

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Tesla, Inc. for)
Declaratory Statement Concerning) DOCKET NO. _____-EQ
Leasing of Solar Electric Equipment) FILED: DECEMBER 3, 2018
_____)

**PETITION OF TESLA, INC., FOR DECLARATORY STATEMENT
CONCERNING LEASING OF SOLAR ELECTRIC EQUIPMENT**

Tesla, Inc. (“Tesla”), pursuant to Section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code (“F.A.C.”), hereby respectfully petitions the Florida Public Service Commission (“PSC” or “Commission”) for a declaratory statement that, based on the facts presented by Tesla in this Petition: (A) Tesla’s leasing of solar electric equipment to residential lessees, pursuant to Tesla’s standard form lease known as Tesla’s SolarLease®, does not constitute a sale of electricity; (B) Tesla’s offering to lease solar electric equipment to residential electricity users will not cause Tesla to be deemed a public utility under Florida law; and (C) the residential solar equipment lease described in this Petition will not subject either Tesla or Tesla’s customer-lessees to regulation by the Commission.

In summary, consistent with closely-related and substantively similar, albeit non-binding, Commission declaratory statement orders regarding the regulatory status of solar leases and lease transactions, Tesla’s SolarLease® provides for residential electricity users to lease solar photovoltaic electricity producing equipment from Tesla, but the SolarLease® does not involve any payment for or purchase of electricity by a lessee. Tesla’s SolarLease® and the leasing transaction is a lease of equipment that produces electricity and not a sale of electricity, and accordingly, the Commission’s jurisdiction does not attach to either Tesla or any of its residential customer-lessees engaged in the leasing

transactions provided for in the SolarLease®. A copy of Tesla's proposed Florida SolarLease® is attached as Exhibit A to this Petition.

In further support of its Petition, Tesla states as follows.

PROCEDURAL BACKGROUND

1. The agency whose declaratory statement is sought is as follows.

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2. The name and address of the Petitioner are as follows.

Tesla, Inc.
6800 Dumbarton Circle
Fremont, CA 94555

3. The names, addresses, and contact information of the Petitioner's representatives, to whom copies of all orders, notices, pleadings, and other documents filed or issued in this proceeding should be delivered, are as follows.

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and

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6800 Dumbarton Circle
Fremont, CA 94555
Telephone (650) 868-0001

DECLARATORY STATEMENTS REQUESTED

4. Based upon the facts set forth in this Petition, and based on the analysis set forth below, Tesla respectfully requests that the Commission issue an order declaring that:

- a. Tesla's leasing of solar electric equipment to residential lessees, pursuant to Tesla's standard form lease known as Tesla's SolarLease®, does not constitute a sale of electricity;
- b. Tesla's offering to lease solar electric equipment to residential electricity users will not cause Tesla to be deemed a public utility under Florida law; and
- c. The residential solar equipment lease described in this Petition (Tesla's SolarLease®) will not subject either Tesla or Tesla's customer-lessees to regulation by the Commission.

NEED FOR THE REQUESTED DECLARATORY STATEMENTS

5. Tesla is aware of the Commission's recent orders granting declaratory statements substantively the same as those requested by Tesla here. In re: Petition by Sunrun Inc. for Declaratory Statement Concerning Leasing of Solar Equipment, Docket No. 20170273-EQ, Order No. PSC-2018-0251-DS-EQ (F.P.S.C., May 17, 2018) ("Sunrun"); In re: Petition for Declaratory Statement Concerning Leasing of Solar Equipment, by Vivint Solar Developer, LLC, Docket No. 20180124-EQ, Order No. PSC-2018-0413-DS-EQ (F.P.S.C., Aug. 21, 2018) ("Vivint Solar"). However, by the inherent legal nature of declaratory statements, those orders are binding and applicable only as to the petitioners who sought and obtained those declaratory statements, Sunrun, Inc. and Vivint Solar Developer, LLC. Because of the requirements of investors who will provide financing for Tesla's SolarLease® program in Florida, Tesla is compelled to seek the requested statements as a practical, real-world business necessity.

**FACTUAL BACKGROUND – DESCRIPTION OF TESLA, INC. AND
SUMMARY OF TESLA’S SOLARLEASE® OFFERING**

6. Tesla is an international leader in energy technologies, including solar photovoltaic equipment, electric vehicles, and battery technologies for residential, commercial, and utility-scale applications. Tesla offers its residential solar equipment to customers in other states on a cash sale, power sales, and equipment leasing basis. Because of differences in State laws governing leases generally, solar equipment leases specifically, and the terms and conditions under which solar equipment may be leased relative to State regulatory requirements, Tesla has a number of different provisions in its leases in other States, each necessarily and appropriately tailored to each State’s requirements.

7. Through this Petition, Tesla seeks the Commission’s confirmation that its Florida-specific SolarLease®, which Tesla plans to offer to residential customers in Florida, will not result in regulatory consequences for either Tesla or its customer-lessees.

8. Tesla’s proposed Florida-specific SolarLease® will provide a financing option to Florida homeowners who choose not to purchase their solar systems. Tesla's proposed Florida SolarLease®, which complies with Florida law and is consistent with prior Commission precedent and orders, consists of a 20-year lease of solar equipment intended to provide a homeowner with the means to potentially generate enough solar electricity to satisfy the customer’s needs, consistent with applicable Commission rules and utility tariffs. Tesla’s SolarLease® will include the following terms and conditions that are material to the requested declaratory statements:

- a. The monthly lease payments over the 20-year lease term will be specified upfront in each customer-lessee's SolarLease®. The customer-lessee's

payments are based on Tesla's costs to purchase and install the system and include a negotiated rate of return on Tesla's investment. The customer-lessee's payments are and will be independent of electricity generated by the solar system, equipment production, utility prices, maintenance activities, solar irradiance, or any other operational variable of the leased equipment.

- b. Tesla will hold legal title to the leased equipment and receive all Investment Tax Credits, depreciation and any other benefits associated with the investment.
- c. Tesla will have no control over the use of the equipment other than as the beneficiary of representations and covenants from the customer-lessee contained in the SolarLease®.
- d. Upon expiration of the SolarLease®, the customer-lessee may purchase the solar equipment at fair market value, renew the lease on an annual basis, or request removal of the equipment at no additional cost.
- e. Tesla will provide industry standard workmanship warranties to ensure the highest quality during the installation period and protect the customer-lessee's home from damage during the installation process. The customer-lessee will bear the cost for ongoing system maintenance through the specified monthly lease payments. The system's equipment warranties and maintenance services are triggered by damage to or malfunction of the system or its components, and are not dependent on electric generation output or system production rates.

- f. The customer-lessee will be responsible for the cost of non-warranty maintenance, repair, and replacement.
- g. Once the system is installed and interconnected, the costs and expenses of maintaining the equipment and the operational burden of assuring adequate solar exposure conditions are all borne by the customer-lessee, except to the extent assumed by Tesla through the maintenance provisions of the SolarLease®.
- h. The customer-lessee will be responsible for all taxes assessed on or arising from installation or operation of the leased equipment.
- i. The terms and conditions of the SolarLease® will comply with Florida state law, applicable IRS rules and regulations, and applicable accounting standards.

**STATUTES AND ORDERS RELEVANT TO THE
REQUESTED DECLARATORY STATEMENTS**

9. The statutory provisions, and Commission orders applicable to the narrow jurisdictional questions raised in this Petition are as follows.

- a. Section 366.02, Florida Statutes;
- b. In Re: Petition of PW Ventures, Inc. for Declaratory Statement in Palm Beach County, "Order Denying Declaratory Statement," PSC Docket No. 870446-EU (Fla. Pub. Serv. Comm'n, October 22, 1987) ("PW Ventures"), aff'd sub nom., PW Ventures v. Nichols, 533 So. 2d 281 (Fla. 1988);
- c. In Re: Petition of Monsanto Company for a Declaratory Statement Concerning the Lease Financing of a Cogeneration Facility, "Declaratory Statement," PSC Docket No. 860725-EU, Order No. 17009 (Fla. Pub. Serv. Comm'n, December 22, 1986) ("Monsanto");
- d. Sunrun;

- e. Vivint Solar; and
- f. Rule 25-6.065, Florida Administrative Code -**Interconnection and Net Metering of Customer-Owned Renewable Generation**.

