



December 08, 2023

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

*VIA EMAIL*

G242565

NEF-106-JAE  
PE23-016

**Subject: Request for Confidential Treatment of Certain Information Submitted by General Motors LLC to the National Highway Traffic Safety Administration on December 08, 2023.**

Dear Mr. 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 General Motors LLC (“**GM**”) to the National Highway Traffic Safety Administration (“**NHTSA**”) on December 08, 2023.

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

On December 08, 2023, GM transferred certain confidential materials relating to Preliminary Evaluation 23-016 (the “**Confidential Information**”) electronically via SLFTS transfer<sup>1</sup> to Daniel Rabinovitz at the NHTSA Office of Chief Counsel and Joshua Neff at the NHTSA Office of Defects Investigation.

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

- **Public copy:** GM’s electronic submission contains a folder labeled G242565\_1\_GM. This folder contains a redacted public PDF copy of the requested information. GM has redacted the PDF to remove the Confidential Information.
- **Nonpublic copy:** GM’s electronic submission also contains a folder labeled G242565\_2\_GM\_CONF. This folder contains an unredacted nonpublic PDF copy of the requested information. The pages that contain Confidential Information are

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<sup>1</sup> GM submits this material electronically pursuant to NHTSA’s modified part 512 submission procedures published at <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information>.

stamped either “Entire Page GM Confidential Business Information.” For files in native format the filename includes CONF.

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

GM’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(d). The Confidential Information qualifies as “confidential” under FOIA Exemption 4 because GM 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).

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

The documents in GM’s submission may also contain personally identifiable information (“PII”) (e.g., vehicle registration information or VIN, employee names, and customer/employee contact information) that is exempt from public disclosure under FOIA exemptions three and six. 5 U.S.C. § 552(b)(3); *id.* at § 552(b)(6). Consistent with long-standing practice, GM is submitting these documents with unredacted PII with the understanding that NHTSA (or GM, if NHTSA prefers) will redact any PII before disclosing these documents to the public.

**D. Information obtained from a third party (49 C.F.R. § 512.9)**

Certain portions of the Confidential Information were created by and provided to GM by Elringklinger Automotive Manufacturing Inc. This material discloses the analysis and evaluation methodology performed by Elringklinger for GM at GM’s direction; it is highly sensitive information that, like the other Confidential Information in the presentation, GM does not customarily provide to the public. As required by 49 CFR § 512.9, GM has enclosed a third-party certification signed by Elringklinger.

**E. Applicable class determinations (49 C.F.R. § 512.8(d))**

The Confidential Information is not subject to a Class Determination.

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

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

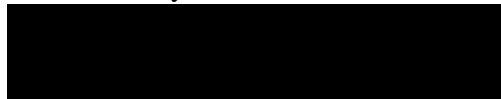
Letter to Mr. John Donaldson  
PE23-016 Confidentiality Request  
December 08, 2023

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

Please direct all inquiries and responses to this request to: Tim Cochran ([tim.cochran@gm.com](mailto:tim.cochran@gm.com)), General Motors LLC, Cole Engineering Center, 29427 Louis Chevrolet Rd., Warren, MI 48093, 586-441-8004.

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



Timothy Cochran, Senior Manager  
External Investigations

cc: Joshua Neff  
Tanya Topka  
Jacob Ebert  
Daniel Rabinovitz

**Attachments**

Attachment A: Supporting Certificate of Timothy Cochran  
Attachment B: Supporting Certificate of Thierry Constantino

## **Attachment A**

Supporting Certificate of Timothy Cochran

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

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

- (1) I am the Senior Manager of External Investigations at General Motors LLC and am authorized to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM's letter to Mr. John Donaldson dated December 08, 2023) 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 information provided to me by the GM personnel who have responsibility for the documents that contain 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 GM except to authorized GM 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 disclosures of the Confidential Information.
- (7) I certify under penalty of perjury that the foregoing is true and correct. Executed on December 08, 2023.

  
Timothy Cochran  
Senior Manager  
GM External Investigations

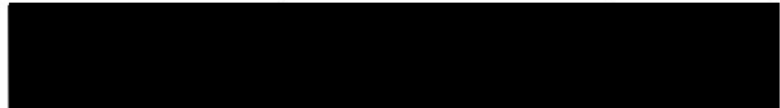
## **Attachment B**

Supporting Certificate of Tierry Constantino

**CERTIFICATE IN SUPPORT OF REQUEST FOR CONFIDENTIALITY**

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

- (1) I am the Quality & Sustainability Manager of ElringKlinger Automotive Manufacturing Inc. and am authorized to execute this certificate on its behalf.
- (2) I certify that the Confidential Information (as defined in GM's letter to John Donaldson dated December 08, 2023) that was supplied to GM by ElringKlinger Automotive Manufacturing Inc. (the "**Supplier Confidential Information**") is confidential and proprietary data under 5 U.S.C. 552(b)(4) and 49 C.F.R. § 512.
- (3) This certification is based on information provided to me by the ElringKlinger Automotive Manufacturing Inc. personnel who have responsibility for the documents that contain the Supplier Confidential Information.
- (4) Based on that information, to the best of my knowledge, information, and belief, the Supplier Confidential Information has never been released or made available outside of ElringKlinger Automotive Manufacturing Inc. and GM or other authorized parties subject to a confidentiality agreement except as required by law.
- (5) I make no representations beyond those contained in this certificate and, in particular, I make no representations regarding the potential for unauthorized or inadvertent disclosures of the Supplier Confidential Information.
- (6) I certify under penalty of perjury that the foregoing is true and correct. Executed on December 04, 2023.



Tierry Constantino  
ElringKlinger Automotive Manufacturing Inc.