

TESLA, INC.

FORM 10-Q (Quarterly Report)

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2017

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number: 001-34756

Tesla, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

3500 Deer Creek Road
Palo Alto, California
(Address of principal executive offices)

91-2197729
(I.R.S. Employer
Identification No.)

94304
(Zip Code)

(650) 681-5000

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 ("Exchange Act") during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act:

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
Emerging growth company	<input type="checkbox"/>		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of April 30, 2017, there were 164,259,736 shares of the registrant's common stock outstanding.

TESLA, INC.
FORM 10-Q FOR THE QUARTER ENDED MARCH 31, 2017

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Forward-Looking Statements

The discussions in this Quarterly Report on Form 10-Q contain forward-looking statements reflecting our current expectations that involve risks and uncertainties. These forward-looking statements include, but are not limited to, statements concerning our strategy, future operations, future financial position, future revenues, projected costs, profitability, expected cost reductions, capital adequacy, expectations regarding demand and acceptance for our technologies, growth opportunities and trends in the market in which we operate, prospects and plans and objectives of management. The words “anticipates”, “believes”, “could”, “estimates”, “expects”, “intends”, “may”, “might”, “plans”, “projects”, “will”, “would” and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. We may not actually achieve the plans, intentions or expectations disclosed in these forward-looking statements, and you should not place undue reliance on these forward-looking statements. These forward-looking statements involve risks and uncertainties that could cause our actual results or events to differ materially from the plans, intentions or expectations disclosed in these forward-looking statements, including, without limitation, the risks set forth in Part II, Item 1A, “Risk Factors” in this quarterly report on Form 10-Q and in our other filings with the Securities and Exchange Commission. We do not assume any obligation to update any forward-looking statements.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Tesla, Inc.

Consolidated Balance Sheets
(in thousands, except for par values)
(unaudited)

	March 31, 2017	December 31, 2016
Assets		
Current assets		
Cash and cash equivalents	\$ 4,006,593	\$ 3,393,216
Restricted cash	88,946	105,519
Accounts receivable, net	440,349	499,142
Inventory	2,220,336	2,067,454
Prepaid expenses and other current assets	271,665	194,465
Total current assets	<u>7,027,889</u>	<u>6,259,796</u>
Operating lease vehicles, net	3,452,595	3,134,080
Solar energy systems, leased and to be leased, net	6,085,990	5,919,880
Property, plant and equipment, net	7,016,551	5,982,957
Intangible assets, net	388,608	376,145
Goodwill	40,984	—
MyPower customer notes receivable, net of current portion	486,350	506,302
Restricted cash, net of current portion	330,223	268,165
Other assets	224,536	216,751
Total assets	<u>\$ 25,053,726</u>	<u>\$ 22,664,076</u>
Liabilities and Equity		
Current liabilities		
Accounts payable	\$ 2,075,333	\$ 1,860,341
Accrued liabilities and other	1,460,367	1,210,028
Deferred revenue	841,494	763,126
Resale value guarantees	248,536	179,504
Customer deposits	616,398	663,859
Current portion of long-term debt and capital leases	829,080	984,211
Current portion of solar bonds issued to related parties	174,231	165,936
Total current liabilities	<u>6,245,439</u>	<u>5,827,005</u>
Long-term debt and capital leases, net of current portion	7,148,416	5,860,049
Solar bonds issued to related parties, net of current portion	100	99,164
Convertible senior notes issued to related parties	10,440	10,287
Deferred revenue, net of current portion	955,078	851,790
Resale value guarantees, net of current portion	2,444,058	2,210,423
Other long-term liabilities	2,081,822	1,891,449
Total liabilities	<u>18,885,353</u>	<u>16,750,167</u>
Commitments and contingencies (Note 14)		
Redeemable noncontrolling interests in subsidiaries	364,296	367,039
Convertible senior notes (Notes 11)	7,283	8,784
Stockholders' equity:		
Preferred stock; \$0.001 par value; 100,000 shares authorized; no shares issued and outstanding	—	—
Common stock; \$0.001 par value; 2,000,000 shares authorized as of March 31, 2017 and December 31, 2016; 164,164 and 161,561 shares issued and outstanding as of March 31, 2017 and December 31, 2016, respectively	161	161
Additional paid-in capital	8,351,514	7,773,727
Accumulated other comprehensive loss	(20,769)	(23,740)
Accumulated deficit	(3,343,187)	(2,997,237)
Total stockholders' equity	<u>4,987,719</u>	<u>4,752,911</u>
Noncontrolling interests in subsidiaries	809,075	785,175
Total liabilities and equity	<u>\$ 25,053,726</u>	<u>\$ 22,664,076</u>

The accompanying notes are an integral part of these consolidated financial statements.

Tesla, Inc.
Consolidated Statements of Operations
(in thousands, except per share data)
(unaudited)

	Three Months Ended March 31,	
	2017	2016
Revenues		
Automotive	\$ 2,035,060	\$ 901,892
Automotive leasing	254,540	124,172
Total automotive revenue	2,289,600	1,026,064
Energy generation and storage	213,944	22,728
Services and other	192,726	98,256
Total revenues	2,696,270	1,147,048
Cost of revenues		
Automotive	1,496,649	713,149
Automotive leasing	166,026	66,167
Total automotive cost of revenues	1,662,675	779,316
Energy generation and storage	151,773	18,113
Services and other	213,876	97,151
Total cost of revenues	2,028,324	894,580
Gross profit	667,946	252,468
Operating expenses		
Research and development	322,040	182,482
Selling, general and administrative	603,455	318,210
Total operating expenses	925,495	500,692
Loss from operations	(257,549)	(248,224)
Interest income	3,090	1,251
Interest expense	(99,346)	(40,625)
Other income (expense), net	(18,098)	9,177
Loss before income taxes	(371,903)	(278,421)
Provision for income taxes	25,278	3,846
Net loss	(397,181)	(282,267)
Net loss attributable to noncontrolling interests and redeemable noncontrolling interests in subsidiaries	(66,904)	—
Net loss attributable to common stockholders	\$ (330,277)	\$ (282,267)
Net loss per share of common stock attributable to common stockholders, basic and diluted	\$ (2.04)	\$ (2.13)
Weighted average shares used in computing net loss per share of common stock, basic and diluted	162,129	132,676

The accompanying notes are an integral part of these consolidated financial statements.

Tesla, Inc.
Consolidated Statements of Comprehensive Loss
(in thousands)
(unaudited)

	<u>Three Months Ended March 31,</u>	
	<u>2017</u>	<u>2016</u>
Net loss attributable to common stockholders	\$ (330,277)	\$ (282,267)
Other comprehensive gain (loss), net of tax:		
Unrealized gains (losses) on derivatives:		
Change in net unrealized gain (loss)	—	20,805
Less: Reclassification adjustment for net (gains) losses into net loss	(5,570)	—
Net unrealized gain (loss) on derivatives	(5,570)	20,805
Foreign currency translation adjustment	8,541	(3,684)
Other comprehensive income	2,971	17,121
Comprehensive loss	<u>\$ (327,306)</u>	<u>\$ (265,146)</u>

The accompanying notes are an integral part of these consolidated financial statements.

Tesla, Inc.
Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	Three Months Ended March 31,	
	2017	2016
Cash Flows From Operating Activities		
Net loss	\$ (397,181)	\$ (282,267)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	376,602	156,460
Stock-based compensation	103,717	89,658
Amortization of discount on convertible debt	30,337	20,613
Inventory write-downs	26,918	13,010
Loss on disposal of property and equipment	41,120	26,171
Foreign currency transaction loss (gain)	5,064	(9,356)
Loss on the acquisition of SolarCity	11,571	—
Non-cash interest and other operating activities	(5,179)	7,135
Changes in operating assets and liabilities, net of effect of business combinations		
Accounts receivable	91,541	(159,327)
Inventories and operating lease vehicles	(583,479)	(512,671)
Prepaid expenses and other current assets	(75,504)	(9,134)
Other assets and MyPower notes receivable	8,006	(6,862)
Accounts payable and accrued liabilities	2,531	60,593
Deferred revenue	103,941	89,671
Customer deposits	(51,004)	100,804
Resale value guarantee	184,579	150,636
Other long-term liabilities	56,609	15,261
Net cash used in operating activities	<u>(69,811)</u>	<u>(249,605)</u>
Cash Flows From Investing Activities		
Purchases of property and equipment excluding capital leases, net of sales	(552,624)	(216,859)
Purchase of solar energy systems, leased to be leased	(219,948)	—
Increase in other restricted cash	(45,224)	(16,960)
Business combination, net of cash acquired	<u>(109,147)</u>	<u>—</u>
Net cash used in investing activities	<u>(926,943)</u>	<u>(233,819)</u>
Cash Flows From Financing Activities		
Proceeds from issuance of common stock in public offering	400,175	—
Proceeds from issuance of convertible and other debt	1,838,166	430,000
Repayments of convertible and other debt	(690,945)	—
Repayments of borrowings under solar bonds issued to related parties	(90,000)	—
Collateralized lease borrowings	186,355	241,763
Proceeds from exercise of stock options and other stock issuances	57,307	52,838
Principal payments on capital leases	(18,303)	(8,128)
Common stock and debt issuance costs	(11,094)	(1,038)
Purchase of convertible note hedges	(204,102)	—
Proceeds from issuance of warrants	52,883	—
Proceeds from investment by noncontrolling interests in subsidiaries	142,003	—
Distributions paid to noncontrolling interests in subsidiaries	<u>(63,696)</u>	<u>—</u>
Net cash provided by financing activities	<u>1,598,749</u>	<u>715,435</u>
Effect of exchange rate changes on cash and cash equivalents	11,382	12,870
Net increase in cash and cash equivalents	613,377	244,881
Cash and cash equivalents, beginning of period	3,393,216	1,196,908
Cash and cash equivalents, end of period	<u>\$ 4,006,593</u>	<u>\$ 1,441,789</u>
Supplemental noncash investing and financing activities		
Acquisition of property and equipment included in accounts payable and accrued liabilities	\$ 654,322	\$ 235,829
Estimated fair value of facilities under build-to-suit lease	65,244	39,034

The accompanying notes are an integral part of these consolidated financial statements.

Tesla, Inc.

**Notes to Consolidated Financial Statements
(Unaudited)**

Note 1 – Overview

Tesla, Inc. (“Tesla”, the “Company”, “we”, “us” or “our”) was incorporated in the State of Delaware on July 1, 2003. We design, develop, manufacture and sell high-performance fully electric vehicles and energy products. In addition, as a result of our acquisition of SolarCity Corporation (“SolarCity”) on November 21, 2016, we also design, manufacture, install and sell or lease solar energy systems, or sell electricity generated by our solar energy systems to customers. Our Chief Executive Officer, as the chief operating decision maker (“CODM”), organizes the Company, manages resource allocations and measures performance among two segments: (i) automotive and (ii) energy generation and storage.

Note 2 – Summary of Significant Accounting Policies

Unaudited Interim Financial Statements

The consolidated balance sheet as of March 31, 2017, the consolidated statements of operations and the consolidated statements of comprehensive loss for the three months ended March 31, 2017 and 2016 and the consolidated statements of cash flows for the three months ended March 31, 2017 and 2016, as well as other information disclosed in the accompanying notes, are unaudited. The consolidated balance sheet as of December 31, 2016 was derived from the audited consolidated financial statements as of that date. The interim consolidated financial statements and the accompanying notes should be read in conjunction with the annual consolidated financial statements and the accompanying notes contained in our Annual Report on Form 10-K for the year ended December 31, 2016.

The interim consolidated financial statements and the accompanying notes have been prepared on the same basis as the annual consolidated financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary for a fair statement of the results of operations for the periods presented. The consolidated results of operations for any interim period are not necessarily indicative of the results to be expected for the full year or for any other future years or interim periods.

Reclassifications

Certain prior period balances have been reclassified to conform to the current period presentation in the consolidated financial statements and the accompanying notes. Such reclassifications had no effect on previously reported results of operations. Starting in the fourth quarter of 2016, we have reclassified the revenue and cost of revenue of our energy storage products from ‘services and other’ into ‘energy generation and storage’ for all periods presented.

Resale Value Guarantees and Other Financing Programs

Vehicle sales to customers with a resale value guarantee

We offered resale value guarantees or similar buy-back terms to all customers who purchase vehicles and who financed their vehicle through one of our specified commercial banking partners. Subsequent to June 30, 2016, this program is available only in certain international markets. Under this program, customers have the option of selling their vehicle back to us during the guarantee period for a determined resale value. Guarantee periods generally range from 36 to 39 months. Although we receive full payment for the vehicle sales price at the time of delivery, we are required to account for these transactions as operating leases. The amount of sale proceeds equal to the resale value guarantee is deferred until the guarantee expires or is exercised. The remaining sale proceeds are deferred and recognized on a straight-line basis over the stated guarantee period to automotive leasing revenue. The guarantee period expires at the earlier of the end of the guarantee period or the pay-off of the initial loan. We capitalize the cost of these vehicles on the consolidated balance sheets as operating lease vehicles, net, and depreciate their value, less salvage value, to cost of automotive leasing revenue over the same period.

In cases where a customer retains ownership of a vehicle at the end of the guarantee period, the resale value guarantee liability and any remaining deferred revenue balances related to the vehicle are settled to automotive leasing revenue and the net book value of the leased vehicle is expensed to costs of automotive leasing revenue. In cases when customers return the vehicle back to us during the guarantee period, we purchase the vehicle from the customer in an amount equal to the resale value guarantee and settle any remaining deferred balances to automotive leasing revenue and we reclassify the net book value of the vehicle on our balance sheet to pre-owned vehicle inventory. As of March 31, 2017 and December 31, 2016, \$197.3 million and \$179.5 million, respectively, of the guarantees were exercisable by customers within the next twelve months.

Vehicle sales to leasing partners with a resale value guarantee

We also offer resale value guarantees in connection with automobile sales to certain leasing partners. As we have guaranteed the value of these vehicles and as the vehicles are leased to end-customers, we account for these transactions as interest bearing collateralized borrowings as required under ASC 840, *Leases*. Under this program, cash is received for the full price of the vehicle and is recorded within resale value guarantees for the long-term portion and deferred revenue for the current portion. We accrete the deferred revenue amount to automotive leasing revenue on a straight-line basis over the guarantee period and accrue interest expense based on our borrowing rate. We capitalize vehicles under this program to operating lease vehicles, net, on the consolidated balance sheets, and we record depreciation from these vehicles to cost of automotive leasing revenues during the period the vehicle is under a lease arrangement. Cash received for these vehicles, net of revenue recognized during the period, is classified as collateralized lease borrowings within cash flows from financing activities in the consolidated statements of cash flows.

