

## PARKING LEASE

This Parking Lease ("Lease") is made by and between City of Upland, a Municipality whose address is 460 N. Euclid Ave. Upland CA 91786 ("Landlord") and Tesla, Inc., a Delaware corporation, whose address is 1 Tesla Road, Austin, TX, 78725 Legal/Lease Administration ("Tenant") as of the date this Lease is fully executed by the parties as of the date last set forth below ("Effective Date"). Tenant and Landlord are each referred to herein as a "Party" and collectively as the "Parties."

- A. Property: The property located at 15<sup>th</sup> St. west of Campus – APN 1045-081-55-000 (the "Property").
- B. Premises. 35,000 sq. feet shown on Exhibit A, which includes One-Hundred (100) full-size parking spaces within the parking area at the Property as more particularly set forth on Exhibit A attached hereto and made a part hereof (such designated area, the "Premises").
- C. Commencement Date. The date that Landlord has delivered (i) written notice to Tenant that the Initial Site Preparation, defined below, is complete and (ii) possession of the Premises to Tenant, which date is anticipated to be November 17, 2022 (the "Outside Delivery Date"). If Landlord does not provide (i) and (ii) above on or before the Outside Delivery Date, Tenant shall have the right to terminate this Lease by providing written notice thereof to Landlord, in which event this Lease shall terminate and be of no further force or effect except for those provision hereof which expressly survive the termination of this Lease.
- D. Expiration Date. That date which is twelve (12) full calendar months from and after the Commencement Date (the "Expiration Date").
- E. Rent: The sum of Nine Thousand Dollars and 00/100 (\$9,000.00) per month Ninety Dollars and 00/100 (\$90.00) per parking space. If Tenant remains in possession of the Premises after the Expiration Date, such possession by Tenant shall be deemed to be a month-to-month tenancy terminable on thirty (30) days prior written notice given at any time by either party. All provisions of this Lease shall apply to the month-to-month tenancy, provided that beginning on the first anniversary of the Commencement Date, and each year of the Term thereafter, Rent shall increase annually at the end of each 12-month period by any increase in the Consumer Price Index as determined by the U. S. Bureau of Labor Statistics for all Urban Consumers for the Riverside/San Bernardino/Ontario Metropolitan Area over the previous year. Should the CPI be discontinued, the index used for comparison shall be a comparable index as designated by the Bureau. It is recognized by both parties that the Index for any month is not published for approximately two months. Tesla shall, therefore, continue to pay the current rental paid by Tesla until such time as the new rental is calculated and, at that time, Tesla shall pay within ten (10) days of notice of the new Rent the new amount plus

arrearages. In no event shall Rent ever decrease below the prior year's Rent even if the CPI is negative. In such event, the Rent shall remain the same.

