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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 GLOBE TIRE DISTRIBUTORS, INC., a  
8 Washington corporation,

9 Plaintiff,

10 v.

11 CARLISLE TRANSPORTATION PRODUCTS,  
12 INC., a foreign corporation,

13 Defendant.

No. CV-13-3013-EFS

**STIPULATED PROTECTIVE ORDER**

14 1. Purposes And Limitations

15 Discovery in this action is likely to involve production of  
16 confidential, proprietary, or private information for which special  
17 protection may be warranted. Accordingly, the parties hereby stipulate  
18 to and petition the court to enter the following Stipulated Protective  
19 Order. The parties acknowledge that this agreement is consistent with  
20 LCR 26(c). It does not confer blanket protection on all disclosures or  
21 responses to discovery, the protection it affords from public  
22 disclosure and use extends only to the limited information or items  
23 that are entitled to confidential treatment under the applicable legal  
24 principles, and it does not presumptively entitle parties to file  
25 confidential information under seal.

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1           4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
2 otherwise ordered by the court or permitted in writing by the  
3 designating party, a receiving party may disclose any confidential  
4 material only to:

5           (a) the receiving party's counsel of record in this action, as  
6 well as employees of counsel to whom it is reasonably necessary to  
7 disclose the information for this litigation;

8           (b) the officers, directors, and employees (including in house  
9 counsel) of the receiving party to whom disclosure is reasonably  
10 necessary for this litigation, unless the parties agree that a  
11 particular document or material produced is for Attorney's Eyes Only  
12 and is so designated;

13           (c) experts and consultants to whom disclosure is reasonably  
14 necessary for this litigation and who have signed the "Acknowledgment  
15 and Agreement to Be Bound" (Exhibit A);

16           (d) the court, court personnel, and court reporters and their  
17 staff;

18           (e) copy or imaging services retained by counsel to assist in  
19 the duplication of confidential material, provided that counsel for  
20 the party retaining the copy or imaging service instructs the service  
21 not to disclose any confidential material to third parties and to  
22 immediately return all originals and copies of any confidential  
23 material;

24           (f) during their depositions, witnesses in the action to whom  
25 disclosure is reasonably necessary and who have signed the  
26 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless

1 otherwise agreed by the designating party or ordered by the court.  
2 Pages of transcribed deposition testimony or exhibits to depositions  
3 that reveal confidential material must be separately bound by the  
4 court reporter and may not be disclosed to anyone except as permitted  
5 under this agreement;

6 (g) the author or recipient of a document containing the  
7 information or a custodian or other person who otherwise possessed or  
8 knew the information.

9 4.3 Filing Confidential Material. Before filing confidential  
10 material or discussing or referencing such material in court filings,  
11 the filing party shall confer with the designating party to determine  
12 whether the designating party will remove the confidential  
13 designation, whether the document can be redacted, or whether a motion  
14 to seal or stipulation and proposed order is warranted. Local Civil  
15 Rule 5(g)<sup>1</sup> sets forth the procedures that must be followed and the  
16 standards that will be applied when a party seeks permission from the  
17 court to file material under seal.

## 18 5. Designating Protected Material

19 5.1 Exercise of Restraint and Care in Designating Material for  
20 Protection. Each party or non-party that designates information or  
21 items for protection under this agreement must take care to limit any  
22 such designation to specific material that qualifies under the  
23 appropriate standards. The designating party must designate for  
24 protection only those parts of material, documents, items, or oral or  
25 written communications that qualify, so that other portions of the

26 <sup>1</sup> For the purposes of this Order, Local Civil Rule refers to the Local Rules  
for the United States District Court for the Western District of Washington.

1 material, documents, items, or communications for which protection is  
2 not warranted are not swept unjustifiably within the ambit of this  
3 agreement.

4 Mass, indiscriminate, or routinized designations are prohibited.  
5 Designations that are shown to be clearly unjustified or that have  
6 been made for an improper purpose (e.g., to unnecessarily encumber or  
7 delay the case development process or to impose unnecessary expenses  
8 and burdens on other parties) expose the designating party to  
9 sanctions.

10 If it comes to a designating party's attention that information  
11 or items that it designated for protection do not qualify for  
12 protection, the designating party must promptly notify all other  
13 parties that it is withdrawing the mistaken designation.

14 5.2 Manner and Timing of Designations. Except as otherwise  
15 provided in this agreement (see, e.g., second paragraph of section  
16 5.2(a) below), or as otherwise stipulated or ordered, disclosure or  
17 discovery material that qualifies for protection under this agreement  
18 must be clearly so designated before or when the material is disclosed  
19 or produced.