At the end of the lease term, we settle our liability in cash by either purchasing the vehicle from the leasing partner for the resale value guarantee amount or paying a shortfall to the guarantee amount the leasing partner may realize on the sale of the vehicle. Any remaining balances within deferred revenue and resale value guarantee will be settled to automotive leasing revenue. In cases where the leasing partner retains ownership of the vehicle after the end of our guarantee period, we expense the net value of the leased vehicle to costs of automotive leasing revenue. The maximum cash we could be required to pay under this program, should we decide to repurchase all vehicles, was \$977.4 million as of March 31, 2017, including \$51.2 million within the next twelve months.

As of March 31, 2017 and December 31, 2016, we had \$1.29 billion and \$ 1.18 billion, respectively, of such borrowings recorded in resale value guarantees and \$311.7 million and \$ 289.1 million, respectively, recorded in deferred revenue liability. As of March 31, 2017 and December 31, 2016, we had a total of \$50.3 million and \$57.0 million, respectively, in account receivables from our leasing partners.

On a quarterly basis, we assess the estimated market values of vehicles under our resale value guarantee program to determine if we have sustained a loss on any of these contracts. As we accumulate more data related to the resale values of our vehicles or as market conditions change, there may be material changes to their estimated values.

Activity related to our resale value guarantee and similar programs consisted of the following (in thousands):

	Three Months Ended March 31,	
	2017	2016
Operating Lease Vehicles		
Operating lease vehicles—beginning of period	\$ 2,462,061	\$ 1,556,529
Net increase in operating lease vehicles	414,361	413,981
Depreciation expense recorded in cost of automotive leasing revenues	(78,856)	(44,818)
Additional depreciation expense recorded in cost of automotive leasing revenues as a result of early cancellation of resale value guarantee	(8,423)	(3,086)
Additional depreciation expense recorded in cost of automotive leasing revenues result of expiration	(41,432)	—
Increases to inventory from vehicles returned under our trade-in program and exercises of resale value guarantee	(15,312)	(13,296)
Operating lease vehicles—end of period	<u>\$ 2,732,399</u>	<u>\$ 1,909,310</u>
Deferred Revenue		
Deferred revenue—beginning of period	\$ 916,652	\$ 679,132
Net increase in deferred revenue from new vehicle deliveries and reclassification of collateralized borrowing from long-term to short-term	238,687	225,764
Amortization of deferred revenue and short-term collateralized borrowing recorded in automotive leasing revenue	(137,668)	(97,748)
Additional revenue recorded in automotive leasing revenue as a result of early cancellation of resale value guarantee	(1,737)	(2,996)
Recognition of deferred revenue resulting from return of vehicle under trade-in program, expiration, and exercises of resale value guarantee	(5,432)	(3,184)
Deferred revenue—end of period	<u>\$ 1,010,502</u>	<u>\$ 800,968</u>
Resale Value Guarantee		
Resale value guarantee liability—beginning of period	\$ 2,389,927	\$ 1,430,573
Increase in resale value guarantee	418,721	381,499
Reclassification from long-term to short-term collateralized borrowing	(48,384)	(22,826)
Additional revenue recorded in automotive leasing revenue as a result of early cancellation of resale value guarantee	(6,142)	(2,501)
Release of resale value guarantee resulting from return of vehicle under trade-in program and exercises	(20,199)	(11,247)
Release of resale value guarantee resulting from expiration of resale value guarantee	(41,330)	—
Resale value guarantee liability—end of period	<u>\$ 2,692,593</u>	<u>\$ 1,775,498</u>

Income Taxes

There are transactions that occur during the ordinary course of business for which the ultimate tax determination is uncertain. As of March 31, 2017 and December 31, 2016, the aggregate balances of our gross unrecognized tax benefits were \$219.4 million and \$203.9 million, respectively, of which \$213.2 million and \$198.3 million, respectively, would not give rise to changes in our effective tax rate since these tax benefits would increase a deferred tax asset that is currently fully offset by a valuation allowance.

Net Loss per Share of Common Stock Attributable to Common Stockholders

Basic net income (loss) per share of common stock attributable to common stockholders is calculated by dividing net income (loss) attributable to common stockholders by the weighted-average shares of common stock outstanding for the period. Potentially dilutive shares, which are based on the weighted-average shares of common stock underlying outstanding stock-based awards, warrants and convertible senior notes using the treasury stock method or the if-converted method, as applicable, are included when calculating diluted net income (loss) per share of common stock attributable to common stockholders when their effect is dilutive. Since we expect to settle in cash the principal outstanding under the 1.5% Convertible Senior Notes due in 2018, the 0.25% Convertible Senior Notes due in 2019, the 1.25% Convertible Senior Notes due in 2021 and the 2.375% Convertible Senior Notes due in 2022, we use the treasury stock method when calculating their potential dilutive effect, if any. The following table presents the potentially dilutive shares that were excluded from the computation of diluted net income (loss) per share of common stock attributable to common stockholders, because their effect was anti-dilutive:

	Three Months Ended March 31,	
	2017	2016
Stock-based awards	9,738,595	16,267,953
Convertible senior notes	2,370,788	1,955,136
Warrants	595,104	344,392

Concentration of Risk

Credit Risk

Financial instruments that potentially subject us to a concentration of credit risk consist of cash, cash equivalents, restricted cash, accounts receivable and interest rate swaps. Our cash balances are primarily invested in money market funds or on deposit at high credit quality financial institutions in the United States. At times, these deposits may be in excess of insured limits. As of March 31, 2017, no customer represented 10% or more of our total accounts receivable balance. The risk of concentration for our interest rate swaps is mitigated by transacting with several highly rated multinational banks. We maintain reserves for any amounts that we consider uncollectible.

Supply Risk

We are dependent on our suppliers, the majority of which are single source suppliers, and the inability of these suppliers to deliver necessary components of our products in a timely manner at prices, quality levels and volumes acceptable to us, or our inability to efficiently manage these components from these suppliers, could have a material adverse effect on our business, prospects, financial condition and operating results.

Warranties

We provide a manufacturer's warranty on all new and certified pre-owned vehicles, production powertrain components and systems and energy products we sell. In addition, we also provide a warranty on the installation and components of the solar energy systems we sell for periods typically between 10 to 30 years. We accrue a warranty reserve, which includes our best estimate of the projected costs to repair or replace items under warranty. These estimates are based on actual claims incurred to date and an estimate of the nature, frequency and costs of future claims. These estimates are inherently uncertain given our relatively short history of sales, and changes to our historical or projected warranty experience may cause material changes to the warranty reserve in the future. The warranty reserve does not include projected warranty costs associated with our vehicles subject to lease accounting and our solar energy systems under lease contracts or power purchase agreements, as the costs to repair these warranty claims are expensed as incurred. The portion of the warranty reserve expected to be incurred within the next 12 months is included within accrued liabilities and other while the remaining balance is included within other long-term liabilities. Warranty expense is recorded as a component of cost of revenues. Accrued warranty activity consisted of the following (in thousands):

	Three Months Ended March 31,	
	2017	2016
Accrued warranty—beginning of period	\$ 266,655	\$ 180,754
Warranty costs incurred	(23,016)	(15,704)
Net changes in liability for pre-existing warranties, including expirations and foreign exchange impact	(3,510)	3,384
Provision for warranty	66,822	30,271
Accrued warranty—end of period	\$ 306,951	\$ 198,705

For the three months ended March 31, 2017 and 2016, warranty costs incurred for vehicles accounted for as operating leases or collateralized debt arrangements were \$6.1 million and \$2.5 million, respectively.

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) No. 2014-09, *Revenue from Contracts with Customers*, to replace the existing revenue recognition criteria for contracts with customers. In August 2015, the FASB issued ASU No. 2015-14, *Deferral of the Effective Date*, to defer the effective date of ASU No. 2014-09 to interim and annual periods beginning after December 15, 2017, with early adoption permitted. Subsequently, the FASB issued ASU No. 2016-08, *Principal versus Agent Considerations*, ASU No. 2016-10, *Identifying Performance Obligations and Licensing*, ASU No. 2016-11, *Rescission of SEC Guidance Because of Accounting Standards Updates 2014-09 and 2014-16 Pursuant to Staff Announcements at the March 3, 2016 EITF Meeting*, ASU No. 2016-12, *Narrow-Scope Improvements and Practical Expedients*, and ASU No. 2016-20, *Technical Corrections and Improvements*, to clarify and amend the guidance in ASU No. 2014-09. Adoption of the ASUs is either retrospective to each prior period presented or retrospective with a cumulative adjustment to accumulated deficit as of the adoption date. We have not yet selected a transition method, and we are currently evaluating the impact of adopting the ASU.

In February 2016, the FASB issued ASU No. 2016-02, *Leases*, to require lessees to recognize most leases on the balance sheet, while recognition on the statement of operations will remain similar to current lease accounting. The ASU also eliminates real estate-specific provisions and modifies certain aspects of lessor accounting. The ASU is effective for interim and annual periods beginning after December 15, 2018, with early adoption permitted. Adoption of the ASU is modified retrospective. We are currently obtaining an understanding of the ASU but plan to adopt the ASU on January 1, 2019.

In March 2016, the FASB issued ASU No. 2016-06, *Contingent Put and Call Options in Debt Instruments*, to clarify when a contingent put or call option to accelerate the repayment of debt is an embedded derivative. The ASU is effective for interim and annual periods beginning after December 15, 2016, with early adoption permitted. Adoption of the ASU is modified retrospective. We adopted the ASU on January 1, 2017, but the ASU did not have an impact on the consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-09, *Improvements to Employee Share-Based Payment Accounting*, to simplify the accounting for the income tax effects from share-based compensation, the accounting for forfeitures and the accounting for statutory income tax withholding, among others. In particular, the ASU requires all income tax effects from share-based compensation to be recognized in the consolidated statement of operations when the awards vest or are settled, the ASU permits accounting for forfeitures as they occur, and the ASU permits a higher level of statutory income tax withholding without triggering liability accounting. Adoption of the ASU is modified retrospective, retrospective and prospective, depending on the specific provision being adopted. We adopted the ASU on January 1, 2017. Our gross U.S. deferred tax assets increased by \$909.1 million as a result of our adoption, which was fully offset by a corresponding increase to our valuation allowance. In addition, we now account for forfeitures as they occur.

In August 2016, the FASB issued ASU No. 2016-15, *Classification of Certain Cash Receipts and Cash Payments*, to reduce the diversity in practice with respect to the presentation of certain cash flows. The ASU is effective for interim and annual periods beginning after December 15, 2017, with early adoption permitted. Adoption of the ASU is retrospective. We are currently obtaining an understanding of the ASU but plan to adopt the ASU on January 1, 2018, which will impact the classifications within the consolidated statements of cash flows.

In October 2016, the FASB issued ASU No. 2016-16, *Intra-Entity Transfers of Assets Other Than Inventory*, to require the recognition of the income tax effects from an intra-entity transfer of an asset other than inventory. The ASU is effective for interim and annual periods beginning after December 15, 2017, with early adoption permitted. Adoption of the ASU is modified retrospective. We early adopted the ASU on January 1, 2017. Our adoption did not have a material impact on our consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows: Restricted Cash*, to require the statement of cash flows to present restricted cash as a part of the beginning and ending balances of cash and cash equivalents. The ASU is effective for interim and annual periods beginning after December 15, 2017, with early adoption permitted. Adoption of the ASU is retrospective. We plan to adopt the ASU on January 1, 2018, which will impact the classifications within the consolidated statements of cash flows.

In January 2017, the FASB issued ASU No. 2017-04, *Simplifying the Test for Goodwill Impairment*, to change the determination of the amount of goodwill impairment to the excess of the carrying amount of a reporting unit over the reporting unit’s fair value. The ASU is effective for interim and annual periods beginning after December 15, 2019, with early adoption permitted. Adoption of the ASU is prospective. We have not yet selected an adoption date, and the ASU will have a currently undetermined impact on the consolidated financial statements.

Note 3 – Business Combinations

Grohmann Acquisition

On January 3, 2017 we completed our acquisition of Grohmann Engineering GmbH (“Grohmann”), a company that specializes in the design, development and sale of automated manufacturing systems, for \$109.5 million in cash. We acquired Grohmann to improve the speed and efficiency of our manufacturing processes.

At the time of acquisition, we entered into an incentive compensation arrangement for up to a maximum of \$25.8 million of payments contingent upon continued service with us for 36 months after the acquisition date. Such payments would have been accounted for as compensation expense in the periods earned. However, during the three months ended March 31, 2017, we terminated the incentive compensation arrangement and accelerated the payments thereunder. As a result, we recorded the entire \$25.8 million as compensation expense during this period, which was included in selling, general and administrative expense in our consolidated statements of operations.

Fair Value of Assets Acquired and Liabilities Assumed

We accounted for the Grohmann acquisition using the purchase method of accounting for business combinations under ASC 805, *Business Combinations*. The total purchase price is allocated to the tangible and identifiable intangible assets acquired and liabilities assumed based on their estimated fair values as of the acquisition date.

As we finalize the fair value of assets acquired and liabilities assumed, additional purchase price adjustments may be recorded during the measurement period (a period not to exceed 12 months). Fair value estimates are based on a complex series of judgments about future events and uncertainties and rely heavily on estimates and assumptions. The judgments used to determine the estimated fair value assigned to each class of assets acquired and liabilities assumed, as well as asset lives and the expected future cash flows and related discount rates, can materially impact our results of operations. Significant inputs used for the model included the amount of cash flows, the expected period of the cash flows and the discount rates. The finalization of the purchase accounting assessment may result in a change in the valuation of the intangible assets acquired and the related taxes, which may have a material impact on our results of operations and financial position.

The preliminary allocation of the purchase price is based on management’s estimate of the acquisition date fair values of the assets acquired and liabilities assumed, as follows (in thousands):

Assets acquired:	
Cash and cash equivalents	\$ 334
Accounts receivable	42,947
Inventory	10,031
Property, plant and equipment	44,030
Intangible assets	21,723
Prepaid expenses and other assets, current and non-current	1,998
Total assets acquired	\$ 121,063
Liabilities assumed:	
Accounts payable	(19,975)
Accrued liabilities	(12,403)
Debt and capital leases, current and non-current	(9,220)
Other long-term liabilities	(10,049)
Total liabilities assumed	\$ (51,647)
Net assets acquired	\$ 69,416
Goodwill	40,065
Total purchase price	\$ 109,481

Goodwill represented the excess of the purchase price over the fair value of the net assets acquired and was primarily attributable to the expected synergies from potential monetization opportunities and from integrating Grohmann’s technology into our automotive business as well as the acquired talent. Goodwill is not deductible for U.S. income tax purposes and is not amortized. Rather, goodwill is tested for impairment annually, or more frequently if events or changes in circumstances indicate that it might be impaired, by comparing its carrying value to the reporting unit’s fair value.

