

Attachment A

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LICENSE AGREEMENT

This License Agreement (this "License") is effective as of the date it is fully executed by and between the COUNTY OF MONTEREY with offices at 1441 Schilling Place, South Building, 2nd Floor, Salinas, California 93901 ("Licensor") and Tesla, Inc., a Delaware corporation ("Licensee"). Licensor and Licensee are each referred to herein as a "Party" and collectively as the "Parties."

- Licensed Area.** Licensor hereby grants to Licensee the right to use approximately 1,225 square feet of parking space and 500 square feet of space for equipment, all as depicted on Exhibit A attached hereto (the "Licensed Area"), on the property commonly known as WeatherTech Raceway Laguna Seca, located at 1021 Monterey Salinas Hwy, Salinas, CA 93908 (the "Property"), together with the right of ingress and egress across the Property to access the Licensed Area. This License shall not create any leasehold interest in the Property.
- Term.** The term of this License shall be five (5) years ("Base Term"), commencing on March 1, 2022 (the "Commencement Date"). Upon expiration of the Base Term, Licensee shall have the option to renew for successive periods of five (5) years (each a "Renewal Term" and together with the Base Term, the "Term"), subject to termination pursuant to Section 3. Licensee shall exercise the option for each Renewal Term by giving notice to Licensor no later than thirty (30) days prior to the expiration of the Base Term or Renewal Term, as applicable.
- Termination and Termination Fee.** Notwithstanding anything herein to the contrary, either Party, in its sole discretion and without cause, may terminate this License by delivering at least six (6) months advance written notice of termination to the other Party. In the event Licensor terminates this License during the Base Term pursuant to this Section 3, Licensor shall pay Licensee a termination fee on or before the termination date equal to the lesser of (a) fifteen thousand dollars (\$15,000.00) per charging stall, or (b) the unamortized total costs of the Supercharger Station (as defined in Section 5), including installation costs, based on straight-line depreciation over ten (10) years, plus Licensee's costs to fulfill its' obligations pursuant to Section 6 (the "Termination Fee").
- Permitted Use.** Licensee may use and occupy the Licensed Area during the Term to install, operate and maintain a Supercharger Station (the "Permitted Use"). Licensee is authorized to operate and collect payment for use of the Supercharger Station year-round, twenty-four (24) hours per day and seven (7) days per week. All parking spaces in the Licensed Area shall serve as dedicated charging stalls.
- Alterations.** Licensee shall, at its' sole cost, make alterations to the Licensed Area to install the Supercharger Station ("Licensee's Work"). Licensee's Work shall only occur during the Term and after: (a) Licensor has approved the plans and specifications, including equipment locations; and (b) Licensee has obtained all permits and approvals required by applicable governing bodies. Licensor's approval of the plans and specifications shall not be unreasonably withheld, conditioned or delayed. The "Supercharger Station" shall consist of: (a) pre-assembled units with charge posts and power electronics equipment to provide charging to eight (8) charging stalls, and may include an energy storage system or solar panels (the "Trade Fixtures"), and (b) necessary utility infrastructure, which may include a utility transformer, metering equipment, switchgear, conduit, wiring and a concrete pad (collectively, the "Infrastructure"). Licensee shall promptly repair any damage to the Property caused by Licensee, its agents, contractors and employees (collectively, "Licensee Parties") while performing Licensee's Work.
- Removal.** On or before the final day of the Term, Licensee shall, at its' sole cost, remove the Trade Fixtures, leave the Infrastructure in a safe condition, and restore the Licensed Area to the condition that existed as of the first day of the Term, subject to exceptions for reasonable wear and tear.

Licensor agrees that the Trade Fixtures are and shall remain the property of Licensee, and the Infrastructure shall become the property of Licensor upon termination of this License (except that Infrastructure upstream of the meter is and shall remain the property of the utility).

7. **Utilities.**

A. **Service.** Licensee agrees to arrange and pay the charges for all Licensee-related utility services provided or used in or at the Licensed Area during the Term. Licensee shall pay directly to the utility company the cost of installation of any and all such Licensee-related utility services and shall arrange to have the utility service separately metered. Licensor shall not be responsible for any damages suffered by Licensee in connection with the quality, quantity or interruption of utility service, unless the cause of the disruption or damage was Licensor's gross negligence or intentional misconduct.

B. **Access:** Licensor grants to Licensee the right to receive utility services including but not limited to electric, and the right for the utility service supplier to construct, reconstruct, install, inspect, maintain, replace, remove, and use said utility services to serve the Supercharger Station together with the right for the utility service supplier to ingress to and egress from said utility service facilities across the Property. Licensor grants the right for the utility service supplier to trim, cut down, and clear away or otherwise control any trees or brush within five (5) feet of said route. In addition, Licensor shall not erect or construct any building or other structure or drill or operate any well under or within five (5) feet of said route.