1. Property. Landlord, the owner of the Property, leases to Tenant and Tenant leases from Landlord the Premises. The Premises specifically excludes the building and other improvements located on the Property.
2. Term. The term of this Lease shall commence on the Commencement Date and shall terminate on the Expiration Date (the "Term").
3. Rent. Tenant shall pay Landlord the Rent as rent for the Premises. Any partial month of Rent will be prorated. Except for the first payment of Rent, which shall be paid within Ten (10) business days from the Effective Date, all Rent shall be due on the first (1st) business day of the month and shall be paid by electronic payment or wire transfer to the order of Landlord in accordance with the bank details provided by Landlord. Landlord acknowledges and agrees that Landlord (or any Landlord's successor) must create an account in Tenant's vendor portal, including completing vendor portal forms and uploading documents such as a W9, a bank document (bank issued letter on bank letterhead, bank statement, or a screenshot of bank statement) and a NDA form signed by Landlord, to the extent permitted by law, in order for Tenant to process payment to Landlord. In the event any installment of Rent is not received or postmarked on or before the seventh (7th) day of the month in which it is due after written notice from Landlord, a late payment penalty of Fifty Dollars and NO/100 (\$50) shall be assessed and such amount shall be due and payable to Landlord with the next installment of Rent coming due under this Lease. In the event of a Chronic Delinquency (as hereinafter defined), at Landlord's sole option, Landlord shall have the right, in addition to all other remedies under this Lease and at law, to require that Rent be paid by Tenant quarterly, in advance. This provision shall not limit in any way nor be construed as a waiver of the rights and remedies of Landlord provided herein or by law in the event of delinquency. "Chronic Delinquency" shall mean failure by Tenant to pay Rent, or any other payments required to be paid by Tenant under this Lease as and when due on four (4) or more occasions during the Term.
4. Permitted Use. Tenant may exclusively use the Premises solely as a parking lot and any other purpose or purposes incidental thereto including at Tenant's reasonable discretion, parking and/or storage of cars, trucks or motorcycles and/or for the storage of Tenant's materials or equipment ("Incidental Equipment.") Without limiting the foregoing in this Section 4, Tenant shall not use, or permit the Premises, or any part thereof to be used, for any purpose other than the purpose for which the Premises are hereby leased. Tenant shall not sell or permit to be kept, used, or sold, in or about the Premises, any article that may be prohibited by the standard form of fire insurance policies. Landlord acknowledges that Tenant's use are not prohibited by the standard form of fire policies. Tenant shall not commit, or suffer to be committed, any material waste on the Premises, or any material public or private nuisance, or other act or thing that may injure, annoy, or disturb the quiet enjoyment of any occupant of neighboring properties; nor, without limiting the generality of the foregoing, shall Tenant allow the Premises to be used for any improper, unlawful, or objectionable purpose. Tenant shall not allow motor vehicles to be repaired, serviced, or fueled on the Premises. Tenant shall not place any Hazardous Materials in violation of

any applicable laws in the drainage system of the Premises. All use of the Premises by Tenant shall comply with applicable codes, laws, and ordinances. Tenant shall not install any physical improvements to the Property without the prior written consent of Landlord. Tenant shall have the right in its reasonable discretion, without Landlord's consent, to maximize exterior parking stalls located on the Premises subject to applicable codes. Tenant shall not in any event install lights and generators on the Property and Tenant shall disarm car alarms on all stored cars while they are stored on the Property.

5. Security Deposit. Intentionally Deleted
6. Access to Premises. Notwithstanding Tenant's ability to use the Property at all times for purposes set forth in Section 4, Tenant's access to the Property shall be limited to between 7:00 a.m. and 6:00 p.m. Monday – Sunday, including holidays.
7. Compliance with Legal Requirements. Landlord shall at Landlord's sole cost and expense comply with all applicable laws, rules or regulations of any governmental entity relating to the Property or any improvements to the Property. Landlord represents and warrants to Tenant that, as of the date hereof: (i) it is the owner of the Property and has the right to enter into this Lease; (ii) it has obtained any and all required consents and authorizations related to this Lease (including under any superior lease and/or mortgage); (iii) Landlord has received no written notice indicating that (a) the Property is not in compliance with any applicable laws, ordinances, codes, rules, regulations and requirements (collectively, "Legal Requirements"), and/or (b) there are any zoning or title restrictions that in any way prohibit or limit the use of the Premises by Tenant for its intended use hereunder. Tenant shall at Tenant's sole cost and expense comply with all Legal Requirements relating to the Premises or any improvements to the Premises, including but not limited to, OSHA; CalOSHA; all provisions of the Americans With Disabilities Act (the "ADA"); the requirements of any federal or state labor board or commission; any direction or occupancy certificate issued by public officers; workers' and unemployment compensation laws; equal employment opportunity laws; and tax withholding laws, insofar as they actually relate to the condition, use, or occupancy of the Premises or the operation of the Premises. The judgment of any court of competent jurisdiction, or the admission of Tenant in any action or proceeding against Tenant, whether Landlord be a party or not, that Tenant has violated any Legal Requirement in the condition, use, or occupancy of the Premises, shall be conclusive of that fact as between Landlord and Tenant.
8. Construction and Alterations. Landlord shall promptly and diligently perform the work to initially prepare the site, including, without limitation, grading and placement of a 6" gravel base ("Initial Site Preparation") in accordance with all Applicable Laws (as such term is defined herein below). Tenant shall reimburse Landlord for the actual costs of the Initial Site Preparation in amount not to exceed Nineteen-Thousand Three-Hundred-Fifty Dollars (\$19,350.00) upon receipt of written invoice, with supporting documentation of all payments and applicable lien waivers, from the Landlord. Notwithstanding anything to the contrary contained herein, if the Initial Site Preparation is not performed in accordance with the provisions of this paragraph above on or prior to November 17, 2022, Tenant shall have the right to terminate this Lease by providing written notice thereof to Landlord, in which event this Lease shall terminate and be of no further force

