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 9 CR OPERATING COMPANY, INC. and
 10 LINCOLN PLAZA OFFICE BUILDING, LLC

11 **UNITED STATES DISTRICT COURT**
 12 **CENTRAL DISTRICT OF CALIFORNIA**
 13 **WESTERN DIVISION**

14 GREAT AMERICAN INSURANCE
 15 COMPANY OF NEW YORK,

16 Plaintiff,

17 v.

18 CR OPERATING COMPANY, INC.,
 19 et al.

20 Defendants and Cross-
 21 Claim Plaintiffs

22 v.

23 CSMC-2006 C5 OFFICE 4545, LLC,
 24 LNR PARTNERS, LLC, and C-III
 25 ASSET MANAGEMENT, LLC

26 Cross-Claim Defendants

Case No.: CV14-02889-SJO-VBKx

The Honorable Victor B. Kenton

**~~PROPOSED~~ PROTECTIVE
 ORDER**

1 **[PROPOSED] PROTECTIVE ORDER**

2 The parties to this case have sought, and/or may in the future seek, the
3 discovery of certain information from each other, which a party considers to be trade
4 secret and/or confidential or proprietary information. To expedite the flow of
5 discovery material, adequately protect and ensure the confidentiality of designated
6 documents, records, communications, deposition testimony and other materials, and
7 facilitate the prompt resolution of any disputes over confidentiality, Interpleader
8 defendants CR Operating Company, Inc., Lincoln Plaza Office Building, LLC,
9 CSMC 2006-C5 Office 4545, LLC, Van Vleck Turner & Zaller, LLP, and Miller
10 Miller Menthe, LLP, and cross-claim defendants LNR Partners, LLC and C-III Asset
11 Management, LLC, (collectively, the “Parties” and each a “Party”) hereby agree to
12 the entry of this protective order pursuant to Federal Rule of Civil Procedure 26(c).

13 IT IS HEREBY ORDERED THAT:

14 1. Definitions:

15 d. “Document” shall have the meaning set forth in FRCP Rule 34 (a)
16 (1) (A).

17 e. “Confidential Information” shall mean non-public information
18 contained in any Document, tangible medium of expression, or Discovery Material
19 that is designated by any Producing Party as confidential and that contains trade
20 secrets or other confidential research, development, or commercial information, such
21 as customer identification, personal information, financial information, proprietary
22 information, and other forms of sensitive business information.

23 f. “Discovery Material” shall mean any Document, including the
24 contents, copies, excerpts and summaries thereof, furnished, provided, produced,
25 filed, or served in response to any discovery request made by any Party, used as an
26 exhibit at a deposition or court hearing or trial, or otherwise exchanged in
27 furtherance of the resolution of the above-captioned case. “Discovery Material”
28 shall also mean any interrogatory answer or any testimony taken in this case or

1 transcript thereof, including the contents, copies, excerpts and summaries thereof.

2 g. “Person” shall mean any individual, corporation, partnership,
3 association, unincorporated organization or other entity.

4 h. “Producing Party” shall mean the person or entity that produces
5 any information that is subject to the terms of this Order.

6 2. Scope. This Order shall govern any Discovery Material designated as
7 Confidential Information in accordance herewith.

8 3. Designation. Any Producing Party may designate Discovery Material it
9 produces as Confidential Information, provided the Producing Party has a good faith
10 belief that such information constitutes Confidential Information as defined herein,
11 and that such designation is in accordance with any applicable law. The Producing
12 Party may designate a Document as Confidential Information by placing the word
13 “CONFIDENTIAL” on the document. The Producing Party may designate
14 specifically identified portions of deposition testimony of a witness as Confidential
15 Information at the time that the deposition testimony is elicited by indicating on the
16 record at the deposition that the testimony is “Confidential,” or by notifying the other
17 parties in writing within 30 days of receipt of the transcript of the portion(s) of the
18 transcript being designated as “Confidential.” Nothing in this Order shall be
19 construed as prejudicial to the rights of any party or non-party to designate any other
20 materials as confidential, or to the rights of the Parties to contest any such
21 designation of confidentiality. If any of the Parties contests the designation of any
22 document or information as “Confidential” under this Order, before seeking relief
23 from this Protective Order from the Court, the contesting party must provide written
24 notice to the Producing Party and attempt to resolve the dispute through a meet and
25 confer process; if no informal resolution is reached, either party may seek an order of
26 the Court with respect to any Confidential Information following the conclusion of
27 such meet-and-confer, whether such document was produced by the party so moving
28 or by a third party. In any such motion, the party objecting to the protected status of