10. Although the Commission cannot grant declaratory statements with respect to statutes outside its jurisdiction, for context, Tesla provides brief information confirming that Tesla's SolarLease® is also consistent with Section 520.20, et seq., Florida Statutes.

HOW THE COMMISSION'S STATUTES, RULES, AND ORDERS MAY SUBSTANTIALLY AFFECT THE PETITIONER'S INTERESTS

11. Tesla, like other providers of solar electric equipment to residential customers, must comply with all applicable laws and deal with the practical realities of obtaining financing and assuring its investors, customers, and customer-lessees that neither they, nor Tesla, will incur regulatory consequences, responsibilities, or liabilities as a result of the contemplated solar leasing transactions under the SolarLease®. Since the Commission has exclusive jurisdiction over these matters, the Commission's statutes and orders could be interpreted in a manner that would affect Tesla's substantial interests. Tesla, like other solar providers, seeks the Commission's determinations that it can pursue its business free of regulatory consequences.

ANALYSIS

12. In summary, the Commission's statutes and orders hold that supplying electricity to even one end-user for compensation, even on a shared-savings basis, constitutes a retail sale of electricity, thereby subjecting such transactions to the Commission's jurisdiction over the providing entity as a public utility "supplying electricity to or for the public within" Florida. PW Ventures at 4. The Commission has also held that lease transactions, such as those provided for in Tesla's SolarLease®, do not

constitute a retail sale of electricity and accordingly, neither the lessor nor lessee parties to such transactions are subject to the Commission's jurisdiction. Sunrun, Vivint Solar; see also Monsanto. Tesla's SolarLease® is consistent with the lease arrangement and transactions addressed in the Commission's prior orders and applicable law. Tesla will not supply electricity to its customer-lessees, and its lease will not constitute a sale of electricity. Tesla's residential customer-lessees will lease residential solar equipment that they will use to generate their own electricity for their own residential purposes. Tesla's SolarLease® is squarely within the scope of non-jurisdictional transactions, as recently held in Sunrun and Vivint Solar, and accordingly, the Commission should grant the declaratory statements requested by Tesla herein.

Tesla's SolarLease® Does Not Involve a Retail Sale of Electricity

13. In PW Ventures, the Commission determined that the provision of electricity for compensation, on a shared savings basis, to even a single end-use customer, would subject the provider of the electricity to regulation as a public utility under Chapter 366, Florida Statutes. In Monsanto, however, the Commission determined that a lease arrangement where the lessee retained the risks of production associated with the electric generation equipment did not constitute a retail sale of electricity. Monsanto at 3. The Commission, on facts similar to those presented in Tesla's Petition, recently reiterated and affirmed its holding in Monsanto, where it stated:

In the *Monsanto* Petition, the company stated that it would pay a fixed amount for the lease, an amount that was not tied to energy production. The lease would run for a minimum of five years, after which the company could elect to renew it, purchase the equipment, or pay for the removal of the equipment. We answered the declaratory statement in the affirmative and held that Monsanto's plan would not trigger our jurisdiction because the company was "leasing equipment which produces electricity rather than

buying electricity that the equipment generates.” We stated: “[m]ost importantly, just as in the lease of an automobile, the lease payments would be fixed through the term of the lease.”

Sunrun at 7 (footnotes omitted).

14. As with the leases in Monsanto, Sunrun, and Vivint Solar, payments pursuant to Tesla’s SolarLease® will be fixed (specifically defined for the term of the lease) and therefore independent of electricity production; in other words, Tesla’s customer-lessees will be “leasing equipment which produces electricity rather than buying electricity that the equipment generates.” Monsanto at 3; Sunrun at 7. Therefore, the lease transaction established by Tesla’s SolarLease® is not a retail sale of electricity and will not cause either Tesla or its customer-lessees to be subject to the Commission’s jurisdiction.

15. Tesla’s SolarLease® is also consistent with the Commission's Net Metering Rule, Rule 25-6.065, F.A.C., which states:

The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

As the Commission confirmed in its Sunrun order, "Rule 25-6.065, F.A.C. allows customers to lease solar equipment from a third party and allows for a maintenance agreement so long as the lease payments do not depend on electric generation." Sunrun at 8.

Tesla’s SolarLease® is Consistent with Applicable Provisions of Florida Law

16. The Florida Legislature recently enacted consumer protection legislation governing contracts for the sale or lease of certain energy generation systems, including

residential solar systems. See, Ch. 520, Part II, Florida Statutes (Section 520.20, *et seq.*), entitled Distributed Energy Generation System Sales (the "Act"), effective July 1, 2017. Among other things, the Act clearly expresses the Legislature's intent to permit leases of distributed energy generation systems and specifies certain information that must be included in such leases, including descriptions of the assumptions used in calculating any savings estimates and descriptive information concerning the solar system being leased. Tesla's SolarLease® complies with these requirements and includes the standard lease disclosure form published by the Florida Department of Business and Professional Regulation pursuant to these statutes.

17. Although the Act contemplates that vendors may warrant or guarantee a specified level of energy output, Tesla's SolarLease® makes no such warranty or guarantee. Tesla's SolarLease® will estimate the generation capability of the leased solar equipment during the initial lease term in order to correctly size customer-lessee systems to meet their self-generation needs, but a customer-lessee's lease payments will not vary based on generation.

18. Tesla's SolarLease® further complies with the requirements in Section 520.23(18) and (19), Florida Statutes to disclose certain information regarding system maintenance and repairs, and with that statute's recognition that solar equipment lessors may contract with third parties to maintain and repair leased systems. Tesla's SolarLease® advises that system maintenance costs are included in the fixed monthly lease payments. Tesla will monitor system performance, including measuring the energy produced, to ensure that the equipment is operating properly and to identify any need for maintenance. Lease payments will remain fixed regardless of output or maintenance activity. Tesla's

contractual maintenance obligation is consistent with the consumer protection requirements of Section 520.23, Florida Statutes, and (as discussed above) the Commission's Net Metering Rule, Rule 25-6.065, F.A.C.

CONCLUSION AND RELIEF REQUESTED

19. Based upon the facts and analysis set forth in this Petition, Tesla's proposed SolarLease® does not involve a retail sale of electricity or any other event or transaction subject to the Commission's jurisdiction.

WHEREFORE, Tesla, Inc. respectfully requests that the Commission issue an order declaring that:

- a. Tesla's leasing of solar electric equipment to residential lessees, pursuant to Tesla's standard form lease known as Tesla's SolarLease®, does not constitute a sale of electricity;
- b. Tesla's offering to lease solar electric equipment to residential electricity users will not cause Tesla to be deemed a public utility under Florida law; and
- c. The residential solar equipment lease described in this Petition will not subject either Tesla or Tesla's customer-lessees to regulation by the Commission.

Respectfully submitted this 3rd day of December 2018.



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In re: Petition of Tesla, Inc. for)
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_____)

DOCKET NO. _____-EQ
FILED: DECEMBER 3, 2018

EXHIBIT A

TESLA'S PROPOSED SOLARLEASE® FOR FLORIDA



Customer Information
John Smith

5 Main St.
Tampa, FL 33606
5551112222

Salesperson
Jane Doe

Registration/License Number:
5012 Joanne Kearney Blvd
Tampa, FL 33619

Installation Location
5 Main St.
Tampa, FL 33606

Installer License
Tesla Energy Operations, Inc.
FL EC13006226

Here are the key terms of your SolarLease Agreement

\$

Amount due at contract signing

\$

First year monthly payment
(Est. Price per kWh First Year: \$)

Initial here _____

2.90%

Annual Escalator

Initial here _____

20yrs

Agreement Term

Initial here _____

The Tesla Promise

- We guarantee that if you sell your Home, the buyer will qualify to assume your Agreement Initial here _____
- We warrant all of our roofing work.
- We restore your roof at the end of the Agreement.
- We warrant, insure and repair the System. Initial here _____
- We fix or pay for any damage we may cause to your property.
- We provide 24/7 web-enabled monitoring at no additional cost.
- The pricing in this Agreement is valid for 30 days after 11/7/2018.