Identifiable Intangible Assets Acquired

A preliminary assessment of the fair value of identified intangible assets and their respective useful lives are as follows (in thousands, except for estimated useful life):

	As of March 31, 2017	
	Approximate Fair Value	Estimated Useful Life (in years)
Developed technology	\$ 12,528	10
Software	3,341	3
Customer relations	3,236	6
Trade name	1,775	7
Other	843	2
Total intangible assets	<u>\$ 21,723</u>	

Grohmann's results of operations since the acquisition date have been included within the automotive segment in our consolidated statements of operations. Actual and pro forma results of operations have not been separately presented because they were not material.

SolarCity Acquisition

On November 21, 2016 we completed our acquisition of SolarCity for a total purchase price of \$2.1 billion in stock. We are currently finalizing our estimates of the fair values of the solar energy systems, leased and to be leased, identifiable intangible assets, deferred revenue, deferred taxes and noncontrolling interests assumed. Fair value adjustments recorded during the measurement period (a period not to exceed 12 months) may have a material impact on our consolidated financial statements. During the three months ended March 31, 2017, we recorded an \$11.6 million measurement period adjustment to the acquisition date fair value of certain assets as previously reported in our Form 10-K for the year ended December 31, 2016. The measurement period adjustment was recorded as a loss to other income (expense), net, in our consolidated statement of operations for the three months ended March 31, 2017, to reduce the gain on acquisition initially recognized during the period ended December 31, 2016.

Note 4 – Goodwill and Intangible Assets

Goodwill increased to \$41.0 million as of March 31, 2017 due to our acquisition of Grohmann and the impact of foreign currency translation adjustments.

Information regarding our acquired intangible assets as of March 31, 2017 was as follows (in thousands):

	As of March 31, 2017		
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Finite-lived intangible assets:			
Developed technology	\$ 125,889	\$ (5,894)	\$ 119,995
Trade name	45,275	(3,180)	42,095
Favorable contracts and leases, net	112,817	(2,808)	110,009
Other	34,099	(4,422)	29,677
Total finite-lived intangible assets:	<u>\$ 318,080</u>	<u>\$ (16,304)</u>	<u>\$ 301,776</u>
Indefinite-lived intangible assets:			
IPR&D	86,832	—	86,832
Total indefinite-lived intangible assets:	<u>86,832</u>	<u>—</u>	<u>86,832</u>
Total intangible assets	<u>\$ 404,912</u>	<u>\$ (16,304)</u>	<u>\$ 388,608</u>

The acquired in-process research and development (“IPR&D”) is accounted for as an indefinite-lived asset until the completion or abandonment of the associated research and development efforts. If the research and development efforts are successfully completed and commercial feasibility is reached, the IPR&D would be amortized over its then estimated useful life. If the research and development efforts are not completed or are abandoned, the IPR&D might be impaired. The fair value of the IPR&D was estimated using the replacement cost method under the cost approach, based on the historical acquisition costs and expenses of the technology adjusted for estimated developer’s profit, opportunity cost and obsolescence factor. We expect to complete the research and development efforts in the second half of 2017, but there can be no assurance that the commercial feasibility will be achieved. The nature of the research and development efforts consists principally of planning, designing and testing the technology for viability in manufacturing. If commercial feasibility is not achieved, we would likely look to other alternative technologies.

As of March 31, 2017, total future amortization expense for intangible assets was estimated as follows (in thousands):

	Total
Nine months ending December 31, 2017	\$ 28,670
2018	37,514
2019	37,514
2020	35,675
2021	34,709
Thereafter	127,694
Total	\$ 301,776

Note 5 – Fair Value of Financial Instruments

ASC 820, *Fair Value Measurements*, states that fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. The three-tiered fair value hierarchy, which prioritizes which inputs should be used in measuring fair value, is comprised of: (Level I) observable inputs such as quoted prices in active markets; (Level II) inputs other than quoted prices in active markets that are observable either directly or indirectly and (Level III) unobservable inputs for which there is little or no market data. The fair value hierarchy requires the use of observable market data when available in determining fair value. Our assets and liabilities that were measured at fair value on a recurring basis were as follows (in thousands):

	March 31, 2017				December 31, 2016			
	Fair Value	Level I	Level II	Level III	Fair Value	Level I	Level II	Level III
Money market funds	\$ 2,727,155	\$ 2,727,155	\$ —	\$ —	\$ 2,226,322	\$ 2,226,322	\$ —	\$ —
Interest rate swaps	1,022	—	1,022	—	1,490	—	1,490	—
Total	\$ 2,728,177	\$ 2,727,155	\$ 1,022	\$ —	\$ 2,227,812	\$ 2,226,322	\$ 1,490	\$ —

All of our cash equivalents and short-term marketable securities were classified within Level I of the fair value hierarchy because they were valued using quoted prices in active markets. Our interest rate swaps were classified within Level II of the fair value hierarchy because they were valued using alternative pricing sources or models that utilized market observable inputs, including current and forward interest rates. During the three months ended March 31, 2017, there were no transfers between the levels of the fair value hierarchy.

Interest Rate Swaps

We enter into fixed-for-floating interest rate swap agreements to swap variable interest payments on certain debt for fixed interest payments, as required by certain of our lenders. We do not designate our interest rate swaps as hedging instruments. Accordingly, our interest rate swaps are recorded at fair value on the consolidated balance sheets within other assets or other long-term liabilities, with any changes in their fair values recognized as other income (expense), net, in the consolidated statements of operations and with any cash flows recognized as investing activities in the consolidated statements of cash flows. Our interest rate swaps outstanding were as follows (in thousands):

	Aggregate Notional Amount	Gross Asset at Fair Value	Gross Liability at Fair Value	Three Months Ended March 31, 2017	
				Gross Gains	Gross Losses
Interest rate swaps	\$ 754,591	\$ 8,953	\$ 9,975	\$ 688	\$ 1,250

Disclosure of Fair Values

Our financial instruments that are not re-measured at fair value include accounts receivable, customer notes receivable, rebates receivable, accounts payable, accrued liabilities, customer deposits, convertible senior notes, the participation interest, solar asset-backed notes, solar loan-backed notes, Solar Bonds and long-term debt. The carrying values of these financial instruments other than customer notes receivable, convertible senior notes, the participation interest, solar asset-backed notes, Solar Bonds and long-term debt approximated their fair values.

We estimate the fair value of convertible senior notes using commonly accepted valuation methodologies and market-based risk measurements that are indirectly observable, such as credit risk (Level II). In addition, we estimate the fair value of customer notes receivable, the participation interest, solar asset-backed notes, solar loan-backed notes and Solar Bonds based on rates currently offered for instruments with similar maturities and terms (Level III). The following table presents the estimated fair values and the carrying values (in thousands):

	March 31, 2017		December 31, 2016	
	Carrying Value	Fair Value	Carrying Value	Fair Value
MyPower customer notes receivable	\$ 492,627	\$ 492,627	\$ 513,002	\$ 513,002
Convertible senior notes	3,801,009	4,570,495	2,957,288	3,205,641
Participation interest	17,055	17,322	16,713	15,025
Solar asset-backed notes	434,829	436,896	442,764	428,551
Solar loan-backed notes	268,021	278,770	137,024	132,129

Note 6 – Inventory

As of March 31, 2017 and December 31, 2016, our inventory consisted of the following (in thousands):

	March 31, 2017	December 31, 2016
Raw materials	\$ 693,499	\$ 680,339
Work in process	254,684	233,746
Finished goods	1,141,556	1,016,731
Service parts	130,597	136,638
Total	\$ 2,220,336	\$ 2,067,454

Finished goods inventory included vehicles in transit to fulfill customer orders, new vehicles available for immediate sale at our retail and service center locations, pre-owned Tesla vehicles and energy storage products.

For solar energy systems, leased and to be leased, we commence transferring component parts from inventory to construction in progress, a component of solar energy systems, leased and to be leased, once a lease contract with a customer has been executed and installation has been initiated. Additional costs incurred on the leased systems, including labor and overhead, are recorded within construction in progress.

We write-down inventory for any excess or obsolete inventories or when we believe that the net realizable value of inventories is less than the carrying value. During the three months ended March 31, 2017 and 2016, we recorded write-downs of \$21.0 million and \$12.7 million, respectively, in cost of revenues.

Note 7 – Solar Energy Systems, Leased and To Be Leased, Net

Solar energy systems, leased and to be leased, net, consisted of the following (in thousands):

	March 31, 2017	December 31, 2016
Solar energy systems leased to customers	\$ 5,376,722	\$ 5,052,976
Initial direct costs related to customer solar energy system lease acquisition costs	35,360	12,774
	\$ 5,412,082	\$ 5,065,750
Less: accumulated depreciation and amortization	(67,210)	(20,157)
	\$ 5,344,872	\$ 5,045,593
Solar energy systems under construction	400,657	460,913
Solar energy systems to be leased to customers	340,461	413,374
Solar energy systems, leased and to be leased – net (1)(2)	<u>\$ 6,085,990</u>	<u>\$ 5,919,880</u>

- (1) Included in solar energy systems, leased and to be leased, as of March 31, 2017 and December 31, 2016 was \$36.0 million and \$36.0 million, respectively, related to capital leased assets with an accumulated depreciation of \$0.6 million and \$0.2 million, respectively.
- (2) Included in solar energy systems, leased and to be leased, as of March 31, 2017 and December 31, 2016 was \$21.5 million and \$21.3 million related to energy storage systems with an accumulated depreciation of \$0.2 million and \$0.1 million, respectively.

Note 8 – Property, Plant and Equipment

As of March 31, 2017 and December 31, 2016, our property, plant and equipment, net, consisted of the following (in thousands):

	March 31, 2017	December 31, 2016
Machinery, equipment, vehicles and office furniture	\$ 2,358,180	\$ 2,154,367
Tooling	825,036	794,793
Leasehold improvements	559,848	505,295
Land and buildings	1,213,191	1,079,452
Computer equipment, hardware and software	301,911	275,655
Construction in progress	2,899,557	2,147,332
Other	23,771	23,548
	\$ 8,181,494	\$ 6,980,442
Less: Accumulated depreciation and amortization	(1,164,943)	(997,485)
Total	<u>\$ 7,016,551</u>	<u>\$ 5,982,957</u>

Construction in progress is primarily comprised of tooling and equipment related to the manufacturing of our vehicles, a portion of Gigafactory 1 construction. In addition, construction in progress also included certain build-to-suit lease costs incurred at our Buffalo manufacturing facility, referred to as Gigafactory 2. Completed assets are transferred to their respective asset classes, and depreciation begins when an asset is ready for its intended use. Interest on outstanding debt is capitalized during periods of significant capital asset construction and amortized over the useful lives of the related assets. During the three months ended March 31, 2017 and 2016, we capitalized \$23.3 million and \$9.1 million, respectively, of interest.

We are sometimes involved in the construction of our leased facilities, primarily related to retail stores, service centers and certain manufacturing facilities. In accordance with ASC 840, *Leases*, for build-to-suit lease arrangements where we are involved in the construction of structural improvements prior to the commencement of the lease or take some level of construction risk, we are considered the owner of the assets and land during the construction period. Accordingly, upon commencement of the construction activities, we record a construction in progress asset and a corresponding financing liability. Once the construction is completed, if the lease meets certain “sale-leaseback” criteria, we would remove the asset and the liability and treat the lease as an operating lease. If the lease does not meet the criteria, the leased property would be treated as a capital lease and included in building and building improvements in the table above.

As of March 31, 2017 and December 31, 2016, the table above included \$1.38 billion and \$1.32 billion, respectively, of build-to-suit lease assets. As of March 31, 2017 and December 31, 2016, the corresponding financing liabilities of \$11.1 million and \$3.8 million, respectively, were recorded in accrued liabilities and \$1.40 billion and \$1.32 billion, respectively, were recorded in other long-term liabilities.

Depreciation and amortization expense during the three months ended March 31, 2017 and 2016 were \$160.1 million and \$99.2 million, respectively. Gross property and equipment under capital leases as of March 31, 2017 and December 31, 2016 were \$279.2 million and \$112.6 million, respectively. Accumulated depreciation on property and equipment under capital leases as of these dates were \$48.9 million and \$40.2 million, respectively.

We had incurred and capitalized costs of \$1.14 billion and \$825.3 million, respectively, for Gigafactory 1 as of March 31, 2017 and December 31, 2016.

Note 9 – Other Long-Term Liabilities

Other long-term liabilities consisted of the following (in thousands):

	<u>March 31, 2017</u>	<u>December 31, 2016</u>
Accrued warranty reserve, net of current portion	\$ 176,024	\$ 149,858
Build-to-suit lease liability, net of current portion	1,398,650	1,323,293
Deferred rent expense	34,254	36,966
Financing obligation, net of current portion	88,426	84,360
Liability for receipts from an investor	111,912	76,828
Other noncurrent liabilities	272,556	220,144
Total long-term liabilities	<u>\$ 2,081,822</u>	<u>\$ 1,891,449</u>

For additional information on the build-to-suit lease liability, please see Note 8, *Property, Plant and Equipment*. The liability for receipts from an investor represents the amounts received from the investor under a lease pass-through fund arrangement for the monetization of investment tax credits (“ITCs”) for solar energy systems not yet placed in service. This balance is reclassified to deferred revenue when the solar energy systems are placed in service.

Note 10 – Customer Deposits

Customer deposits primarily consisted of cash payments from customers at the time they place an order or reservation for a vehicle and additional payments up to the point of delivery, including the fair values of any customer trade-in vehicles that are applicable toward a new vehicle purchase. Customer deposit amounts and timing vary depending on the vehicle model and the country of delivery. Customer deposits are fully refundable up to the point the vehicle is placed into the production cycle. Customer deposits are included in current liabilities until refunded or until they are applied to a customer’s purchase balance at the time of delivery. As of March 31, 2017 and December 31, 2016, we held \$616.4 million and \$663.9 million, respectively, in customer deposits.