or effect except for those provision hereof which expressly survive the termination of this Lease.

9. Utilities. Tenant agrees to arrange for and pay the charges for all Tenant-related utility services provided or used in or at the Premises during the Term, including connection fees, upgrades, switchgear or any other required infrastructure. Tenant shall pay directly to the utility company the cost of installation of any and all such Tenant-related utility services and shall arrange to have the utility service separately metered. Landlord shall not be responsible for any damages suffered by Tenant in connection with the quality, quantity or interruption of utility service, unless the cause of the disruption or damage was the Landlord's gross negligence or intentional misconduct.
10. Maintenance. Tenant shall be responsible for maintaining the Premises (including repair and replacement of any Incidental Equipment, as necessary) at its sole cost. Tenant shall keep the Premises in good condition and repair. Landlord shall have no liability for damage to Tenant's Incidental Equipment, if any, unless caused by Landlord's negligence or intentional misconduct.
11. Removal. Tenant shall, at its sole cost, remove any Incidental Equipment promptly, and in no event longer than forty five (45) days after Lease expiration or earlier termination of this Lease, and restore the Premises to a similar condition as of the Commencement Date , subject to reasonable wear and tear.
12. Indemnification by Tenant. Unless caused by Landlord's gross negligence or willful misconduct, Tenant shall indemnify and defend Landlord and hold Landlord harmless 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 (1) any breach or nonperformance by Tenant of any representation, warranty, covenant or obligation of Tenant contained in this Lease; (2) any bodily injury, death and/or damage to property occurring in or resulting from the use of the Premises and/or Incidental Equipment by Tenant or Tenant's respective agents, employees or contractors (collectively, the "Tenant Parties"); (3) any bodily injury, death and/or damage to property that is incident to, arises out of, or caused by Tenant's operations in the Premises; and (4) any act or omission of Tenant or any Tenant Parties. As used in this Section 12, the term "Landlord" shall include Landlord and its officers, directors, partners, members, managers, , , employees, property managers, agents and attorneys. To the extent such claim arises during the Term, the obligations of this Section 12 shall survive the expiration or earlier termination of this Lease.
13. Indemnification by Landlord (*Intentionally deleted.*)
14. Insurance. Tenant hereby covenants and agrees that, prior to any entry on the Premises, and in any event, on or before the Commencement Date, and until expiration or termination of the Term, Tenant will maintain or self-insure, at its sole cost:
  - A. Commercial General Liability Insurance. Commercial general liability insurance, for bodily injury, or property damage in or about the Premises

or in compliance with Section F below maintain the equivalent level of self-insurance with a combined liability limit of One Million Dollars (\$1,000,000.00) per occurrence, with a general aggregate of Three Million Dollars (\$3,000,000.00), and which insurance shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Tenant's indemnity obligations as set forth in Section. Landlord, and if requested in writing by Landlord) Landlord's Lender and Landlord's management company shall be included as an additional insured on the policy in respect to liabilities assumed by Tenant under this Lease.

