



November 15, 2021

Ms. Ann Carlson  
 Chief Counsel  
 National Highway Traffic Safety Administration  
 NHTSA West Building W41-227  
 1200 New Jersey Avenue, SE  
 Washington, D.C. 20590

*VIA EMAIL*

G231621

NEF-101sly  
 EA20-002

**Subject: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on November 15, 2021**

Dear Ms. Carlson:

This letter requests confidential treatment under 49 C.F.R. part 512 and Exemption 4 of the Freedom of Information Act (5 U.S.C. § 552(b)(4)) (“FOIA”) for certain confidential materials submitted by General Motors LLC (“GM”) to the National Highway Traffic Safety Administration (“NHTSA”) on November 15, 2021.

**A. Description of the Confidential Information (49 C.F.R. § 512.8(a))**

On November 15, 2021, GM transferred certain confidential materials relating to Engineering Analysis 20-002 (the “Confidential Information”). The Confidential Information will be transferred electronically via Secure Transfer Link<sup>1</sup> to Daniel Rabinovitz at the NHTSA Office of Chief Counsel and Sharon Yukevich at the Office of Defects Investigation.

**B. Production format (49 C.F.R. §§ 512.5 and 512.6)**

I have enclosed two folders that each contain electronic copies of GM’s response to NHTSA’s September 16, 2021 information request (“IR”) relating to Engineering Analysis 20-002:

- **Public copy:** GM’s electronic submission contains a folder labeled G231651\_1\_GM. This folder contains a redacted public copy of the requested information. GM has redacted the files to remove the Confidential Information.
- **Nonpublic copy:** GM’s electronic submission also contains a folder labeled G231651\_2\_GM\_CONF. This folder contains an unredacted nonpublic copy of the requested information. The pages that contain Confidential Information are

<sup>1</sup> GM submits this material electronically pursuant to NHTSA’s modified part 512 submission procedures published at <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>.

stamped either “Entire Page GM Confidential Business Information,” “Entire Page Supplier Confidential Business Information” or both. Files provided in native format have CONF in the filename.

**C. Basis for confidential treatment (49 C.F.R. §§ 512.8(b) and 512.8(c))**

GM’s request for confidential treatment is governed by FOIA Exemption 4, which shields from mandatory disclosure “confidential” commercial or financial information. 5 U.S.C. § 552(b)(4); *see also* 49 C.F.R. § 512.15(d). The Confidential Information qualifies as “confidential” under FOIA Exemption 4 because GM does not customarily release or otherwise provide the Confidential Information or information like the Confidential Information to the public. *See Food Mktg. Inst. v. Argus Leader Media*, 139 S. Ct. 2356 (2019).

GM treats the Confidential Information as confidential and proprietary, and makes it available only on an as-needed basis to authorized GM and supplier personnel. GM utilizes numerous systems and processes that limit access to and prevent unauthorized disclosures of the Confidential Information, including: (i) password-protected electronic record-keeping systems; (ii) security systems that limit physical access to GM electronic and hard-copy record-storage facilities; and (iii) information-security training that emphasizes the importance of preventing unauthorized disclosures of information like the Confidential Information. Based on past experience with the Agency, it is GM’s expectation that the Agency will keep the Confidential Information confidential, in accordance with *Food Marketing Institute*.

The documents in GM’s submission may also contain personally identifiable information (“PII”) (e.g., vehicle registration information or VIN, employee names, and customer/employee contact information) that is exempt from public disclosure under FOIA exemptions three and six. 5 U.S.C. § 552(b)(3); *id.* at § 552(b)(6). Consistent with long-standing practice, GM is submitting these documents with unredacted PII with the understanding that NHTSA (or GM, if NHTSA prefers) will redact any PII before disclosing these documents to the public.

**D. Information obtained from a third party (49 C.F.R. § 512.9)**

Certain portions of the Confidential Information were created by and provided to GM by Nikon Metrology, Inc., MGA Research Corporation, Autoliv ASP, Inc. and ZF Passive Safety Systems (collectively the “Supplier Confidential Information”). This Supplier Confidential Information discloses the analysis and evaluation methodology performed by these suppliers for GM at GM’s direction; it is highly sensitive information that, like the other Confidential Information, GM does not customarily provide to the public. As required by 49 CFR § 512.9, GM has enclosed third-party certifications signed by these suppliers.

**E. Applicable class determinations (49 C.F.R. § 512.8(d))**

The Confidential Information may be subject to a Class Determination.

**F. Duration of confidential treatment (49 C.F.R. § 512.8(e))**

Because GM does not anticipate ever customarily disclosing this kind of information to the public, GM requests that NHTSA treat the Confidential Information as confidential without a time limitation.

**G. Contact information (49 C.F.R. § 512.8(f))**

Please direct all inquiries and responses to this request to: Tim Cochran ([tim.cochran@gm.com](mailto:tim.cochran@gm.com)), General Motors LLC, Cole Engineering Center, 29427 Louis Chevrolet Rd., Warren, MI 48093, 586-441-8004.

If NHTSA receives a request to disclose the Confidential Information, GM respectfully requests notification and an opportunity to provide, if necessary, additional support for its position that the Confidential Information is entitled to confidential treatment under FOIA.

