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**THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

GEMCAP LENDING I, LLC,

Plaintiff,

vs.

CROP USA INSURANCE AGENCY,
INC., et al.

Defendants.

CASE NO. CV-13-05504 SJO (MANx)

Hon. S. James Otero

**PROTECTIVE ORDER ENTERED
PURSUANT TO THE PARTIES'
STIPULATION**

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based on the parties' Stipulation and [Proposed] Protective Order Governing Discover Material ("Stipulation") filed on February 19, 2014, the terms of the protective order to which the parties have agreed are adopted as a protective order of this Court (which generally shall govern the pretrial phase of this action) except to the extent, as set forth below, that those terms have been substantively modified by the Court's amendment of paragraphs 1, 3, 4, 5.2(a), 5.(b), 8, 10.1, 10.2, 12.4(a), and 12.4(c) of, and Exhibit A to, the Stipulation.

The parties are expressly cautioned that the designation of any information,

1 document, or thing as Confidential, Highly Confidential – Attorneys’ Eyes Only, or
2 other designation(s) used by the parties, does not, in and of itself, create any
3 entitlement to file such information, document, or thing, in whole or in part, under
4 seal. Accordingly, reference to this Protective Order or to the parties’ designation of
5 any information, document, or thing as Confidential, Highly Confidential –
6 Attorneys’ Eyes Only, or other designation(s) used by the parties, is wholly
7 insufficient to warrant a filing under seal.

8 There is a strong presumption that the public has a right of access to judicial
9 proceedings and records in civil cases. In connection with non-dispositive motions,
10 good cause must be shown to support a filing under seal. The parties’ mere
11 designation of any information, document, or thing as Confidential, Highly
12 Confidential – Attorneys’ Eyes Only, or other designation(s) used by parties, does
13 not -- **without the submission of competent evidence, in the form of a**
14 **declaration or declarations, establishing that the material sought to be filed**
15 **under seal qualifies as confidential, privileged, or otherwise protectable --**
16 constitute good cause.

17 Further, if sealing is requested in connection with a dispositive motion or
18 trial, then compelling reasons, as opposed to good cause, for the sealing must be
19 shown, and the relief sought shall be narrowly tailored to serve the specific interest
20 to be protected. *See Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 677-79 (9th
21 Cir. 2010). For each item or type of information, document, or thing sought to be
22 filed or introduced under seal in connection with a dispositive motion or trial, the
23 party seeking protection must articulate compelling reasons, supported by specific
24 facts and legal justification, for the requested sealing order. **Again, competent**
25 **evidence supporting the application to file documents under seal must be**
26 **provided by declaration.**

27 Any document that is not confidential, privileged, or otherwise protectable in
28 its entirety will not be filed under seal if the confidential portions can be redacted.

1 If documents can be redacted, then a redacted version for public viewing, omitting
2 only the confidential, privileged, or otherwise protectable portions of the document,
3 shall be filed. Any application that seeks to file documents under seal in their
4 entirety should include an explanation of why redaction is not feasible.
5 Notwithstanding any other provision of this Protective Order, in the event that this
6 case proceeds to trial, all information, documents, and things discussed or
7 introduced into evidence at trial will become public and available to all members of
8 the public, including the press, unless sufficient cause is shown in advance of trial to
9 proceed otherwise.

10 **THE PARTIES ARE DIRECTED TO REVIEW CAREFULLY AND**
11 **ACT IN COMPLIANCE WITH ALL ORDERS ISSUED BY THE**
12 **HONORABLE S. JAMES OTERO, UNITED STATES DISTRICT JUDGE,**
13 **INCLUDING THOSE APPLICABLE TO FILINGS UNDER SEAL.**

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1 **AGREED TERMS OF PROECTIVE ORDER AS ADOPTED AND**
2 **MODIFIED BY THE COURT**