- B. Workers' Compensation. Tenant will maintain worker's compensation insurance in accordance with state law. This requirement may be waived if Tenant is a qualified self-insured in the state where the Premises are located or work is performed.
- C. Business Automobile Liability Insurance. Tenant shall during the Term, at its sole cost and expense, procure and maintain or self-insure for business automobile liability insurance in the amounts required by legal requirements with respect to vehicles of Tenant in or about the Premises.
- D. Form of Policies and Additional Requirements. The insurance requirements set forth above are independent of Tenant's waiver, indemnification, and other obligations under this Lease and shall not be construed or interpreted in any way to restrict, limit or modify Tenant's waiver, indemnification and other obligations or to in any way limit Tenant's liability under this Lease. In addition to the requirements above, the insurance shall be maintained with insurance carriers authorized to write policies in California 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 Tenant's use of self-insurance for the coverages herein shall be subject to Landlord's approval, not to be unreasonably withheld, conditioned, or delayed. . Without limiting in any way, and subject to, Paragraph F below, upon the execution of this Agreement and upon reasonable request by Landlord, Tenant shall deliver to Landlord a certificate evidencing all policies procured by Tenant in compliance with Tenant's obligations under this Lease. Tenant or its insurance company, if applicable, shall provide Landlord with thirty (30) days' prior written notice if any coverage hereunder will be canceled (or 10 days' notice with respect to cancellation due to non-payment of premiums).
- E. Waiver of Subrogation. Notwithstanding anything in this Agreement to the contrary, each party agrees to waive and shall cause their respective property insurance carriers (to the extent there is a third party insurer) to waive any right of subrogation against the other and such party's

indemnites in connection with any loss or damage to the Property or the Premises as applicable and any contents thereof. If one party prohibits waiver of subrogation, then each party's waiver shall become null and void as each waiver is given in consideration for the other.

- F. Self-Insurance. So long as Tenant continues to be the tenant, or an Affiliate of the Tenant or the then Tenant hereunder, and has a tangible net worth equal to or greater than \$100,000,000, as reasonably determined using sound accounting principles, Tenant may self-insure (self-assume for property) for the insurance required under this Lease. Tenant's obligations and liabilities shall be the same as those that would otherwise exist if Tenant had purchased and maintained the policy or policies of insurance that are otherwise required under the terms of this Agreement.
  - G. Landlord's Property Insurance. Landlord shall maintain insurance on the Property and other real property improvements related to the Property covering such property on an "All Risk" basis to the extent of one hundred percent (100%) of full replacement value.
  - H. Landlord's Commercial General Liability Insurance. Landlord, at its sole cost, shall maintain Commercial General Liability Insurance with a limit of liability in the amount of One Million Dollars (\$1,000,000) per occurrence or per claim and Three Million Dollars (\$3,000,000) in aggregate. These limits can be met through a combination of primary and excess policies of insurance. Tenant shall be included as an additional insured, in respect to liabilities assumed by Landlord under this Lease.
15. Security. Tenant hereby acknowledges that Landlord is not responsible for providing security for the benefit of Tenant and that Tenant has sole responsibility for enacting any and all security measures that Tenant shall deem appropriate for the Premises, at Tenant's discretion. Tenant shall not be liable for or required to implement any security matters related to any areas outside of the Premises.
16. Casualty; Condemnation. Tenant may immediately terminate this Lease upon 14 days' written notice if any portion of the Premises is taken for any public or quasi-public use or if the Property is damaged to the extent that Tenant is prevented from accessing the Premises or is prevented from using more than twenty five percent (25%) of the Premises. If at any time during the Lease, the Property is destroyed in whole or in part, not in excess of twenty five percent (25%), by a casualty, not the fault of Landlord, Tenant, at its own cost and expense, shall repair and restore the damage and all proceeds from the insurance required to be maintained by Tenant shall be made available to Tenant in connection with such repair and restoration. Tenant's obligation for restoration described in this Section shall exist whether or not funds are available from insurance proceeds or are self-insured by Tenant. Rent shall be appropriately abated and prorated during any period of partial destruction or taking.