1 the materials shall have the burden to prove that the material is inappropriately
2 designated “Confidential” under the terms of this Protective Order. Neither the
3 designation of Discovery Materials as “Confidential” nor the failure of the receiving
4 party to object to such a designation shall be deemed relevant in determining whether
5 the Discovery Materials are in fact protected under this Protective Order. In the case
6 of documents produced by a third party and designated as “Confidential” by such
7 third party, the third party need not seek an order and either party may instead seek
8 an order challenging the confidentiality designation. During the pendency of any
9 such challenge, any Discovery Material designated as “Confidential” shall remain
10 protected unless and until the Court rules otherwise.

11 4. Use of Confidential Information. Discovery Material designated herein
12 as “Confidential” may be used by the Parties only for purposes of preparing for and
13 conducting pretrial and trial proceedings in this action. Except as provided herein,
14 Discovery Material designated as “Confidential,” and information derived therefrom,
15 shall be shown only to the following persons:

16 4.1 Officers and employees of the Parties who are involved in or
17 assisting counsel in the defense of this case.

18 4.2 Counsel of record for the Parties and employees of such counsel
19 as are required to assist in the preparation or conduct of this action;

20 4.3 Persons who do not fall within the category described in Section
21 4.1 above and who are witnesses at any deposition, hearing or trial in this
22 action who counsel for the disclosing party believes in good faith are likely to
23 have knowledge pertaining to the content of the Confidential Discovery
24 Material; provided that, before being shown any “Confidential” Discovery
25 Material, such persons shall be given a copy of this Order, and have executed
26 the Acknowledgement attached as Exhibit A hereto;

27 4.4 Persons hired or consulted with as experts or consultants during
28 the course of this litigation; provided that, before being shown any

1 “Confidential” Discovery Material, such persons shall be given a copy of this
2 Order, and have executed the Acknowledgement attached as Exhibit A hereto.

3 5. Non-Disclosure. The persons described in Paragraph 4 as having access
4 to the “Confidential” Discovery Material shall be prohibited from disclosing any
5 such information to any other person except as provided herein, and each such
6 person shall take appropriate measures to safeguard the confidentiality of the
7 “Confidential” Discovery Material to prevent the willful or inadvertent disclosure
8 thereof and to assure that the provisions of this Order are accomplished.

9 6. Safekeeping. Any and all documents and materials subject to this
10 protective order shall be kept in a secure area so that they are not amenable to being
11 read or seen by anyone other than the Parties, their attorneys, and others who have
12 permission to view or obtain such documents and materials.

13 7. Filing Under Seal. If it becomes necessary for “Confidential” Discovery
14 Material to be filed with the Court, the party seeking to file the “Confidential”
15 Discovery Material shall file an appropriate motion with the Court seeking leave to
16 file the material under seal pursuant to the Local Rules of the Central District of
17 California and the Court’s Standing Order. Any Document designated as a trial
18 exhibit (in accordance with the applicable rules of Court and orders of the Court)
19 which contains Confidential Information may be offered into evidence and used in
20 open court at trial unless the Producing Party obtains an appropriate order from the
21 Court closing the courtroom.

22 8. Non-Parties. A non-party that produces documents or provides
23 testimony in this case may designate such information as “Confidential” provided
24 that the non-party subscribes hereto by executing the Acknowledgement attached as
25 Exhibit A hereto.