20 (a) Information in documentary form: (e.g., paper or electronic  
21 documents and deposition exhibits, but excluding transcripts of  
22 depositions or other pretrial or trial proceedings), the designating  
23 party must affix the word "CONFIDENTIAL" to each page that contains  
24 confidential material. If only a portion or portions of the material  
25 on a page qualifies for protection, the producing party also must

1 clearly identify the protected portion(s) (e.g., by making appropriate  
2 markings in the margins).

3 (b) Testimony given in deposition or in other pretrial or trial  
4 proceedings: the parties must identify on the record, during the  
5 deposition, hearing, or other proceeding, all protected testimony,  
6 without prejudice to their right to so designate other testimony after  
7 reviewing the transcript. Any party or non-party may, within fifteen  
8 days after receiving a deposition transcript, designate portions of  
9 the transcript, or exhibits thereto, as confidential.

10 (c) Other tangible items: the producing party must affix in a  
11 prominent place on the exterior of the container or containers in  
12 which the information or item is stored the word "CONFIDENTIAL." If  
13 only a portion or portions of the information or item warrant  
14 protection, the producing party, to the extent practicable, shall  
15 identify the protected portion(s).

16 5.3 Inadvertent Failures to Designate. If timely corrected, an  
17 inadvertent failure to designate qualified information or items does  
18 not, standing alone, waive the designating party's right to secure  
19 protection under this agreement for such material. Upon timely  
20 correction of a designation, the receiving party must make reasonable  
21 efforts to ensure that the material is treated in accordance with the  
22 provisions of this agreement.

## 23 6. Challenging Confidentiality Designations

24 6.1 Timing of Challenges. Any party or non-party may challenge  
25 a designation of confidentiality at any time. Unless a prompt  
26 challenge to a designating party's confidentiality designation is

1 necessary to avoid foreseeable, substantial unfairness, unnecessary  
2 economic burdens, or a significant disruption or delay of the  
3 litigation, a party does not waive its right to challenge a  
4 confidentiality designation by electing not to mount a challenge  
5 promptly after the original designation is disclosed.

6       6.2 Meet and Confer. The parties must make every attempt to  
7 resolve any dispute regarding confidential designations without court  
8 involvement. Any motion regarding confidential designations or for a  
9 protective order must include a certification, in the motion or in a  
10 declaration or affidavit, that the movant has engaged in a good faith  
11 meet and confer conference with other affected parties in an effort to  
12 resolve the dispute without court action. The certification must list  
13 the date, manner, and participants to the conference. A good faith  
14 effort to confer requires a face-to-face meeting or a telephone  
15 conference.

16       6.3 Judicial Intervention. If the parties cannot resolve a  
17 challenge without court intervention, the designating party may file  
18 and serve a motion to retain confidentiality under Local Civil Rule 7  
19 (and in compliance with Local Civil Rule 5(g), if applicable). The  
20 burden of persuasion in any such motion shall be on the designating  
21 party. Frivolous challenges, and those made for an improper purpose  
22 (e.g., to harass or impose unnecessary expenses and burdens on other  
23 parties) may expose the challenging party to sanctions. All parties  
24 shall continue to maintain the material in question as confidential  
25 until the court rules on the challenge.

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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, \_\_\_\_\_ [print or type full name],  
4 of \_\_\_\_\_ [print or type full address], declare under  
5 penalty of perjury that I have read in its entirety and understand the  
6 Stipulated Protective Order that was issued by the United States  
7 District Court for the Eastern District of Washington on [date] in the  
8 case of *Globe Tire Distributors, Inc. v. Carlisle Transportation*  
9 *Products, Inc.*, Cause No. 13-3013 EFS. I agree to comply with and to  
10 be bound by all the terms of this Stipulated Protective Order and I  
11 understand and acknowledge that failure to so comply could expose me  
12 to sanctions and punishment in the nature of contempt. I solemnly  
13 promise that I will not disclose in any manner any information or item  
14 that is subject to this Stipulated Protective Order to any person or  
15 entity except in strict compliance with the provisions of this Order.

16 I further agree to submit to the jurisdiction of the United  
17 States District Court for the Eastern District of Washington for the  
18 purpose of enforcing the terms of this Stipulated Protective Order,  
19 even if such enforcement proceedings occur after termination of this  
20 action.

21 Date: \_\_\_\_\_

22 City and State where sworn and signed: \_\_\_\_\_

23 Printed name: \_\_\_\_\_

24 Signature: \_\_\_\_\_