8. **Maintenance.** Licensee shall be responsible for maintaining the Supercharger Station in good condition during the Term at its' sole cost (including repair and replacement of equipment, as necessary). Licensor shall not have any liability for damage to Licensee's equipment or infrastructure unless such damage is caused by Licensor, its agents, employees or contractors. Notwithstanding the foregoing, Licensor's normal responsibility to maintain the common areas of the Property shall also apply to the Licensed Area, such as for trash removal, snow removal, repaving and restriping, and Licensor agrees to coordinate with Licensee on maintenance that will prevent the use of the Supercharger Station. If Licensee determines that the Licensed Area needs additional trash cans, or if Licensor requests additional trash cans, Licensee shall provide such trash cans to Licensor at Licensee's sole cost.

9. **Licensor Covenants.** Licensor represents that: (a) it owns or leases the Property and has the power and authority to enter into this License; (b) it has obtained any required consents to enter into this License; (c) the Property is not subject to any conditions, restrictions or covenants incompatible with the Permitted Use; (d) this License does not violate any agreement, lease or other commitment by which Licensor is bound; and (e) it will not lease, license or commit the parking spaces within the Licensed Area to a third party during the Term.

10. **Default.** It shall be an "Event of Default" under this License if either Party fails to perform or observe any material term or condition of this License and such failure continues for a period of thirty (30) days after receipt of written notice thereof from the other Party, provided, however, that if the nature of such default is such that it cannot reasonably be cured within such thirty (30) day period and the defaulting Party commences to cure within the thirty (30) day period and proceeds with diligence and continuity, then such Party shall have additional time to cure as is reasonably required.

11. **Remedies.** The Parties acknowledge and agree that, if an Event of Default by the other Party has occurred and is continuing, the non-defaulting Party may: (a) terminate this License upon thirty (30) days advance written notice without the Termination Fee; or (b) exercise any other remedy available at law or in equity.

12. **Exclusions.** Notwithstanding anything herein to the contrary, each Party expressly releases the other from any claims for speculative, indirect, consequential or punitive damages, including, without limitation, any lost sales or profits.
13. **Indemnification.** Except to the extent a claim arises from any gross negligence or willful misconduct of an Indemnified Party, Licensee hereby agrees to indemnify, hold harmless and defend Licensor, its directors, officers, managers, members, employees, agents, contractors and representatives (each an “Indemnified Party”) from all losses and liabilities whatsoever, including court costs and reasonable attorneys’ fees, on account of or arising out of or alleged to have arisen out of any third party claim directly related to: (i) Licensee’s use of the Licensed Area; (ii) Licensee’s breach of this License; or (iii) bodily injury or damage to real or tangible personal property caused by the use of the Trade Fixtures.
14. **Insurance.** Licensee shall carry commercial general liability insurance with limits of not less than Two Million Five Hundred Thousand Dollars (\$2,500,000) per occurrence for bodily injury or death and property damage, business automobile liability insurance covering Licensee’s motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for bodily Injury and Property damage of not less than \$1,000,000, and an umbrella or excess commercial general liability insurance policy of not less than Five Million Dollars (\$5,000,000) per occurrence. The total limits required above may be met by any combination of primary and excess liability insurance. A certificate evidencing such insurance shall be delivered to Licensor upon the execution of this License and from time to time thereafter as may be requested by Licensor. Licensee shall include Licensor, its agents, employees and contractors as additional insured on its commercial general liability and umbrella or excess commercial general liability insurance policies and shall be primary and non-contributory to any other policies in effect to the extent of Tesla’s liabilities assumed under this Agreement. Licensee will also carry worker’s compensation insurance in accordance with state and federal law.
15. **Environmental Matters.** Licensor represents and warrants that, to the best of its knowledge, the Licensed Area shall be delivered free of contamination that violates any applicable environmental law. Notwithstanding any provision in this License to the contrary, Licensor agrees that it will indemnify and hold Licensee harmless from all costs from, and Licensee shall have no liability for, any contamination of the Property, unless caused by Licensee, its agents, contractors or employees. Licensor is responsible for remediating to the extent required by applicable environmental law any contamination not caused by Licensee Parties, including any contamination encountered by Licensee Parties during construction.
16. **Confidentiality.** The Parties agree that the terms of this License and any non-public, confidential or proprietary information or documentation provided to one Party by the other Party in connection with this License are confidential information, and, except as specifically provided in this Section 16, the Parties agree not to disclose such confidential information to any person or entity during the Term and for a period of three (3) years thereafter. Notwithstanding the foregoing, the Parties may disclose information (i) to their respective Affiliates, subcontractors, lenders, employees, financial, legal and space planning consultants, in each case that have a “need to know” such confidential information and have committed to treat the information as confidential under terms no less protective than the terms of this Section 16, provided that the Party disclosing such confidential information shall be liable for any disclosure by such authorized recipients, (ii) as required to comply with the California Public Records Act (“CPRA”), as Licensor is a public agency subject to disclosure requirements of the CPRA, (iii) disclosure of this License to the public as required for purposes of approval before the Monterey County Board of Supervisors, and (iv) as otherwise required by law. In the event of a request for disclosure under the CPRA, Licensor shall provide written notice to Licensee prior to such disclosure, and if Licensee contends that any portions of this License or any

non-public confidential or proprietary information is exempt from disclosure and wishes to prevent disclosure, it may seek a protective order, injunctive relief or other appropriate remedy as provided in the CPRA before the Licensor's deadline for responding to the CPRA request. If Licensee fails to obtain such a remedy within the Licensor's deadline for responding to the CPRA request, the Licensor may disclose the requested information.

