



July 1, 2022

Ann Carlson  
Chief Counsel  
National Highway Traffic Safety Administration  
1200 New Jersey Ave, S.E.  
Washington, D.C. 20590  
Attention: Thomas Healy

Re: Request for Confidential Treatment – Tesla's Response to Information Request regarding EA21-002

Dear Ms. Carlson,

Pursuant to the provisions of 5 U.S.C. § 552(b)(4) ("FOIA Exemption 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 document regarding the subject matter that has been submitted via a Secure Large File Transfer Solution link provide by the Agency (the "Submission").

The information contained in the Submission is proprietary, confidential, and otherwise not publicly available, and has been labeled accordingly. Tesla customarily treats this type of information as private, or at least closely held, and it does not customarily disclose the information outside of the company or make it public in any way, except that 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 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 certain vehicle production details and the performance validation testing results for certain vehicle safety components.

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

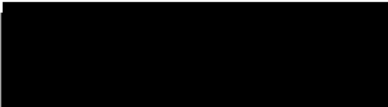
competitors to gain substantial competitive knowledge and an unfair advantage over Tesla. The information is commercially valuable because it would provide competitors with means to improve their own vehicle design. Other nefarious actors could use the information to smear Tesla's brand for the sake 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.** 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 a full VIN, and we believe this information should be treated confidentially because our customer 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.

\* \* \*

Based on the foregoing, Tesla seeks confidential treatment in perpetuity for all the information contained in the Submission, as marked with the phrase "Confidential Business Information" on each page and "CBI" in the file name. Thank you for your consideration. If you have any questions regarding this request, you may contact me at [dkim@tesla.com](mailto:dkim@tesla.com).



David Kim  
*Corporate Counsel, Regulatory*