17. **Limitation on Liability:** Notwithstanding anything herein to the contrary, the liability of Landlord under this Lease shall be limited and, accordingly, Tenant's sole source of satisfaction of such liability shall be limited to Landlord's interest in the Property, including rents and proceeds and any insurance proceeds, and Tenant shall not seek to obtain payment from Landlord or any person comprising Landlord or from any assets of Landlord other than those assets described herein. The limitation of this Section 17 shall not apply to or limit any injunctive or other equitable, declaratory or other forms of relief to which Tenant may be entitled (notwithstanding that such actions are in personam in nature). Notwithstanding anything to the contrary set forth herein, neither Party shall be liable to the other Party for any consequential, indirect or punitive damages, including, without limitation, loss of rent or loss of profit.
18. **Default:** Each of the following shall constitute an "Event of Default" under this Lease:
- A. **Breach:** The failure by Tenant to (i) make any payment of rent or any other payment required to be made hereunder within, five (5) business days after written notice from the other party that the same is due; or the failure of either party to (ii) 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.
  - B. **Bankruptcy; Insolvency:** The appointment of a receiver or trustee to take possession of all or substantially all of the assets of Tenant located at the Premises if possession is not restored to Tenant within sixty (60) days; or a general assignment by Tenant for the benefit of creditors; or any action or proceeding is commenced by or against Tenant under any insolvency or bankruptcy act, or under any other statute or regulation having as its purpose the protection of creditors and, in the case of actions filed against Tenant, is not discharged within sixty (60) days.
19. **Remedies.** Landlord and Tenant acknowledge and agree that each Party shall have all remedies available at law or in equity if an Event of Default by the other Party has occurred and is continuing. In addition, if an Event of Default by Tenant has occurred and is continuing, then Landlord, may: (a) continue this Agreement in effect by not terminating Tenant's right to possession of said Premises and thereby be entitled to enforce all Landlord's rights and remedies under this Agreement; or (b) bring an action to recover and regain possession of said Premises in the manner provided by the laws of eviction of the state where the Premises are located then in effect.

In addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the option to terminate this Lease, provided that Landlord shall send Tenant a 2<sup>nd</sup> written notice prior to terminating this Lease and if Tenant fails to commence to cure the Event of Default within fifteen (15) days of the 2<sup>nd</sup> written notice, then Landlord may terminate this Agreement. In the event that Landlord shall elect to so terminate this Lease, pursuant to Section 1951.2 of the California Civil Code, then Landlord may recover from Tenant: (i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus (ii) the worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the Primary Term (or the balance of an Extension Term) after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by a Tenant's Default which in the ordinary course of things, would be likely to result therefrom. As used in this Section 19, the "worth at the time of award" is computed by allowing interest at the Interest Rate (defined below). As used in this Section 19, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

Landlord shall also have the remedy described in California Civil Code Section 1951.4 (Landlord may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if Tenant has right to sublease or assign, subject only to reasonable limitations). In the event of a Tenant Default, in addition to any other remedies available to Landlord under this Lease, at law or in equity, Landlord shall have the right to continue this Lease in full force and effect, whether or not Tenant shall have abandoned the Premises. In the event Landlord elects to continue this Lease in full force and effect pursuant to this Section, then Landlord shall be entitled to enforce all of its rights and remedies under this Lease, including the right to recover rent as it becomes due.

All rights, options and remedies of Landlord contained in this Section and elsewhere in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease. Nothing in this Section shall be deemed to limit or otherwise affect Tenant's indemnification of Landlord pursuant to any provision of this Lease.

20. Exclusions. Tenant has disclosed that it will assume the risk of damage to its personal property and trade fixtures, and Landlord acknowledges and accepts such assumption. Tenant, as a material part of the consideration to Landlord and as part of its obligations hereunder, assumes all risk of damage to any Incidental Equipment, and Tenant expressly releases Landlord and waives all claims in respect thereof against Landlord, except for such claims that are caused by the negligence or willful misconduct of Landlord and its

authorized representatives or as otherwise provided for herein. Notwithstanding anything herein to the contrary, each Party expressly releases the other from any claims for, speculative, indirect, consequential or punitive damages, including any lost sales or profits of the other Party.

21. Notices. All notices required by or related to this Lease shall be in writing and shall be sent to the Parties at the email addresses indicated below. Notices shall be deemed delivered upon receipt of the email by recipient.

