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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

19 LYFT, INC.,  
 20 Plaintiff,  
 21 v.  
 22 AGIS SOFTWARE DEVELOPMENT LLC,  
 23 Defendant.

Case No. 5:21-cv-04653-BLF

**DECLARATION OF VINCENT J. RUBINO  
 IN RESPONSE TO LYFT’S MOTION TO  
 CONSIDER WHETHER ANOTHER  
 PARTY’S MATERIAL SHOULD BE  
 SEALED (DKT. 79)**

Dept: Courtroom 3 – 5th Floor  
 Judge: Hon. Beth Labson Freeman

Trial date: October 16, 2023

1 I, Vincent J. Rubino, hereby declare as follows:

2 1. I am a partner at the law firm of Fabricant LLP and counsel for AGIS Software  
3 Development LLC (“AGIS Software”). I am admitted to practice before this Court. I have  
4 personal knowledge of the facts stated in this declaration and can and would testify truthfully  
5 thereto if called upon to do so.

6 2. Pursuant to Civil L.R. 79-5, 7-11, and the Court’s Standing Order Governing  
7 Administrative Motions to File Materials Under Seal, I submit this declaration in support of  
8 Plaintiff Lyft Inc.’s (“Lyft”) Motion to Consider Whether Another Party’s Material Should be  
9 Sealed (“Motion”) (Dkt. 79).

10 3. AGIS Software has determined that the information requested to be sealed is  
11 narrowly tailored and able to overcome the presumption in favor of access to court records. AGIS  
12 Software also submits that there are compelling reasons to grant Lyft’s Motion to Consider  
13 Whether Another Party’s Material Should Be Sealed.

14 4. Specifically, the following documents submitted in connection with Lyft’s Motion  
15 should be sealed:

ECF or Ex. No.	Document	Portions to be Sealed	Reason(s) for Sealing
ECF 78	Plaintiff Lyft, Inc.’s Motion for Leave to File First Amended Complaint	Highlighted Portions at: <ul style="list-style-type: none"> <li>• Page 5: lines 6-12, 18, 23-26;</li> <li>• Page 6: line 4;</li> <li>• Page 7: lines 13-14</li> </ul>	The highlighted portions disclose information from Exhibits 7 and 11 to Plaintiff Lyft, Inc.’s Motion for Leave to File First Amended Complaint, which AGIS Software Development LLC (“AGIS Software”) designated as highly confidential. These highlighted portions contain confidential financial information, such as AGIS Software’s confidential bank records. They also contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. Revealing the identity and nature of third parties who

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1			have entered into licenses and/or settlement agreements with AGIS Software would be harmful if its contents became known to competitors of these third parties, would cause AGIS Software harm, and also violate the confidentiality provisions in those third party agreements. Moreover, the parties to these agreements have maintained the confidentiality of the information contained in the license agreements. <i>See Powertech Tech., Inc. v. Tessera, Inc.</i> , 2013 WL 12324116, at *19 (N.D. Cal. April 15, 2013) (granting a motion to seal a draft license agreement with a third party); <i>see also In re Elec. Arts, Inc.</i> , 298 Fed. Appx. 568, 569 (9th Cir. 2008) (finding the Court abused its discretion when it refused to seal “pricing terms, royalty rates, and guaranteed minimum payment terms” found in a license agreement); <i>Nixon v. Warner Commc'ns, Inc.</i> , 435 U.S. 589, 598 (1978) (holding that “sources of business information that might harm a litigant’s competitive standing” may give rise to a compelling reason to seal).
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18	ECF 78-2	Exhibit 1 to Declaration of Bethany R. Salpietra ISO Plaintiff Lyft, Inc.’s Motion for Leave to File First Amended Complaint (First Amended Complaint)	<p>Highlighted Portions at:</p> <ul style="list-style-type: none"> <li>• Page 5: lines 18-22</li> <li>• Page 14: lines 13-17;</li> <li>• Page 15: lines 25-28;</li> <li>• Page 16: lines 15-16, 20-27;</li> </ul> <p>AGIS Software submits that Lyft’s proposals to seal the following portions are unnecessary and do not require redaction:</p>
19			These highlighted portions that AGIS requests be sealed contain confidential financial information, such as AGIS Software’s confidential bank records. They also contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. They also contain information regarding the corporate structure and contents of agreements between business entities, including the identities of shareholders. Revealing the identity and nature of third parties who have entered into licenses and/or settlement agreements with AGIS Software would be harmful
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DECLARATION OF JUDICENT PUBLIC IN RESPONSE TO LYFT'S MOTION TO SEAL ECF 78-2

