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

cruise

February 23, 2024

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

CONFIDENTIAL

VIA SECURE FILE TRANSFER

Re: Request for Confidential Treatment of Certain Information Submitted by Cruise LLC to NHTSA on February 23, 2024, in Connection with Response to PE23-018

Dear Acting Chief Counsel Donaldson:

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 Cruise LLC ("**Cruise**") to the National Highway Traffic Safety Administration ("**NHTSA**" or the "**Agency**") on February 23, 2024.

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

On February 23, 2024, Cruise submitted certain confidential materials (the "**Confidential Information**") as a supplemental file production ("**Supplemental Production**") to NHTSA's November 27, 2023, Information Request (ID23018-02) ("**IR**") issued in connection with NHTSA Preliminary Evaluation 23-018. The Confidential Information is certain information contained in Cruise's Supplemental Production indicated by the legend "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" at the top of each page or by the legend "CBI" in the title of each electronic file.

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

Cruise submitted its Supplemental Production electronically to Sharon Yukevich for the NHTSA Office of Defects Investigation via secure file transfer. Cruise's Supplemental Production contains a folder labeled "CONFIDENTIAL – Cruise – PE23-018 Supplement (02.23.2024)" that includes the nonpublic Confidential Information from Cruise's Supplemental Production. Cruise requests confidential treatment for all information contained in this folder. Consistent with Cruise's Physical Submission delivered to the Agency via encrypted hard drive on February 20, 2024, the Confidential Information contained in "CONFIDENTIAL – Cruise – PE23-018 Supplement (02.23.2024)" is organized into four subfolders:

- REQUEST_03_CBI
- REQUEST_06_CBI
- REQUEST_08_CBI
- UPI_CBI

Each of these four folders marked "CBI" contain the Confidential Information. The entirety of each folder marked CBI (including each file contained therein), is Confidential

Information and Cruise requests confidential treatment for all information contained in these folders. In addition, the Confidential Information is indicated by the legend "ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION" at the top of each page or by the legend "CBI" in the title of each electronic file.

Cruise's Supplemental Production also contains a folder labeled "NON-CONFIDENTIAL – Cruise – PE23-018 Supplement (02.23.2024)." This folder contains only those materials that do not include Confidential Information.

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

Cruise'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. The Confidential Information qualifies as "confidential" under FOIA Exemption 4 because Cruise 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). Disclosure of the Confidential Information would also likely cause competitive harm to Cruise because the autonomous vehicle industry is highly competitive, and the Confidential Information would reveal highly confidential design elements of Cruise automated driving systems, operational and internal procedures, as well as confidential and sensitive business matters.

Cruise treats the Confidential Information as confidential and proprietary and makes it available only on an as-needed basis to authorized Cruise personnel. Cruise utilizes numerous systems and processes that limit access to and prevent unauthorized disclosure of the Confidential Information, including: (i) password-protected electronic record-keeping systems; (ii) security systems that limit physical access to Cruise 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. It is Cruise's expectation that the Agency will keep the Confidential Information confidential, in accordance with *Food Marketing Institute*.

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

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

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

Please direct all inquiries and responses to this request to: Rachel Ross, Cruise LLC, Senior Counsel, Regulatory and Compliance, at rachel.ross@getcruise.com.

If NHTSA receives a request to disclose the Confidential Information, Cruise 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,

[redacted]

Steve Kenner
Chief Safety Officer
Cruise LLC

Attachments
Attachment A: Supporting Certificate of Steve Kenner

Attachment A

Supporting Certificate of Steve Kenner
Cruise LLC

CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

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

(1) I am the Chief Safety Officer for Cruise LLC and am authorized to execute this certificate on its behalf.

(2) I certify that the Confidential Information (as defined in Cruise's letter to Mr. John Donaldson, dated February 23, 2024) 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 my personal knowledge or on information provided to me by Cruise personnel who have responsibility for information like 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 Cruise except to authorized Cruise 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 disclosure of the Confidential Information.

(7) I certify under penalty of perjury that the foregoing is true and correct. Executed on this 23rd day of February, 2024.



Steve Kenner
Chief Safety Officer
Cruise LLC