Your Tesla Lease Agreement Details

Amount due at contract signing

\$ _

Est. amount due at installation

\$ _

Est. amount due at building inspection

\$ _

Est. first year production

4,052 kWh

Your Choices at the End of the Initial Term:

- Tesla will remove the System at no additional cost to you.
- You can upgrade to a new System with the latest solar technology under a new contract.
- You may renew your Agreement for up to ten (10) years in two (2) five (5) year increments.
- Otherwise, the Agreement will automatically renew for an additional one (1) year term at 10% less than the then-current average rate charges by your local utility.

Your Prepayment Choices During the Term:

- If you move, you may prepay the remaining payments (if any) at a discount.

Your Purchase Choices at the End of the Initial Term:

- You may purchase the System for the amount set forth in Section 4(E) of the Agreement.

6800 Dumbarton Circle, Fremont, CA 94555 | 888.765.2489 | tesla.com

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1. INTRODUCTION

This SolarLease® (this "Lease" or "Agreement") is the agreement between you and Tesla, Inc. (together with its successors and assigns, "Tesla" or "we"), covering the lease to you of the solar panel system (the "System") described below. The System will be installed by Tesla at the address you listed above. This Lease will refer to this address as the "Property" or your "Home." This Lease is up to thirteen (13) pages long and has up to three (3) Exhibits depending on the state where you live. This Lease has disclosures required by the Federal Consumer Leasing Act and, where applicable, state law. Tesla provides you with a Limited Warranty (the "Limited Warranty"). The Limited Warranty is attached as **Exhibit 2**. Tesla will also provide you with a System user manual entitled "Solar Operation and Maintenance Guide" (the "Guide"), that contains important operation, maintenance and service information. This is a legally binding agreement, so please read everything carefully including all of the exhibits. If you do not meet your contract obligations under this Lease, you may lose your rights to the System. If you have any questions regarding this Lease, please ask your Tesla sales consultant.

THIS AGREEMENT SUPERSEDES ALL PRIOR EXISTING CONTRACTS BETWEEN YOU AND TESLA THAT PERTAIN TO THE "SYSTEM" DEFINED IN THIS AGREEMENT.

2. LEASE TERM

Tesla agrees to lease you the System for 20 years (240 full calendar months), plus, if the Interconnection Date is not on the first day of a calendar month, the number of days left in that partial calendar month, including the Interconnection Date. We refer to this period of time as the "Lease Term." The Lease Term begins on the Interconnection Date. The Interconnection Date is the date that the System is turned on and generating power. Tesla will notify you by email when your System is ready to be turned on.

3. SYSTEM DESCRIPTION

Lease and installation of a 4.25 kW DC photovoltaic system consisting of PV modules, corresponding inverter(s) and a mounting system designed for installation and operation at your Home.

REST OF PAGE INTENTIONALLY LEFT BLANK.



C. Other Charges:

If you make your Monthly Payments by allowing us to automatically debit your checking or savings account, then you will receive a discount of \$_____ on your Monthly Payments. The Monthly Payments listed above reflect this discount. If you do not allow the automatic debit, this discount will not be applied to your Monthly Payments and each Monthly Payment will be \$_____ greater.

D. Total of Payments (A+B+C) = \$_____

This is the total amount you will have paid by the end of this Lease by making 240 payments in total. It includes the Monthly Payments stated above and estimated taxes of \$_____.

E. Purchase Option At End of Lease Term:

If you are not in default under this Lease, you will have an option to purchase the System at the end of the Lease Term for \$_____.

F. Other Important Terms:

See Section 2 above for additional information on the Lease Term and also see below for additional information on termination, purchase options, renewal options, maintenance responsibilities, warranties, late and default charges and prohibition on assignment without Tesla's consent. Payments due upon installation are due immediately prior to commencement of installation.

REST OF PAGE INTENTIONALLY LEFT BLANK.



5. AGREEMENT TO ARBITRATE.

Please carefully read this provision, which applies to any dispute between you and Tesla, Inc. and its affiliates (together "Tesla").

If you have a concern or dispute, please send a written notice describing it and your desired resolution to resolutions@tesla.com.

If not resolved within 60 days, you agree that any dispute arising out of or relating to any aspect of the relationship between you and Tesla will not be decided by a judge or jury but instead by a single arbitrator in an arbitration administered by the American Arbitration Association (AAA) under its Consumer Arbitration Rules. This includes claims arising before this Agreement, such as claims related to statements about our products.

We will pay all AAA fees for any arbitration, which will be held in the city or county of your residence. To learn more about the Rules and how to begin an arbitration, you may call any AAA office or go to www.adr.org.

The arbitrator may only resolve disputes between you and Tesla, and may not consolidate claims without the consent of all parties. The arbitrator cannot hear class or representative claims or requests for relief on behalf of others purchasing or leasing Tesla products. In other words, you and Tesla may bring claims against the other only in your or its individual capacity and not as a plaintiff or class member in any class or representative action. If a court or arbitrator decides that any part of this agreement to arbitrate cannot be enforced as to a particular claim for relief or remedy (such as injunctive or declaratory relief), then that claim or remedy (and only that claim or remedy) shall be severed and must be brought in court and any other claims must be arbitrated.

If you prefer, you may instead take an individual dispute to small claims court.

You may opt out of arbitration within 30 days after signing this Agreement by sending a letter to: Tesla, Inc.; P.O. Box 15430; Fremont, CA 94539-7970, stating your name, product, and intent to opt out of the arbitration provision. If you do not opt out, this agreement to arbitrate overrides any different arbitration agreement between us, including any arbitration agreement in a lease or finance contract.

You agree to:

- (i) only have the System repaired pursuant to the Limited Warranty and reasonably cooperate when repairs are being made;
- (ii) keep trees, bushes and hedges trimmed so that the System receives as much sunlight as it did when Tesla installed it;
- (iii) keep the panels clean, pursuant to the Limited Warranty and the Guide;
- (iv) not modify your Home in a way that shades the System;
- (v) be responsible for any conditions at your Home that affect the installation (e.g. blocking access to the roof or removing a tree that is in the way, prior work you have done on your home that was not permitted);
- (vi) not remove any markings or identification tags on the System;
- (vii) permit Tesla, after we give you reasonable notice, to inspect the System for proper operation as we reasonably determine necessary;
- (viii) use the System primarily for personal, family or household purposes, but not to heat a swimming pool;
- (ix) not do anything, permit or allow to exist any condition or circumstance that would cause the System not to operate as intended at the Property;
- (x) notify Tesla if you think the System is damaged or appears unsafe; if the System is stolen; and prior to changing your power supplier;
- (xi) have anyone who has an ownership interest in your Home sign this Lease;
- (xii) return any documents we send you for signature (like incentive claim forms) within seven (7) days of receiving them; and
- (xiii) maintain and make available, at your cost, a functioning indoor internet connection with a router, one DHCP enabled Ethernet port with internet access and

6. LEASE OBLIGATIONS

(a) System, Home and Property Maintenance



standard AC power outlet close enough and free of interference to enable an internet-connected gateway provided by Tesla to communicate wirelessly with the system's inverter (typically this is 80 feet, but may depend on site conditions). See Section 2(c)(ii) of the Limited Warranty for details; and

- (xiv) if your home is governed by a home owner's association or similar community organization, obtain all approvals and authorizations for the System required by that organization and advise us of any requirements of that organization that will otherwise impact the System, its installation or operation.

