this Court over their person for the purpose of any action seeking to enforce the

1 terms and conditions of this Order, or for any action for contempt for violation of the
2 terms of this Order.

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

8 IT IS SO STIPULATED:

9
10 
11 By: _____

Dated: 5/9/12

12 Andres F. Quintana, Esq.
13 QUINTANA LAW GROUP, APC
14 26135 Mureau Road, Suite 101
Calabasas, California 91302

15 Attorneys for Defendants Code Rebel, LLC and Arben Kryeziu

16
17 By: /s/ Michael K. Hagemann
18 Michael K. Hagemann, Esq.
19 1801 Century Park East, Suite 2400
Century City, California 90067

Dated: 5/9/2012

20 Attorneys for Plaintiff Aqua Connect, Inc.

21
22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23
24
25 DATED: _____

26 _____
27 Honorable Margaret A. Nagle
28 United States Magistrate Judge

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EXHIBIT A
NON-DISCLOSURE AGREEMENT

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulation and Protective Order that was issued by the United States District Court for the Central District of California on _____ [date] in Case No. CV 11-5764 RSWL (MANx). 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 Central 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 _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____