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		<ul style="list-style-type: none"> <li>• Page 4: lines 8-10, 16-17;</li> <li>• Page 15: lines 1, 16-19,</li> <li>• Page 16: lines 26-27,</li> <li>• Page 17: lines 5-7, 12-13.</li> </ul>	<p>if its contents became known to competitors of these third parties, would cause AGIS Software harm, and also violate the confidentiality provisions in those third party agreements. Moreover, the parties to these agreements have maintained the confidentiality of the information contained in the license agreements. <i>See Powertech Tech., Inc. v. Tessera, Inc.</i>, 2013 WL 12324116, at *19 (N.D. Cal. April 15, 2013) (granting a motion to seal a draft license agreement with a third party); <i>see also In re Elec. Arts, Inc.</i>, 298 Fed. Appx. 568, 569 (9th Cir. 2008) (finding the Court abused its discretion when it refused to seal “pricing terms, royalty rates, and guaranteed minimum payment terms” found in a license agreement); <i>Nixon v. Warner Commc’ns, Inc.</i>, 435 U.S. 589, 598 (1978) (holding that “sources of business information that might harm a litigant’s competitive standing” may give rise to a compelling reason to seal).</p>
<p>ECF 78-8</p>	<p>Exhibit 7 to Declaration of Bethany R. Salpietra ISO Plaintiff Lyft, Inc.’s Motion for Leave to File First Amended Complaint (Defendant AGIS Software’s First Supplemental Objections and Responses to Lyft Inc.’s First Set of Jurisdictional Interrogatories)</p>	<p>Although Lyft had proposed the “Entire Document” be sealed in Lyft’s Motion, AGIS Software requests only the following portions be sealed at:</p> <ul style="list-style-type: none"> <li>• Page 6: lines 4-8; 24-27;</li> <li>• Page 7: lines 1-7; 13-17; 26-27;</li> <li>• Page 8: lines 22-27;</li> <li>• Page 9: line 1;</li> <li>• Page 10: lines 27-28;</li> <li>• Page 11: lines 1-11;</li> <li>• Page 12: lines 3-28;</li> </ul>	<p>These portions that AGIS requests be sealed contain confidential financial information, such as AGIS Software’s confidential bank records. They also contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. They also contain information regarding the corporate structure and contents of agreements between business entities, including the identities of shareholders. Revealing the identity and nature of third parties who have entered into licenses and/or settlement agreements with AGIS Software would be harmful if its contents became known to competitors of these third parties, would cause AGIS Software harm, and</p>

DECLARATION OF JURISDICTION AND RESPONSE TO LYFT'S MOTION TO SEAL

		<ul style="list-style-type: none"> <li>• Page 13: lines 1-28;</li> <li>• Page 14: lines 1-28;</li> <li>• Page 15: lines 1-28;</li> <li>• Page 16: lines 1-28;</li> <li>• Page 17: lines 1-21;</li> <li>• Page 20: lines 12-14; 18-22; 23-27;</li> <li>• Page 22: lines 14-22;</li> <li>• Page 23: lines 15-27.</li> </ul>	<p>also violate the confidentiality provisions in those third party agreements. Moreover, the parties to these agreements have maintained the confidentiality of the information contained in the license agreements. <i>See Powertech Tech., Inc. v. Tessera, Inc.</i>, 2013 WL 12324116, at *19 (N.D. Cal. April 15, 2013) (granting a motion to seal a draft license agreement with a third party); <i>see also In re Elec. Arts, Inc.</i>, 298 Fed. Appx. 568, 569 (9th Cir. 2008) (finding the Court abused its discretion when it refused to seal “pricing terms, royalty rates, and guaranteed minimum payment terms” found in a license agreement); <i>Nixon v. Warner Commc'ns, Inc.</i>, 435 U.S. 589, 598 (1978) (holding that “sources of business information that might harm a litigant’s competitive standing” may give rise to a compelling reason to seal).</p>
ECF 78-12	Exhibit 11 to Declaration of Bethany R. Salpietra ISO Plaintiff Lyft, Inc.’s Motion for Leave to File First Amended Complaint (30(b)(6) Deposition Transcript of Thomas Meriam, dated March 22, 2022)	Entire Document	This document discloses excerpts of the deposition testimony of Thomas Meriam, the corporate representative of AGIS Software. Mr. Meriam’s testimony includes confidential information regarding the corporate structure and employees of AGIS Software, and contents of agreements between business entities, including the identities of shareholders. They also contain highly confidential settlement licenses and negotiations with third parties, and which are covered by confidentiality provisions in the written agreements. They also contain confidential financial information, such as AGIS Software’s confidential bank records.

5. For the reasons set forth above, AGIS Software respectfully submits that good cause exists for Lyft’s Motion (Dkt. 79) and AGIS Software respectfully requests the court grant Lyft’s Motion (Dkt. 79) with respect to the portions identified by AGIS Software above.

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