3 1. PURPOSES AND LIMITATIONS

4 **The parties agree that** disclosure and discovery activity in this action **may**
5 involve production of confidential, proprietary, or private information for which
6 special protection from public disclosure and from use for any purpose other than
7 prosecuting this litigation **may** be warranted. Accordingly, the parties **have**
8 **stipulated to the entry of** the following Protective Order (“Order”). The parties
9 acknowledge that this Order does not confer blanket protections on all disclosures or
10 responses to discovery and that the protection it affords extends only to the limited
11 information or items that are entitled, under the applicable legal principles, to
12 treatment as confidential. No protections shall be permitted and no designations of
13 confidentiality honored if the Court determines that, on balance, the public interest
14 in disclosure of information outweighs the private interests in the protection of
15 information designated in good faith as confidential pursuant to the provisions of
16 this **Order**. Likewise, no confidentiality protection shall be permitted for
17 information that is determined by the Court **not to qualify for such protection or to**
18 demonstrate a deliberate effort by any of the parties or their agents to conceal or
19 mislead the public. The parties also acknowledge, as set forth in Section 10, below,
20 that this Order creates no entitlement to file confidential information under seal;
21 Local Rule 79-5 sets forth the procedures that must be followed and reflects the
22 standards that will be applied when a party seeks permission from the **Court** to file
23 material under seal.

1 2. DEFINITIONS

2 2.1 “Party”: any party to this action, including all of its officers, directors,
3 employees, consultants, retained experts, and outside counsel (and their support
4 staff).

5 2.2 “Disclosure or Discovery Material”: all items or information,
6 regardless of the medium or manner generated, stored, or maintained (including,
7 among other things, testimony, transcripts, or tangible things) that are produced or
8 generated in disclosures or responses to discovery in this matter.

9 2.3 “Confidential” Information or Items: information (regardless of how
10 generated, stored, or maintained) or tangible things that qualify for protection under
11 standards developed under F.R.Civ.P. 26(c).

12 2.4 “Highly Confidential — Attorneys’ Eyes Only” Information or Items:
13 extremely sensitive “Confidential Information or Items,” the disclosure of which to
14 another Party or non-party would create a substantial risk of serious harm to the
15 Producing Party (as defined below), **which** could not be avoided by less restrictive
16 means. Having such a designation in this case is necessary, because certain
17 Defendants compete against one another. By way of example and not limitation, the
18 Parties anticipate that both they and non-parties will need to protect sensitive
19 proprietary and financial information as “Highly Confidential — Attorneys’ Eyes
20 Only” when the disclosure of such documents would pose a serious risk of
21 competitive harm.

22 2.5 “Receiving Party”: a Party **who or which** receives Disclosure or
23 Discovery Material from a Producing Party.

24 2.6 “Producing Party”: a Party or non-party **who or which** provides
25 Disclosure or Discovery Material in this action.

26 2.7 “Designating Party”: a Producing Party **who or which** designates
27 information or items that it produces or discloses, whether in disclosures, discovery
28

1 responses, or deposition testimony, as “Confidential” or “Highly Confidential
2 Attorneys’ Eyes Only.”

3 2.8 “Protected Material”: any Disclosure or Discovery Material that is
4 designated as “Confidential” or as “Highly Confidential — Attorneys’ Eyes Only.”

5 2.9 “Outside Counsel”: attorneys who are not employees of a Party but
6 who are retained to represent and/or advise a Party in this action.

7 2.10 “House Counsel”: attorneys who are employees of a Party.

8 2.11 “Counsel” (without qualifier): Outside Counsel and House Counsel (as
9 well as their support staffs).

10 2.12 “Expert”: a person with specialized knowledge or experience in a
11 matter pertinent to the litigation who has been retained by a Party or its counsel to
12 serve as an expert witness or as a consultant in this action. “Expert” also includes a
13 professional jury or trial consultant retained in connection with this litigation.

14 2.13 “Professional Vendors”: persons or entities **who or which** provide
15 litigation support services (e.g., photocopying; videotaping; translating; preparing
16 exhibits or demonstrations; organizing, storing, retrieving data in any form or
17 medium; etc.) and their employees and subcontractors.

18 3. SCOPE

19 The protections conferred by this Order cover not only Protected Material (as
20 defined above) but also any information copied or extracted therefrom, as well as all
21 copies, excerpts, summaries, or compilations thereof, plus **deposition** testimony,
22 conversations, or presentations by parties or counsel that might reveal Protected
23 Material. Disclosure or Discovery Material shall be used solely for the prosecution
24 or the defense of this action, including any appeals, and shall not be used for any
25 other purpose.

26 4. DURATION

27 Even after the termination of this litigation, the confidentiality obligations
28 imposed by this Order shall remain in effect until a Designating Party agrees

1 otherwise in writing or a court order otherwise directs. This Court shall retain
2 jurisdiction over the **Parties and others who have agreed to be bound by this**
3 **Order** for enforcement of its provisions.