Note 11 – Convertible and Long-Term Debt Obligations

The following is a summary of our debt as of March 31, 2017 (in thousands):

	Unpaid Principal Balance	Net Carrying Value		Unused Committed Amount	Interest Rate	Maturity Dates
		Current	Long-Term			
Recourse debt:						
1.5% Convertible Senior Notes due in 2018 ("2018 Notes")	\$ 204,993	\$ 197,710	—	—	1.5%	June 2018
0.25% Convertible Senior Notes due in 2019 ("2019 Notes")	920,000	—	837,661	—	0.25%	March 2019
1.25% Convertible Senior Notes due in 2021 ("2021 Notes")	1,380,000	—	1,145,078	—	1.25%	March 2021
2.375% Convertible Senior Notes due in 2022 ("2022 Notes")	977,500	—	820,938	—	2.375%	March 2022
Credit Agreement	934,000	—	934,000	210,169	1% plus LIBOR	June 2020
Secured Revolving Credit Facility	359,000	360,474	—	4,312	4.2%-6.5%	December 2017
Vehicle and Other Loans	28,201	20,004	8,197	—	1.1%-7.6%	April 2017 - September 2019
2.75% Convertible Senior Notes due in 2018	230,000	—	216,172	—	2.8%	November 2018
1.625% Convertible Senior Notes due in 2019	566,000	—	492,705	—	1.6%	November 2019
Zero-coupon Convertible Senior Notes due in 2020	113,000	—	90,745	—	0.0%	December 2020
Solar Bonds	233,059	200,904	30,797	*	2.5%-6.5%	May 2017 - January 2031
Total recourse debt	5,945,753	779,092	4,576,293	214,481		
Non-recourse debt:						
Warehouse Agreement	444,709	113,831	330,877	155,291	Various	September 2018
Canada Credit Facility	62,287	18,907	43,380	—	3.6%-4.5%	December 2020
Term Loan due in December 2018	106,028	—	105,524	30,781	4.4%	December 2018
Term Loan due in January 2021	181,102	5,956	173,870	—	4.5%	January 2021
Revolving Aggregation Credit Facility	509,386	—	512,043	250,614	4.2%-4.8%	December 2018
Solar Renewable Energy Credit Loan Facility	53,159	12,392	41,043	1,841	6.6%	July 2021
Cash Equity Debt I	118,956	3,333	114,622	—	5.7%	July 2033
Cash Equity Debt II	205,251	5,458	187,806	—	5.3%	July 2034
Cash Equity Debt III	167,501	3,646	160,751	—	5.8%	January 2035
Solar Asset-backed Notes, Series 2013-1	41,025	3,289	37,513	—	4.8%	November 2038
Solar Asset-backed Notes, Series 2014-1	59,824	3,019	56,471	—	4.6%	April 2044
Solar Asset-backed Notes, Series 2014-2	183,154	7,240	169,798	—	4.0%-Class A 5.4%-Class B	July 2044
Solar Asset-backed Notes, Series 2015-1	117,333	2,393	107,554	—	4.2%-Class A 5.6%-Class B	August 2045
Solar Asset-backed Notes, Series 2016-1	49,440	1,202	46,350	—	5.3%-Class A 7.5%-Class B	September 2046
Solar Loan-backed Notes, Series 2016-A	131,066	3,514	124,030	—	4.8%-Class A 6.9%-Class B	September 2048
Solar Loan-backed Notes, Series 2017-A	145,000	465	140,012	—	5.0%-Class A 6.1%-Class B 7.5%-Class C	September 2049
Total non-recourse debt	2,575,221	184,645	2,351,644	438,527		
Total debt	\$ 8,520,974	\$ 963,737	\$ 6,927,937	\$ 653,008		

* Out of the \$350.0 million authorized to be issued, \$116.9 million remained available to be issued. See below and Note 16, *Related Party Transactions*, for Solar Bonds issued to related parties.

The following is a summary of our debt as of December 31, 2016 (in thousands):

	Unpaid Principal Balance	Net Carrying Value		Unused Committed Amount	Interest Rate	Maturity Dates
		Current	Long-Term			
Recourse debt:						
2018 Notes	\$ 205,013	\$ 196,229	—	—	1.5%	June 2018
2019 Notes	920,000	—	827,620	—	0.25%	March 2019
2021 Notes	1,380,000	—	1,132,029	—	1.25%	March 2021
Credit Agreement	969,000	—	969,000	181,000	1% plus LIBOR	June 2020
Secured Revolving Credit Facility	364,000	366,247	—	24,305	4.0%-6.0%	January 2017 - December 2017
Vehicle and Other Loans	23,771	17,235	6,536	—	2.9%-7.6%	March 2017 - June 2019
2.75% Convertible Senior Notes due in 2018	230,000	—	212,223	—	2.8%	November 2018
1.625% Convertible Senior Notes due in 2019	566,000	—	483,820	—	1.6%	November 2019
Zero-coupon Convertible Senior Notes due in 2020	113,000	—	89,418	—	0.0%	December 2020
Solar Bonds	332,060	181,582	148,948	#	1.1%-6.5%	January 2017 - January 2031
Total recourse debt	5,102,844	761,293	3,869,594	205,305		
Non-recourse debt:						
Warehouse Agreement	390,000	73,708	316,292	210,000	Various	September 2018
Canada Credit Facility	67,342	18,489	48,853	—	3.6%- 4.5%	December 2020
Term Loan due in December 2017	75,467	75,715	—	52,173	4.2%	December 2017
Term Loan due in January 2021	183,388	5,860	176,169	—	4.5%	January 2021
MyPower Revolving Credit Facility	133,762	133,827	—	56,238	4.1%-6.6%	January 2017
Revolving Aggregation Credit Facility	424,757	—	427,944	335,243	4.0%-4.8%	December 2018
Solar Renewable Energy Credit Term Loan	38,124	12,491	26,262	—	6.6%-9.9%	April 2017 - July 2021
Cash Equity Debt I	119,753	3,272	115,464	—	5.7%	July 2033
Cash Equity Debt II	206,901	5,376	189,424	—	5.3%	July 2034
Cash Equity Debt III	170,000	4,994	161,853	—	5.8%	January 2035
Solar Asset-backed Notes, Series 2013-1	41,899	3,329	38,346	—	4.8%	November 2038
Solar Asset-backed Notes, Series 2014-1	60,768	3,016	57,417	—	4.6%	April 2044
Solar Asset-backed Notes, Series 2014-2	186,851	7,055	173,625	—	4.0%-Class A 5.4%-Class B	July 2044
Solar Asset-backed Notes, Series 2015-1	119,199	1,511	110,238	—	4.2%-Class A 5.6%-Class B	August 2045
Solar Asset-backed Notes, Series 2016-1	50,119	1,202	47,025	—	5.3%-Class A 7.5%-Class B	September 2046
Solar Loan-backed Notes, Series 2016-A	140,586	3,514	133,510	—	4.8%-Class A 6.9%-Class B	September 2048
Total non-recourse debt	2,408,916	353,359	2,022,422	653,654		
Total debt	<u>\$ 7,511,760</u>	<u>\$ 1,114,652</u>	<u>\$ 5,892,016</u>	<u>\$ 858,959</u>		

Out of the \$350.0 million authorized to be issued, \$17.9 million remained available to be issued. See below and Note 16, *Related Party Transactions*, for Solar Bonds issued to related parties.

Recourse debt refers to debt that is recourse to our general assets. Non-recourse debt refers to debt that is recourse to only specified assets of our subsidiaries. The differences between the unpaid principal balances and the net carrying values are due to convertible senior note conversion features, debt discounts and deferred financing costs. As of March 31, 2017, we were in compliance with all financial debt covenants.

The following descriptions summarize the significant debt activity in the three months ended March 31, 2017.

2.375% Convertible Senior Notes due in 2022, Bond Hedges and Warrant Transactions

In March 2017, we issued \$977.5 million in aggregate principal of 2.375% convertible senior notes due in March 2022 (“2022 Notes”) in a public offering. The net proceeds from the issuance, after deducting transaction costs, were \$965.9 million.

Each \$1,000 of principal of the 2022 Notes is initially convertible into 3.0534 shares of our common stock, which is equivalent to an initial conversion price of approximately \$327.50 per share, subject to adjustment upon the occurrence of specified events. Holders of the 2022 Notes may convert, at their option, on or after December 15, 2021. Further, holders of the 2022 Notes may convert such 2022 Notes, at their option, prior to December 15, 2021, only under the following circumstances: (1) during any quarter beginning after June 30, 2017, if the closing price of our common stock for at least 20 trading days (whether or not consecutive) during the last 30 consecutive trading days immediately preceding the quarter is greater than or equal to 130% of the conversion price; (2) during the five-business day period following any five-consecutive trading day period in which the trading price of the 2022 Notes is less than 98% of the average of the closing price of our common stock for each day during such five-consecutive trading day period; or (3) if we make specified distributions to holders of our common stock or if specified corporate transactions occur. Upon a conversion, we would pay cash for the principal amount and, if applicable, deliver shares of our common stock (subject to our right to deliver cash in lieu of all or a portion of such shares of our common stock) based on a daily conversion value. If a fundamental change occurs prior to the maturity date, holders of the 2022 Notes may require us to repurchase all or a portion of their 2022 Notes for cash at a repurchase price equal to 100% of the principal amount plus any accrued and unpaid interest. In addition, if specific corporate events occur prior to the maturity date, we would increase the conversion rate for a holder who elects to convert their 2022 Notes in connection with such an event in certain circumstances. As of March 31, 2017, none of the conditions permitting the holders of the 2022 Notes to early convert had been met. Therefore, the 2022 Notes are classified as long-term debt.

In accordance with GAAP relating to embedded conversion features, we initially valued and bifurcated the conversion feature associated with the 2022 Notes. We recorded to stockholders' equity \$145.6 million for the conversion feature. The resulting debt discount is being amortized to interest expense at an effective interest rate of 6.00%.

In connection with the offering of the 2022 Notes, we entered into convertible note hedge transactions whereby we have the option to purchase initially (subject to adjustment for certain specified events) a total of approximately 3.0 million shares of our common stock at a price of approximately \$327.50 per share. The cost of the convertible note hedge transactions was \$204.1 million. In addition, we sold warrants whereby the holders of the warrants have the option to purchase initially (subject to certain specified events) a total of approximately 3.0 million shares of our common stock at a price of \$655.00 per share. We received \$52.9 million in cash proceeds from the sale of these warrants. Taken together, the purchase of the convertible note hedges and the sale of warrants are intended to reduce potential dilution from the conversion of the 2022 Notes and to effectively increase the overall conversion price from \$327.50 to \$655.00 per share. As these transactions meet certain accounting criteria, the convertible note hedges and warrants are recorded in stockholders' equity and are not accounted for as derivatives. The net cost incurred in connection with the convertible note hedge and warrant transactions was recorded as a reduction to additional paid-in capital on our consolidated balance sheet as of March 31, 2017.

Term Loan due in December 2018

On March 31, 2016, a subsidiary of SolarCity entered into an agreement for a term loan. The term loan bears interest at an annual rate of the lender's cost of funds plus 3.25%. The fee for undrawn commitments is 0.85% per annum. On March 31, 2017, the agreement was amended to extend the availability period and the maturity date. The term loan is secured by substantially all of the assets and cash flows of the subsidiary and is non-recourse to our other assets.

Term Loan due in January 2021

In January 2016, a subsidiary of SolarCity entered into an agreement with a syndicate of banks for a term loan. The term loan bears interest at an annual rate of three-month LIBOR plus 3.50%. The term loan is secured by substantially all of the assets of the subsidiary, including its interests in certain financing funds, and is non-recourse to our other assets. During the three months ended March 31, 2017, we repaid \$2.3 million of the principal outstanding under the term loan.

MyPower Revolving Credit Facility

In January 2017, the MyPower revolving credit facility matured, and the aggregate outstanding principal amount was fully repaid.

Solar Renewable Energy Credit Loan Facilities

On March 31, 2016, a subsidiary of SolarCity entered into an agreement for a term loan. The term loan bore interest at an annual rate of one-month LIBOR plus 9.00% or, at our option, 8.00% plus the highest of (i) the Federal Funds Rate plus 0.50%, (ii) the prime rate or (iii) one-month LIBOR plus 1.00%. The term loan was secured by substantially all of the assets of the subsidiary, including its rights under forward contracts to sell solar renewable energy credits, and was non-recourse to our other assets. On March 1, 2017, we fully repaid the outstanding principal amount under the term loan.

On July 14, 2016, the same subsidiary entered into an agreement for another loan facility. The loan facility bears interest at an annual rate of one-month LIBOR plus 5.75% or, at our option, 4.75% plus the highest of (i) the Federal Funds Rate plus 0.50%, (ii) the prime rate or (iii) one-month LIBOR plus 1.00%. The loan facility is secured by substantially all of the assets of the subsidiary, including its rights under forward contracts to sell solar renewable energy credits, and is non-recourse to our other assets.

Solar Loan-backed Notes, Series 2017-A

On January 27, 2017, we pooled and transferred certain MyPower customer notes receivable into a special purpose entity (“SPE”) and issued \$123.0 million in aggregate principal of Solar Loan-backed Notes, Series 2017-A, Class A; \$8.8 million in aggregate principal of Solar Loan-backed Notes, Series 2017-A, Class B; and \$13.2 million in aggregate principal of Solar Loan-backed Notes, Series 2017-A, Class C; backed by these notes receivable to investors. The SPE is wholly owned by us and is consolidated in our financial statements. Accordingly, we did not recognize a gain or loss on the transfer of these notes receivable. The Solar Loan-backed Notes were issued at a discount of 1.87% for Class A, 1.86% for Class B and 8.13% for Class C. The payments received by the SPE from these notes receivable are used to service the semi-annual principal and interest payments on the Solar Loan-backed Notes and satisfy the SPE’s expenses, and any remaining cash is distributed to one of our wholly owned subsidiaries. The SPE’s assets and cash flows are not available to our other creditors, and the creditors of the SPE, including the Solar Loan-backed Note holders, have no recourse to our other assets.

Interest Expense

The following table presents the aggregate amount of interest expense recognized relating to the contractual interest coupon and amortization of the debt issuance costs and debt discount on convertible notes with cash conversion features, which includes the 2018 Notes, the 2019 Notes, the 2021 Notes and the 2022 Notes (in thousands):

	Three Months Ended March 31,	
	2017	2016
Contractual interest coupon	\$ 6,151	\$ 8,391
Amortization of debt issuance costs	1,308	1,898
Amortization of debt discount	23,962	25,191
Total	<u>\$ 31,421</u>	<u>\$ 35,480</u>

Note 12 – Common Stock

In March 2017, we completed a public offering of our common stock and issued a total of 1,536,259 shares for total cash proceeds of \$399.6 million (including 95,420 shares purchased by our Chief Executive Officer for approximately \$25.0 million), net of underwriting discounts and offering costs.

