

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (the "Agreement") is entered into by and between Benet Leasing d/b/a B+E ("B+E") and the Recipient named on the signature page hereof (the "Recipient", and together with B+E, the "Parties", and each, a "Party").

WHEREAS, B+E has, on behalf of 23011 IH 10, LLC, a Texas limited liability company (the "Owner"), prepared an Offering Memorandum for the prospective sale of an improved property located at 23011 W. IH-10, in San Antonio, Bexar County, Texas which is owned by Owner (the "Property"), such sale being subject to the lease of the Property to Tesla Motors TX, Inc., a Texas corporation (the "Lease"); and

WHEREAS, the Lease specifically provides the following:

Sale. In the event Landlord is considering the sale of the Premises, it may disclose the terms of the Lease, including a copy of the Lease, to a prospective broker and/or buyer, and provide a copy of the Lease, to any broker or prospective buyer provided that, prior to any such disclosure, the recipient agrees in writing to be bound by the terms of this NDA or otherwise signs a non-disclosure agreement with Tenant (in a commercially reasonable form acceptable to Tenant and such recipient) promising, among other things, (1) to use the disclosed information only for the purpose of the proposed transaction with Landlord, (2) to not disclose Confidential Information to any third (3rd) party, and (3) except as otherwise required by applicable regulatory authority, (i) the recipient agrees to return or destroy the information immediately following the termination of negotiations regarding the proposed transaction, and (ii) the recipient agrees not to disclose the information to any third-party except, in a written confidentiality agreement that shall be reasonably satisfactory to Tenant

and the terms of the Lease relating to such confidentiality are set out on Exhibit A which is attached hereto and incorporated herein by reference; and

WHEREAS, B+E will provide the Offering Memorandum to Recipient if Recipient agrees, as herein provided, to be bound by the terms of the NDA;

In consideration of the mutual covenants, terms and conditions set forth herein, the Parties agree as follows:

1. Confidential Information. Recipient agrees, by execution of this Agreement, to be bound by the terms of the NDA to the same extent as if Recipient had been a party to and executed the NDA.
2. Benefit. Recipient acknowledges that this Agreement is for the benefit of B+E and Owner and may be enforced by either.
3. Remedies. The Recipient acknowledges and agrees that money damages might not be a sufficient remedy for any breach or threatened breach of this Agreement by the Recipient, including any party to whom Recipient may disclose such information ("its Representatives"), for which Recipient will be responsible. Therefore, in addition to all other remedies available at law, B+E or Owner shall be entitled to seek specific performance and injunctive and other equitable relief as a remedy for any such breach or threatened breach, and the Recipient hereby waives any requirement for the securing or posting of any bond or the showing of actual monetary damages in connection with such claim.
4. Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Texas without giving effect to any choice or conflict of law provision or rule that would cause the application of Laws of any jurisdiction other than those of the State of Texas. ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER TRANSACTION DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF TEXAS IN EACH CASE LOCATED IN THE CITY OF SAN ANTONIO AND COUNTY OF BEXAR, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE

OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

5. Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed given when (i) by email on the date sent by e-mail to the address provided below if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (ii) personally delivered with signed delivery receipt obtained, or (iii) within five (5) days after deposited in the United States first class mail if sent postage prepaid by registered or certified mail, return receipt requested, in each case to the address set out below.

6. Miscellaneous.

(a) This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter hereof, and supersedes all other understandings and agreements with respect to such subject matter. If any term hereof is invalid or unenforceable, it shall not affect any other term or provision of this Agreement. Neither party may assign this Agreement without written consent of the other party. No waiver shall be deemed or implied hereunder.

(b) If either party institutes a suit against the other for violation of or to enforce any covenant or condition of this Agreement, or if either party intervenes in any suit in which the other is a party to enforce or protect its interest or rights, the prevailing party shall be entitled to all of its costs and expenses, including, without limitation, reasonable out of pocket attorneys' fees.

(c) Each party hereby acknowledges and agrees that such party has consulted legal counsel in connection with the negotiation of this Agreement and that such party has bargaining power equal to that of the other party in connection with the negotiation and execution of this Agreement. Accordingly, the parties agree that the rule of contract construction to the effect that an agreement shall be construed against the draftsman shall have no application in the construction or interpretation of this Agreement.