(b) System Construction, Repair, Insurance and Tesla's obligations:

Tesla agrees to:

- (i) schedule the installation of the System at a mutually convenient date and time;
- (ii) construct the System according to written plans you review;
- (iii) provide you with a web-enabled meter to accurately measure the amount of power the System delivers to you;
- (iv) notify you if the System design has to be materially changed so that you can review any such changes;
- (v) clean up after ourselves during the construction of the System;
- (vi) insure our actions, covering damages to your property caused by faulty installation, System malfunction or manufacturing defects;
- (vii) not be a loss payee (or named insured) on the insurance policy covering your Home;
- (viii) repair the System pursuant to the Limited Warranty and reasonably cooperate with you when scheduling repairs;
- (ix) create a priority stream of operation and maintenance payments to provide enough cash flow in our financing transactions to

pay for the Limited Warranty obligations and the repair and maintenance of the System in accordance with this Lease even if Tesla ceases to operate; and

- (x) not put a lien on your Home or Property.

(c) Home Renovations or Repairs

If you want to make any repairs or improvements to the Property that could interfere with the System (such as repairing the roof where the System is located), you may only remove and replace the System pursuant to the Limited Warranty.

(d) Automatic Payment; Fees; Late Charges

In addition to the other amounts you agree to pay in this Lease, you agree to pay the following:

- (i) Automatic Payment Discount: If you make your Monthly Payments by allowing us to automatically debit your checking or savings account, then you will receive a discount of \$____ on your Monthly Payments. The Monthly Payments listed in Section 4 of this Agreement reflect this discount. If you do not allow the automatic debit, this discount will not be applied to your Monthly Payments and each Monthly Payment will be \$____ greater. Please contact our Customer Care team (888-765-2489) if you wish to set up automatic debits from your checking or savings account to make your Monthly Payments;

I acknowledge I have read Section 6(d)(i)
Customer's initials: _____

- (ii) Returned Check Fee: \$25 (or such lower amount as required by law) for any check or withdrawal right that is returned or refused by your bank; and
- (iii) Late payments: accrue interest at twelve percent (12%) annually or the maximum allowable by applicable law.

(e) Insurance

Tesla shall insure the System against all damage or loss unless (i) that damage or loss is caused by your gross negligence; or (ii) that damage or loss



is caused by ball strikes; or (iii) you intentionally damage the System.

(f) Estimated Taxes

You agree to pay any applicable sales or use taxes on the Monthly Payments due under this Lease. If this Lease contains a purchase option at the end of the Lease Term, you agree to pay any applicable tax on the purchase price for the System. You also agree to pay as invoiced any applicable property taxes on the System that your local jurisdiction may levy. The total estimated amount you will pay for taxes over the Lease Term is \$_____.

(g) No Alterations

You agree that you will not make any modifications, improvements, revisions or additions to the System or take any other action that could void the Limited Warranty on the System without Tesla's prior written consent. If you make any modifications, improvements, revisions or additions to the System, they will become part of the System and shall be Tesla's property, subject to your right to purchase the System, including any such modifications or improvements, as provided in this Lease.

(h) Access to the System

(i) You grant to Tesla and its employees, agents and contractors the right to reasonably access all of the Property as necessary for the purposes of (A) installing, constructing, operating, owning, repairing, removing and replacing the System or making any additions to the System or installing complementary technologies on or about the location of the System; (B) enforcing Tesla's rights as to this Lease and the System; (C) installing, using and maintaining electric lines, inverters and meters, necessary to interconnect the System to your electric system at the Property and/or to the utility's electric distribution system; or (D) taking any other action reasonably necessary in connection with the construction, installation, operation, maintenance, removal or repair of the System. This access right shall continue

for up to ninety (90) days after this Lease expires to provide Tesla with time to remove the System at the end of the Lease Term. Tesla shall provide you with reasonable notice of its need to access the Property whenever commercially reasonable.

(ii) During the time that Tesla has access rights you shall ensure that its access rights are preserved and shall not interfere with or permit any third party to interfere with such rights or access. You agree that the System is not a fixture, but Tesla has the right to file any UCC-1 financing statement or fixture filing that confirms its interest in the System.

(i) Indemnity

To the fullest extent permitted by law, you shall indemnify, defend, protect, save and hold harmless Tesla, its employees, officers, directors, agents, successors and assigns from any and all third party claims, actions, costs, expenses (including reasonable attorneys' fees and expenses), damages, liabilities, penalties, losses, obligations, injuries, demands and liens of any kind or nature arising out of, connected with, relating to or resulting from your negligence or willful misconduct; provided, that nothing herein shall require you to indemnify Tesla for its own negligence or willful misconduct. The provisions of this paragraph shall survive termination or expiration of this Lease.

(j) Monthly Payments

The Monthly Payments section (Section 4(B)) describes your monthly payment obligations under this Lease. YOU AGREE THAT THIS IS A NET LEASE AND THE OBLIGATION TO PAY ALL MONTHLY PAYMENTS AND ALL OTHER AMOUNTS DUE UNDER THIS LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL UNDER ALL CIRCUMSTANCES AND SHALL NOT BE SUBJECT TO ANY ABATEMENT, DEFENSE, COUNTERCLAIM, SETOFF, RECOUPMENT OR REDUCTION FOR ANY REASON WHATSOEVER, IT BEING THE EXPRESS INTENT OF THE PARTIES THAT ALL AMOUNTS PAYABLE BY YOU HEREUNDER



SHALL BE AND CONTINUE TO BE PAYABLE IN ALL EVENTS INCLUDING BY YOUR HEIRS AND ESTATE AND, EXCEPT AS SET FORTH BELOW IN SECTIONS 7, 24, 25, AND ON THE ATTACHED EXHIBIT YOU HEREBY WAIVE ALL RIGHTS YOU MAY HAVE TO REJECT OR CANCEL THIS LEASE, TO REVOKE ACCEPTANCE OF THE SYSTEM, OR TO GRANT A SECURITY INTEREST IN THE SYSTEM.

- (k) You authorize Tesla, or its designee, to obtain your credit report now and in the future, check your credit and employment history, answer questions others may ask regarding your credit and share your credit information with Tesla's financing partners. You certify that all information you provide to us in connection with checking your credit will be true and understand that this information must be updated upon request if your financial condition changes.

7. CONDITIONS PRIOR TO INSTALLATION OF THE SYSTEM

(a) Tesla's Obligation to Install and Lease

Tesla's obligations to install and lease the System are conditioned on the following items having been completed to its reasonable satisfaction:

- (i) completion of (A) the engineering site audit (a thorough physical inspection of the Property, including, if applicable, geotechnical work), (B) the final System design, and (C) real estate due diligence to confirm the suitability of the Property for the construction, installation and operation of the System;
- (ii) approval of this Lease by Tesla's financing partner(s);
- (iii) your meeting Tesla's credit criteria;
- (iv) confirmation of rebate, tax credit and renewable energy credit payment availability in the amount used to calculate the Monthly Payment amounts set forth in this Lease;

- (v) confirmation that Tesla will obtain all applicable benefits referred to in Section 10;
- (vi) receipt of all necessary zoning, land use and building permits; and
- (vii) completion of any renovations, improvements or changes reasonably required at your Home or on the Property (e.g. removal of a tree or roof repairs necessary to enable Tesla to safely install the System); and
- (viii) if your home is governed by a home owner's association or similar community organization, your receipt of all approvals and authorizations for the System required by that organization and advising us of any requirements of that organization that will otherwise impact the System, its installation or operation.

Tesla may terminate this Lease without liability if, in its reasonable judgment, any of the above listed conditions (i) through (vi) will not be satisfied for reasons beyond its reasonable control. Once Tesla starts installation, however, it may not terminate this Lease for the failure to satisfy conditions (i) through (vi) above.

(b) Amendments, Your Right to Terminate for Material Changes.

Both parties will have the right to terminate this Lease, without penalty or fee, if Tesla determines after the engineering site audit of your Home that it has misestimated by more than ten percent (10%) any of (i) the System size, (ii) the System's total cost or (iii) the System's annual production. Such termination right will expire at the **earlier** of (A) one (1) week prior to the scheduled System installation date and (B) sixty (60) days after we inform you in writing of the revised size, cost or production estimate. If you do not terminate this Lease or return the written amendment described below within this time period, then this Lease will automatically terminate and we will charge you a \$250 cancellation fee. Changes of more than 10% in the System size, total cost or annual production will be documented in an amendment to this Lease. You authorize Tesla to make corrections



to the utility paperwork to conform to this Lease or any amendments to this Lease we both sign.