26 9. Disposition of Confidential Information. Upon final conclusion of this
27 action, all copies of “Confidential” Discovery Material, including designated
28 deposition testimony, shall be promptly returned to the Producing Party, destroyed or

1 maintained in such a manner as to preclude disclosure of such materials other than as
2 allowed by this Protective Order. In addition, upon the Producing Party’s request
3 within forty-five (45) days of the conclusion of this action, an affidavit of
4 compliance shall be provided to the Producing Party swearing or affirming that all
5 “Confidential” Discovery Material and all copies thereof in the possession of the
6 party so attesting have been returned to the Producing Party, destroyed and/or will be
7 stored in a manner to preclude disclosure.

8 10. Inadvertent Omissions. If a party determines in good faith that
9 “Discovery Material” which was not previously designated as “Confidential” should
10 have been so designated as “Confidential” under paragraph 3, that party may make
11 such designation at that time. A designation under this paragraph shall take effect at
12 the time it is made.

13 11. Inadvertent Production of Privileged Material. The inadvertent
14 production of a document otherwise subject to protection under the attorney-client
15 privilege, work product doctrine or any other privilege recognized by applicable law
16 (in each case a “Privileged Document”) shall not be deemed to be a waiver of said
17 privilege as to the specific document, the subject matter thereof, or otherwise. Any
18 party who contends that such a document was inadvertently produced shall notify the
19 other party within ten days of its discovery of such inadvertent production. The party
20 to which the document was produced may return the document to the Producing
21 Party and reserve all of its rights to seek an order from the Court compelling
22 production of the document at the appropriate time. Alternatively, the party to which
23 the document was produced may retain the document, provided that the party seeks
24 relief from the Court within 10 days from receipt of notification to compel
25 production of such document on the ground that the document is properly subject to
26 production. No such documents shall be copied or distributed until resolution of the
27 privilege issue by the Court. The production of a document that a party believes to
28 fall within any privilege or immunity shall not constitute a categorical waiver of such

1 privilege or immunity. For purposes of and in this litigation, the non-producing party
2 shall not assert that such production constitutes a waiver of such privilege or
3 immunity with respect to any other information.

4 12. Non-Waiver of Privilege. The Parties anticipate the possibility of
5 producing certain attorney-client communications, work product and/or mediation
6 materials in connection with this action, including, but not limited to, (a) attorney
7 invoices and accountings of attorney’s fees and costs, and (b) case assessments,
8 confidential mediation briefs, and other settlement materials. Pursuant to Federal
9 Rule of Evidence 502(d) it is hereby ordered that the disclosure or filing of such
10 information shall not be a waiver of any applicable privilege or protection as to the
11 materials so produced, the subject matter thereof, or otherwise. All such documents
12 shall be deemed “Confidential Information” hereunder, and shall not be disclosed or
13 used for any other purpose outside of this action.

14 12. Limitations. Nothing in this Order shall be construed to impede or
15 restrict use of Confidential Information by this Court or any of its personnel to the
16 extent that such information is presented to the Court whether before or during trial.
17 Nothing in this Order shall be deemed to restrict in any way a Producing Party or its
18 attorneys with respect to the party’s own documents or prevent a Producing Party
19 from using or disclosing information obtained from public documents or other
20 documents legally and properly obtained other than through discovery in this case.

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EXHIBIT A
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

GREAT AMERICAN INSURANCE
COMPANY OF NEW YORK,

Plaintiff,

v.

CR OPERATING COMPANY, INC.,
et al.

Defendants and Cross-
Claim Plaintiffs

v.

CSMC-2006 C5 OFFICE 4545, LLC,
LNR PARTNERS, LLC, and C-III
ASSET MANAGEMENT, LLC

Cross-Claim Defendants

Case No.: CV14-02889-SJO-VBKx

**ACKNOWLEDGEMENT OF
PROTECTIVE ORDER**

The undersigned acknowledges that s/he has read the Agreed Protective Order Regarding Confidential Information entered by the Court in the above-captioned case, understands the terms thereof and agrees to be bound by such terms. The undersigned accepts responsibility for the return or destruction of any Confidential Information received under the terms of the Order.

Note: If signing on behalf of an entity, please so indicate.

Date: _____

(Signature)

(Print Name)