

SUPERCARGER AGREEMENT

This Supercharger Agreement (this "Agreement") is effective as of the date it is fully executed (the "Effective Date") by and between Counterparty (as defined below) ("Counterparty") and Tesla, Inc., a Texas corporation (f/k/a Tesla, Inc., a Delaware corporation) ("Tesla"). Counterparty and Tesla are each referred to herein as a "Party" and collectively as the "Parties." Clause references are to clauses in the Key Terms, and section references are to sections in the General Terms and Conditions (Exhibit B). Exhibit A and Exhibit B are incorporated by reference in this Agreement. In the event of a conflict between the Key Terms and Exhibit B, the Key Terms shall prevail.

Key Terms

- (a) **Counterparty** The Town of Los Gatos, a local government.
- (b) **Property**
(Section 1) Commonly known as the Northside Parking Lot, located 142 Los Gatos-Saratoga Rd, Los Gatos, CA 95032 (the "Property").
- (c) **Premises**
(Section 1) Twenty-six (26) parking spaces, up to five (5) feet of additional parking width to provide disability access and approximately two hundred to four hundred (200-400) square feet of space for equipment on the Property, all as depicted on Exhibit A (the "Premises").
- (d) **Charging Stalls**
(Section 1) The parking spaces within the Premises contain twenty (20) charging stalls (Level 3 DC fast chargers) with electric vehicle chargers ("Chargers").
- (e) **Commencement Date**
(Section 4) The Effective Date of this Agreement (the "Commencement Date").
- (f) **Base Term**
(Section 5) Ten (10) years from the last day of the month in which the Commencement Date occurs (the "Base Term").
- (g) **Renewal Term**
(Section 5) One (1) period of five (5) years (the "Renewal Term") and the Renewal Term shall automatically go into effect unless Tesla delivers advance notice of non-renewal at least thirty (30) days prior to the expiration of the then current Term (as defined below).
- (h) **Termination Notice**
(Section 5) At least eighteen (18) months (the "Notice Period").
- (i) **Rent** Beginning on the Effective Date of this Agreement, Tesla will pay Eight Thousand six hundred and sixteen Dollars (\$8,616.00) per month (the "Rent") for the Premises in advance on the first business day of each calendar month during the Term. If the Effective Date is any day other than the first business day of a month, the first Rent payment shall include payment for the partial month in which the Effective Date occurs, prorated based on the number of days in such month. The Rent shall increase by five percent (5 %) on each anniversary of the Commencement Date. Notwithstanding the foregoing, Rent payments shall accrue but be payable only after Counterparty has completed Tesla's vendor onboarding documentation, and payments of Rent shall be made to the account or

address specified by Counterparty in such documents. If Counterparty provides notice of any change in the payment of Rent, including but not limited to a change of payment account or address, or if there is a change in ownership of the Premises during the Term, Rent payments shall continue to accrue but thereafter be payable only after Counterparty, or any successor in interest, again completes Tesla's vendor onboarding documentation. For the avoidance of doubt, Tesla shall only pay Rent for the twenty (20) parking spaces occupied by the Level 3 DC fast chargers.

(j) **Special Terms and Conditions**

Replacement of the Original Agreement. Pursuant to that certain Supercharger Agreement dated February 13, 2018, as amended (collectively, the "Original Agreement"), Tesla currently operates a Charging Station in the Premises. Upon the execution of this Agreement, the Original Agreement shall terminate and be of no further, force or effect.

Additional Alterations. Pursuant to the Original Agreement, Tesla has constructed and operates a Charging Station in the Premises. Following the Effective Date of this Agreement, any alterations to the Charging Station performed by Tesla shall be approved by Counterparty in accordance with Section 3 below.

Mediation. Should any dispute arise out of this Agreement, beyond any applicable notice or cure periods any party may request that it be submitted to mediation. The parties shall meet in mediation within 90 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a blind draw. The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

Termination Fee. The "Termination Fee" means an amount equal to Tesla's total undepreciated costs of the Charging Station (calculated on a straight-line basis over twelve (12) years), including the costs of the Trade Fixtures, Infrastructure, and construction, plus Tesla's costs to remove the Charging Station. For the avoidance of doubt, the Termination Fee shall also include all costs incurred by Tesla to expand or upgrade the Charging Station from the date such expansion or upgrades were first opened to the public.