Sincerely,



Timothy Cochran, Senior Manager  
External Investigations

cc: Tanya Topka  
Sharon Yukevich

**Attachments**

- Attachment A: Supporting Certificate of Timothy Cochran
- Attachment B: Supporting Certificate of Jim Clark (Nikon)
- Attachment C: Supporting Certificate of Helen Kaleto (MGA)
- Attachment D: Supporting Certificate of Maryann Pierce Perttunen (Autoliv)
- Attachment E: Supporting Certificate of John Donnellon (ZF)

## **Attachment A**

Supporting Certificate of Timothy Cochran

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

I, Timothy Cochran, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the Senior Manager of External Investigations at General Motors LLC and am authorized to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM's letter to Ms. Ann Carlson dated November 15, 2021) is confidential and proprietary data and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) I hereby request that the Confidential Information be protected without a time limitation.
- (4) This certification is based on information provided to me by the GM personnel who have responsibility for the documents that contain the Confidential Information.
- (5) Based on that information, to the best of my knowledge, information, and belief, the Confidential Information has never been released or made available outside GM except to authorized GM contractors, suppliers, confidential advisors, and other third parties who are legally obligated to maintain the confidentiality of the Confidential Information.
- (6) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding unauthorized or inadvertent disclosures of the Confidential Information.
- (7) I certify under penalty of perjury that the foregoing is true and correct. Executed on November 15, 2021.

*Timothy Cochran*

Timothy Cochran  
Senior Manager  
GM External Investigations

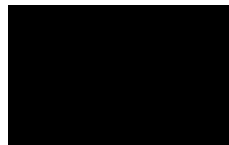
## **Attachment B**

Supporting Certificate of Jim Clark

## CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Jim Clark, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the President of Nikon Metrology Inc. (“Nikon”) and am authorized to execute this certificate on its behalf.
- (2) I certify that the Supplier Confidential Information (as defined in GM’s letter to Ms. Ann Carlson dated November 15, 2021) that was supplied to GM by Nikon (the “**Nikon Confidential Information**”) is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the Nikon personnel who have responsibility for the documents that contain the Nikon Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the Nikon Confidential Information has never been released or made available outside of Nikon and GM except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the Nikon Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct. Executed on November 5, 2021.



Digitally signed by Jim Clark  
DN: cn=Jim Clark, o=Nikon  
Metrology, Inc., ou,  
email=jim.clark@nikon.com, c=US  
Date: 2021.11.05 11:08:28 -04'00'

Jim Clark - President  
Nikon Metrology Inc.

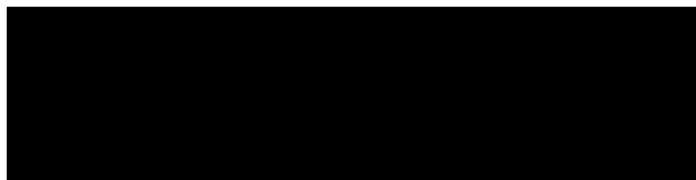
## **Attachment C**

Supporting Certificate of Helen Kaleto

## CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Helen A. Kaleto, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the Laboratory Manager of MGA Research Corporation (“MGA”) and am authorized to execute this certificate on its behalf.
- (2) I certify that the Supplier Confidential Information (as defined in GM’s letter to Ms. Ann Carlson dated November 15, 2021) that was supplied to GM by MGA (the “MGA Confidential Information”) is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the MGA personnel who have responsibility for the documents that contain the MGA Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the MGA Confidential Information has never been released or made available outside of MGA and GM except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the MGA Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct. Executed on November 9, 2021.



Helen A. Kaleto  
MGA Research Corporation

## **Attachment D**

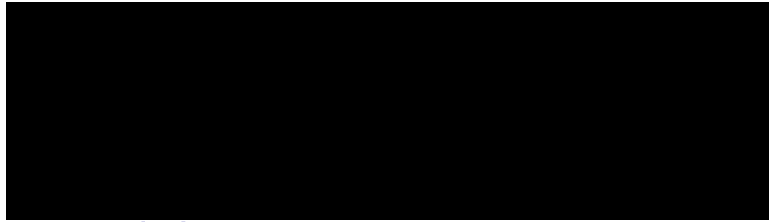
Supporting Certificate of Maryann Pierce Perttunen

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

I, Maryann Pierce Perttunen, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am Vice President Legal for Autoliv ASP, Inc. (“Autoliv”) and I am authorized by Autoliv to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM’s letter to Ms. Ann Carlson dated November 15, 2021) that was supplied to GM by Autoliv (the “**Autoliv Confidential Information**”) is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the Autoliv personnel who have responsibility for the documents that contain the Autoliv Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the Autoliv Confidential Information has never been released or made available outside of Autoliv and GM except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the Autoliv Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct.

Executed on November 10, 2021.



Maryann Pierce Perttunen

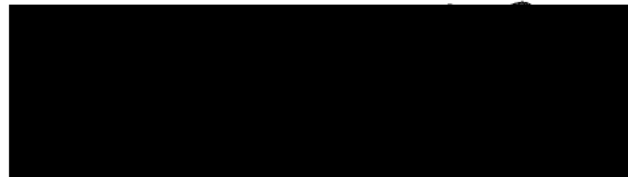
## **Attachment E**

Supporting Certificate of John Donnellon

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

I, John Donnellon, pursuant to the provisions of 49 C.F.R. § 512, state as follows:

- (1) I am the Engineering Manager of ZF Passive Safety Systems (“**ZF**”) and am authorized to execute this certificate on its behalf.
- (2) I certify that the Supplier Confidential Information (as defined in GM’s letter to Ms. Ann Carlson dated November 15, 2021) that was supplied to GM by ZF (the “**ZF Confidential Information**”) is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the ZF personnel who have responsibility for the documents that contain the ZF Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the ZF Confidential Information has never been released or made available outside of ZF and GM except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the ZF Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct. Executed on 11-Nov-2021.



John Donnellon  
ZF Passive Safety Systems