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June 5, 2017

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street N.W.
Washington, DC 20554

Re: Request for Confidential Treatment, Experimental License File No. 0428-EX-CN-2017

Dear Ms. Dortch:

Pursuant to the provisions of Sections 0.457 and 0.459 of the Commission's rules governing the submission of confidential materials,¹ SkySafe respectfully requests that the entire scope of its test plan, including vendor information, included in the attached application be afforded confidential treatment and not be placed in the Commission's public files. SkySafe is providing this information to the Commission in a confidential exhibit to accompany its application for an Experimental License, File No. 0428-EX-CN-2017. The confidential information qualifies as "commercial or financial information" that "would customarily be guarded from competitors" regardless of whether or not such materials are protected from disclosure by a privilege, is closely held by SkySafe, is not available to the public, and not revealed except under cover of confidentiality.² SkySafe therefore requests that the Commission "not permit the inspection" of these materials.³

In support of this request and pursuant to 47 C.F.R. § 0.459(b), SkySafe makes its request for confidential treatment based on the following information:

1. SkySafe seeks confidential treatment for the entire scope, specifications, and objectives of the experiments to be conducted under this application.

¹ 47 C.F.R. §§ 0.457, 0.459.

² See 47 C.F.R. § 0.457(d); *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992) ("[W]e conclude that financial or commercial information provided to the Government on a voluntary basis is 'confidential' for the purpose of Exemption 4 if it is of a kind that would customarily not be released to the public by the person from whom it was obtained.").

³ 47 C.F.R. § 0.451.

2. The confidential information is being submitted to the Commission to assist in the review of the attached experimental license application.

3. The information regarding SkySafe's proposed experiments is privileged commercial information and is restricted solely to SkySafe.

4. The market for unmanned aircraft technologies is innovative, fast-developing, and highly competitive. SkySafe's business developing drones for airspace security is subject to competition from other drone manufacturers, equipment vendors, and developers of other technologies being marketed to the public safety community.

5. Due to the highly competitive nature of SkySafe's business, disclosure of information about its test plans would result in substantial competitive harm to SkySafe. Knowledge of SkySafe's vendors and specifications of its testing plan would allow competitors to infer or confirm information about SkySafe's business strategy of which they are currently unaware or uncertain, and could jeopardize the competitive position of SkySafe and any vendor it works with.

6. SkySafe strictly limits information about its vendors and test plans to SkySafe employees.

7. Information about SkySafe's test plans and the vendors for its test equipment is not publicly available.

8. SkySafe requests that the proprietary information be withheld from disclosure for an indefinite period, at a minimum the entire duration of the experimental license.

9. The unmanned aircraft systems market is fast-growing and highly competitive. The timing and progress of SkySafe's product research and development process, and its ability to maintain the confidentiality of its test plans will substantially contribute to the success of its product launch. The premature disclosure of SkySafe's test plan information would harm the competitive position of SkySafe and its vendors.

Additionally, SkySafe notes that a denial of its request would impair the Commission's ability to obtain this type of voluntarily disclosed information in the future, hindering the agency's application review process. Encouraging cooperation with the government by parties having information useful to officials and enhancing a government agency's ability to obtain confidential information are the legislative intent for developing exemptions from the Freedom of Information Act.⁴ The U.S. Court of Appeals for the D.C. Circuit has recognized a "private interest in preserving the confidentiality of information that is provided to the Government on a voluntary basis."⁵

⁴ See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 878 (D.C. Cir. 1992) ("Where, however, the information is provided to the Government voluntarily, the presumption is that [the Government's] interest will be threatened by disclosure as the persons whose confidences have been betrayed will, in all likelihood, refuse further cooperation."); see also *Ctr. for Auto Safety v. Nat'l Highway Traffic Safety Admin.*, 244 F.3d 144, 147-48 (D.C. Cir. 2001).

⁵ *Critical Mass Energy Project*, 975 F.2d at 879.

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SkySafe is submitting a confidential exhibit providing information regarding the specifications of the experiments to be conducted under this application. SkySafe requests that the Commission return this submission if its request for confidentiality is denied.⁶ Please direct any questions to the undersigned.

Respectfully submitted,

/s/ Trey Hanbury

Trey Hanbury, Counsel to SkySafe

⁶ See 47 C.F.R. § 0.459(e).