Counterparty shall pay the Termination Fee in full on or before the effective date of termination specified in the Termination Notice, provided that such date complies with the applicable Notice Period. Tesla shall promptly furnish Counterparty with reasonable supporting documentation evidencing the amounts claimed for the Termination Fee. Counterparty's obligation to pay

the Termination Fee shall survive the termination or expiration of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have each caused an authorized representative to execute this Agreement as of the Effective Date.

COUNTERPARTY:

The Town of Los Gatos,
a local government

By: _____

Name: _____

Title: _____

Date: _____

E-mail for notices:

ppw@losgatosca.gov

Phone number for urgent issues:

408-394-5770

By: _____

Name: _____

Title: _____

Date: _____

E-mail for notices:

GWhelan@losgatosca.gov

Phone number for urgent issues:

408-394-5770

TESLA:

Tesla, Inc.
a Texas corporation

By: _____

Name: _____

Title: _____

Date: _____

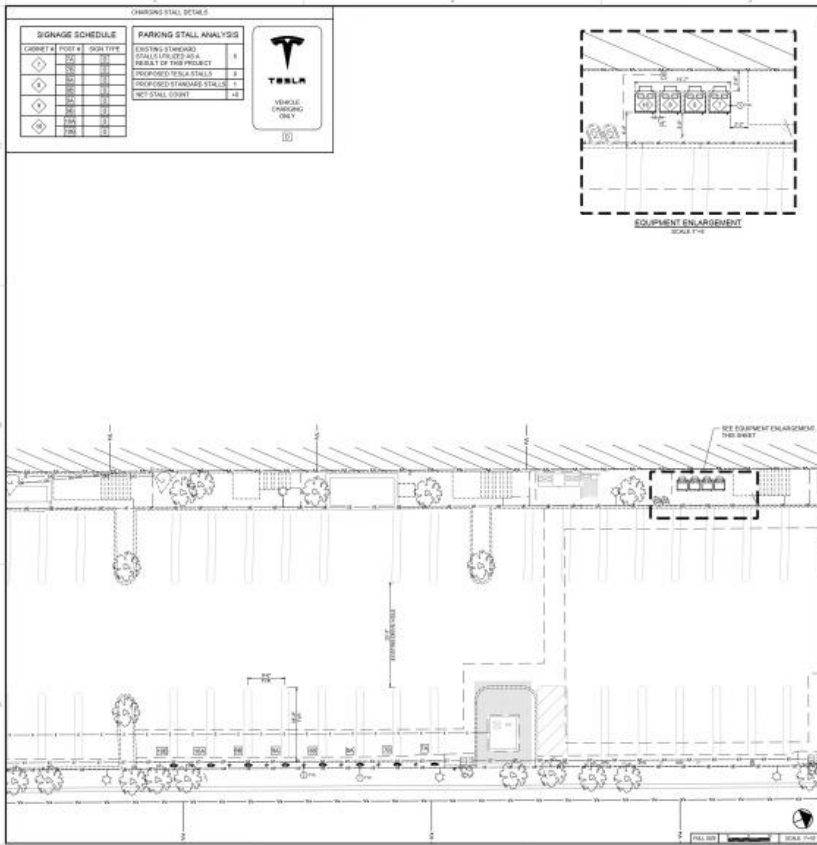
E-mail for notices:

superchargerhost@tesla.com

Phone number for urgent issues:

725-223-2400

1770 LOS GATOS-SANMATEO RD (TESLA STATION) LOS GATOS, CA 95026
 SHEET 11 OF 11 (11/19) - 04d



CONSTRUCTION KEYNOTES AND LEGEND

- PROPOSED TESLA CHARGE POST IN CONCRETE CURB & GUTTER (TYPICAL OF 4). SEE DETAILS ON SHEET C-3.
- PROPOSED TESLA REINFORCED PARKING SIGN (TYPICAL OF 4). SEE DETAILS ON SHEET C-3. SEE CHARGING POST SCHEDULE THIS SHEET FOR SIGN TYPE.
- PROPOSED TESLA CHARGING CABINET ON EXISTING CONCRETE PAD (TYPICAL OF 4). SEE DETAILS ON SHEETS C-3.