8. **WARRANTY**

YOU UNDERSTAND THAT THE SYSTEM IS WARRANTED SOLELY UNDER THE LIMITED WARRANTY ATTACHED AS **EXHIBIT 2**, AND THAT THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS FOR ANY PURPOSE, CONDITION, DESIGN, CAPACITY, SUITABILITY OR PERFORMANCE OF THE SYSTEM OR ITS INSTALLATION.

9. **TRANSFER**

Tesla works with banks, large companies and other significant financing partners to finance your System. As a result, Tesla will assign this Lease to one of its financing partners. Tesla may assign, sell or transfer the System and this Lease, or any part of this Lease or the exhibits, without your consent. Assignment, sale or transfer generally means that Tesla would transfer certain of its rights and certain of its obligations under this Lease to another party. This assignment does not change Tesla's obligation to maintain and repair your System as set forth in the Limited Warranty.

10. **OWNERSHIP OF THE SYSTEM; TAX CREDITS AND REBATES**

You agree that the System is Tesla's personal property under the Uniform Commercial Code. You understand and agree that this is a lease and not a sale agreement. Tesla owns the System for all purposes, including any data generated from the System. You shall at all times keep the System free and clear of all liens, claims, levies and legal processes not created by Tesla, and shall at your expense protect and defend Tesla against the same.

YOU UNDERSTAND AND AGREE THAT ANY AND ALL TAX CREDITS, INCENTIVES, RENEWABLE ENERGY CREDITS, GREEN TAGS, CARBON OFFSET CREDITS, UTILITY REBATES OR ANY OTHER NON-POWER ATTRIBUTES OF THE SYSTEM ARE THE PROPERTY OF AND FOR THE

BENEFIT OF TESLA, USABLE AT ITS SOLE DISCRETION. TESLA SHALL HAVE THE EXCLUSIVE RIGHT TO ENJOY AND USE ALL SUCH BENEFITS, WHETHER SUCH BENEFITS EXIST NOW OR IN THE FUTURE. YOU AGREE TO REFRAIN FROM ENTERING INTO ANY AGREEMENT WITH YOUR UTILITY THAT WOULD ENTITLE YOUR UTILITY TO CLAIM ANY SUCH BENEFITS. YOU AGREE TO REASONABLY COOPERATE WITH TESLA SO THAT IT MAY CLAIM ANY TAX CREDITS, RENEWABLE ENERGY CREDITS, REBATES, CARBON OFFSET CREDITS OR ANY OTHER BENEFITS FROM THE SYSTEM. THIS MAY INCLUDE, TO THE EXTENT ALLOWABLE BY LAW, ENTERING INTO NET METERING AGREEMENTS, INTERCONNECTION AGREEMENTS, AND FILING RENEWABLE ENERGY/CARBON OFFSET CREDIT REGISTRATIONS AND/OR APPLICATIONS FOR REBATES FROM THE FEDERAL, STATE OR LOCAL GOVERNMENT OR A LOCAL UTILITY AND GIVING THESE TAX CREDITS, RENEWABLE ENERGY/CARBON CREDITS, REBATES OR OTHER BENEFITS TO TESLA.

11. **PURCHASING THE SYSTEM PRIOR TO THE END OF THE LEASE TERM**

If you are not in default under this Lease, you will have an option to purchase the System at the end of the Lease Term for \$_____.

12. **RENEWAL**

If you are in compliance with your Lease, you have the option to renew your Lease for up to ten (10) years in two (2) five (5) year renewal periods. We will send you renewal forms three (3) months prior to the expiration of the Lease Term, which forms shall set forth the new Monthly Payments due under the renewed Lease, based on our assessment of the then current fair market value of the System. If you want to renew, complete the renewal forms and return them to us at least one (1) month prior to the expiration of the Lease Term. In the event that you respond that you do not agree to the new Monthly Payments, the Lease shall expire by its terms on the termination date. If you don't send us anything in writing after we send you the renewal forms, then



this Lease shall renew for an additional one (1) year term at ten percent (10%) less than the then-current average rate charged by your local utility and shall continue to renew for one (1) year terms at that same rate until (i) you give us notice at least thirty (30) days prior to a renewal term that you do not wish to renew; or (ii) we send you a notice terminating the Lease.

13. SELLING YOUR HOME

(a) If you sell your Home you can:

(i) Transfer this Lease and the Monthly Payments.

The person buying your Home (the "Home Buyer") can sign a transfer agreement assuming all of your rights and obligations under this Agreement by qualifying in one of three ways:

- 1) The Home Buyer meets Tesla's credit criteria;
- 2) The Home Buyer is paying cash for your Home; or
- 3) If the Home Buyer does not qualify under (1) or (2), the Home Buyer qualifies for a mortgage to purchase your Home and either you or the Home Buyer pays us a \$250 credit exception fee.

(ii) Move the System to Your New Home.

If you are moving to a new home in the same utility district, then where permitted by the local utility, the System can be moved to your new home pursuant to the Limited Warranty. You will need to pay all costs associated with relocating the System, execute and provide the same access and ownership rights as provided for in this Lease and provide any third party consents or releases required by Tesla in connection with the substitute premises.

(iii) Prepay this Lease and Transfer only the Use of the System.

At any time during the Lease Term, if the person buying your home does not meet Tesla's credit requirements, but still wants the System, then you can (A) prepay the payments remaining on the Lease (See

Section 17(i)(i) and (ii)), (B) add the cost of the Lease to the price of your home; and (C) have the person buying your Home sign a transfer agreement to assume your rights and non-Monthly Payment obligations under this Lease. The System stays at your Home, the person buying your Home does not make any Monthly Payments and has only to comply with the non-Monthly Payment portions of this Lease.

- (b) You agree to give Tesla at least fifteen (15) days but not more than three (3) months' prior written notice if you want someone to assume your Lease obligations. In connection with this assumption, you, your approved buyer and Tesla shall execute a written transfer of this Lease. Unless we have released you from your obligations in writing, you are still responsible for performing under this Lease. If your buyer defaults on this Lease and we have not yet signed the transfer agreement, you will be responsible for their default. We will release you from your obligations under this Lease in writing once we have a signed transfer agreement with the person buying your Home (provided such person has been approved as a transferee by Tesla in writing).
- (c) If you sell your Home and can't comply with any of the options in subsection (a) above, you will be in default under this Lease. Section 13(a) includes a Home sale by your estate or heirs.
- (d) Free Assumability. This agreement is free of any restrictions that would prevent the homeowner from freely transferring their Property. In the event of a foreclosure on the Property, your lender has the right (but not the obligation) to do ONE of the following:
- (i) terminate this Agreement and require Tesla to remove the System subject to your obligations under Sections 16 and 17;
 - (ii) become a beneficiary (but not obligor) of your Agreement free of charge (i.e., receive power from the System and enforce the Limited Warranty but not have the obligation to make payment, which obligation will remain with you – if you don't make timely payment you will be in default under Section



16 and Tesla can terminate, remove the System and take all other remedies it has under Section 17);

- (iii) enter into a new Agreement with Tesla on terms no less favorable than the current Agreement; or
- (iv) require transfer of the Agreement under Section 13 to a subsequent purchaser of the Property.

Tesla will not prohibit the sale, conveyance or refinancing of the Property. Tesla may choose to file in the real estate records a UCC-1 financing statement ("Fixture Filing") that preserves their rights in the System. The Fixture Filing is intended only to give notice of its rights relating to the System and is not a lien or encumbrance against the Property. Tesla shall explain the Fixture Filing to any subsequent purchasers of the Property and any related lenders as requested. Tesla shall also accommodate reasonable requests from lenders or title companies to facilitate a purchase, financing or refinancing of the Property.

- (e) EXCEPT AS SET FORTH IN THIS SECTION, YOU WILL NOT SUBLEASE, ASSIGN, SELL, PLEDGE OR IN ANY OTHER WAY TRANSFER YOUR INTEREST IN THE SYSTEM OR THIS LEASE WITHOUT OUR PRIOR WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD.

