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

Aurora

April 10, 2023

John Donaldson
Acting Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Avenue, S. E.
West Building W41-227,
Washington, D.C. 20590

***Re: Request for Confidential Treatment**: Aurora Innovation, Inc.'s PE22-014 Submission, Questions 2-5; Hard Braking*

Dear Mr. Donaldson,

Pursuant to the provisions of 49 C.F.R. Part 512 and 5 U.S.C. 552(b)(4), Aurora Innovation, Inc. (Aurora or the Company) requests the National Highway Traffic Safety Administration (NHTSA or the Agency) grant confidential treatment for all of the information in Aurora's submission, PE22-014, Questions 2-5; Hard Braking (Questions 2-5; Hard Braking Submission), submitted to NHTSA on March 7, 2023.

All information contained in the PE22-014 Questions 2-5; Hard Braking Submission is proprietary and considered privileged and confidential, and has been labeled as such. Aurora has taken measures to ensure the information has not been customarily disclosed, made available to the public, or otherwise become available to any person outside of the Company. Although portions of this information may be given to counsel, other confidential advisors, or others pursuant to binding Nondisclosure Agreements (NDAs) or similar mechanisms, such disclosures do not compromise the confidential nature of the information because of the obligations of confidentiality imposed upon such advisors. Moreover, Aurora employs a number of industry-leading security and privacy solutions to maintain the secrecy of the Questions 2-5; Hard Braking Submission. Specifically, the information is internally known only to certain Aurora executives, officers, and employees who "need to know" the information in the performance of their duties, and Aurora employes a number of

software-based and physical restrictions that ensure that only those “need to know” executives, officers and employees have access to the information. All Aurora employees, temporary employees, vendors, and contractors must sign confidentiality agreements before beginning to work at Aurora. Those agreements prohibit the disclosure of any information learned through the course of their work with Aurora. Accordingly, the Company seeks confidential treatment for all the information contained in its response to Questions 2-5; Hard Braking Submission, as marked with the phrase "Confidential Business Information."

Additionally, the information in the Company’s Questions 2-5; Hard Braking Submission is entitled to confidential treatment under 5 U.S.C. § 552(b)(4) and 49 C.F.R. § 512 because release of this information would cause substantial competitive harm to Aurora. The emerging industry devoted to the development of autonomous vehicle technology is highly competitive. The information outlines specific business information regarding Aurora’s business practices, identifying VINs and including its asset utilization and management practices. If released, such information would cause substantial competitive harm to Aurora by revealing to competitors information about Aurora’s proprietary operations not otherwise available outside of the Company.

Specifically, the Questions 2-5 Submission could provide insights into Aurora's business practices and decision-making, including detailed methods the Company uses to evaluate its systems and factors considered. The submission responses reveal the processes by which Aurora examines issues of interest, as well as the protocols Aurora follows when identifying and examining problems. Such information is commercially valuable to competitors because it provides them with additional insight on how to improve their own business processes in identifying similar problems.[1] As such, the submission should be granted confidentiality.

Moreover, although some of the information contained in the submission may be available publicly, it should not be considered publicly available so as to defeat confidentiality here.

[1] Confidential Business Information, Final Rule, 72 Fed. Reg. 59434, 59,459 (Oct. 19, 2007).

The court has stated that where information is available from another source, it will consider two additional considerations: (1) the commercial value of the requested information, and (2) the cost of acquiring the information through other means. Where competitors can acquire the information only at considerable cost, agency disclosure may well benefit the competitors at the expense of the submitter and therefore, the information should be kept confidential.[2] In this case, while some of the public statements may be available outside of Aurora, the statements were not used publicly as part of an analysis as the sum total of all such statements publicly or privately made to or by the Company, and as such, have the potential for considerable benefit to competitors.

* * *

Accordingly, Aurora requests that confidentiality be granted in perpetuity for Aurora's Questions 2-5; Hard Braking Submission, and would appreciate notifying us of your decision as soon as practicable. Thank you for your consideration. If you have any questions regarding this request, you may contact me at callen@aurora.tech.

Kind regards,



Charity Allen
Deputy General Counsel, Regulatory

[2] *Worthington Compressors, Inc. v. Costle,* 662 F.2d 45 (1981).

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, Charity Allen, pursuant to the provisions of 49 C.F.R. 512, state as follows:

(1) I am Deputy General Counsel for Aurora Innovation, Inc. ("Aurora"), and I am authorized by that company to execute documents on behalf of Aurora.

(2) Certain information contained in the *Aurora Innovation, Inc.'s PE22-014 Submission, Questions 2-5; Hard Braking, April 10, 2023* marked with the header "Confidential Business Information" is confidential and proprietary and Is being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. § 522(b)(4), as modified pursuant to 49 U.S.C.§ 32910.

(3) To the best of my knowledge, information and belief, the information for which Aurora has claimed confidential treatment has never been released or become available outside Aurora except hereinafter specified: the information or portions of it may have been made available as necessary for the purpose of obtaining advice and assistance from counsel and other confidential advisers who have signed written non-disclosure agreements or to foreign regulatory bodies who have requested such information where such submissions have been provided with a request for confidential treatment.

(4) 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 Aurora because of unauthorized or inadvertent disclosure except as stated in paragraph 3; and

(5) I certify under penalty of perjury that the foregoing is true and correct. Executed on this the 10th day of April, 2023.

Charity Allen
Deputy General Counsel