(d) This Agreement may be executed in multiple counterparts, each of which, when assembled to include an original or facsimile/scanned signature for each party contemplated to sign this Agreement, will collectively constitute a duly authorized, irrevocable, actual, current delivery of this Agreement.

IN WITNESS WHEREOF:

RECIPIENT

B+E

Company Name

Signature

Date

Signature

Date

Printed Name

Printed Name

Title

Title

Address:

Address:

Email:

Email:

Exhibit A

23.1 NDA.

23.1.1 On April 28, 2016, Concord Properties, LLC, a Texas limited liability company (“**Concord Properties**”) and Guarantor entered into a One Way Non-Disclosure Agreement (the “**NDA**”).

23.1.2 In consideration for Landlord entering into to this Lease, the NDA is hereby modified as follows, and to the extent to which the provisions of this Article 23 conflict with the terms of the NDA, the provisions of this Article 23 shall control and from and after the Effective Date hereof the NDA will be deemed amended accordingly.

23.2 Definitions.

23.2.1 “**Affiliate**” of any specified person shall mean any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For purposes of this definition, “**control**” when used with respect to any specified person means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

23.2.2 “**Concord Party**” or “**Concord Parties**” shall mean Concord Properties, Landlord, their respective Affiliates, and the officers, directors, managers and employees of each.

23.2.3 “**Tesla Party**” or “**Tesla Parties**” means Tenant or Guarantor.

23.2.4 “**Confidential Information**” means nonpublic information, including but not limited to the terms of this Lease (but, from and after the Opening Announcement, not the existence of the Lease or the identity of the Tenant or Guarantor), Tesla Parties’ technology, operations, utility usage, customers, business plans, promotional and marketing activities, negotiations, finances and other business affairs, any of the Tenant Improvements (as such term is defined in the Lease) or Tesla Parties’ designs, plans or specifications, including the cost thereof, the status of Tesla Parties’ permits and licensing, or Tenant’s sales or performance in the Premises that is disclosed by Tesla Parties to any of the Concord Parties and which is disclosed (i) in writing and designated in writing as confidential or proprietary or (ii) orally if prior to disclosure the information to be disclosed is designated in writing as confidential or proprietary or (iii) if the circumstances are such that a reasonable person should reasonably understand such information is to be treated as confidential, whether or not marked “confidential”. Confidential Information shall not include any information that Concord Properties or the Landlord can show is or was: (a) already known to any of the Concord Parties at the time of disclosure without obligation of confidentiality to Tesla Parties; (b) publicly known through no wrongful act or omission of any of the Concord Parties; (c) rightfully received by any of the Concord Parties from a third party without obligation of confidentiality; (d) approved for release by the written authorization of Guarantor or Tenant; or (e) independently developed by any of the Concord Parties without the aid, application or use of any Confidential Information.

23.2.5 “**Public Statement**” means: (a) a written or published disclosure, (b) an oral disclosure (whether in person, television, radio, or recorded, and regardless of whether it is via phone or email or other electronic format) to the media or made under circumstances where the B+E knows or should know the disclosure will be made public, (c) a press conference, (d) serving as a source for an article or confirming any unsubstantiated or unconfirmed statement, or (e) a verbal statement, but only to the extent that there is a presumption that the verbal statement would become public (e.g., a statement as a speaker or panelist at a dinner or industry event). Notwithstanding the forgoing, from and after the Opening Announcement, a response by Concord Properties or Landlord to an inquiry from a member of the media or any other third party which is to confirm the existence of (but not the terms of) the Lease or the identity of Tenant or that the use under the lease is a Tesla Auto Service Center shall not be deemed Confidential Information or a Public Statement.

23.2.6 “**Opening Announcement**” means an unequivocal Public Statement by Tenant that Tenant is irrevocably committed to opening a location at the Premises, or the actual opening of the Premises for Tenant’s business.

23.3 Public Statement/Announcement.

23.3.1 Prior to Tenant’s Opening Announcement, no Concord Party shall make any Public Statement regarding Tenant’s proposed or actual occupancy of the Premises which refers to Tenant by its name or a derivative thereof, or to a “luxury high-end electric car company” or any derivative thereof.

23.3.2 No Concord Party shall make any Public Statement regarding any of Tenant’s business operations or plans regarding the Premises, Tenant Improvements or Tenant Alterations (including the cost thereof), the status of Tenant’s licensing (including, the status of Tenant’s licensure), or Tenant’s sales (including any sales figures or information provided by Tenant to Landlord); and, provided, that after Tenant’s Opening Announcement, nothing shall prohibit Landlord from making Public Statements that “Tesla is opening a retail sales and service center at the Premises.”