To Landlord: Name: Michael Blay Address: 460 N. Euclid Ave Upland, CA 91786 Attn: Email: mblay@uplandca.gov Phone: 909-931-4100	To Tenant: leaseadmin@tesla.com Tesla, Inc. 901 Page Ave. Fremont, CA 94538 <a href="mailto:leaseadmin@tesla.com">leaseadmin@tesla.com</a> TRT #59369
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22. Governing Law. This Lease shall be construed and enforced in accordance with the laws of the State in which the Property is located.
23. Limitation on Liability. Notwithstanding anything to the contrary set forth herein, neither Party shall be liable to the other Party for any consequential, indirect or punitive damages, and Landlord shall not be responsible to Tenant for loss of rent or loss of profit.
24. Signage. Subject to applicable laws, Tenant may erect signs on the Premises, subject to Landlord's written consent, not to be unreasonably withheld, delayed or conditioned.
25. Brokers: Each Party represents to the other Party that it has not dealt with any broker and each Party hereby agrees to indemnify and hold the other Party harmless from all losses and liabilities, including court costs and reasonable attorneys' fees, arising out of any claims for commissions or fees related to any broker, finder or similar person with whom the indemnifying Party has dealt, or purportedly has dealt, in connection with this Agreement.
26. Prevailing Wages. To the extent the Infrastructure or Incidental Equipment installed by Tenant may be considered a "public work," as defined in Labor Code § 1720, et. seq., Tenant shall comply with the state prevailing wage law, California Labor Code §§ 1720 et seq. and 8 CCR § 16000 et seq. for any "public work" (as that term is defined in the statutes) performed pursuant to this Agreement. For purposes of compliance with prevailing wage law, Tenant shall comply with provisions applicable to an awarding body. Compliance with state prevailing wage law includes, without limitation, payment of at least prevailing rates as determined by the Director of Industrial Relations, overtime and working hour requirements, apprenticeship obligations, payroll record-keeping requirements, and other obligations as required by law.

27. Taxes. Tenant understands and acknowledges that the Landlord's grant of non-exclusive use may be subject to property taxation and that Tenant may be subject to the payment of possessory interest tax levied on the grant of non-exclusive use pursuant to California Revenue and Taxation Code Section 107.6. Tenant shall pay without abatement, deduction, or offset any possessory interest taxes levied on or assessed against the Premises and the Incidental Equipment which are directly and solely attributable to Tenant's use of the Premises, whether belonging, owned or chargeable against the City. Tenant shall make all such payments directly to the charging authority prior to delinquency and before any fine, interest, or penalty becomes due or is imposed for Tenant's non-payment. Notwithstanding the foregoing, Tenant shall, at its sole cost and expense, have the right to challenge the assessment. Tenant shall provide Landlord with proof of payment of such tax.

28. Public Records Act. Tenant acknowledges Landlord is subject to the California Public Records Act (Gov. Code, Section 6250, et. seq.). If Landlord receives a request for records related to information obtained from Tenant pursuant to this Lease, Landlord, to the extent permissible under applicable law, agrees to provide Tenant with written notice of such request within seventy-two (72) hours of its receipt of the records request. Tenant shall then have the time period specified in Landlord's notice to determine whether it considers any of the information confidential proprietary information and whether it will take legal action to prevent disclosure of the requested information. Tenant acknowledges a request for records under the California Public Records Act will require prompt response from Tenant given Landlord's obligation to respond to such request within ten (10) days of its receipt of such request for records. Absent a timely response, Landlord shall release all of the requested records. Landlord shall have no monetary liability whatsoever to Tenant for release of information pursuant to a request under the California Public Records Act or any subpoena; nor shall Landlord be obligated to defend against any challenge related to a California Public Records Act request or a subpoena for records that Tenant asserts are confidential. Tenant further agrees to indemnify, hold Landlord harmless from and against any and all claims, causes of action, damages, and judgments, as well as reasonable attorney fees and actual costs, resulting from a challenge related to a records request or subpoena for records that Tenant asserts are confidential. Tenant's indemnity obligations under this Section 28 shall survive the Termination Date.