GENERAL SHEET NOTES

- WHEN APPLICABLE, CONTRACTOR SHALL REMOVE EXISTING PAVEMENT AND/OR CURB USING CLEAN SHAPED TO METALS, PROPOSED UNDERGROUND CABLES AND REPLACE PAVEMENT AND/OR CURB AFTER CONCRETE HAVE BEEN RETAILED. SEE ELECTRICAL SHEETS FOR CONDUIT ROUTING AND TRAYING DETAILS. CONTRACTOR SHALL MEET OR EXCEED EXISTING PAVEMENT SPECIFICATIONS. NOTIFY TESLA OF ANY DISCREPANCIES PRIOR TO PAVING WORK.
- WHEN APPLICABLE, CONTRACTOR SHALL APPLY LOGIC AS APPLICABLE AT ALL JOINTS BETWEEN CONCRETE AND ASPHALT AND WHERE PROPOSED ASPHALT MEETS EXISTING, INCLUDING SAW CUT JOINTS.
- PROPERTY LINE AND RIGHT-OF-WAY BOUNDARIES ARE SHOWN FOR REFERENCE ONLY. REFER TO SURVEY OR DESIGN DRAWINGS BY OWNER FOR EXACT LOCATION.
- SEE CLARK SURVEY FOR ALL APPLICABLE DEMONSTRATIONS.
- THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING SLOPES AND GRADERS PRIOR TO CONSTRUCTION.
- THE CONTRACTOR SHALL ENSURE POSITIVE DRAINAGE TOWARDS THE NEAREST EXISTING DRAINAGE STRUCTURE AND ENSURE NO FLOODING OCCURS ON SITE.

GPD GROUP, INC.
 400 South Street, Suite 200
 San Jose, CA 95128

TESLA
 ALL RIGHTS RESERVED
 © 2020 TESLA, INC.

DATE: 11/19/20
 BY: [Signature]

1770 LOS GATOS-SANMATEO RD
 (TESLA STATION)
 LOS GATOS, CA 95026

SITE PLAN

DESIGNED FOR	DATE
PERMIT	ISS
CONSTRUCTION	ISS
RECORD	ISS

DATE: 11/19/20
 BY: [Signature]

2020141.48

C-2

Exhibit B
General Terms and Conditions

1. **Premises.** Counterparty hereby grants to Tesla the right to use the Premises pursuant to Section 6, to install, operate and maintain a Charging Station (defined below), together with the right of ingress and egress to the Premises. This Agreement shall not create any leasehold interest in the Property.
2. **Intentionally Omitted.**
3. **Alterations.** Tesla shall, at its sole cost, make alterations to the Premises to install the Charging Station ("Tesla's Work"). Tesla's Work shall only occur after: (a) Counterparty has approved the plans and specifications in writing; and (b) Tesla has obtained all permits and approvals required by applicable governing bodies. Once Tesla's Work begins, it shall proceed with diligence and continuity until complete. Tesla may upgrade or replace its Trade Fixtures in its sole discretion during the Term, provided that any other alterations to the Charging Station shall be approved in advance by Counterparty. Counterparty's approval of the plans and specifications shall not be unreasonably withheld, conditioned or delayed. Tesla shall promptly repair any damage to the Property caused by Tesla, its agents, contractors and employees (collectively, "Tesla Parties") while performing Tesla's Work.
4. **Intentionally Omitted.**
5. **Term and Termination.** The term of this Agreement shall begin on the Commencement Date and shall expire at the end of the Base Term. Upon expiration of the Base Term, this Agreement shall automatically renew for one Renewal Term, subject to the Key Terms above. Notwithstanding any provision of this Agreement to the contrary, Counterparty may terminate this Agreement at any time for any reason by delivering to Tesla: (a) written notice of termination in accordance with Clause (h) of the Key Terms; and (b) payment of the Termination Fee as set forth above in Clause (j).
6. **Permitted Use.** Tesla may use and occupy the Premises during the Term to: install, operate and maintain a Charging Station (as defined below) for charging Tesla and third-party electric vehicles and autonomous vehicles, and for incidental purposes, which may include generating photovoltaic electricity and operating an energy storage system or for any other lawful purpose. Tesla may, in its sole discretion provide on-site personnel, contractors, autonomous attendants and/or security personnel at no cost to Counterparty. All uses under this Section are collectively referred to herein as the "Permitted Use". Tesla is authorized to operate and collect payment for the Permitted Use year-round, twenty-four (24) hours per day and seven (7) days per week. The "Charging Station" shall consist of: (a) Chargers as determined by Tesla in its sole discretion, signage and power electronics equipment to provide charging to the charging stalls described in Clause (d) and other trade fixtures determined by Tesla that may include, without limitation, air pumps, a canopy, solar panels, an energy storage system and fence or other visual barriers, security cameras (collectively, the "Trade Fixtures"); and (b) necessary utility infrastructure, which may include, without limitation, a utility transformer, metering equipment, switchgear, conduit, wiring and foundations (collectively, the "Infrastructure").
7. **Removal.** On or before the final day of the Term, Tesla shall, at its sole cost, remove the Trade Fixtures, leave the Infrastructure in a safe condition, and restore the Premises to the condition that existed as of the first day of the Term, subject to exceptions for reasonable wear and tear. Counterparty agrees that the Trade Fixtures and personal property are and shall remain the property of Tesla, and the Infrastructure shall become the property of Counterparty upon termination of this Agreement (except that Infrastructure upstream of the meter is and shall remain the property of the utility).
8. **Utilities.**