4 5. DESIGNATING PROTECTED MATERIAL

5 5.1 Exercise of Restraint and Care in Designating Material for Protection.

6 Each Producing Party must take care to limit any designations under this Order to
7 specific material that qualifies under the appropriate standards and certifies that the
8 information constitutes or contains a trade secret or other confidential research,
9 development, proprietary, commercial, financial, or personal information not
10 generally known to members of the public, including, but not limited to, product or
11 service information, business, marketing, or sales plans, strategies, and analyses,
12 pricing information or plans, client information (including the identity of customers,
13 contracts, customer communications, pricing agreements, and terms of any potential
14 or actual loan), business policies and practices, the identity of employees or
15 contractors, individual employment records, current and projected financial reports,
16 statements, and analyses, revenue, cost and profit information, balance sheets and
17 other financial information, **and** organizational or company structural information,
18 **which** could, if disclosed, result in competitive harm to the Designating Party.

19 A Designating Party must take care to designate for protection only those
20 parts of material, documents, items, or oral or written communications that qualify
21 — so that other portions of the material, documents, items, or communications for
22 which protection is not warranted are not swept within the ambit of this Order.
23 Mass, indiscriminate, or routinized designations are prohibited. Designations that
24 are shown to be clearly unjustified, or that have been made for an improper purpose
25 (*e.g.*, to unnecessarily encumber the case development process or to impose
26 unnecessary expenses and burdens on other parties) may expose the Designating
27 Party to sanctions. If it comes to a Party's or a non-party's attention that
28 information or items that it designated for protection do not qualify for protection at

1 all or do not qualify for the level of protection initially asserted, that Party or non-
2 party must promptly notify all other parties that it is withdrawing the mistaken
3 designation.

4 5.2 Manner and Timing of Designations. Except as otherwise provided in
5 this Order (*see, e.g.*, second paragraph of section 5.2(a) below), or as otherwise
6 stipulated or ordered, material that qualifies for protection under this Order must be
7 clearly so designated before the material is disclosed or produced. Designation in
8 conformity with this Order requires:

9 (a) for information in documentary form (apart from transcripts of
10 depositions), that the Producing Party affix the legend “CONFIDENTIAL” or
11 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY” on each page that
12 contains protected material. If only a portion or portions of the material on a page
13 qualifies for protection, the Producing Party also must clearly identify the protected
14 portion(s) (*e.g.*, by making appropriate markings in the margins) and must specify,
15 for each portion, the level of protection being asserted (either “CONFIDENTIAL”
16 or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”). A Party or
17 non-party **who or which** makes original documents or materials available for
18 inspection need not designate them for protection until after the inspecting Party has
19 indicated which material it would like copied and produced. During the inspection
20 and before the designation, all of the material made available for inspection shall be
21 deemed “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY.” After the
22 inspecting Party has identified the documents it wants copied and produced, the
23 Producing Party must determine which documents, or portions thereof, qualify for
24 protection under this Order; then, before producing the specified documents, the
25 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or
26 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”) on each page that
27 contains Protected Material. If only a portion or portions of the material on a page
28 qualifies for protection, the Producing Party also must clearly identify the protected

1 portion(s) (*e.g.*, by making appropriate markings in the margins) and must specify,
2 for each portion, the level of protection being asserted (either “CONFIDENTIAL”
3 or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”).

4 (b) for testimony given in deposition, that the Party or non-party
5 offering or sponsoring the **deposition** testimony **shall** identify on the record, before
6 the close of the deposition, all protected testimony, and further specify any portions
7 of the testimony that qualify as “CONFIDENTIAL” or “HIGHLY
8 CONFIDENTIAL — ATTORNEYS’ EYES ONLY.” When it is impractical to
9 identify separately each portion of **deposition** testimony that is entitled to
10 protection, and when it appears that substantial portions of the **deposition** testimony
11 may qualify for protection, the Party or non-party that sponsors, offers, or gives the
12 testimony may invoke on the record (before the deposition is concluded) a right to
13 have up to twenty (20) days to identify the specific portions of the testimony as to
14 which protection is sought and to specify the level of protection being asserted
15 (“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES
16 ONLY”). Only those portions of the **deposition** testimony that are appropriately
17 designated for protection within the twenty-day period shall be covered by the
18 provisions of this Order. Transcript pages containing Protected Material must be
19 separately bound by the court reporter, who must affix on each such page the legend
20 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES
21 ONLY,” as instructed by the Party or non-party offering or sponsoring the witness
22 or presenting the testimony.

