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November 24, 2008

VIA FEDERAL EXPRESS

Mr. Anthony Cooke
Office of Chief Counsel
National Highway Traffic Safety Administration
1200 New Jersey Ave., SE
West Building, W41-227
Washington, D.C. 20590

RE: Workhorse Custom Chassis, LLC

Dear Mr. Cooke:

Workhorse Custom Chassis, LLC ("Workhorse") pursuant to the provisions of 49 C.F.R. Part 512, seeks confidential treatment of the attached information. Workhorse submits this information in connection with EA 07-016 and has attached the required documentation as outlined in 49 C.F.R. 512.

Very truly yours,

Chad E. Clark
Senior Attorney

CEC/mdt
Enclosures

Copy to: Rick Van Laar
Hennie Van Niekerk

WASHINGTON
20590
2008 NOV 25 P 12:46
OFFICE OF CHIEF COUNSEL

Certificate in Support of Request for Confidentiality

I, Hennie Van Niekerk, pursuant to the provisions of 49 CFR part 512, state as follows:

- (1) I am Chief Engineer: Engineering Services for Workhorse Custom Chasses, LLC ("Workhorse") and I am authorized by Workhorse to execute this certificate on its behalf;
- (2) I certify that the information contained in the documents described in the accompanying Request for Confidential Treatment and defined as Confidential Workhorse Material are confidential and proprietary data and are being submitted with the claim that it is entitled to confidential treatment under 5 U.S.C. 552(b)(4) and (b)(6);
- (3) I hereby request that the information contained in these documents be protected indefinitely;
- (4) This certification is based on the information provided by the responsible Workhorse 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 Workhorse;
- (5) Based upon that information, to the best of my knowledge, information and belief, the information for which Workhorse has claimed confidential treatment has never been released or become available outside Workhorse, except within the scope of its confidential relationship between Workhorse and its customer/suppliers;
- (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 Workhorse because of unauthorized or inadvertent disclosure (except as stated in paragraph 5); and
- (7) I certify under penalty of perjury that the foregoing is true and correct.

Executed on this 11/23/2008 day of November, 2008.



WORKHORSE CUSTOM CHASSIS, LLC'S REQUEST FOR CONFIDENTIAL TREATMENT OF PROPRIETARY INFORMATION REGARDING EA 07-016

Workhorse Custom Chassis, LLC ("Workhorse") seeks confidential treatment, pursuant to 49 C.F.R. Part 512 and Exemptions 4 and 6 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4) and (b)(6) for the information Workhorse is submitting to NHTSA in connection with EA 07-016. The information required by the applicable NHTSA regulations is set forth below. Also, as required by NHTSA regulations, a certificate in the form set out in Appendix A to 49 C.F.R. Part 512 is attached.

§ 512.8(a) – Information for Which Confidential Treatment is Requested

The documents for which Workhorse seeks confidential treatments include four detailed consumer complaints and portions of an Excel file summarizing consumer complaints. Workhorse seeks confidential treatment for the following information contained in the Excel file: Cause Description (Column D), Complaint Description (Column E), Correction Description (Column G), VIN (Column N), VIN 8 (Column O), and Warranty Text (Column R). Workhorse also seeks confidential treatment for the four detailed consumer complaints. The Excel file contains VIN numbers and Workhorse personnel's summary of consumer complaints. The four detailed consumer complaints contained potentially identifying information of consumers and owners of Workhorse vehicles. The Excel file and four complaints are hereinafter referred to as "Confidential Workhorse Material."

§ 512.8(b) – Applicable Confidentiality Standard

The applicable confidentiality standard is set forth at 49 C.F.R. § 512.15(b), (d) and (e). Under the standard set forth in § 512.15(b), information is exempt from disclosure if its disclosure would cause substantial harm to the competitive position of the submitter. Exemption 4 of the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(4), protects the confidentiality of information that would be likely to cause substantial competitive harm to the submitter if disclosed, and was enacted to prevent disclosures that would "eliminate much of the time and effort that would otherwise be required to bring to market a product competitive with the [submitter's] product." *See, e.g., 49 C.F.R. § 512.15(b); Nat'l Parks & Conversation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *Public Citizen Health Research Grp. V. FDA*, 185 F.3d 898, 905 (D.C. Cir. 1990). Workhorse believes this standard applies to the four detailed consumer complaints and the Excel file: Cause Description (Column D), Complaint Description (Column E), Correction Description (Column G), and Warranty Text (Column R).

Workhorse also requests confidentiality pursuant to § 512.15(e) and 5 U.S.C. § 552(b)(6) because the documents contain personal information related to vehicle owners, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Workhorse believes this standard applies to the four detailed consumer complaints and the Excel file: VIN (Column N) and VIN 8 (Column O).

Finally, Workhorse requests confidentiality pursuant to § 512.15(d) because NHTSA made an informal (oral) request for the information. Workhorse believes this standard applies to the Confidential Workhorse Material.

§ 512.8(c)(2) – Description of Substantial Competitive Harm

Disclosure of the Workhorse's assessment (detailed consumer complaints and Excel File: Cause Description (Column D), Complaint Description (Column E), Correction Description (Column G), and Warranty Text (Column R)) would provide competitors valuable insight into Workhorse's field experiences with respect to this product line and the subject brake system. Competitors could use this information to make product improvement, design and/or component sourcing decisions with respect to their competing chassis products without investing the substantial time and resources that would otherwise be necessary to develop this information.

Furthermore, disclosure of this information (detailed consumer complaints and Excel File: Warranty Text (Column R)) would also reveal Workhorse's warranty reimbursement and goodwill policies.

§ 512.8(c)(4) – Voluntary Submission – Data Not Customarily Available to the Public

The information contained in the Confidential Workhorse Material has not been distributed outside of Workhorse. This data is used to enhance customer service and to identify trends. Workhorse is willing to provide the data for NHTSA based on NHTSA's informal (oral) request with the understanding that the confidential information will not become public.

§ 512.8(c)(5) – Otherwise Entitled to Protection

The four detailed consumer complaints and Excel File: VIN (Column N) and VIN 8 (Column O) contain personal identifying information, which is subject to confidential treatment under 5 U.S.C. § 552(b)(6) and 49 C.F.R. 512.15(e). *See U.S. Dept. of State v. Washington Post Co.*, 456 U.S. 595, 602 (1982). Disclosure of this personal information would constitute an unwarranted invasion of the personal privacy of the individuals identified in these materials. No public benefit would be derived from disclosure of this information.

§ 512(d) – Class Determinations

The Confidential Workhorse Material is not subject to a class determination.

§ 512(e) – Time Period for Which Confidential Treatment is Sought

Workhorse anticipates that this information will continue to have great competitive value for the foreseeable future. Accordingly, Workhorse requests that the information be protected from disclosure permanently.

§ 512(f) – Name and Address of Contact

Please direct inquiries regarding this matter to Chad E. Clark, Senior Attorney, Navistar, Inc., 4201 Winfield Road, Warrenville, IL 60555, at (630) 753-2174.