



January 29, 2021

Ann Carlson
Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590
ATTN: Tom Healy

Re: Request for Confidential Treatment – Response to PE20-020

Dear Ms. Carlson,

Pursuant to the provisions of 5 U.S.C. § 552(b)(4) and 49 C.F.R. § 512, Tesla, Inc. (“Tesla” or the “Company”), requests the National Highway Traffic Safety Administration (“NHTSA” or the “Agency”) for confidential treatment of all of the information in the attached response, including all accompanying documents, the collection of which are being provided in response to the information request for PE20-020 (the “Submission”).

The information contained in the Submission is proprietary and confidential, and has been labeled as such. Tesla has taken measures to ensure the foregoing identified information has not been disclosed, released publicly, or otherwise become available to any person outside of the Company, except as portions of it may have been made available as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisors, or as discussed below. Some of the information contained in the Submission may have been released to outside consultants under binding nondisclosure agreements or similar mechanisms, or shared confidentially with other government agencies. Such disclosures do not compromise the confidential nature of the information because of the obligations of confidentiality imposed upon such advisors. Accordingly, Tesla seeks confidential treatment for all of the information contained in the Submission, as marked with the phrase “Confidential Business Information” on each page and/or “CBI” in the file name.

Competitive Harm. The information is entitled to confidential treatment because release would cause substantial competitive harm to Tesla. The Submission reveals the process by which Tesla identifies and examines field incidents, learns from vehicles through data collection, how Tesla conducts customer service, and how Tesla’s software and vehicle technology work. Additionally, the Submission contains detailed proprietary information about Tesla’s media control unit.

Tesla considers all of the information in the Submission to be wholly confidential and proprietary, and we take extensive measures to guard and protect it, even internally. Public disclosure would enable competitors to gain substantial competitive knowledge and an unfair advantage over Tesla. The information is commercially valuable because it would provide competitors with means to improve their own vehicle design and monitoring of field incidents. Other nefarious actors could use the information to smear Tesla's brand for the sake of notoriety, much to the Company's detriment. Absent public disclosure, access to the information and all of the knowledge gained from it would require significant expenditure of time and resources and very intimate knowledge about Tesla.

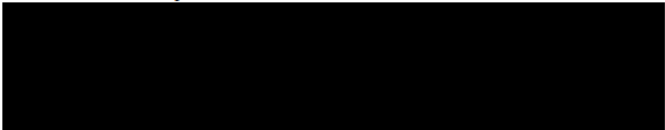
In addition, NHTSA has provided at least some assurances to Tesla that it will keep this type of information private. Tesla regularly requests confidential treatment for information of this nature, and NHTSA has a long history of categorically treating this kind of information as confidential. Accordingly, the Submission should be deemed "confidential" within the meaning of FOIA Exemption 4. *See Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356, 2366 (2019) ("[W]here commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is 'confidential' within the meaning of Exemption 4.").

Personal Identifying Information and Service History. Finally, NHTSA has stated that it will protect personally identifying information, such as name, address, telephone number, or the last six digits of any vehicle identification number ("VIN"). The Submission contains many full VINs and personal information about our customers. Tesla believes information about our customers or their vehicles should be treated confidentially because our customers would not have intended for it to be released to the general public. We believe this is further reason for NHTSA to protect the confidentiality of the Submission in entirety.

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Based on the foregoing, we request that confidentiality be granted in perpetuity for the entire Submission. Thank you for your consideration. If you have any questions regarding this request, you may contact me at erwilliams@tesla.com.

Sincerely,



Eric C. Williams
Associate General Counsel, Regulatory