14. LOSS OR DAMAGE

- (a) Unless you are grossly negligent, you intentionally damage the System, or damage or loss to the System is caused by ball strikes, Tesla will bear all of the risk of loss, damage, theft, destruction or similar occurrence to any or all of the System. Except as expressly provided in this Lease, no loss, damage, theft or destruction will excuse you from your obligations under this Lease, including Monthly Payments.
- (b) If there is loss, damage, theft, destruction or a similar occurrence affecting the System, and you are not in default of this Lease, you shall continue to timely make all Monthly Payments and pay all other amounts due under the Lease and,

cooperate with Tesla, at Tesla's sole cost and expense, to have the System repaired pursuant to the Limited Warranty.

15. LIMITATION OF LIABILITY

(a) No Consequential Damages

EACH PARTY'S LIABILITY TO THE OTHER UNDER THIS LEASE SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY. YOU AGREE THAT IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES. FOR PURPOSES OF THIS SECTION 15, YOU AGREE THAT ANY REMEDIES SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT CONSTITUTE DIRECT, ACTUAL DAMAGES.

(b) Actual Damages

Except for claims under Section 6(i), neither party's liability to the other will exceed an amount equal to the maximum amount that could be payable by you under Section 17(i). Damages to your Home, belongings or property resulting from the installation or operation of the System are covered in Section 6(c) of the Limited Warranty.

16. DEFAULT

You will be in default under this Lease if any one of the following occurs:

- (a) you fail to make any payment when it is due and such failure continues for a period of ten (10) days;
- (b) you fail to perform any material obligation that you have undertaken in this Lease (which includes doing something you have agreed not to do, like alter the System) and such failure continues for a period of fourteen (14) days after written notice;
- (c) you or your guarantor have provided any false or misleading financial or other information to obtain this Lease;
- (d) you assign, transfer, encumber, sublet or sell this Lease or any part of the System without Tesla's prior written consent; or



- (e) you or any guarantor makes an assignment for the benefit of creditors, admits in writing its insolvency, files or there is filed against you or it a voluntary petition in bankruptcy, is adjudicated bankrupt or insolvent or undertakes or experiences any substantially similar activity.

17. REMEDIES IN CASE OF DEFAULT

If this Lease is in default (including if you cancel this Lease after we commence construction (i.e., any work for the System) at your home) we may take any one or more of the following actions. If the law requires us to do so, we will give you notice and wait any period of time required before taking any of these actions. We may, to the fullest extent permitted by law:

- (a) terminate this Lease and your rights to possess and use the System;
- (b) suspend our performance under this Lease;
- (c) take any reasonable action to correct your default or to prevent our loss (including charging you for work performed); any amount we pay will be added to the amount you owe us and will be immediately due;
- (d) require you, at your expense, to return the System or make it available to us in a reasonable manner;
- (e) proceed, by appropriate action, to enforce performance of this Lease and to recover damages for your breach;
- (f) disconnect, turn off or take back the System by legal process or self-help, but we may not disturb the peace or violate the law;
- (g) report such non-operational status of the System to your utility, informing them that you are no longer net metering;
- (h) charge you a reasonable reconnection fee for reconnecting the System to your utility or turning your System back on after we disconnect or turn off the System due to your default;
- (i) recover from you (i) all accrued but unpaid Monthly Payments, taxes, late charges, penalties, interest and all or any other sums then accrued or due and owing, plus (ii) the unpaid balance of the aggregate rent, each payment discounted to present value at 5% per annum,

plus (iii) reasonable compensation, on a net after tax basis assuming a tax rate of 35%, for the loss or recapture of (A) the investment tax credit equal to thirty percent (30%) of the System cost, including installation; and (B) accelerated depreciation over five (5) years equal to eighty five percent (85%) of the System cost, including installation, and for the loss of any anticipated benefits pursuant to Section 10 of this Lease (Tesla shall furnish you with a detailed calculation of such compensation if such a claim is made); or

- (j) use any other remedy available to us in this Lease or by law.

You agree to repay us for any reasonable amounts we pay to correct or cover your default. You also agree to reimburse us for any costs and expenses we incur relating to the System's return resulting from early termination. By choosing any one or more of these remedies, Tesla does not give up its right to use another remedy. By deciding not to use any remedy should this Lease be in default, Tesla does not give up our right to use that remedy in case of a subsequent default.

We may submit to credit reporting agencies (credit bureaus) negative credit reports that would be reflected on your credit record if you do not pay any amounts due under this Lease as required.

I acknowledge I have read this Section 17.

Customer's initials: _____

18. SYSTEM REMOVAL: RETURN

At the end of the Term or the termination of this Lease, if you have not renewed this Lease or exercised your purchase option (if any) and you have not defaulted, then within ninety (90) days you agree to call Tesla at the telephone number listed in Section 7 of Exhibit 2 to schedule a convenient time for Tesla to remove the System from your Home at no cost to you.

19. WAIVER

Any delay or failure of a party to enforce any of the provisions of this Lease, including but not limited to any remedies listed in this Lease, or to require performance by the other party of any of the provisions of this Lease, shall not be construed to (i)



be a waiver of such provisions or a party's right to enforce that provision; or (ii) affect the validity of this Lease.

20. PRIVACY

The Tesla Customer Privacy Policy (www.tesla.com/legal) is part of this Agreement.

21. NOTICES

All notices under this Lease shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Lease at the addresses set forth in this Lease or such other address as either party may specify in writing. Each party shall deem a document faxed or sent via PDF as an original document.

22. APPLICABLE LAW; ENTIRE AGREEMENT; CHANGES

The laws of the state where your Home is located shall govern this Lease without giving effect to conflict of laws principles. This Lease contains the parties' entire agreement regarding the lease of the System. There are no other agreements regarding this Lease, either written or oral. Any change to this Lease must be in writing and signed by both parties. Only an authorized officer of Tesla may execute any change to this Lease on behalf of Tesla. If any portion of this Lease is determined to be unenforceable, the remaining provisions shall be enforced in accordance with their terms or shall be interpreted or re-written so as to make them enforceable.

23. CANCELLATION FEE.

IF YOU CANCEL THIS AGREEMENT PURSUANT TO SECTION 26(B) OR THIS AGREEMENT AUTOMATICALLY TERMINATES PURSUANT TO SECTION 7(B), THEN WE WILL CHARGE YOU A CANCELLATION FEE OF \$250.

24. LIST OF DOCUMENTS TO BE INCORPORATED INTO THE CONTRACT.

- **Exhibit 1:**

Notice of Cancellation (10 Day Right to Cancel)

- **Exhibit 2:**
Performance Guarantee and Limited Warranty
- **Exhibit 3:**
State Specific Provisions (if applicable)
- Schedule A (Detailed System Description)
- Agreement Amendment
- Solar Operation and Maintenance Guide

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25. NOTICE OF RIGHT TO CANCEL

YOU MAY CANCEL THIS LEASE AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE YOU SIGN THIS LEASE. SEE EXHIBIT 1, THE ATTACHED NOTICE OF CANCELLATION FORM, FOR AN EXPLANATION OF THIS RIGHT.

26. ADDITIONAL RIGHTS TO CANCEL

IN ADDITION TO ANY RIGHTS YOU MAY HAVE TO CANCEL THIS LEASE UNDER SECTIONS 7 AND 25, YOU MAY ALSO CANCEL THIS LEASE (A) AT NO COST AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH BUSINESS DAY AFTER THE DATE YOU SIGN THIS AGREEMENT AND (B) AT ANY TIME PRIOR TO COMMENCEMENT OF CONSTRUCTION ON YOUR HOME.

27. Pricing

The pricing in this Lease is valid for 30 days after 10/8/2018. If you don't sign this Lease and return it to us on or prior to 30 days after 10/8/2018, Tesla reserves the right to reject this Lease unless you agree to our then current pricing.

By signing below, I agree that Tesla can contact me for telemarketing and informational purposes via call or text using automated technology and/or pre-recorded messages using the phone number(s) I provided that are listed on the first page of this contract. I understand that consent is not a condition of purchase. You may opt-out of this authorization at any time by calling us at: 888-765-2489 or sending us written notice and mailing it to: Tesla, Attention: Phone Authorization Opt-Out, 6800 Dumbarton Circle, Fremont, CA 94555.