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

1 portions, specifying whether they qualify as “CONFIDENTIAL” or as “HIGHLY
2 CONFIDENTIAL — ATTORNEYS’ EYES ONLY.”

3 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
4 failure to designate qualified information or items as “CONFIDENTIAL” or
5 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY” does not, standing
6 alone, waive the Designating Party’s right to secure protection under this Order for
7 such material. If material is appropriately designated as “CONFIDENTIAL” or
8 “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY” after the material
9 was initially produced, the Receiving Party, on timely notification of the
10 designation, must make reasonable efforts to assure that the material is treated in
11 accordance with the provisions of this Order. Good faith disclosure of such material
12 by any Designating Party prior to such later designation, however, shall not be
13 deemed a violation of the provisions of this Order.

14 5.4 Inadvertent Production. Inadvertent production of any document in the
15 course of this litigation – whether designated as “CONFIDENTIAL” or “HIGHLY
16 CONFIDENTIAL — ATTORNEYS’ EYES ONLY” or not designated at all – that a
17 Producing Party later claims should not have been produced because of a privilege,
18 including, but not limited to, the attorney-client privilege or **the** work product
19 doctrine (“Inadvertently Produced Privileged Document”), will not be deemed to
20 waive any privilege. The Producing Party may request, in writing, the return of any
21 Inadvertently Produced Privileged Document. A request for the return of an
22 Inadvertently Produced Privileged Document shall identify the document
23 inadvertently produced and the basis for withholding such document from
24 production. If a Party or non-party requests the return, pursuant to this paragraph,
25 of any Inadvertently Produced Privileged Document then in the custody of another
26 Party or non-party, such other party shall within five (5) business days return to the
27 requesting party or non-party the Inadvertently Produced Privileged Document and
28 all copies thereof and destroy any electronic copies thereof. The party returning

1 such material may then move the Court for an order compelling production of the
2 material, but that party shall not assert as a ground for entering such an Order the
3 fact or circumstances of the inadvertent production. The party returning the material
4 may not further use or disclose the information until the claim of privilege is
5 resolved and must take reasonable steps to: (a) notify any person to whom the
6 returning party has provided the information of the claim of privilege; and (b)
7 request that such person not further use or disclose the information until the claim of
8 privilege is resolved.

9 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

10 6.1 Timing of Challenges. Unless a prompt challenge to a Designating
11 Party's confidentiality designation is necessary to avoid foreseeable substantial
12 unfairness, unnecessary economic burdens, or a later significant disruption or delay
13 of the litigation, a Party does not waive its right to challenge a confidentiality
14 designation by electing not to mount a challenge promptly after the original
15 designation is disclosed.

16 6.2 Meet and Confer. A Party **who or which** elects to initiate a challenge
17 to a Designating Party's confidentiality designation must do so in good faith and
18 must begin the process by conferring directly with counsel for the Designating
19 Party. In conferring, the challenging Party must explain the basis for its belief that
20 the confidentiality designation was not proper and must give the Designating Party
21 an opportunity to review the designated material, to reconsider the circumstances,
22 and if no change in designation is offered, to explain the basis for the chosen
23 designation. A challenging Party may proceed to the next stage of the challenge
24 process only if it has engaged in this meet and confer process first.

25 6.3 Judicial Intervention. A Party **who or which** elects to press a challenge
26 to a confidentiality designation after considering the justification offered by the
27 Designating Party may file and serve a motion pursuant to Local Rule 37 (and in
28 compliance with Civil Local Rule 79-5, if applicable) that identifies the challenged

1 material and sets forth in detail the basis for the challenge. Each such motion must
2 be accompanied by a competent declaration that affirms that the movant has
3 complied with the meet and confer requirements imposed in the preceding
4 paragraph and that sets forth with specificity the justification for the confidentiality
5 designation that was given by the Designating Party in the meet and confer dialogue.

6 The burden of persuasion in any such challenge proceeding shall be on the
7 Designating Party. Until the Court rules on the challenge, all parties shall continue
8 to afford the material in question the level of protection to which it is entitled under
9 the Producing Party's designation.