29. Environmental Matters.

- A. Tenant shall comply at all times during the Term with all applicable Environmental Laws relating to Hazardous Materials on the Premises. Tenant shall not bring and shall use commercially reasonable efforts to prevent any of the Tenant Parties from bringing any Hazardous Materials onto the Property in violation of Applicable Laws other than those used customarily in Tenant's business operations and in all events in the quantities and in the manner prescribed by applicable Environmental Laws. Tenant agrees that it will indemnify and hold Landlord harmless for any and all costs, liabilities, investigations, damages and expenses, including any remediation costs or cleanup or corrective action expenses, associated with environmental contamination to the extent introduced by Tenant

Parties. Tenant agrees that it is responsible for remediating environmental contamination to the extent introduced by Tenant Parties and required by the applicable government entity, but only to the extent required by Environmental Law.

**B. Landlord Termination Option.** If a Hazardous Materials violation occurs during the Term and is caused by a third party, Landlord may, at Landlord's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Landlord's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds fifty thousand dollars (\$50,000), give written notice to Tenant of the estimate of the cost of remediation (the "Remediation Notice") and Landlord's willingness to proceed with remediation on a 50/50 sharing basis with Tenant for all costs to remediate, provided however, if Tenant does not elect to contribute to the costs of remediation within thirty (30) days receipt of the Remediation Notice, as described above, Landlord or Tenant shall each have the right to terminate this Agreement upon sixty (60) days following the date of the Remediation Notice. Should Tenant elect to contribute to the remediation costs, Tenant shall provide Landlord with said funds or satisfactory assurance thereof within thirty (30) days following such commitment. Upon such commitment to remediate between the Parties, this Lease shall continue in full force and effect, and Landlord shall proceed to make such remediation as soon as reasonably possible after the required funds are available.

**C. Definitions.** The following definitions shall be used in this Section 29.

"Environmental Law" means any federal, state or local law pertaining to land use, air, soil, surface water, groundwater (including the protection, cleanup, removal, remediation, or damage thereof), public or employee health or safety or any other environmental matter, including, but not limited to, the following: (a) Clean Air Act (42 U.S.C. § 7401, et seq.); (b) Clean Water Act (33 U.S.C. § 1252, et seq.); (c) Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.); (d) Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601, et seq.); (e) Safe Drinking Water Act (42 U.S.C. § 300f, et seq.); (f) Toxic Substances Control Act (15 U.S.C. § 2601, et seq.); (g) Endangered Species Act (16 U.S.C. § 1531, et seq.); (h) Occupational Safety and Health Act (29 U.S.C. § 651, et seq.); (i) Emergency Planning and Community Right-To-Know Act (42 U.S.C. § 11001, et seq.); and (j) any other applicable laws or regulations for the protection of the environment, human health or safety or regulating Hazardous Materials, or Hazardous Material Activities.

"Hazardous Materials" means (a) any petroleum, crude oil, natural gas, or any fraction, product or derivative thereof, radioactive materials, asbestos in any form that is friable; (b) any chemicals, materials, substances or wastes that are defined as or included in the definition of hazardous

substances, hazardous wastes, hazardous materials, extremely hazardous substances, toxic substances, pollutants, contaminants or words of similar import under any Environmental Law; and (c) any other chemical, material, substance, waste or exposure that is limited or regulated by any governmental authority having jurisdiction over the Premises.

“Hazardous Materials Activity” means the handling, transportation, transfer, recycling, storage, use, treatment, manufacture, generation, investigation, removal, remediation, release, exposure of others to, sale or distribution of any Hazardous Material or any product containing a Hazardous Material, and any consulting, management, administrative, monitoring or testing services relating to any of the foregoing.

30. Sale or Transfer. In the event of a sale or transfer of all or a portion of Landlord’s interest in the Property or Premises while this Lease is in effect, Tenant’s rights shall be conveyed with the Property or Premises and Landlord warrants that any transferee shall be bound by all terms and conditions of this Lease, and shall obtain any necessary documents to confirm such assignment.