23.4 Permitted Disclosures. Notwithstanding anything herein to the contrary, a Concord Party may not disclose Confidential Information except on the following basis:

23.4.1 Subpoena, Court or Other Governmental Order. If such Concord Party becomes compelled by law or regulation pursuant to subpoena, court order or other legal process requiring disclosure; provided that such Concord Party (i) provides Tenant with prompt written notice within a reasonable time prior to any disclosure and (ii) reasonably cooperates with the Tesla Parties should the Tesla Parties desire to seek protective relief against disclosure and (iii) discloses only such information as is reasonably required, and (iv) and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.

23.4.2 Business Related Parties. To any of the Concord Parties or any of the following who have a need to know the Confidential Information in connection with the parties' business relationship, so long as Concord Properties or Landlord discloses only such information as is reasonably required for the business purpose, they are advised by Concord Properties or Tenant of the existence of the NDA and the obligations of Concord Properties and Landlord under the NDA (and for this purpose, Landlord may advise any such party of the existence of this Lease, of Landlord's confidentiality obligations hereunder and the definition of Confidential Information and/or a copy of this Section 23):

23.4.2.1 the Brokers identified in the Basic Lease Information, each of whom has executed a confidentiality agreement;

23.4.2.2 attorneys of any of the Concord Parties;

23.4.2.3 contractors, subcontractors, agents and consultants of any of the Concord Parties and, if any of the same enter the Premises after the Target Date, each of whom has expressly agreed in writing to keep any Confidential Information in confidence;

23.4.2.4 [Intentionally omitted];

23.4.2.5 [Intentionally omitted].

23.4.3 Sale. In the event Landlord is considering the sale of the Premises, it may disclose the terms of the Lease, including a copy of the Lease, to a prospective broker and/or buyer, and provide a copy of the Lease, to any broker or prospective buyer provided that, prior to any such disclosure, the recipient agrees in writing to be bound by the terms of this NDA or otherwise signs a non-disclosure agreement with Tenant (in a commercially reasonable form acceptable to Tenant and such recipient) promising, among other things, (1) to use the disclosed information only for the purpose of the proposed transaction with Landlord, (2) to not disclose Confidential Information to any third (3rd) party, and (3) except as otherwise required by applicable regulatory authority, (i) the recipient agrees to return or destroy the information immediately following the termination of negotiations regarding the proposed transaction, and (ii) the recipient agrees not to disclose the information to any third-party except, in a written confidentiality agreement that shall be reasonably satisfactory to Tenant.

23.5 Landlord's Personnel. [Intentionally omitted];

23.6 Remedies. Concord Properties and Landlord acknowledge that if this NDA is breached by any of the Concord Parties:

23.6.1 Concord Properties and Landlord shall hereby indemnify, defend and agree to hold the Tesla Parties harmless from any and all claims, losses or actual damages which may occur to the operations or value of Tenant as a result of such breach;

23.6.2 The Tesla Parties cannot be made whole by monetary damages for such breach; accordingly, the Tesla Parties, in addition to any other remedy to which it may be entitled by law or in equity, shall be entitled to an injunction to prevent breach of this NDA and to an order compelling specific performance of this NDA;

23.6.3 Concord Properties and Landlord will reimburse the Tesla Parties for all costs and expenses, including reasonable attorneys' fees incurred by the Tesla Parties if one of the Concord Parties breaches this NDA and the Tesla Parties are successful in enforcing such obligations of the Concord Party hereunder;

23.6.4 The foregoing rights shall be in addition to, and not preclude exercise of, any other right, power, or remedy available to the Tesla Parties at law or in equity; and

23.6.5 No forbearance, failure or delay in exercising any such right, power or remedy shall operate as a waiver thereof or preclude further exercise.

23.7 Entire Agreement. The NDA as modified by this Article 23 represents the entire agreement between Concord Properties and Landlord and Tesla and Tenant relating to the treatment of the Confidential Information, and supersedes all other agreements relating to such matters, written or oral, express or implied.

23.8 Survival. The provisions of this Section 23 shall survive for two (2) years following the expiration or termination of this Lease and shall continue to bind Landlord after Landlord's conveyance of the Premises or any portion thereof.