10 7. ACCESS TO AND USE OF PROTECTED MATERIAL

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

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

21 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
22 otherwise ordered by the Court or permitted in writing by the Designating Party, a
23 Receiving Party may disclose any information or item designated CONFIDENTIAL
24 only to:

25 (a) the Receiving Party's Outside Counsel **and** employees of said
26 Counsel to whom it is reasonably necessary to disclose the information for this
27 litigation;

28

1 (b) the officers, directors, and employees (including House Counsel)
2 of the Receiving Party to whom disclosure is reasonably necessary for this litigation
3 and who have signed the “Agreement To Be Bound By Protective Order” (Exhibit
4 A);

5 (c) experts (as defined in this Order) engaged by or for the
6 Receiving Party to whom **or which** disclosure is reasonably necessary for this
7 litigation and who have signed the “Agreement To Be Bound By Protective Order”
8 (Exhibit A);

9 (d) the Court and its personnel;

10 (e) court reporters, their staffs, and professional vendors to whom
11 disclosure is reasonably necessary for this litigation and who have signed the
12 “Agreement To Be Bound By Protective Order” (Exhibit A);

13 (f) during their depositions, witnesses in the action to whom
14 disclosure is reasonably necessary and who have signed the “Agreement To Be
15 Bound By Protective Order” (Exhibit A). Pages of transcribed deposition testimony
16 or exhibits to depositions that reveal Protected Material must be separately bound by
17 the court reporter and may not be disclosed to anyone except as permitted under this
18 Order.

19 (g) an author or intended recipient (*e.g.*, persons “cc’d” or “bcc’d”)
20 of the document or the original source of the information, or witnesses who
21 reviewed the document before the commencement of this action, or who are
22 reasonably believed to have previously received the document.

23 (h) a deposition witness, if the witness is employed at the time of his
24 or her deposition by the **Party who or which** designated the Protected Material.
25 Any document designated as Protected Material that contains handwriting may be
26 shown to a deposition witness for the purpose of determining whether the deposition
27 witness is the author of the Protected Material or the handwriting, provided that the
28 attorney establishes through deposition testimony a reasonable and good faith basis

1 for believing that the Protected Material or handwriting was or could have been
2 authored by the deposition witness and provided that the attorney takes reasonable
3 steps to ensure that no unnecessary disclosure of Protected Material takes place
4 (*e.g.*, by showing the deposition witness a limited sample of the handwriting at
5 issue).

6 7.3 Disclosure of “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES
7 ONLY” Information or Items. Unless otherwise ordered by the Court or permitted
8 in writing by the Designating Party, a Receiving Party may disclose any information
9 or item designated “HIGHLY CONFIDENTIAL — ATTORNEYS’ EYES ONLY”
10 only to:

11 (a) the Receiving Party’s Outside Counsel **and** employees of said
12 Counsel to whom it is reasonably necessary to disclose the information for this
13 litigation;

14 (b) Experts engaged by or for the Receiving Party to whom
15 disclosure is reasonably necessary for this litigation and who have signed the
16 “Agreement To Be Bound **By** Protective Order” (Exhibit A);

17 (c) the Court and its personnel;

18 (d) court reporters, their staffs, and professional vendors to whom
19 disclosure is reasonably necessary for this litigation and who have signed the
20 “Agreement To Be Bound **By** Protective Order” (Exhibit A);

21 (e) an author or intended recipient (*e.g.*, persons “cc’d” or “bcc’d”)
22 of the document or the original source of the information;

23 (f) a deposition witness, if the witness is employed at the time of his
24 or her deposition by the **Party who or which** designated the Protected Material.

25 Any document designated as Protected Material that contains handwriting may be
26 shown to a deposition witness for the purpose of determining whether the deposition
27 witness is the author of the Protected Material or the handwriting, provided that the
28 attorney establishes through deposition testimony a reasonable and good faith basis

1 for believing that the Protected Material or handwriting was or could have been
2 authored by the deposition witness and provided that the attorney takes reasonable
3 steps to ensure that no unnecessary disclosure of Protected Material takes place
4 (*e.g.*, by showing the deposition witness a limited sample of the handwriting at
5 issue).

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
7 IN OTHER LITIGATION.

8 If a Receiving Party is served with a subpoena or an order issued in other
9 litigation that would compel disclosure of any information or items designated in
10 this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL —
11 ATTORNEYS’ EYES ONLY,” the Receiving Party must so notify the Designating
12 Party, in writing (by **email and** fax, if possible) immediately and in no event more
13 than three (3) court days after receiving the subpoena or order. Such notification
14 must include a copy of the subpoena or court order.