I have read this Lease (INCLUDING THE AGREEMENT TO ARBITRATE) and the Exhibits in their entirety and I acknowledge that I have received a complete copy of this Lease.

Customer's Name: John Smith

Signature: _____

Date: _____

Customer's Name:

Signature: _____

Date: _____

SolarLease Agreement

Tesla Approved



**Sanjay Shah
SVP, Energy Operations**

Date: 10/8/2018



**EXHIBIT 1 (TESLA COPY)
NOTICE OF CANCELLATION
STATUTORILY-REQUIRED LANGUAGE
Notice of Cancellation**

Date of Transaction:

You may CANCEL this transaction, without any penalty or obligation, within TEN BUSINESS DAYS from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within TEN DAYS following receipt by the seller (Tesla) of your cancellation notice, and any security interest arising out of the transaction will be canceled. If you cancel, you must make available to the seller (Tesla) at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller (Tesla) regarding the return shipment of the goods at the seller's (Tesla's) expense and risk. If you do make the goods available to the seller (Tesla) and the seller (Tesla) does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller (Tesla), or if you agree to return the goods to the seller (Tesla) and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to Tesla, Document Receiving, 6611 Las Vegas Blvd. S., Unit 200, Las Vegas, NV 89119 NOT LATER THAN MIDNIGHT of

I, _____, hereby cancel this transaction on _____ [Date].

Customer's Signature:

Customer's Signature:



**EXHIBIT 1 (CUSTOMER COPY)
NOTICE OF CANCELLATION
STATUTORILY-REQUIRED LANGUAGE
Notice of Cancellation**

Date of Transaction:

You may CANCEL this transaction, without any penalty or obligation, within TEN BUSINESS DAYS from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within TEN DAYS following receipt by the seller (Tesla) of your cancellation notice, and any security interest arising out of the transaction will be canceled. If you cancel, you must make available to the seller (Tesla) at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller (Tesla) regarding the return shipment of the goods at the seller's (Tesla's) expense and risk. If you do make the goods available to the seller (Tesla) and the seller (Tesla) does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller (Tesla), or if you agree to return the goods to the seller (Tesla) and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to Tesla, Document Receiving, 6611 Las Vegas Blvd. S., Unit 200, Las Vegas, NV 89119 NOT LATER THAN MIDNIGHT of

I, _____, hereby cancel this transaction on _____ [Date].

Customer's Signature:

Customer's Signature:



Exhibit 2

LIMITED WARRANTY

1. INTRODUCTION

This Limited Warranty (this "Limited Warranty") is Tesla's agreement to provide you warranties on the System you leased. The System will be professionally installed by Tesla at the address you listed in the Lease. We will refer to the installation location as your "Property" or your "Home." This Limited Warranty begins when we start the survey of your Home for the System.

2. LIMITED WARRANTIES

(a) Limited Warranties

(i) System Warranty

Under normal use and service conditions the System will be free from defects in workmanship or defects in, or a breakdown of, materials or components, for the full Term;

(ii) Roof Warranty

All roof penetrations we make for your System will be watertight. This warranty will run the longer of (a) the first ten (10) years of the Term or (b) the length of any existing installation warranty or new home builder performance standard for your roof;

(iii) Damage Warranty

We will repair damage we cause to your Home, your belongings or your property or pay you for the damage we cause, as limited by Section 7, for the full Term (except damages that result from our roof penetrations, which damages are covered for the first ten (10) years of the Term).

Under each of these warranties Tesla will repair or replace any damage, defective part, material or component or correct any defective workmanship, at no cost or expense to you (including all labor costs), when you submit a valid claim to us under this Limited Warranty. Tesla may use new or reconditioned parts when making repairs or replacements. Tesla may also, at no additional cost to you, upgrade or add to any part of the System to ensure that it performs according to the limited warranties set forth in this Limited Warranty. Cosmetic repairs that do not involve safety or performance shall be made at Tesla's discretion.

(b) RESERVED

(c) Maintenance and Operation

(i) General

When the System is installed Tesla will provide you with a copy of its Solar Operation and Maintenance Guide. This Guide provides you with System operation and maintenance instructions, answers to frequently asked questions, troubleshooting tips and service information. If we install a safety anchor in your roof during the installation of the System, we will leave this anchor installed for our future use throughout the installation and operation of your System. This safety anchor is for our use only. You are not authorized to use this anchor.

(ii) PowerGuide

PowerGuide requires a high speed Internet line to operate. Therefore, during the Lease Term, you agree to maintain the communication link between PowerGuide and the System and between PowerGuide and the Internet. You agree to maintain and make available, at your cost, a functioning indoor internet connection with a router, one DHCP enabled Ethernet port with internet access and standard AC power outlet close enough and free of interference to enable an internet-connected gateway provided by Tesla to communicate wirelessly



with the system's inverter (typically this is 80 feet, but may depend on site conditions). This communication link must be a 10/100 Mbps Ethernet connection that supports common Internet protocols (TCP/IP and DHCP). If you do not have and maintain a working high speed Internet line then (A) we will not be able to monitor the System and provide PowerGuide; and (B) you will be required to provide Tesla with annual production information from your inverter.

(d) Making a Claim; Transferring this Warranty

(i) Claims Process

You can make a claim by:

- A. emailing us at the email address in Section 7 below;
- B. writing us a letter and sending it overnight mail with a well-known service; or
- C. sending us a fax at the number in Section 7 below.

(ii) Transferable Limited Warranty

Tesla will accept and honor any valid and properly submitted Warranty claim made during any Lease Term by any person who either purchases the System from you or to whom you properly transfer the Lease.

(e) Exclusions and Disclaimer

The limited warranties provided in this Limited Warranty do not apply to any lost power production (i.e., any power not produced by the System) or any repair, replacement or correction required due to the following:

- (i) someone other than Tesla or its approved service providers installed, removed, re-installed or repaired the System;
- (ii) destruction or damage to the System or its ability to safely produce power not caused by Tesla or its approved service providers while servicing the System (e.g. if a tree falls on the System we will replace the System per the Lease, but we will not repay you for power it did not produce);
- (iii) your failure to perform, or breach of, your obligations under the Lease (e.g. you modify or alter the System);
- (iv) your breach of this Limited Warranty, including your being unavailable to provide access or assistance to us in diagnosing or repairing a problem, or your failing to maintain the System as stated in the Solar Operation and Maintenance Guide;
- (v) any Force Majeure Event (as defined below);
- (vi) shading from foliage that is new growth or is not kept trimmed to its appearance on the date the System was installed;
- (vii) any system failure or lost production not caused by a System defect (e.g. the System is not producing power because it has been removed to make roof repairs or you have required us to locate the inverter in a non-shaded area);
- (viii) theft of the System (e.g. if the System is stolen we will replace the System per the Lease, but we will not repay you for the power it did not produce);
- (ix) damage to your Home, belongings or property that results from our roof penetrations after the end of the Roof Warranty; and
- (x) damage or loss to the System due to ball strikes.



This Limited Warranty gives you specific rights, and you may also have other rights which vary from state to state. This Limited Warranty does not warrant any specific electrical performance of the System, other than that described above.