17. "**Affiliate**" of a Party is an entity that controls, is controlled by or is under common control with that Party, where "**control**" means possessing, directly or indirectly, the power to direct or cause the direction of the management, policies or operations of an entity, through ownership of voting securities, by contract or otherwise.
18. **Publicity.** Neither Party will use the other Party's name, trademark or logo without obtaining the other Party's prior written consent.
19. **Notices.** All notices, demands and approvals shall be in writing and shall be delivered to the electronic mail addresses provided on the signature page, and shall be deemed given on proof of transmission. Either Party may change their respective address for notices by giving written notice of such new address in accordance with this Section 19.
20. **Incentives.** Licensor agrees that Licensee shall own and receive the benefit of all Incentives derived from the construction, ownership, use or operation of the Supercharger Station, including, without limitation, from electricity delivered through, stored at or generated by the Supercharger Station. Licensor will cooperate with Licensee in obtaining all Incentives, provided that Licensor is not obligated to incur any out-of-pocket costs in doing so unless reimbursed by Licensee. If any Incentives are paid directly to Licensor, Licensor agrees to immediately pay such amounts over to Licensee. "**Incentives**" means (a) electric vehicle charging or renewable energy credits or certificates, carbon credits and any similar environmental or pollution allowances, credits or reporting rights, (b) rebates or other payments based in whole or in part on the cost or size of equipment, (c) performance-based incentives paid as periodic payments, (d) tax credits, grants or benefits, and (e) any other attributes, commodities, revenue streams or payments, in each of (a) through (e) under any present or future law, standard or program and whether paid by a utility, private entity or any governmental, regulatory or administrative authority.
21. **Governing Law.** This License shall be construed and enforced in accordance with the laws of the state in which the Licensed Area is located.
22. **Entire Agreement.** Each Party acknowledges and agrees that it has read and understood this License, and that it represents the entire agreement and understanding of the Parties with respect to the subject matter herein and supersedes all prior agreements, communications, or understandings, whether oral or written, with respect to the subject matter herein.
23. **Miscellaneous.** This License may be executed in counterparts, each of which shall be deemed an original and all of which together will constitute one agreement. Electronic signatures and other signed copies transmitted electronically in PDF or similar format shall be treated as originals. If any provision of this License is invalid or unenforceable, the remainder of this License shall not be affected, and each provision shall be valid and enforceable to the fullest extent permitted by law. This License shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. Unless this License is terminated as expressly provided herein, this License shall survive any sale or transfer of Licensor's interest in the Property or Licensed Area. Each Party shall comply with all applicable codes, laws and ordinances in fulfilling its respective obligations under this License. Licensee shall promptly remove or bond any liens placed on the Property as a result of any claims for labor or materials furnished to Licensee at the Licensed Area.

IN WITNESS WHEREOF, the Parties have each caused an authorized representative to execute this License as of the date signed below.

LICENSOR:

LICENSEE:

By: _____
Bryan Flores
Chief of Parks
Monterey County Laguna Seca Representative

Public Works, Facilities, & Parks
1441 Schilling Place, 2nd Fl., So. Bldg.
Salinas CA 93901
Email: floresb1@co.monterey.ca.us

By*: _____
Its: _____
Print Name and Title

Tesla, Inc.
5836 Corporate Ave., Suite 150
Cypress, CA 90630
Email: _____

Approved as to Form
Office of the County Counsel
Leslie J. Girard, County Counsel

Date: _____

By: _____
DocuSigned by:
Maurna Pantke
86EE0F4602BD412...
Deputy County Counsel

By*: _____
Its: _____
Print Name and Title

Date: 2/18/2022 | 10:15 AM PST

Date: _____

Approved as Liability Provisions

By: _____
DocuSigned by:
Danielle Mancuso
2AFDFB99D2744CC...
Risk Manager

Date: 2/18/2022 | 10:21 AM PST

Approved as to Fiscal Provisions

By: _____
DocuSigned by:
Joey Nolasco
F606442ED05B437...
Auditor/Controller

Date: 2/18/2022 | 3:20 PM PST

***INSTRUCTIONS:**

If COMPANY is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313.
If COMPANY is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers.
If COMPANY is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership.
If COMPANY is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

¹ Approval by County Counsel is required

EXHIBIT A

Licensed Area



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