15 The Receiving Party also must immediately inform in writing the Party who
16 **or which** caused the subpoena or order to issue in the other litigation that some or
17 all the material covered by the subpoena or order is the subject of this Order. In
18 addition, the Receiving Party must deliver a copy of this Order promptly to the party
19 in the other action **who or which** caused the subpoena or order to issue.

20 The purpose of imposing these duties is to alert the interested parties to the
21 existence of this Order and to afford the Designating Party in this case an
22 opportunity to try to protect its confidentiality interests in the court from which the
23 subpoena or order issued. The Designating Party shall bear the burdens and the
24 expenses of seeking protection in that court of its confidential material — and
25 nothing in these provisions should be construed as authorizing or encouraging a
26 Receiving Party in this action to disobey a lawful directive from another court.

27 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

28 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed

1 Protected Material to any person or in any circumstance not authorized under this
2 Order, the Receiving Party must immediately: (a) notify in writing the Designating
3 Party of the unauthorized disclosures; (b) use its best efforts to retrieve all copies of
4 the Protected Material; (c) inform the person or persons to whom unauthorized
5 disclosures were made of all the terms of this Order; and (d) request such person or
6 persons to execute the “Agreement to Be Bound by Protective Order” that is
7 attached hereto as Exhibit A.

8 10. FILING PROTECTED MATERIAL.

9 10.1 Compliance with Civil Local Rule 79-5 Required. Without written
10 permission from the Designating Party or a court order secured after appropriate
11 notice to all interested persons, a Party may not file in the public record in this
12 action any Protected Material. A Party that seeks to file under seal any Protected
13 Material must comply with Civil Local Rule 79-5 **and the provisions of this**
14 **Order.**

15 10.2 Use of Protected Material in Filings with the Court. In the event a
16 Party wishes to use any Protected Material, or any papers containing or making
17 reference to the contents of such Protected Material, in any pleading or document
18 filed with the Court in this action, such pleading or document and Protected Material
19 shall be redacted to conceal any Protected Material or shall be **submitted with an**
20 **application to file such material** under seal **pursuant to Local Rules 79-5 and the**
21 **provisions of this Order.** All materials so filed shall be released from confidential
22 treatment by the Clerk of the Court only upon further order of the Court or pursuant
23 to a stipulation of all Parties.

24 11. FINAL DISPOSITION.

25 Unless otherwise ordered or agreed in writing by the Producing Party, within
26 sixty (60) days after the final termination of this action, each Receiving Party must
27 return to the Producing Party or, at its option, destroy all Protected Material. As
28 used in this subdivision, “all Protected Material” includes all copies, abstracts,

1 compilations, summaries, or any other form of reproducing or capturing any of the
2 Protected Material. With permission in writing from the Designating Party, the
3 Receiving Party may destroy some or all of the Protected Material instead of
4 returning it. Whether the Protected Material is returned or destroyed, the Receiving
5 Party must submit a written certification to the Producing Party (and, if not the same
6 person or entity, to the Designating Party) by the sixty (60) day deadline that
7 identifies (by category, where appropriate) all the Protected Material that was
8 returned or destroyed and that affirms that the Receiving Party has not retained any
9 copies, abstracts, compilations, summaries or other forms of reproducing or
10 capturing any of the Protected Material. Notwithstanding this provision, Counsel
11 are entitled to retain an archival copy of all pleadings, motion papers, transcripts,
12 legal memoranda, correspondence, or attorney work product, even if such materials
13 contain Protected Material. Any such archival copies that contain or constitute
14 Protected Material remain subject to this Order as set forth in Section 4
15 (DURATION), above.

16 12. MISCELLANEOUS

17 12.1 Right to Further Relief. Nothing in this Order shall prevent any Party
18 or other person from seeking modification of this Order. Further, this Order is
19 without prejudice to the right of any party to seek relief from the Court, upon good
20 cause shown, from any of the restrictions provided above or to impose additional
21 restrictions on the disclosure of any information or material produced. Further, this
22 Order is without prejudice to the right of any Party to move the Court for entry of a
23 separate protective order as to any particular document, evidence, or information.