Note 13 – Equity Incentive Plans

In 2010, we adopted the 2010 Equity Incentive Plan (the “2010 Plan”). The 2010 Plan provides for the granting of stock options, RSUs and stock purchase rights to our employees, directors and consultants. Options granted under the 2010 Plan may be either incentive options or nonqualified stock options. Incentive stock options may be granted only to our employees, including officers and directors. Nonqualified stock options and stock purchase rights may be granted to our employees and consultants. Generally, our stock option and RSU awards vest over up to four years and are exercisable over a maximum period of ten years from their grant dates. Vesting typically terminates when the employment or consulting relationship ends.

In addition, as a result of our acquisition of SolarCity, we assumed its equity award plans and its outstanding equity awards as of the acquisition date. The assumed equity awards were converted into equity awards of Tesla common stock in share amounts and prices based on the exchange ratio specified in the acquisition agreement, with the assumed equity awards retaining the same vesting and other terms and conditions as in effect immediately prior to the acquisition. The assumed equity awards have vesting and other terms and conditions that are substantially the same as those under the 2010 Plan.

As of March 31, 2017, there were 16,856,143 shares underlying outstanding equity awards.

2014 Performance-Based Stock Option Awards

In 2014, to create incentives for continued long-term success beyond the Model S program and to closely align executive pay with our stockholders' interests in the achievement of significant milestones by us, the Compensation Committee of our Board of Directors granted stock option awards to certain employees (excluding our Chief Executive Officer) to purchase an aggregate of 1,073,000 shares of our common stock. Each award consisted of four vesting tranches with a vesting schedule based entirely on the attainment of performance milestones, assuming continued employment and service through each vesting date:

- 1/4th of each award vested upon completion of the first Model X production vehicle;
- 1/4th of each award is scheduled to vest upon achieving aggregate production of 100,000 vehicles in a trailing 12-month period;
- 1/4th of each award is scheduled to vest upon completion of the first Model 3 production vehicle; and
- 1/4th of each award is scheduled to vest upon achieving an annualized gross margin of greater than 30.0% for any three-year period.

As of March 31, 2017, the following performance milestone was achieved:

- Completion of the first Model X production vehicle.

As of March 31, 2017, the following performance milestones were considered probable of achievement:

- Completion of the first Model 3 production vehicle; and
- Achieving aggregate production of 100,000 vehicles in a trailing 12-month period.

We begin recognizing stock-based compensation expense as each performance milestone becomes probable of achievement. As of March 31, 2017, we had unrecognized stock-based compensation expense of \$17.1 million for the performance milestone that was not considered probable of achievement. For the three months ended March 31, 2017 and 2016, we recorded stock-based compensation expense of \$2.7 million and \$9.0 million, respectively, related to these awards.

2012 Chief Executive Officer Awards

In August 2012, our Board of Directors granted 5,274,901 stock option awards to our Chief Executive Officer (the "2012 CEO Grant"). The 2012 CEO Grant consists of 10 vesting tranches with a vesting schedule based entirely on the attainment of both performance conditions and market conditions, assuming continued employment and service through each vesting date. Each vesting tranche requires a combination of a pre-determined performance milestone and an incremental increase in our market capitalization of \$4.0 billion, as compared to our initial market capitalization of \$3.2 billion at the time of the 2012 CEO Grant. As of March 31, 2017, the market conditions for eight vesting tranches and the following seven performance milestones were achieved:

- Successful completion of the Model X alpha prototype;
- Successful completion of the Model X beta prototype;
- Completion of the first Model X production vehicle;
- Aggregate production of 100,000 vehicles;
- Successful completion of the Model 3 alpha prototype,
- Successful completion of the Model 3 beta prototype; and
- Aggregate production of 200,000 vehicles.

As of March 31, 2017, the following performance milestones were considered probable of achievement:

- Completion of the first Model 3 production vehicle; and
- Aggregate production of 300,000 vehicles.

We begin recognizing stock-based compensation expense as each milestone becomes probable of achievement. As of March 31, 2017, we had \$3.5 million of total unrecognized stock-based compensation expense for those performance milestones that were considered probable of achievement, which will be recognized over a weighted-average period of 1.4 years. As of March 31, 2017, we had unrecognized stock-based compensation expense of \$5.7 million for the performance milestone that was not considered probable of achievement. For the three months ended March 31, 2017 and 2016, we recorded stock-based compensation expense of \$1.4 million and \$10.4 million, respectively, related to the 2012 CEO Grant.

Our Chief Executive Officer earns a base salary that reflects the currently applicable minimum wage requirements under California law, and he is subject to income taxes based on such base salary. However, he has never accepted and currently does not accept his salary.

Summary Stock-Based Compensation Information

The following table summarizes our stock-based compensation expense by line item in the consolidated statements of operations (in thousands):

	Three Months Ended March 31,	
	2017	2016
Cost of sales	\$ 10,031	\$ 6,403
Research and development	49,192	39,602
Selling, general and administrative	44,494	43,652
Total	<u>\$ 103,717</u>	<u>\$ 89,657</u>

We realized no income tax benefits from stock option exercises in each of the periods presented due to recurring losses and valuation allowances. As of March 31, 2017, we had \$1.22 billion of total unrecognized stock-based compensation expense, net of estimated forfeitures, related to non-performance awards, which will be recognized over a weighted-average period of 3.0 years.

Note 14 – Commitments and Contingencies

Non-Cancellable Leases

We have entered into various non-cancellable leases for certain of our offices, manufacturing and warehouse facilities, retail and service locations, equipment, vehicles, solar energy systems and supercharger sites, throughout the world.

Build-to-Suit Lease Arrangement in Buffalo, New York

As discussed in Note 8, *Property, Plant and Equipment*, as part of our acquisition of SolarCity, we assumed a build-to-suit lease arrangement with the Research Foundation for the State University of New York (the “Foundation”) where the Foundation will construct a solar cell and panel manufacturing facility, referred to as Gigafactory 2, with our participation in the design and construction, install certain utilities and other improvements and acquire certain manufacturing equipment designated by us to be used in the manufacturing facility. The Foundation will cover (i) construction costs related to the manufacturing facility in an amount up to \$350.0 million, (ii) the acquisition and commissioning of the manufacturing equipment in an amount up to \$274.7 million and (iii) \$125.3 million for additional specified scope costs, in cases (i) and (ii) only, subject to the maximum funding allocation from the State of New York, and we will be responsible for any construction and equipment costs in excess of such amounts. The Foundation will own the manufacturing facility and the manufacturing equipment purchased by the Foundation. Following completion of the manufacturing facility, we will lease the manufacturing facility and the manufacturing equipment owned by the Foundation for an initial period of 10 years, with an option to renew, for \$2 per year plus utilities.

Under the terms of the build-to-suit lease arrangement, we are required to achieve specific operational milestones during the initial term of the lease, which include employing a certain number of employees at the manufacturing facility, within western New York and within the State of New York within specified periods following the completion of the manufacturing facility. We are also required to spend or incur approximately \$5.0 billion in combined capital, operational expenses and other costs in the State of New York over the 10 years following the achievement of full production. On an annual basis during the initial lease term, as measured on each anniversary of the commissioning of the manufacturing facility, if we fail to meet these specified investment and job creation requirements, then we would be obligated to pay a \$41.2 million “program payment” to the Foundation for each year that we fail to meet these requirements. Furthermore, if the arrangement is terminated due to a material breach by us, then additional amounts might be payable by us.

The non-cash investing and financing activities related to the arrangement during the three months ended March 31, 2017 amounted to \$40.9 million.

Legal Proceedings

Securities Litigation

On March 28, 2014, a purported stockholder class action was filed in the United States District Court for the Northern District of California against SolarCity and two of its officers. The complaint alleges violations of federal securities laws, and seeks unspecified compensatory damages and other relief on behalf of a purported class of purchasers of SolarCity's securities from March 6, 2013 to March 18, 2014. After a series of amendments to the original complaint, the District Court dismissed the amended complaint and entered a judgment in SolarCity's favor on August 9, 2016. The plaintiffs have filed a notice of appeal. We believe that the claims are without merit and intend to defend against this lawsuit vigorously. We are unable to estimate the possible loss, if any, associated with this lawsuit.

On August 15, 2016, a purported stockholder class action lawsuit was filed in the United States District Court for the Northern District of California against SolarCity, two of its officers and a former officer. On March 20, 2017, the purported stockholder class filed a consolidated complaint that includes the original matter in the same court against SolarCity, one of its officers and three former officers. As consolidated, the complaint alleges that SolarCity made projections of future sales and installations that it failed to achieve and that these projections were fraudulent when made. The plaintiffs claim violations of federal securities laws and seek unspecified compensatory damages and other relief on behalf of a purported class of purchasers of SolarCity's securities from May 6, 2015 to May 9, 2016. We believe that the claims are without merit and intend to defend against them vigorously. We are unable to estimate the possible loss, if any, associated with this lawsuit.

Litigation Relating to the SolarCity Acquisition

Between September 1, 2016 and October 5, 2016, seven lawsuits were filed in the Court of Chancery of the State of Delaware by purported stockholders of Tesla challenging Tesla's acquisition of SolarCity. Following consolidation, the lawsuit names as defendants the members of Tesla's board of directors and alleges, among other things, that board members breached their fiduciary duties in connection with the acquisition. The complaint asserts both derivative claims and direct claims on behalf of a purported class and seeks, among other relief, unspecified monetary damages, attorneys' fees, and costs. On January 27, 2017, defendants filed a motion to dismiss the operative complaint. Rather than respond to the defendants' motion, plaintiffs filed an amended complaint. On March 17, 2017, defendants filed a motion to dismiss the amended complaint; that motion is pending. These same plaintiffs filed a parallel action in the United States District Court for the District of Delaware on April 21, 2017, adding claims for violations of the federal securities laws.

On February 6, 2017, a purported stockholder made a demand to inspect Tesla's books and records, purportedly to investigate potential breaches of fiduciary duty in connection with the SolarCity acquisition. On April 17, 2017, the purported stockholder filed a petition for a writ of mandate in California Superior Court, seeking to compel Tesla to provide the documents requested in the demand.

On March 24, 2017, another lawsuit was filed in the United States District Court for the District of Delaware by a purported Tesla stockholder challenging the SolarCity acquisition. The complaint alleges, among other things, that Tesla's board of directors breached their fiduciary duties in connection with the acquisition and alleges violations of the federal securities laws.

Tesla believes that claims challenging the SolarCity merger are without merit. We are unable to estimate the possible loss, if any, associated with these claims.

Proceedings Relating to United States Treasury

In July 2012, SolarCity, along with other companies in the solar energy industry, received a subpoena from the U.S. Treasury Department's Office of the Inspector General to deliver certain documents in SolarCity's possession that were dated, created, revised or referred to after January 1, 2007 and that relate to SolarCity's applications for U.S. Treasury grants or communications with certain other solar energy development companies or with certain firms that appraise solar energy property for U.S. Treasury grant application purposes. The Inspector General and the Civil Division of the U.S. Department of Justice are investigating the administration and implementation of the U.S. Treasury grant program relating to the fair market value of the solar energy systems that SolarCity submitted in U.S. Treasury grant applications. SolarCity has accrued a reserve for its potential liability associated with this ongoing investigation as of December 31, 2016.

In February 2013, two of SolarCity's financing funds filed a lawsuit in the United States Court of Federal Claims against the United States government, seeking to recover approximately \$14.0 million that the United States Treasury was obligated to pay, but failed to pay, under Section 1603 of the American Recovery and Reinvestment Act of 2009. In February 2016, the U.S. government filed a motion seeking leave to assert a counterclaim against the two plaintiff funds on the grounds that the U.S. government, in fact, paid them more, not less, than they were entitled to as a matter of law. We believe that the U.S. government's claims are without merit and expect the plaintiff funds to litigate the case vigorously. Trial in the case is set for the latter half of 2017. We are unable to estimate the possible loss, if any, associated with this lawsuit.

Other Matters

From time to time, we have received requests for information from regulators and governmental authorities, such as the National Highway Traffic Safety Administration, the National Transportation Safety Board and the Securities and Exchange Commission. We are also subject to various other legal proceedings and claims that arise from the normal course of business activities. If an unfavorable ruling were to occur, there exists the possibility of a material adverse impact on our results of operations, prospects, cash flows, financial position and brand.

Indemnifications and Guaranteed Returns

As disclosed in Note 15, *VIE Arrangements*, we are contractually committed to compensate certain fund investors for any losses that they may suffer in certain limited circumstances resulting from reductions in U.S. Treasury grants or ITCs. Generally, such obligations would arise as a result of reductions to the value of the underlying solar energy systems as assessed by the U.S. Treasury Department for purposes of claiming U.S. Treasury grants or as assessed by the IRS for purposes of claiming ITCs or U.S. Treasury grants. For each balance sheet date, we assess and recognize, when applicable, the potential exposure from this obligation based on all the information available at that time, including any guidelines issued by the U.S. Treasury Department on solar energy system valuations for purposes of claiming U.S. Treasury grants and any audits undertaken by the IRS. We believe that any payments to the fund investors in excess of the amount already recognized by us for this obligation are not probable based on the facts known at the filing date.

The maximum potential future payments that we could have to make under this obligation would depend on the difference between the fair values of the solar energy systems sold or transferred to the funds as determined by us and the values that the U.S. Treasury Department would determine as fair value for the systems for purposes of claiming U.S. Treasury grants or the values the IRS would determine as the fair value for the systems for purposes of claiming ITCs or U.S. Treasury grants. We claim U.S. Treasury grants based on guidelines provided by the U.S. Treasury department and the statutory regulations from the IRS. We use fair values determined with the assistance of independent third-party appraisals commissioned by us as the basis for determining the ITCs that are passed-through to and claimed by the fund investors. Since we cannot determine future revisions to U.S. Treasury Department guidelines governing solar energy system values or how the IRS will evaluate system values used in claiming ITCs or U.S. Treasury grants, we are unable to reliably estimate the maximum potential future payments that it could have to make under this obligation as of each balance sheet date.