- A. Tesla agrees to arrange and pay the charges for all Tesla-related utility services provided or used in or at the Premises during the Term. Tesla shall pay directly to the utility company the cost of installation of any and all such Tesla-related utility services and shall arrange to have the utility service separately metered. Counterparty shall not be responsible for any damages suffered by Tesla in connection with the quality, quantity or interruption of utility service, unless the cause of the disruption or damage was Counterparty's gross negligence or intentional misconduct.
- B. If required by the utility, Counterparty shall execute and notarize a formal utility easement (or such other agreement or authorization required by the utility service provider) AS-IS, within ten (10) business days of receipt from Tesla or the utility service provider.
9. **Maintenance.** Tesla shall be responsible for maintaining the Charging Station at its sole cost (including repair and replacement of equipment, as necessary). Notwithstanding the foregoing, Counterparty's normal responsibility to maintain the common areas of the Property shall also apply to the Premises, including but not limited to landscaping, pest control, trash removal, snow removal, repaving and restriping, and Counterparty agrees to coordinate with Tesla on maintenance that will prevent the use of the Charging Station. If Tesla determines that the Premises needs additional trash cans, or if Counterparty requests additional trash cans, Tesla shall provide such trash cans to Counterparty at Tesla's sole cost.
10. **Counterparty Covenants.** Counterparty represents that: (a) it owns or leases the Property and has the power and authority to enter into this Agreement; (b) it has obtained any required consents to enter into this Agreement; (c) the Property is not subject to any conditions, restrictions or covenants incompatible with the Permitted Use; (d) this Agreement does not violate any agreement, lease or other commitment by which Counterparty is bound; (e) it will not lease, Agreement or commit the parking spaces within the Premises to any third party during the Term; and (f) it will not perform or allow excavation in the Premises during the Term without Tesla's advance written consent, other than superficial repaving.
11. **Default.** It shall be an "Event of Default" under this Agreement if either Party fails to perform or observe any material term or condition of this Agreement 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.
12. **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 Agreement upon thirty (30) days advance written notice; and/or (b) exercise any other remedy available at law or in equity.
13. **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.
14. **Indemnification.** Except to the extent a claim arises from any negligence or willful misconduct of an Indemnified Party, or any breach or alleged breach of Section 25 by Counterparty, Tesla hereby agrees to indemnify, hold harmless and defend Counterparty, its directors, officers, managers, members, employees, agents and representatives (each an "Indemnified Party") from all losses and liabilities, 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) Tesla's use of the Premises; (ii) Tesla's breach of this Agreement; or (iii) bodily injury or damage to real or tangible personal property caused by the use of the Trade Fixtures.

