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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 CRYTEK GMBH,
17 vs.
18 CLOUD IMPERIUM GAMES CORP. and
19 ROBERTS SPACE INDUSTRIES CORP.,
20 Defendants.

Case No. 2:17-CV-08937

[HON. DOLLY M. GEE]

**DEFENDANTS' NOTICE OF
MOTION AND MOTION FOR
PROTECTIVE ORDER
CONTROLLING TIMING AND
SCOPE OF DISCOVERY
PENDING RESOLUTION OF
MOTION TO DISMISS (FRCP
26(C)(1)(B))**

Date: April 13, 2018

Time: 9:30 a.m.

Courtroom: 8C

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **NOTICE IS HEREBY GIVEN** that, pursuant to Rule 26(c)(1)(B) of the Federal
3 Rules of Civil Procedure, on Friday, April 13, 2018 at 9:30 a.m., or as soon thereafter as
4 the matter may be heard, in Courtroom 8C by the Honorable Dolly M. Gee of the United
5 States District Court for the Central District of California, located at 350 West 1st Street,
6 Los Angeles, California 90012, Defendants Cloud Imperium Games Corp. (“CIG”) and
7 Roberts Space Industries Corp. (“RSI”) (together, “Defendants”) will and hereby do,
8 move for a protective order controlling the timing and scope of discovery, including for a
9 stay pending resolution of Defendants’ motion to dismiss the First Amended Complaint
10 (“FAC”) of Plaintiff Crytek GmbH (“Crytek”) for failure to state a claim.

11 This motion is brought on the grounds that the pending motion to dismiss, if
12 granted, could and should dispose of all of Crytek’s claims. If any portions survive, the
13 parameters of this lawsuit, which are impossible for Defendants to discern based upon the
14 fragmented and internally-inconsistent series of allegations in the FAC, likely will
15 dramatically narrow. The Court should determine whether Crytek’s claims are even
16 viable (and if so, what their parameters are) before Crytek is entitled to proceed with
17 burdensome and expensive discovery. Defendants thus seek a protective order staying
18 commencement of discovery until thirty (30) days after joinder of issue (*i.e.*, all
19 defendants have answered). In the event that the Court declines to grant a protective
20 order staying discovery, Defendants request a conference before the Court so that the
21 parties and the Court may discuss the orderly administration of discovery in this matter,
22 including a discussion of the issues raised by Defendants in the parties’ Joint 26(f) Report
23 [ECF 28].

24 This motion is based upon: this Notice of Motion and Motion; the Memorandum
25 of Points and Authorities filed herewith; the Declaration of Jeremy S. Goldman filed
26 herewith (the “Goldman Declaration”); the pleadings and papers on file herein, including
27
28

1 Defendants' pending motion to dismiss [ECF 18, 19, 25, 26]; and upon such other
2 matters as may be presented to the Court at the time of hearing.

3 As detailed in the accompanying Goldman Declaration, in accordance with Local
4 Rule 7-3, on February 13, 2018, Defendants' counsel discussed with Crytek's counsel
5 Defendants' proposal to postpone commencement of discovery until after the Court rules
6 on the pending motion to dismiss. Crytek's counsel rejected this proposal. Defendants
7 expressed their intent to file a motion for a protective order, and Crytek told Defendants
8 to make their motion.

9
10 Dated: March 9, 2018

FRANKFURT KURNIT KLEIN & SELZ P.C.

11 BY: /s/ Jeremy S. Goldman

12 Joseph R. Taylor (SBN 129933)

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