We are eligible to receive certain state and local incentives that are associated with renewable energy generation. The amount of incentives that can be claimed is based on the projected or actual solar energy system size and/or the amount of solar energy produced. We also currently participate in one state's incentive program that is based on either the fair market value or the tax basis of solar energy systems placed in service. State and local incentives received are allocated between us and fund investors in accordance with the contractual provisions of each fund. We are not contractually obligated to indemnify any fund investor for any losses they may incur due to a shortfall in the amount of state or local incentives actually received.

As disclosed in Note 15, we are contractually required to make payments to one fund investor to ensure that the fund investor achieves a specified minimum internal rate of return. The fund investor has already received a significant portion of the projected economic benefits from U.S. Treasury grant distributions and tax depreciation benefits. The contractual provisions of the fund state that the fund has an indefinite term unless the members agree to dissolve the fund. Based on our current financial projections regarding the amount and timing of future distributions to the fund investor, we do not expect to make any payments as a result of this guarantee and has not accrued any liabilities for this guarantee. The amount of potential future payments under this guarantee is dependent on the amount and timing of future distributions to the fund investor and future tax benefits that accrue to the fund investor. Due to the uncertainties surrounding estimating the amounts of these factors, we are unable to estimate the maximum potential payments under this guarantee. To date, the fund investor has achieved the specified minimum internal rate of return as determined in accordance with the contractual provisions of the fund.

Our lease pass-through financing funds have a one-time lease payment reset mechanism that occurs after the installation of all solar energy systems in a fund. As a result of this mechanism, we may be required to refund master lease prepayments previously received from investors. Any refunds of master lease prepayments would reduce the lease pass-through financing obligation.

Letters of Credit

As of March 31, 2017, we had \$86.0 million of unused letters of credit outstanding.

Note 15 – VIE Arrangements

We have entered into various arrangements with investors to facilitate the funding and monetization of our solar energy systems. In particular, our wholly owned subsidiaries and fund investors have formed and contributed cash and assets into various financing funds and entered into related agreements. We have determined that the funds are VIEs and we are the primary beneficiary of these VIEs by reference to the power and benefits criterion under ASC 810, *Consolidation*. We have considered the provisions within the contractual agreements, which grant us the power to manage and make decisions that affect the operation of these VIEs, including determining the solar energy systems and associated customer contracts to be sold or contributed to these VIEs and the redeployment of solar energy systems and management of customer receivables. We consider that the rights granted to the fund investors under the contractual agreements are more protective in nature rather than participating.

As the primary beneficiary of these VIEs, we consolidate in the financial statements the financial position, results of operations and cash flows of these VIEs, and all intercompany balances and transactions between us and these VIEs are eliminated in the consolidated financial statements. Cash distributions of income and other receipts by a fund, net of agreed upon expenses, estimated expenses, tax benefits and detriments of income and loss and tax credits, are allocated to the fund investor and our subsidiary as specified in contractual agreements.

Generally, our subsidiary has the option to acquire the fund investor's interest in the fund for an amount based on the market value of the fund or the formula specified in the contractual agreements.

As of March 31, 2017 and December 31, 2016, we were contractually required to make payments to a fund investor in order to ensure the investor is projected to achieve a specified minimum return annually. The amounts of any potential future payments under this guarantee are dependent on the amounts and timing of future distributions to the fund investor from the fund, the tax benefits that accrue to the fund investor from the fund's activities and the amount and timing of our purchase of the fund investor's interest in the fund or the amount and timing of the distributions to the fund investor upon liquidation of the fund. Due to uncertainties associated with estimating the amount and timing of distributions to the fund investor and the possibility and timing of liquidation of the fund, we are unable to determine the potential maximum future payments that we would have to make under this guarantee.

Upon the sale or liquidation of a fund, distributions would occur in the order and priority specified in the contractual agreements.

Pursuant to management services, maintenance and warranty arrangements, we have been contracted to provide services to the funds, such as operations and maintenance support, accounting, lease servicing and performance reporting. In some instances, we have guaranteed payments to the fund investors as specified in the contractual agreements. A fund's creditors have no recourse to our general credit or to that of other funds. None of the assets of the funds had been pledged as collateral for their obligations.

We present the solar energy systems in the VIEs under solar energy systems, leased and to be leased, net, in the consolidated balance sheets. The aggregate carrying values of the VIEs' assets and liabilities, after elimination of any intercompany transactions and balances, in the consolidated balance sheets were as follows (in thousands):

	<u>March 31, 2017</u>	<u>December 31, 2016</u>
Assets		
Current assets:		
Cash and Cash equivalents	\$ 49,930	\$ 44,091
Restricted cash	20,831	20,916
Accounts receivable- net	20,712	16,023
Rebates receivable	6,313	6,646
Prepaid expenses and other current assets	3,969	7,532
Total current assets	101,755	95,208
Solar energy systems, leased and to be leased- net	4,756,248	4,618,443
Other assets	34,029	35,826
Total assets	<u>\$ 4,892,032</u>	<u>\$ 4,749,477</u>
Liabilities		
Current liabilities:		
Accounts Payable	\$ 31	\$ 20
Distributions payable to noncontrolling interests and redeemable noncontrolling interests	20,415	24,085
Accrued and other current liabilities	8,499	8,157
Customer deposits	1,998	1,169
Current portion of deferred revenue	19,333	17,114
Current portion of long-term debt	12,437	89,356
Total current liabilities	62,713	139,901
Deferred revenue, net of current portion	195,851	178,783
Long-term debt, net of current portion	568,703	466,741
Other liabilities and deferred costs	112,630	82,917
Total Liabilities	<u>\$ 939,897</u>	<u>\$ 868,342</u>

We are contractually obligated to make certain fund investors whole if they suffer certain losses resulting from the disallowance or recapture of ITCs or U.S. Treasury grants. We account for distributions due to the fund investors arising from a reduction of anticipated ITCs or U.S. Treasury grants received under distributions payable to noncontrolling interests and redeemable noncontrolling interests in the consolidated balance sheets. As of March 31, 2017 and December 31, 2016, we had accrued \$0.3 million and \$0.3 million, respectively, for this obligation.

Note 16 – Related Party Transactions

Related party balances were comprised of the following (in thousands):

	<u>March 31, 2017</u>	<u>December 31, 2016</u>
Solar Bonds issued to related parties	\$ 175,100	\$ 265,100
Convertible senior notes due to related parties	\$ 13,000	\$ 13,000
Due to related parties (primarily accrued interest on the Solar Bonds, included in accrued and other current liabilities)	\$ 1,504	\$ 5,136

The related party transactions were primarily issuances and maturities of Solar Bonds held by Space Exploration Technologies Corporation (“SpaceX”), our Chief Executive Officer, SolarCity’s Chief Executive Officer and SolarCity’s Chief Technology Officer and issuances of convertible senior notes to an entity affiliated with our Chief Executive Officer and to SolarCity’s Chief Executive Officer. SpaceX is considered a related party because our Chief Executive Officer is the Chief Executive Officer, Chief Technology Officer, Chairman and a significant stockholder of SpaceX.

As of March 31, 2017, SpaceX held \$75.0 million in aggregate principal amount of 4.40% Solar Bonds due in June 2017. In addition, our Chief Executive Officer, SolarCity’s Chief Executive Officer and SolarCity’s Chief Technology Officer collectively held \$100.0 million in aggregate principal amount of 6.50% Solar Bonds due in February 2018.

On April 11, 2017, our Chief Executive Officer, SolarCity’s Chief Executive Officer and SolarCity’s Chief Technology Officer exchanged their Solar Bonds with a collective aggregate principal amount of \$100.0 million for promissory notes in the same amounts and with substantially the same terms.

On April 18, 2017, our Chief Executive Officer exercised his right under the indenture to convert all of his zero-coupon convertible senior notes due in 2020, which had an aggregate principal amount of \$10.0 million. As a result, we issued 33,333 shares of our common stock to our Chief Executive Officer in accordance with the specified conversion rate, and his zero-coupon convertible senior notes were deemed settled.

Note 17 – Segment Reporting and Information about Geographic Areas

We operate under two reportable segments: (i) automotive and (ii) energy generation and storage. The automotive reportable segment includes the design, development, manufacturing and sales of electric vehicles. The energy generation and storage reportable segment includes the design, manufacture, installation and sale or lease of stationary energy storage products and solar energy systems, or sale of electricity generated by our solar energy systems to customers. Our CODM does not evaluate operating segments using asset information. The following table presents revenues and gross margins by reportable segment (in thousands):

	<u>Three Months Ended March 31,</u>	
	<u>2017</u>	<u>2016</u>
Automotive:		
Revenues	\$ 2,482,326	\$ 1,124,320
Gross profit	605,775	247,853
Energy generation and storage:		
Revenues	213,944	22,728
Gross profit	62,171	4,615

The following table presents revenues by geographic area based on where our products are shipped (in thousands):

	<u>Three Months Ended March 31,</u>	
	<u>2017</u>	<u>2016</u>
United States	\$ 1,275,208	\$ 628,289
China	503,933	119,478
Norway	135,402	58,437
Other	781,727	340,844
Total	<u>\$ 2,696,270</u>	<u>\$ 1,147,048</u>

The following table presents long-lived assets by geographic area (in thousands):

	<u>March 31, 2017</u>	<u>December 31, 2016</u>
United States	\$ 12,505,153	\$ 11,399,545
International	597,388	503,294
Total	<u>\$ 13,102,541</u>	<u>\$ 11,902,839</u>

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis should be read in conjunction with the consolidated financial statements and the accompanying notes included elsewhere in this Quarterly Report on Form 10-Q.

Overview

Our mission is to accelerate the world's transition to sustainable energy. We design, develop, manufacture, lease and sell high-performance fully electric vehicles, as well as provide energy storage through our offerings of Powerpack and Powerwall. In addition, we provide solar energy systems to residential and commercial customers.

Automotive

We design, manufacture, lease and sell our Model S sedan and our Model X sport utility vehicle. We continue to enhance our vehicle offerings with enhanced autopilot options, Internet connectivity and free over-the-air software updates. Over the past several months, we have been deploying our internally developed software into the vehicle fleet, providing additional safety and convenience features for vehicles with the newest generation of Autopilot hardware. We are also actively working on future vehicles, such as a 100%-electric semi-trailer truck.

In the first quarter of 2016, we unveiled Model 3, a lower priced sedan designed for the mass market. Model 3 vehicle development is nearly complete as we approach the start of initial production in July of this year. Release candidate vehicles, built using production-intent tooling and processes, are being tested to assess fit and finish, to support vehicle software development and to ensure a smooth and predictable homologation process. Road testing is also underway to refine driving dynamics and ensure vehicle durability. Simultaneously, preparations at our production facilities are progressing to support the ramp of Model 3 production to 5,000 vehicles per week at some point in 2017 and to 10,000 vehicles per week at some point in 2018. We are working closely with all Model 3 suppliers to ensure their readiness ahead of the start of production.

Energy Generation and Storage

We lease and sell solar energy systems and sell renewable energy to our customers, typically at prices below utility rates. Our long-term agreements with our customers generate a predictable and reliable stream of cash flows. Rather than prioritizing the growth of solar energy system deployments at any cost, we are selectively deploying projects that have higher margins and generate cash up-front. In 2016, we showed a prototype of Solar Roof. We plan to start pilot manufacturing Solar Roof tiles in the second quarter of 2017 at our Fremont Factory. Shortly thereafter, production will transition to Gigafactory 2 in Buffalo, New York. Our partner, Panasonic, will provide capital and operational support to manufacture photovoltaic ("PV") cells, thus enabling high volume integrated tile and PV cell production at a single facility. We also sell energy storage products, which consists of Powerwall for residential applications and Powerpack for commercial, industrial and utility-scale applications.

Management Opportunities, Challenges and Risks

Automotive Demand, Production and Deliveries

We continue to improve our existing Model S sedan and Model X sport utility vehicle by introducing new variants that improve range, performance, safety and value. We have recently introduced new features, such as expanding offerings of our battery size to cater to a wider range of consumers. We expect to introduce further new vehicle variants and over-the-air-functionality over time. We also expect that the demand for our vehicles will continue to increase as we improve our vehicles, expand our retail, service and charging infrastructure and as we develop and introduce new vehicles. In addition, the introduction of Model 3 will generate incremental demand by offering a less expensive vehicle.

We are making progress in increasing vehicle production. For the three months ended March 31, 2017, we produced 25,418 vehicles, a new quarterly record. In January 2017, we completed our acquisition of Grohmann Engineering GmbH ("Grohmann"), a company that specializes in automated manufacturing systems. We acquired Grohmann to improve the speed and efficiency of our manufacturing processes.

In the first quarter of 2016, we announced our target to increase overall vehicle production level to 500,000 vehicles in 2018. We have started the installation of Model 3 manufacturing equipment at the Fremont Factory and Gigafactory 1, and we are on-track for start of Model 3 production in July 2017. We expect to make additional investments through the remainder of the year as we increase automation and add production capacity.

In addition to expanding our vehicle production and deliveries, we expect to continue to lower the cost of manufacturing our vehicles over the next several quarters due to economies of scale, material cost reductions and more efficient manufacturing. The decreasing trend in cost of manufacturing vehicles is expected to improve total automotive gross margin over time and mitigate some of the higher ramp up costs associated with the launch of Model 3. We have achieved cost improvements through material cost reductions from both engineering and commercial actions and increased manufacturing efficiencies including better inventory control over utilization and minimization of scrapping materials. This is also evident through increased product reliability including vehicle, battery and drive units that resulted in a reduction of our warranty expense.

In order to accommodate a much larger fleet of customer vehicles as we increase deliveries and to provide timely customer service, we continue to place emphasis on growing our sales, service and charging infrastructure worldwide. In particular, we continue to open new Tesla retail and service locations around the world, and we plan a large increase in the number of Superchargers and Destination Charging connectors globally. We expect vehicle sales outside of North America to grow significantly in the long-term. However, as we have less experience in international markets, we may face difficulties meeting our future international expansion plans with respect to timing and expected sales.

Energy Generation and Storage Demand

We believe that demand for our energy products will continue to increase. We plan to reduce customer acquisition costs, including by cutting advertising spend, ceasing door-to-door sales and increasingly selling solar products in Tesla stores. In the first quarter of 2017, we tested sales of our solar and storage products in several Tesla stores and saw sales productivity improve by 50% to 100% relative to the best non-Tesla retail locations. Based on these results, we are working towards fully staffing more than 70 Tesla stores worldwide with dedicated energy product sales personnel over the next two quarters.

In addition, in the fourth quarter of 2016, we announced our second-generation energy storage products, Powerpack 2 and Powerwall 2, which offer a significant price advantage per kilowatt-hour (kWh) and higher energy density.