15. **Insurance.** Through the duration of this Agreement, Tesla shall maintain commercial general liability insurance with limits of not less than Two Million Five Hundred Thousand US Dollars (\$2,500,000 USD) per occurrence and Four Million US Dollars (\$4,000,000 USD) aggregate for combined single limit for bodily injury or third-party property damage. The total limits above may be met by any combination of primary and excess liability insurance. A certificate evidencing such insurance shall be delivered to Counterparty upon the execution of this Agreement and upon reasonable request by Counterparty. Tesla shall include Counterparty as additional insured on its commercial general liability and, if applicable to meet limit requirements, umbrella and/or excess insurance policies, with respect to liability for services provided under this Agreement. Tesla will maintain worker's compensation insurance in accordance with state and federal law. This requirement may be waived by Tesla if Tesla is a qualified self-insured in the state where the Premises is located. Insurance shall be maintained with responsible insurance carriers with a Best Insurance Reports rating of "A-" or better or through a formal self-insurance mechanism that has either (a) a Best Insurance Reports rating of "A-" or better; or (b) a financial size category of "VI" or higher, provided, that if such self-insurance program does not meet either (a) or (b), then Tesla's use of self-insurance for the required coverages shall be subject to Counterparty's approval, not to be unreasonably withheld, conditioned or delayed.
16. **Environmental Matters.** Counterparty represents and warrants that, to the best of its knowledge, the Premises shall be delivered free of contamination that violates any applicable environmental law. Notwithstanding any provision in this Agreement to the contrary, Counterparty agrees that it will indemnify and hold Tesla harmless from all costs from, and Tesla shall have no liability for, any contamination of the Property, unless caused by Tesla Parties. Counterparty is responsible for remediating to the extent required by applicable environmental law any contamination not caused by Tesla Parties, including any contamination encountered by Tesla Parties during construction.
17. **Confidentiality.** The Parties agree that the terms of this Agreement and any non-public, confidential or proprietary information or documentation provided to one Party by the other Party in connection with this Agreement are confidential information, and 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 17](#), provided that the Party disclosing such confidential information shall be liable for any disclosure by such authorized recipients, (ii) as permitted in [Section 20](#), and (iii) as required by law, including the California State Public Records Act. "[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.** Counterparty agrees that Tesla shall own and receive the benefit of all Incentives derived from the construction, ownership, use or operation of the Charging Station, including, without limitation, from electricity delivered through, stored at or generated by the Charging Station. Counterparty will cooperate with Tesla in obtaining all Incentives, provided that Counterparty is not

obligated to incur any out-of-pocket costs in doing so unless reimbursed by Tesla. If any Incentives are paid directly to Counterparty, Counterparty agrees to immediately pay such amounts over to Tesla. “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. Counterparty agrees that Tesla may disclose a redacted copy of this Agreement if necessary to obtain Incentives.

21. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the state in which the Premises is located. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
22. **Entire Agreement.** Each Party acknowledges and agrees that it has read and understood this Agreement, 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. **Assignment.** Tesla shall not assign this Agreement without the prior written consent of Counterparty, which shall not be unreasonably withheld, conditioned or delayed; provided that the foregoing prohibition shall not limit Tesla’s ability to transfer this Agreement to a Tesla Affiliate.
24. **Sale or Transfer.** In the event of a sale or transfer of all or a portion of Counterparty’s interest in the Property or Premises during the Term, Tesla’s rights shall be conveyed with such interests in the Property or Premises and Counterparty warrants that any transferee shall be bound by all terms and condition of this Agreement, and Counterparty shall obtain any necessary documents to confirm such assignment including, without limitation, providing Tesla with updated contact information for the buyer or transferee of the Property or Premises.
25. **Miscellaneous.** This Agreement 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 Agreement is invalid or unenforceable, the remainder of this Agreement shall not be affected, and each provision shall be valid and enforceable to the fullest extent permitted by law. Any outstanding payment obligations and the terms of Section 17 shall survive termination of this Agreement. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns. Each Party shall comply with all applicable codes, laws and ordinances in fulfilling its respective obligations under this Agreement. Tesla shall promptly remove or bond any liens placed on the Property as a result of any claims for labor or materials furnished to Tesla at the Premises. This Agreement is subject and subordinate to all ground or superior leases and to all mortgages which may now or hereafter affect such leases or the Property, and to all renewals, modifications, consolidations, replacements and extensions thereof; provided that Tesla’s rights under this Agreement shall not be disturbed by such subordination so long as no Event of Default by Tesla exists beyond all notice and cure periods. COUNTERPARTY AND TESLA EACH WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON OR RELATED TO, THE SUBJECT MATTER OF THIS AGREEMENT.