INFORMATION REDACTED PURSUANT TO THE FREEDOM OF INFORMATION ACT (FOIA), 5 U.S.C. 552(B)(6)

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CLIENT/MATTER NUMBER
130954-0101

November 3, 2022

**Via U.S. DOT's SLFTS**

John Donaldson
Acting Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: LG Energy Solution Michigan, Inc. – Request for Confidential Treatment for its Response to the October 5, 2022 Information Request – EQ22-001

Dear Mr. Donaldson:

This letter serves as the request for confidential treatment by LG Energy Solution Michigan, Inc. ("LGES") with respect to the enclosed Excel file, which is being submitted in response to the Agency's October 5, 2022 Information Request in the above-referenced Equipment Query.

In accordance with 49 C.F.R. Part 512.5, LGES is submitting the file with the file name and its contents marked "CONFIDENTIAL BUSINESS INFORMATION." The file contains detailed customer information and sales data, including sales volumes by year for each customer. Also enclosed is a Certificate in Support of Confidentiality. To facilitate social distancing due to COVID-19, NHTSA is treating electronic submissions, using email or secure File Transfer Protocol (FTP), as an acceptable method for submitting confidential business information. *See* https://www.nhtsa.gov/coronavirus/submission-confidential-business-information. Because LGES is submitting this information via the U.S. Department of Transportation's "Secure Large File Transfer Solution" ("SLFTS"), the request includes a single copy of the confidential file.

As set forth below, LGES requests confidential treatment for the enclosed material on the ground that it contains trade secrets and/or confidential, proprietary information that is closely held by LGES and would likely subject LGES to substantial competitive harm if disclosed. *See* 49 C.F.R. § 512.3(c)(1) and (2); *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2364 (2019) (FOIA Exemption 4 protects information that "is customarily kept private, or at least closely held, by the person imparting it"); *National Parks & Conservation Ass'n v. Morton*, 498

F.2d 765, 770 (D.C. Cir. 1974) ("commercial or financial matter is 'confidential' . . . if disclosure of the information is likely to . . . cause substantial harm to the competitive position of the person from whom the information was obtained."); *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (a trade secret is a "secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort"); *Center for Auto Safety v. Nat'l Hwy. Traffic Safety Admin.*, 93 F. Supp. 2d 1, 16 (D.D.C. 2000), *remanded for further proceedings*, 244 F.3d 144 (D.C. Cir. 2001) (air bag specifications representing "years of research and development and enormous financial investment" not subject to FOIA disclosure).

LGES requests confidential treatment for the information provided in the file named "Conf Bus Info – Response to EQ22001 (Oct. 5, 2022) IR Req. No. 1.xlsx." The file contains valuable customer information and sales data. This information is the product of LGES's extensive marketing efforts and involved significant financial investment, and it is "customarily kept private" and "closely held" by LGES. *See Food Marketing Institute v. Argus Leader Media, supra*. As the Agency is aware, the automotive industry is highly competitive and closely guards against public disclosure of such information. Disclosure of this information would compromise LGES's position by, among other things, reducing or eliminating its competitors' investment of time and resources in developing its own customers, as well as provide valuable competitive insight into LGES's sales to specific customers and production capacity. Accordingly, LGES requests that this information be granted confidential treatment for an indefinite period of time.

Please contact me if you have any questions or need additional information.

Sincerely,

[redacted]

Christopher H. Grigorian

CHG:krb
Enclosures

cc: Choon Lee (NHTSA ODI)
Thomas Healy (NHTSA NCC)
Hye Jin Lee (LGES)

**Certificate in Support of Request for Confidentiality**

I, Hye Jin Lee, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am the Legal Manager of LG Energy Solution Michigan, Inc. ("LGES MI") and I am authorized to execute this certificate on behalf of LGES MI and LG Energy Solution, Ltd. ("LGES").

(2) I certify that the information accompanying this confidential treatment request is confidential and proprietary and is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 552(b)(4).

(3) I hereby request that the information be protected indefinitely.

(4) This certification is based on the information provided by the responsible LGES and LGES MI personnel who have authority in the normal course of business to release the information for which a claim of confidentiality has been made to ascertain whether such information has ever been released outside LGES or LGES MI.

(5) Based upon that information, to the best of my knowledge, information and belief, LGES and LGES MI do not customarily release this information to the public. Further, the information for which confidential treatment is being sought has never been released or become available outside LGES or LGES MI, with exception of being shared within the scope of confidential customer-supplier relationships.

(6) I make no representations beyond those contained in this certificate and, in particular, I make no representations as to whether this information may become available outside LGES or LGES MI because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).

(7) I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 3d day of November, 2022.



Hye Jin Lee/
Chief Legal Counsel
LG Energy Solution Michigan, Inc.