Trends in Cash Flow, Capital Expenditures and Operating Expenses

We plan to build 500,000 vehicles in 2018. Given this plan, we continue to invest heavily in capital expenditures. Our capital expenditure needs include expenditures for the tooling, production equipment and construction of Model 3 production lines, facilities to support cell production at Gigafactory 1 as well as new retail locations, service centers and Supercharger locations. We expect to invest slightly more than \$2.0 billion in capital expenditures ahead of the start of Model 3 production in 2017. We expect to make additional investments through the remainder of 2017 as we increase automation and add production capacity.

As of March 31, 2017 and December 31, 2016, the net book value of our Supercharger network was \$214.9 million and \$207.2 million, respectively, and as of March 31, 2017, our Supercharger network included 828 locations globally. We plan to continue investing in our worldwide Supercharger network for the foreseeable future and expect such spending to continue to be a minimal portion of total capital spending. During 2017, we expect that this investment will grow our Supercharger network. We allocate Supercharger-related operating expenses to cost of total automotive revenues and selling, general and administrative expenses, which were immaterial for all periods presented.

We expect operating expenses to grow in 2017 as compared to 2016, driven by engineering, design and testing expenses related to Model 3, supplier contracts and higher sales and service costs associated with expanding our worldwide geographic presence. In addition, we expect operating expenses to increase as a result of the increased selling, general and administrative expenses incurred by our energy generation and storage segment. We expect selling, general and administrative expenses to continue to increase in absolute amounts but decline over time as a percentage of revenue as we focus on increasing operational efficiency while continuing to expand our customer and corporate infrastructure. Over time, we also expect total operating expenses to decrease as a percentage of revenue.

Automotive Financing Options

We offer loans and leases for our vehicles in certain markets in North America, Europe and Asia primarily through various financial institutions. We offered resale value guarantees or similar buy-back terms to all direct customers who purchase vehicles and who financed their vehicle through one of our specified commercial banking partners. Subsequent to June 30, 2016, this program is available only in certain international markets. Resale value guarantees available for exercise within the next 12 months total \$197.3 million in value.

Vehicle deliveries with the resale value guarantee do not impact our near-term cash flows and liquidity, since we receive the full amount of cash for the vehicle sales price at delivery. However, this program requires the deferral of revenues and costs into future periods as they are considered leases for accounting purposes. While we do not assume any credit risk related to the customer, if a customer exercises the option to return the vehicle to us, we are exposed to liquidity risk that the resale value of vehicles under these programs may be lower than our guarantee, or the volume of vehicles returned to us may be higher than our estimates or we may be unable to resell the used cars in a timely manner, all of which could adversely impact our cash flows. Based on current market demand for our cars, we estimate the resale prices for our vehicles will continue to be above our resale value guarantee amounts. Should market values of our vehicles or customer demand decrease, these estimates may be impacted materially.

We currently offer vehicle leases in the U.S. directly from Tesla Finance, our captive financing entity, as well as through leasing partners. Leasing through Tesla Finance is now available in 39 states and the District of Columbia. We also offer financing arrangements through our entities in Canada, Germany and the United Kingdom. Leasing through our captive financing entities and our leasing partners exposes us to residual value risk and will adversely impact our near-term operating results by requiring the deferral of revenues and costs into future periods under lease accounting. In addition, for leases offered directly from our captive financing entities (but not for those offered through our leasing partners), we only receive a limited portion of cash for the vehicle price at delivery and will assume customer credit risk. We plan to continue expanding our financing offerings, including our lease financing options and the financial sources to support them, and to support the overall financing needs of our customers. To the extent that we are unable to arrange such options for our customers on terms that are attractive, our sales, financial results and cash flows could be negatively impacted.

Energy Generation and Storage Financing Options

Through SolarCity, we offer Solar Loans, whereby a third-party lender provides financing directly to a qualified customer to enable the customer to purchase and own a solar energy system installed by us. We enter into a standard solar energy system sale agreement with the customer. Separately, the customer enters into a loan agreement with one of the third-party lenders, who finances the full purchase price. We are not a party to the loan agreement between the customer and the third-party lender, and the third-party lender has no recourse against us with respect to the loan. If we are unable to continue to offer third-party financing or other financing alternatives to our customers on competitive terms, our growth may slow and our financial and operating results may be adversely impacted.

Gigafactory 1

We are developing Gigafactory 1 as a facility where we work together with our suppliers to integrate production of battery material, cells, modules, battery packs and drive units in one location for vehicles and energy storage products. We broke ground on Gigafactory 1 in June 2014, began assembling our energy storage products in the first portion of the facility in the fourth quarter of 2015 and began production of lithium-ion battery cells for our energy storage products in the first quarter of 2017. We continue to invest in construction of the building at Gigafactory and in production equipment for battery, module and pack production.

Panasonic has partnered with us on Gigafactory 1 with investments in the production equipment that it uses to manufacture and supply us with battery cells. Under our arrangement with Panasonic, we plan to purchase the full output from their production equipment at negotiated prices. As these terms convey to us the right to use, as defined in ASC 840, *Leases*, their production equipment, we consider them to be leased assets when production commences. This results in us recording the value of their production equipment within property, plant and equipment, net, on our consolidated balance sheets with a corresponding liability recorded to financing obligations. For all suppliers and partners for which we plan to purchase the full output from their production equipment located at Gigafactory 1, we apply similar accounting. During the first quarter of 2017, we recorded \$151.0 million on our consolidated balance sheet.

Although we continue to remain on track with our progress at Gigafactory 1, given the size and complexity of this undertaking, it is possible that future events could result in the cost of building and operating Gigafactory 1 exceeding our current expectations and Gigafactory 1 taking longer to expand than we currently anticipate. In addition, we continue to expand production capacity at our Fremont Factory and are exploring additional production capacity in Asia and Europe.

Gigafactory 2

We have an agreement with the Research Foundation for the State University of New York (“Foundation”) for the construction of an approximately 1.0 million square-foot manufacturing facility capable of producing 1.0 gigawatts of solar panels annually in Buffalo, New York, referred to as Gigafactory 2. In December 2016, we entered into an agreement with Panasonic under which it will manufacture custom photovoltaic (“PV”) cells and modules for us, primarily at Gigafactory 2, and we will purchase certain quantities of PV cells and modules from them during the 10-year term, with the intent to produce PV cells and modules totaling approximately 1.0 gigawatts annually beginning in 2019.

The terms of our agreement with the Foundation, among other things, require us to comply with a number of covenants during the term of the agreement. Any failure to comply with these covenants could obligate us to pay significant amounts to the Foundation and result in termination of the agreement. Although we continue to remain on track with our progress at Gigafactory 2, our expectations as to the cost of building the facility, acquiring manufacturing equipment and supporting our manufacturing operations may prove incorrect, which could subject us to significant expenses to achieve the desired benefits.

Critical Accounting Policies and Estimates

The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”). The preparation of the consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, costs and expenses and the related disclosures. We base our estimates on historical experience, as appropriate, and on various other assumptions that we believe to be reasonable under the circumstances. Changes in the accounting estimates are reasonably likely to occur from period to period. Accordingly, actual results could differ significantly from the estimates made by us. We evaluate our estimates and assumptions on an on-going basis. To the extent that there are material differences between our estimates and actual results, the future financial statement presentation, financial condition, results of operations and cash flows would be affected.

For a description of our critical accounting policies and estimates, please refer to Note 2, *Summary of Significant Accounting Policies*, included elsewhere in this Quarterly Report on Form 10-Q.

Results of Operations

Revenues

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Automotive	\$ 2,035,060	\$ 901,892	\$ 1,133,168	126%
Automotive leasing	254,540	124,172	130,368	105%
Services and other	192,726	98,256	94,470	96%
Total automotive revenue	2,482,326	1,124,320	1,358,006	121%
Energy generation and storage	213,944	22,728	191,216	841%
Total revenues	\$ 2,696,270	\$ 1,147,048	\$ 1,549,222	135%

Automotive revenue includes revenues related to the sale of new Model S and Model X vehicles, including internet connectivity, Supercharger access, specified software updates for vehicles equipped with autopilot hardware and sales of regulatory credits to other automotive manufacturers.

Automotive revenue increased by \$1.13 billion, or 126%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to a 128% increase in deliveries to 18,437 vehicles resulting from the ramp-up of Model X as well as increased production and sales of Model S. Furthermore, vehicle average selling price increased by 4.9% primarily due to a larger proportion of Model X sales (which have higher average prices compared to Model S), a higher option mix and the recognition of \$81.1 million of Autopilot 2.0 revenue during the three months ended March 31, 2017. These increases were partially offset by a \$56.1 million decrease in sales of regulatory credits.

Automotive leasing revenue is comprised of revenue from Model S and Model X vehicles accounted for as operating leases, including the amortization of revenue for vehicles sold with resale value guarantees. Automotive leasing revenue increased by \$130.4 million, or 105%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to a 107% increase in cumulative vehicle deliveries under leasing programs and programs with a resale value guarantee. In addition, during the three months ended March 31, 2017, we recognized \$41.1 million of automotive leasing revenue upon expiration of resale value guarantees, which had no impact on gross profit as the same amount of cost of revenue was also recognized.

Services and other revenue includes sales of electric vehicle powertrain components and systems to other manufacturers, maintenance services and sales of pre-owned vehicles. Service and other revenue increased by \$94.5 million, or 96%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to a \$49.9 million increase in pre-owned vehicle sales. Additionally, there was an increase of \$22.4 million due to the inclusion of engineering service revenue from Grohmann, which we acquired on January 3, 2017, and an increase in maintenance service revenue of \$13.8 million as our fleet continues to grow.

Energy generation and storage revenue includes sales of solar energy systems and energy storage products, leasing revenue from solar energy systems under operating leases and power purchase agreements and sales of solar energy system incentives. Energy generation and storage revenue increased by \$191.2 million, or 841%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of revenue from SolarCity, which we acquired on November 21, 2016, of \$208.7 million, partially offset by a decrease in energy storage revenue of \$17.4 million.

Cost of Revenues and Gross Margin

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Cost of revenues				
Automotive	\$ 1,496,649	\$ 713,149	\$ 783,500	110%
Automotive leasing	166,026	66,167	99,859	151%
Services and other	213,876	97,151	116,725	120%
Total automotive cost of revenue	1,876,551	876,467	1,000,084	114%
Energy generation and storage	151,773	18,113	133,660	738%
Total cost of revenues	\$ 2,028,324	\$ 894,580	\$ 1,133,744	127%
Gross profit total automotive	\$ 605,775	\$ 247,853		
Gross margin total automotive	24.4%	22.0%		
Gross profit energy generation and storage	\$ 62,171	\$ 4,615		
Gross margin energy generation and storage	29.1%	20.3%		
Total gross profit	\$ 667,946	\$ 252,468		
Total gross margin	24.8%	22.0%		

Cost of automotive revenue includes direct parts, material and labor costs, manufacturing overhead, including depreciation costs of tooling and machinery, shipping and logistic costs, vehicle connectivity costs, allocations of electricity and infrastructure costs related to our Supercharger network and reserves for estimated warranty expenses. Cost of automotive revenue also includes adjustments to warranty expense and charges to write-down the carrying value of our inventory when it exceeds its estimated net realizable value and to provide for obsolete or excess inventory.

Cost of automotive revenue increased by \$783.5 million, or 110%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to a 128% increase in vehicle deliveries as a result of the growing popularity of Model X, as well as increased production and sales of Model S. In addition, the increase was due to product mix as Model X has a higher cost structure than Model S.

Cost of automotive leasing revenue primarily includes the amortization of operating lease vehicles over the lease term as well as warranty expenses recognized as incurred. Cost of automotive leasing revenue increased by \$99.9 million, or 151%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the 107% increase in cumulative vehicle deliveries under leasing programs and programs with resale value guarantees. In addition, during the three months ended March 31, 2017, we recognized \$41.1 million of cost of automotive leasing revenue upon expiration of resale value guarantees, which had no impact on gross profit as the same amount of revenue was also recognized.

Cost of services and other revenue includes direct parts, material and labor costs, manufacturing overhead associated with sales of electric vehicle powertrain components and systems to other manufacturers, costs associated with providing maintenance services and costs to acquire and certify pre-owned vehicles.

Cost of services and other revenue increased by \$116.7 million, or 120%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the \$53.0 million increase in costs of pre-owned vehicle sales due to the increase in volume and the \$41.6 million increase in costs to provide maintenance service as our fleet continues to grow. Additionally, there was an increase of \$14.9 million due to the inclusion of Grohmann's costs of engineering services.

Gross margin for total automotive increased from 22.0% to 24.4% in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to lower material and manufacturing costs as we further improved our vehicle production processes as well as favorable product mix shift and higher option uptake. Additionally, we recognized Autopilot 2.0 revenue during the three months ended March 31, 2017.

Cost of energy generation and storage revenue includes direct material and labor costs, overhead of solar energy systems and energy storage products, depreciation expense and maintenance costs associated with leased solar energy systems.

Cost of energy generation and storage revenue increased by \$133.7 million, or 738%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of energy generation and storage costs from SolarCity of \$145.3 million, partially offset by the decrease in sales of energy storage products.

Gross margin for energy generation and storage increased from 20.3% to 29.1% in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of energy generation and storage revenue and costs from SolarCity.

Research and Development Expense

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Research and development	\$ 322,040	\$ 182,482	139,558	76%
As a percentage of revenues	11.9%	15.9%		

Research and development expense consists primarily of personnel costs for our teams in engineering and research, supply chain, quality, manufacturing engineering and manufacturing test organizations, prototyping expense, contract and professional services and amortized equipment expense.

Research and development expense increased by \$139.6 million, or 76%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of research and development expenses from SolarCity of \$44.8 million. Additionally, the increase was due to a \$42.8 million increase in employee and labor-related expenses from a 57% headcount increase as we expanded our business, a \$22.4 million increase in facilities and depreciation expenses and an \$18.4 million increase in expensed materials to support our Model 3 development.

Selling, General and Administrative Expense

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Selling, general and administrative	\$ 603,455	\$ 318,210	285,245	90%
As a percentage of revenues	22.4%	27.7%		

Selling, general and administrative expense consists primarily of personnel and facilities costs related to our stores, marketing, sales, executive, finance, human resources, information technology and legal organizations, as well as litigation settlements and fees for professional and contract services.