31. Subordination. Subject to Section 7 above, this Lease is subject to and subordinate to all ground or superior leases and to all mortgages which may now or hereafter affect such leases or the real property of which the Premises are a part and to all renewals, modifications, consolidations, replacements and extensions of any such ground or superior leases and mortgages; provided that Tenant’s rights under this Lease shall not be disturbed by such subordination so long as no Event of Default by Tenant exists. This Section 31 shall be self-operative and no further instrument of subordination or non-disturbance shall be required by any ground or superior lessor or by any mortgagee, affecting any lease or the Property.

32. Force Majeure: If either Party’s performance of its obligations under this Lease is delayed by Force Majeure, then such Party’s time of performance will be extended by a corresponding number of days, provided that Force Majeure shall not excuse timely payments when due under this Agreement. As used in this Lease, “Force Majeure” means an unforeseeable act, event, condition or requirement beyond such party’s reasonable control, including, without limitation, labor disputes, governmental restrictions, natural disasters, fire, flood, inclement weather, pandemic, disease or other outbreak of infectious disease or any other public health crisis, inclusive of quarantine, shelter order or similar restrictions on employees or travel, declaration of national, regional or local state of emergency, explosion, embargoes, war, terrorism, civil disturbance or other similar events. Notwithstanding the foregoing, in no way shall the occurrence of a Force Majeure excuse the payment of Rent.

33 Entire Agreement. Each of Landlord and Tenant acknowledges and agrees that this Lease has been read and understood, 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, of the Parties with respect to the subject matter herein.

34. Successors and Assigns. This Lease shall be binding upon, and inure, to the benefit of, the Parties and their respective permitted successors and assigns. Tenant shall not assign this Agreement voluntarily or by operation of law, or any right hereunder, nor sublet the Premises or any part thereof, without the prior written consent of Landlord, which shall not be unreasonably withheld, conditioned or delayed; provided that the foregoing prohibition shall not limit Tenant's ability to transfer this Agreement to tenant's Affiliate. "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. Any attempted or purported assignment or delegation of any of the rights of obligations by Tenant without the prior written consent of Landlord shall be void and of no force and effect.

35. No Third-Party Beneficiary. This Agreement and every provision herein are for the exclusive benefit of Tenant and Landlord and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of Tenant's or Landlord's obligations under this Agreement.

36. Attorneys' Fees. In the event of a conflict or dispute between the Parties related to this Agreement, the Parties agree to first meet to discuss in good faith a resolution to such conflict or dispute or a cure the Event of Default without the use of attorneys, whether in-house or outside counsel, in order to quickly resolve the conflict or dispute and avoid attorney fees. If the Parties are unable to amicably resolve the conflict or dispute on their own, and if a lawsuit or other action of any nature is then instituted in connection with such controversy, then it is agreed that the prevailing Party shall be entitled to reasonable and documented attorney's fees and costs.

37. City Municipal Powers. Landlord is entering this lease in its proprietary capacity and not in its regulatory or governmental capacity. Nothing in this Lease shall be construed as restraining, impairing or restricting the City of Upland in its regulatory capacity, or granting any rights upon the Tenant with respect to the use, occupancy or operation of the Premises in a manner inconsistent with Law. This Lease does not grant any development rights upon the Tenant with respect to the Premises and any such development shall be subject to all applicable provisions of the Upland City Code.

38. Execution: Counterparts. This Lease may be executed in any number of counterparts with the same effect as if the Parties had signed the same document. In place of the transmittal of an original document, such executed counterpart may be transmitted to the other Party by portable document format (PDF) or other electronic signature and such PDF or electronic document shall have the full force and effect of an original document. All fully-executed counterparts, whether original documents, PDF, electronic documents or a combination thereof, shall be construed together and shall constitute one and the same Lease.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each Party hereto has caused this Lease to be executed by its authorized representative as of the date shown below.

LANDLORD:

TENANT:

City of Upland,  
a Municipality

Tesla, Inc.,  
a Delaware corporation

By: 

By: 

Name: Michael Blay

Name: Troy R. Jones

Title: City Manager

Title: VP, North America Sales and Service

Date: 11-17-22

Date: November 17, 2022

EXHIBIT A

The Premises

