

August 31, 2012

Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: STA File Number 0691-EX-ST-2012

REQUEST FOR CONFIDENTIAL TREATMENT

Dear Sir:

Pursuant to Sections 0.457(d) and 0.459 of the Commission's Rules, 47 CFR §§ 0.457(d) and 0.459, the Freedom of Information Act, 5 U.S.C. § 552 ("**FOIA**"), and the Trade Secrets Act, 18 USC § 1905, Space Exploration Technologies Corp. ("**SpaceX**") respectfully requests that the confidential information submitted herewith (the "**Confidential Materials**") not be placed in the public file and otherwise be withheld from public inspection.

The Confidential Materials consist of:

- **F9-004 Downrange Receiving Stations**

The Confidential Materials are being submitted in connection with SpaceX's request for Special Temporary Authority (STA File Number 0657-EX-ST-2011) for the upcoming SpaceX Dragon C2 demonstration mission to the International Space Station (ISS). SpaceX is performing this demonstration for the National Aeronautics and Space Administration (NASA) pursuant to a Space Act Agreement (SAA) for Commercial Orbital Transportation Service (COTS) Demonstrations. The purpose of the mission is to demonstrate a low-cost, commercial capability to transport supplies (and eventually crews) to the ISS, and return them safely to the Earth.

SpaceX requests that the Confidential Materials be withheld from public disclosure by the Commission for an indefinite period, or for the maximum permissible time.

SpaceX has a proprietary right in its confidential commercial information. SpaceX has expended substantial financial and in-kind resources to organize and develop its business. SpaceX also has taken significant precautionary steps and measures to maintain and safeguard its confidential information, including the information contained in the Confidential Materials.

The Confidential Materials contain specific, sensitive proprietary technical, commercial, and financial information relating to SpaceX's Dragon spacecraft, including but not limited to details regarding mission design methodology, engineering analysis, and operations know-how.

SpaceX is subject to substantial competition from other commercial space transportation companies. Public disclosure of the Confidential Materials could allow SpaceX's competitors ready access to sensitive proprietary company information, which, under normal business circumstances, is not and would not be publicly disclosed. Among other things, such disclosure could enable unfair competition with SpaceX. Accordingly, public disclosure of any of the information contained in the Confidential Materials is likely to cause competitive injury and substantial irreparable harm¹ to SpaceX, and is therefore exempted from mandatory disclosure under FOIA Exemption 4,² and Section 0.457(d) of the Commission's rules, 47 C.F.R. § 0.457(d).

Moreover, portions of the Confidential Materials are also subject to statutory disclosure restrictions to prevent unauthorized export pursuant to Arms Export Control Act ("AECA")³ and the associated provisions of the International Traffic in Arms Regulations ("ITAR").⁴ The Commission's public records are readily accessible to foreign persons⁵ that cannot be readily identified for purposes of export control compliance. Accordingly, the AECA & ITAR controlled Confidential Materials should not be placed in the Commission's public file and should be otherwise withheld from public inspection pursuant to FOIA Exemption 3, which is invoked with respect to information prohibited from disclosure by another statute.⁶

For all the above-stated reasons, the Commission should grant SpaceX's present Request for Confidential Treatment, and should not place the Confidential Materials in the public file and otherwise should withhold the Confidential Materials from public inspection.⁷

If you require additional information, please contact the undersigned on (202) 649-2705 or via email at David.DenHerder@SpaceX.com.

Very respectfully,

David J. Den Herder
Senior Counsel

¹ See, e.g., *National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

² 5 USC § 552(b)(4). See, e.g., *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1290-91 (D.C. Cir. 1983).

³ 22 U.S.C. § 2778.

⁴ 22 C.F.R. §§ 120-130. Technical data relating to spacecraft systems and associated equipment are AECA & ITAR controlled.

⁵ 22 C.F.R. § 120.16.

⁶ 5 USC § 552(b)(3).

⁷ SpaceX requests immediate Commission notification of any request for disclosure of the Confidential Materials so that SpaceX can oppose such request or take other actions as deemed necessary.