Snow or ice may accumulate on rooftops and on solar panels during snow storms. Accumulated snow or ice may slide or fall, resulting in property damage or bodily harm. If and when conditions safely allow you to remove accumulated snow or ice, you should do so to reduce the likelihood of it sliding or falling. **TESLA MAKES NO WARRANTY REGARDING AND HAS NO RESPONSIBILITY FOR SNOW OR ICE ACCUMULATION ON YOUR SYSTEM AND ANY PROPERTY DAMAGES OR INJURIES THAT RESULT FROM SUCH SNOW OR ICE RELEASING FROM YOUR SYSTEM. YOU ARE FULLY RESPONSIBLE FOR ADDRESSING ANY SNOW OR ICE ACCUMULATION ON YOUR SYSTEM AND ANY PROPERTY DAMAGES OR INJURIES THAT RESULT FROM SUCH SNOW OR ICE RELEASING FROM YOUR SYSTEM.**

THE LIMITED WARRANTIES DESCRIBED IN SECTIONS 2(a) ABOVE ARE THE ONLY EXPRESS WARRANTIES MADE BY TESLA WITH RESPECT TO THE SYSTEM. UNDER NO CIRCUMSTANCES, AND IN NO EVENT, WILL TESLA BE LIABLE TO YOU OR TO ANYONE FOR ANY FORM OF FINANCIAL COMPENSATION FOR ANY LOST PRODUCTION OR ANY SHORTFALL IN PRODUCTION OF YOUR SYSTEM. TESLA HEREBY DISCLAIMS, AND ANY BENEFICIARY OF THIS LIMITED WARRANTY HEREBY WAIVES, ANY WARRANTY WITH RESPECT TO ANY COST SAVINGS FROM USING THE SYSTEM. SOME STATES DO NOT ALLOW SUCH LIMITATIONS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

3. TESLA'S STANDARDS

For the purpose of this Limited Warranty the standards for our performance will be (i) normal professional standards of performance within the solar photovoltaic power generation industry in the relevant market; and (ii) Prudent Electrical Practices. "Prudent Electrical Practices" means those practices, as changed from time to time, that are engaged in or approved by a significant portion of the solar power electrical generation industry operating in the United States to operate electric equipment lawfully and with reasonable safety, dependability, efficiency and economy.

4. SYSTEM REPAIR, REMOVAL AND REINSTALLATION, OR RELOCATION

- (a) **Repair.** You agree that if (i) the System needs any repairs that are not the responsibility of Tesla under this Limited Warranty, (ii) the System needs to be removed and reinstalled to facilitate remodeling of your Home or (iii) the System is being relocated to another home you own pursuant to the Lease, you will have Tesla, or another similarly qualified service provider, at your expense, perform such repairs, removal and reinstallation, or relocation.
- (b) **Removal and Reinstallation/Relocation.** Tesla will remove the System from your roof while roof repairs are being made and reinstall the System after roof repairs are completed for a competitive price. If your roof is being replaced because it is at the end of its natural life, then Tesla will perform the removal and reinstallation for a competitive price. You will need to provide storage space for the System during any such time. Where permitted under the Lease, Tesla will relocate the System to your new home for a competitive price. If we reinstall your System, the Roof Warranty will restart at the completion of reinstallation and run for ten (10) years from reinstallation.
- (c) **Return.** If at the end of the Term you want to return the System to Tesla under Section 18 of the Lease then Tesla will remove the System at no cost to you. Tesla will remove the System without damaging your property, including the posts, waterproofing the post area and return the roof as close as is reasonably possible to its original condition on an architecturally consistent basis before the System was installed (e.g. ordinary wear and tear and color variances due to manufacturing changes are excepted). Tesla will warrant the waterproofing for one (1) year after it removes the System. You agree to reasonably cooperate with Tesla in removing the System including providing necessary space, access and storage, and we will reasonably cooperate with you to schedule removal in a time and manner that minimizes inconvenience to you.

5. FORCE MAJEURE



If Tesla is unable to perform all or some of its obligations under this Limited Warranty because of a Force Majeure Event, Tesla will be excused from whatever performance is affected by the Force Majeure Event, provided that:

- (a) Tesla, as soon as is reasonably practical, gives you notice describing the Force Majeure Event;
- (b) Tesla's suspension of its obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event (i.e. when a Force Majeure Event is over, we will make repairs); and
- (c) No Tesla obligation that arose before the Force Majeure Event that could and should have been fully performed before such Force Majeure Event is excused as a result of such Force Majeure Event.

"Force Majeure Event" means any event, condition or circumstance beyond the control of and not caused by Tesla's fault or negligence. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of power due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued); unavailability of power from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from Tesla's failure to have exercised reasonable diligence); power or voltage surge caused by someone other than Tesla including a grid supply voltage outside of the standard range specified by your utility; and failure of equipment not utilized by Tesla or under its control.

6. LIMITATIONS ON LIABILITY

(a) No Consequential Damages

YOU MAY ONLY RECOVER DIRECT DAMAGES INCLUDING THOSE AMOUNTS DUE PURSUANT TO SECTIONS 2(b) AND 6(c) UNDER THIS LIMITED WARRANTY, AND IN NO EVENT SHALL TESLA OR ITS AGENTS OR SUBCONTRACTORS BE LIABLE TO YOU OR YOUR ASSIGNS FOR SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

(b) Limitation of Duration of Implied Warranties

ANY IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY ARISING UNDER STATE LAW, SHALL IN NO EVENT EXTEND PAST THE EXPIRATION OF ANY WARRANTY PERIOD IN THIS LIMITED WARRANTY. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

(c) Limit of Liability

Notwithstanding any other provision of this Limited Warranty to the contrary, Tesla's total liability arising out of relating to this Limited Warranty shall in no event:

- (i) For System Replacement: exceed the greater of (a) the sum of the Lease payments over the Term of the Lease; and (b) the original cost of the System; and
- (ii) For damages to your Home, belongings and property: exceed two million dollars (\$2,000,000).

7. NOTICES

All notices under this Limited Warranty shall be made in the same manner as set forth in the Lease to the addresses listed below:

TO TESLA: Tesla
6800 Dumbarton Circle



Fremont, CA 94555
Attention: Warranty Claims
Telephone: 650-638-1028
Facsimile: 650-638-1029
Email: customercare@tesla.com

TO YOU: At the billing address in the Lease or any subsequent billing address you give us.

8. ASSIGNMENT AND TRANSFER OF THIS LIMITED WARRANTY

Tesla may assign its rights or obligations under this Limited Warranty to a third party without your consent, provided that any assignment of Tesla's obligations under this Limited Warranty shall be to a party professionally and financially qualified to perform such obligation. This Limited Warranty protects only the person who leases the System. Your rights and obligations under this Limited Warranty will be automatically transferred to any person who purchases the System from you or to whom you properly transfer the Lease. This Limited Warranty contains the parties' entire agreement regarding the limited warranty of the System.



**STATE SPECIFIC EXCEPTIONS, TERMS AND CONDITIONS
FLORIDA**

FLORIDA BUYERS RIGHT TO CANCEL: This is a home solicitation sale, and if you do not want the goods or services, you may cancel this agreement by providing written notice to the seller in person, by telegram, or by mail. This notice must indicate that you do not want the goods or services and must be delivered or postmarked before midnight of the third business day after you sign this agreement. If you cancel this agreement, the seller may not keep all or part of any cash down payment.

FLORIDA NOTICE TO OWNER

- a. Do not sign this home improvement contract in blank.
- b. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.
- c. This home improvement contract may contain a mortgage or otherwise create a lien on your property that could be foreclosed on if you do not pay. Be sure you understand all provisions of the contract before you sign.

The home improvement contract shall state whether workers' compensation and public liability insurance are carried by the home improvement finance seller and if they are applicable to the work to be performed under the contract or if the home improvement finance seller is qualified as a self-insurer.

FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND: PAYMENT, UP TO A LIMITED AMOUNT, MAY BE AVAILABLE FROM THE FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND IF YOU LOSE MONEY ON A PROJECT PERFORMED UNDER CONTRACT, WHERE THE LOSS RESULTS FROM SPECIFIED VIOLATIONS OF FLORIDA LAW BY A LICENSED CONTRACTOR. FOR INFORMATION ABOUT THE RECOVERY FUND AND FILING A CLAIM, CONTACT THE FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD AT THE FOLLOWING TELEPHONE NUMBER AND ADDRESS:

Division of Professions
Construction Industry Licensing Board
1940 North Monroe Street
Tallahassee, FL 32399-0783
Phone: 850.487.1395

FLORIDA MECHANICS LIEN WARNING:

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A



“NOTICE TO OWNER.” FLORIDA’S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

Customer’s Name: John Smith

Signature: _____

Date: _____

Customer’s Name:

Signature: _____

Date: _____



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