24 12.2 Right to Assert Other Objections. By **having stipulated** to the entry of
25 this Order, no Party waives any right it otherwise would have to object to disclosing
26 or producing any information or item on any ground not addressed in this Order.
27 Similarly, no Party waives any right to object on any ground to use in evidence of
28 any of the material covered by this Order.

1 12.3 Designations Not Evidence. **This Order is being entered** to facilitate
2 discovery and the production of relevant evidence in this action. Neither the entry
3 of this Order, nor the designation of any information, document, or the like as
4 Protected Materials, nor the failure to make such designation, shall constitute
5 evidence with respect to any issue in this action.

6 12.4 Expert Materials.

7 (a) Notwithstanding any contrary requirement, **and pursuant to the**
8 **stipulation of the Parties**, the Parties shall not be required, **absent further Court**
9 **order**, to disclose or produce in discovery any:

10 (i) drafts of expert reports, regardless of whether such drafts
11 have been disclosed or otherwise transmitted to Counsel, employees, or consultants
12 for the **Party or Parties** who have retained such expert;

13 (ii) notes or other documents prepared by the expert, or his or
14 her staff, unless relied upon as a basis for his or her opinions;

15 (iii) documents or information constituting or reflecting oral or
16 written communications between the expert and his or her staff, unless relied upon
17 as a basis for his or her opinions; or,

18 (b) documents or information constituting or reflecting oral or
19 written communications between the expert and the **Party, Parties**, or Counsel who
20 **or which** retained the expert in this action, unless relied upon as a basis for his or
21 her opinions.

22 (c) Experts, their staff, and Counsel are free to discard, and need not
23 preserve, copies of any of the documents listed in sub-paragraphs (i) through (iii)
24 above.

25 12.5 Interpretation. No provision of this Order, and no designation, failure
26 to designate, objection, or conduct **made or** taken by any Designating Party in
27 accordance therewith, shall constitute or be construed as:

28 (a) a waiver by any person of any privilege or immunity that may

1 apply to any Discovery Material;

2 (b) a discharge or modification of any Party or non-party's
3 obligations to answer, respond to, or comply with any discovery request in
4 accordance with the Federal Rules of Civil Procedure;

5 (c) an agreement by any person to produce any documents or to
6 supply any information;

7 (d) an admission that documents responsive to any discovery request
8 actually exist, are relevant or material in any way to the issues raised in the pending
9 action, are admissible evidence in such action, or enjoy any legal or protected status
10 as confidential or proprietary; and

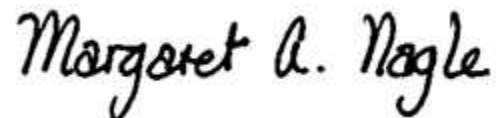
11 (e) a waiver or forfeiture of any trade secret, intellectual-property, or
12 proprietary right to, in, or with respect to any Protected Material; or

13 (f) a modification, discharge, or abandonment of any pre-existing
14 legal obligation that any Designating Party may have to keep any Discovery
15 Material confidential or secret.

16 12.6 Client Consultation. Nothing in this Order shall prevent or otherwise
17 restrict Counsel from rendering advice to their clients in connection with this action
18 and, in the course thereof, relying generally on examination of Protected Materials;
19 provided, however, that in rendering such advice and otherwise communicating with
20 clients regarding this action, Counsel shall not make specific disclosure of any item
21 so designated or the contents thereof except pursuant to Paragraphs 7.2 and 7.3 of
22 this Order.

23 IT IS SO ORDERED.

24 Dated: March 5, 2014



25 MARGARET A. NAGLE

26 UNITED STATES MAGISTRATE JUDGE
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EXHIBIT A

AGREEMENT TO BE BOUND BY PROTECTIVE ORDER

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 Protective
Order that was issued by the United States District Court for the Central District of
California on March 5, 2014, in the case of *GemCap Lending I, LLC. v. CROP USA
Insurance Agency, Inc. et al.*, United States District Court, Central District of
California, Case No. CV13-5504 SJO (MANx). On behalf of myself and the
business organization with which I am employed or affiliated, if one exists, I agree
to comply with and be bound by all terms of this 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 Protective Order to any
person or entity except in strict compliance with the provisions of this **Protective**
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 **the enforcement of**
the terms of this 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] as my
California agent for service of process in connection with this action or any
proceedings related to enforcement of this Protective Order.

Executed this ___ day of _____, 20___, at _____.
City, State

Printed Name: _____

Signature: _____.