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

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May 28, 2024

VIA U.S. DOT'S SLFTS

Adam Raviv
Chief Counsel
National Highway Traffic Safety Administration
W41-227
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Request for Confidential Treatment – Blue Compass RV, LLC– Partial Response to April 5, 2024 Information Request – AQ24-003

Dear Mr. Raviv:

This letter serves as the request for confidential treatment by Blue Compass RV, LLC (BCRV) with respect to the enclosed documents, which are being submitted in response to the Agency's April 5, 2024 information request in the above-referenced investigation.

In accordance with 49 CFR 512.5, BCRV is submitting the information with the file name and contents of the file marked "CONFIDENTIAL BUSINESS INFORMATION." The enclosed information contains detailed sales information and review of processes used by BCRV related to units subject to a safety recalls. Also enclosed is a Certificate in Support of Confidentiality from BCRV. Because some of the data contained in BCRV's response was obtained from Alliance RV, we are providing a separate Certificate in Support of Confidentiality signed by Alliance RV. 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 BCRV 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, BCRV requests confidential treatment for the enclosed materials on the grounds that they contain trade secrets and/or confidential, proprietary information that is closely held by BCRV and would likely subject BCRV to substantial competitive harm if disclosed. *See* 49 CFR 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); see also *Renewable Fuels Ass'n v. U.S. Envtl. Prot. Agency*, 519 F. Supp. 3d 1 (D.D.C. 2021) and *Naumes v. Dep't of the Army*, No. 21-1670, 2022 WL 17752206 (D.D.C. Dec. 19, 2022).

Specifically, the enclosed material contains the following information:

- CONF BUS INFO – AQ24003 IR BCRV Request No. 1 Supp. ARV Data (28 May 2024 Response).xlsx: This file contains information obtained from Alliance RV related to recalled units, with supplemented information from BCRV. The data contains detailed sales information (including complete vehicle identification numbers (VINs))
- CONF BUS INFO - AQ24003 IR BCRV Request No. 1 Sales Data (28 May 2024 Response).xlsx: This file contains BCRV's sales and inventory volumes of Alliance RV products (including complete VINs) and the specific dealership locations of these sales.
- Redacted portions of the written response to Request No. 3: The redacted portions of the response to Request No. 3 include descriptions of sales process and methods used by BCRV dealership locations to ensure that recalled units are remedied prior to delivery to the consumer.

BCRV closely guards against public disclosure of such information, and it is "customarily kept private" and "closely held" by BCRV. *See Food Marketing Institute v. Argus Leader Media, supra*. Disclosure of this information would provide a treasure trove of closely held information regarding BCRV's sales volumes and inventories, which are key metrics for dealerships in this market. Releasing such information would permit BCRV's competitors to target specific markets to compete with BCRV without incurring the substantial investment that would otherwise be required. Further, the redacted portions of the written response to Request No. 3 could provide valuable information to competitors regarding BCRV's processes for preparing units for delivery to customers. Thus, substantial competitive harm to BCRV is a reasonably foreseeable consequence of public disclosure.

Accordingly, BCRV requests that this information be granted confidential treatment indefinitely.

Please contact me if you have any questions.

Sincerely,

[redacted]

Christopher H. Grigorian

Enclosures

cc: Alexander Ansley (NHTSA ODI)
Matthew Brisson (NHTSA ODI)
Thomas Healy (NHTSA NCC)
Nick Englund (Foley & Lardner)

Certificate in Support of Request for Confidentiality

I, Jennifer Robinson, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am Chief Financial Officer for Blue Compass RV, LLC (BCRV), and I am authorized to execute this certificate on behalf of BCRV.

(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 BCRV 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 BCRV.

(5) Based upon that information, to the best of my knowledge, information, and belief, BCRV does 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 BCRV, with exception of being shared within the scope of confidential 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 BCRV because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).

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

Executed on this 23rd day of May 2024



Jennifer Robinson
Chief Financial Officer
Blue Compass RV, LLC

Certificate in Support of Request for Confidentiality

I, Curtis Carlson, pursuant to the provisions of 49 C.F.R. Part 512, state as follows:

(1) I am VP, Dealer Services, for Alliance RV and I am authorized to execute this certificate on behalf of Alliance RV.

(2) I certify that the information Blue Compass RV (BCRV) obtained from Alliance RV accompanying BCRV's 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 Alliance RV 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 Alliance RV.

(5) Based upon that information, to the best of my knowledge, information and belief, Alliance RV does 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 Alliance RV, with exception of being shared within the scope of confidential relationships, including with BCRV.

(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 Alliance RV because of unauthorized or inadvertent disclosure (except as stated in paragraph 5).

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

Executed on this 28th day of May 2024



Curtis Carlson
VP, Dealer Services
Alliance RV