Selling, general and administrative expense increased by \$285.3 million, or 90%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of selling, general and administrative expenses from SolarCity of \$136.6 million. Additionally, the increase was due to an \$85.3 million increase in employee and labor-related expenses from a 71% headcount increase as we expanded our business, a \$37.6 million increase in office, information technology and facilities-related expenses to support the growth of our business as well as sales and marketing activities to handle our expanding market presence and a \$25.8 million increase in professional and outside service expenses to support the growth of our business.

Interest Expense

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Interest expense	\$ (99,346)	\$ (40,625)	(58,721)	145%
As a percentage of revenues	-3.7%	-3.5%		

Interest expense increased by \$58.7 million, or 145%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the inclusion of interest expenses from SolarCity of \$53.2 million.

Other Income (Expense), Net

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Other income (expense), net	\$ (18,098)	\$ 9,177	(27,275)	-297%
As a percentage of revenues				

Other income (expense), net, consists primarily of foreign exchange gains and losses related to our foreign currency-denominated assets and liabilities as well as gains and losses from our interest rate swaps.

Other income (expense), net, decreased by \$27.3 million, or 297%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the \$11.6 million of other expense recognized in the three months ended March 31, 2017 for the measurement period adjustment to the acquisition date fair value of certain assets as previously reported in our Form 10-K for the year ended December 31, 2016. The remainder of the increase was primarily the result of fluctuations in foreign currency exchange rates.

Provision for Income Taxes

(Dollars in thousands)	Three Months Ended March 31,		Change	
	2017	2016	\$	%
Provision for income taxes	\$ 25,278	\$ 3,846	21,432	557%
As a percentage of loss before income taxes				

Our provision for income taxes increased by \$21.4 million, or 557%, in the three months ended March 31, 2017 as compared to the three months ended March 31, 2016. This was primarily due to the significant increase in taxable income in our international jurisdictions.

Net Income (Loss) Attributable to Noncontrolling Interests and Redeemable Noncontrolling Interests

Our net income (loss) attributable to noncontrolling interests and redeemable noncontrolling interests was related to SolarCity's financing fund arrangements.

Liquidity and Capital Resources

As of March 31, 2017, we had \$4.01 billion of cash and cash equivalents. Balances held in foreign currencies had a U.S. dollar equivalent of \$832.2 million and consisted primarily of Hong Kong dollars, euros, Chinese yuan and Canadian dollars. Our sources of cash are predominately from our deliveries of vehicles, proceeds from debt facilities, proceeds from financing funds and sales of our energy storage products and solar energy systems.

Our sources of liquidity and cash flows enable us to fund on-going operations, research and development projects, investments in tooling and manufacturing equipment for our planned Model 3 vehicle, the continued construction of Gigafactory 1 and the continued expansion of our retail stores, service centers and Supercharger network. We are planning to produce 500,000 total vehicles in 2018. We are growing our vehicle manufacturing capacity primarily to fulfill anticipated future Model 3 production and sales. We expect to invest slightly more than \$2.0 billion in capital expenditures ahead of the start of Model 3 production in 2017. We continually evaluate our capital expenditure needs and may raise additional capital.

As part of our acquisition of SolarCity, we have an agreement to spend or incur approximately \$5.0 billion in combined capital, operational expenses, costs of goods sold and other costs in the State of New York during the 10-year period following full production at Gigafactory 2. We anticipate meeting these obligations through our operations at Gigafactory 2 and other operations within the State of New York, and we do not believe that we face a significant risk of default.

We expect that our current sources of liquidity together with our projection of cash flows from operating activities will provide us with adequate liquidity over at least the next 12 months. We may need or want to raise additional funds in the future, and these funds may not be available to us when we need or want them, or at all. If we cannot raise additional funds when we need or want them, our operations and prospects could be negatively affected.

In addition, we had \$1.01 billion of unused committed amounts under our credit facilities and financing funds, some of which are subject to satisfying specified conditions prior to draw-down as discussed in Note 11, *Convertible and Long-Term Debt Obligations*, and Note 15, *VIE Arrangements*. For details regarding our indebtedness, refer to Note 11, *Convertible and Long-Term Debt Obligations*, to the consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

Summary of Cash Flows

(Dollars in thousands)	Three Months Ended March 31,	
	2017	2016
Net cash used in operating activities	\$ (69,811)	\$ (249,605)
Net cash used in investing activities	(926,943)	(233,819)
Net cash provided by financing activities	1,598,749	715,435

Cash Flows from Operating Activities

Our cash flows from operating activities are significantly affected by our cash investments to support the growth of our business in areas such as research and development and selling, general and administrative. Our operating cash inflows include cash from sales and leases of our vehicles, customer deposits for vehicles, sales of regulatory credits and energy generation and storage products. These cash inflows are offset by payments we make to our suppliers for production materials and parts used in our manufacturing process, employee compensation, operating lease payments and interest expenses on our financings.

Net cash used in operating activities during the three months ended March 31, 2017 decreased by \$179.8 million as compared to the three months ended March 31, 2016 primarily as a result of the reduction in net loss adjusted for non-cash items by \$171.5 million and a decrease in working capital of \$8.2 million. The change in cash used in operating activities was primarily a result of the increase in vehicle deliveries and the growth in our business. The main contributor to the reduction in net loss adjusted for non-cash items was an increase in depreciation and amortization expense as we continued to increase in our property, plant and equipment basis. The change in working capital remained relatively consistent.

Cash Flows from Investing Activities

Cash used in investing activities was \$926.9 million and \$233.8 million for the three months ended March 31, 2017 and 2016. Cash flows from investing activities and variability between each year related primarily to capital expenditures, which were \$552.6 million and \$216.9 million for the three months ended March 31, 2017 and 2016. In addition, we used \$219.9 million on the design, acquisition and installation of solar energy systems under operating leases with our customers for the three months ended March 31, 2017. We also paid \$109.1 million, net of cash acquired, for the acquisition of Grohmann.

In 2014, we began construction of our Gigafactory facility in Nevada. Tesla's capital expenditures are expected to be about \$2.0 billion. In the three months ended March 31, 2017 we used cash of \$276.6 million towards Gigafactory construction and expect to spend a total of approximately \$800.0 million during 2017.

Cash Flows from Financing Activities

During the three months ended March 31, 2017, net cash provided by financing activities was \$1.60 billion, consisted primarily of \$966.4 million from issuance of convertible notes, and \$400.2 million from public offering of our common stock, net of underwriter fees and issuance costs. Additionally, we paid \$151.2 million for bond hedges net of the amount we received from the sale of warrants. Furthermore, we received proceeds from our collateralized borrowing program of \$186.4 million and net proceeds from investment by fund investors of \$78.3 million.

During the three months ended March 31, 2016 net cash provided by financing activities was \$715.4 million. Cash flows from financing activities during the three months ended March 31, 2016 consisted primarily \$430.0 million of net borrowing under the Credit Facility, and proceeds from collateralized borrowing of \$241.8 million.

Contractual Obligations

Contractual obligations did not materially change during the three months ended March 31, 2017, with the exception of the issuance of the 2.375% convertible senior notes due in 2022, as discussed in more detail in Note 11, *Convertible and Long-Term Debt Obligations*.

Off-Balance Sheet Arrangements

The consolidated financial statements include all assets, liabilities and results of operations of the financing fund arrangements that we have entered into. We have not entered into any other transactions that have generated relationships with unconsolidated entities, financial partnerships or special purpose entities. Accordingly, we do not have any off-balance sheet arrangements.

Recent Accounting Pronouncements

See Note 2, *Summary of Significant Accounting Policies*, to the consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Foreign Currency Risk

We transact business globally in multiple currencies. Our foreign operations expose us to the risk of fluctuations in foreign currency exchange rates against the functional currencies of our foreign subsidiaries and against the U.S. dollar. Upon consolidation, as foreign currency exchange rates vary, revenues and expenses may be significantly impacted, and we may record significant gains or losses on the re-measurement of our monetary assets and liabilities, including intercompany balances. As of March 31, 2017, our largest foreign currency exposure was from the Japanese yen. In the three months ended March 31, 2017, we recognized a net foreign currency exchange loss of \$5.1 million in other income (expense), net.

We considered the historical trends in foreign currency exchange rates and determined that it is reasonably possible that adverse changes in foreign exchange rates of 10% for all currencies could be experienced in the near-term. These reasonably possible adverse changes were applied to our total monetary assets and liabilities denominated in currencies other than our functional currencies as of March 31, 2017 to compute the adverse impact these changes would have had on our income before income taxes. These changes would have resulted in an adverse impact on our income before income taxes of \$16.6 million.

Interest Rate Risk

We are exposed to interest rate risk for our borrowings that bear interest at floating rates. Pursuant to our risk management policies, in certain cases, we utilize derivative instruments to manage some of our exposures to fluctuations in interest rates on certain floating-rate debt. We do not enter into any derivative instruments for trading or speculative purposes. A hypothetical 10% change in our interest rates would have increased our interest expense for the three months ended March 31, 2017 and 2016 by \$2.0 million and \$0.1 million, respectively.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). In designing and evaluating the disclosure controls and procedures, our management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that our management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Based on this evaluation, our Chief Executive Officer and our Chief Financial Officer concluded that, as of March 31 2017, our disclosure controls and procedures were designed at a reasonable assurance level and were effective to provide reasonable assurance that the information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures.

Changes in Internal Control over Financial Reporting

During the three months ended March 31, 2017, we included SolarCity within our assessment of internal control over financial reporting. There were no other changes in our internal control over financial reporting, as identified in connection with the evaluation required by Rule 13a-15(d) and Rule 15d-15(d) of the Exchange Act, that occurred during the three months ended March 31, 2017 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Securities Litigation

On March 28, 2014, a purported stockholder class action was filed in the United States District Court for the Northern District of California against SolarCity and two of its officers. The complaint alleges violations of federal securities laws, and seeks unspecified compensatory damages and other relief on behalf of a purported class of purchasers of SolarCity's securities from March 6, 2013 to March 18, 2014. After a series of amendments to the original complaint, the District Court dismissed the amended complaint and entered a judgment in SolarCity's favor on August 9, 2016. The plaintiffs have filed a notice of appeal. We believe that the claims are without merit and intend to defend against this lawsuit vigorously. We are unable to estimate the possible loss, if any, associated with this lawsuit.

On August 15, 2016, a purported stockholder class action lawsuit was filed in the United States District Court for the Northern District of California against SolarCity, two of its officers and a former officer. On March 20, 2017, the purported stockholder class filed a consolidated complaint that includes the original matter in the same court against SolarCity, one of its officers and three former officers. As consolidated, the complaint alleges that SolarCity made projections of future sales and installations that it failed to achieve and that these projections were fraudulent when made. The plaintiffs claim violations of federal securities laws and seek unspecified compensatory damages and other relief on behalf of a purported class of purchasers of SolarCity's securities from May 6, 2015 to May 9, 2016. We believe that the claims are without merit and intend to defend against them vigorously. We are unable to estimate the possible loss, if any, associated with this lawsuit.

Litigation Relating to the SolarCity Acquisition

Between September 1, 2016 and October 5, 2016, seven lawsuits were filed in the Court of Chancery of the State of Delaware by purported stockholders of Tesla challenging Tesla's acquisition of SolarCity. Following consolidation, the lawsuit names as defendants the members of Tesla's board of directors and alleges, among other things, that board members breached their fiduciary duties in connection with the acquisition. The complaint asserts both derivative claims and direct claims on behalf of a purported class and seeks, among other relief, unspecified monetary damages, attorneys' fees, and costs. On January 27, 2017, defendants filed a motion to dismiss the operative complaint. Rather than respond to the defendants' motion, plaintiffs filed an amended complaint. On March 17, 2017, defendants filed a motion to dismiss the amended complaint; that motion is pending. These same plaintiffs filed a parallel action in the United States District Court for the District of Delaware on April 21, 2017, adding claims for violations of the federal securities laws.

On February 6, 2017, a purported stockholder made a demand to inspect Tesla's books and records, purportedly to investigate potential breaches of fiduciary duty in connection with the SolarCity acquisition. On April 17, 2017, the purported stockholder filed a petition for a writ of mandate in California Superior Court, seeking to compel Tesla to provide the documents requested in the demand.

On March 24, 2017, another lawsuit was filed in the United States District Court for the District of Delaware by a purported Tesla stockholder challenging the SolarCity acquisition. The complaint alleges, among other things, that Tesla's board of directors breached their fiduciary duties in connection with the acquisition and alleges violations of the federal securities laws.

Tesla believes that claims challenging the SolarCity merger are without merit. We are unable to estimate the possible loss, if any, associated with these claims.

Proceedings Relating to United States Treasury

In July 2012, SolarCity, along with other companies in the solar energy industry, received a subpoena from the U.S. Treasury Department's Office of the Inspector General to deliver certain documents in SolarCity's possession that were dated, created, revised or referred to after January 1, 2007 and that relate to SolarCity's applications for U.S. Treasury grants or communications with certain other solar energy development companies or with certain firms that appraise solar energy property for U.S. Treasury grant application purposes. The Inspector General and the Civil Division of the U.S. Department of Justice are investigating the administration and implementation of the U.S. Treasury grant program relating to the fair market value of the solar energy systems that SolarCity submitted in U.S. Treasury grant applications. SolarCity has accrued a reserve for its potential liability associated with this ongoing investigation as of December 31, 2016.

In February 2013, two of SolarCity's financing funds filed a lawsuit in the United States Court of Federal Claims against the United States government, seeking to recover approximately \$14.0 million that the United States Treasury was obligated to pay, but failed to pay, under Section 1603 of the American Recovery and Reinvestment Act of 2009. In February 2016, the U.S. government filed a motion seeking leave to assert a counterclaim against the two plaintiff funds on the grounds that the U.S. government, in fact, paid them more, not less, than they were entitled to as a matter of law. We believe that the U.S. government's claims are without merit and expect the plaintiff funds to litigate the case vigorously. Trial in the case is set for the latter half of 2017. We are unable to estimate the possible loss, if any, associated with this lawsuit.

Other Matters

From time to time, we have received requests for information from regulators and governmental authorities, such as the National Highway Traffic Safety Administration, the National Transportation Safety Board and the Securities and Exchange Commission. We are also subject to various other legal proceedings and claims that arise from the normal course of business activities. If an unfavorable ruling were to occur, there exists the possibility of a material adverse impact on our results of operations, prospects, cash flows, financial position and brand.

ITEM 1A. RISK FACTORS

You should carefully consider the risks described below together with the other information set forth in this report, which could materially affect our business, financial condition and future results. The risks described below are not the only risks facing our company. Risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition and operating results.

Risks Related to Our Business and Industry

We have experienced in the past, and may experience in the future, significant delays or other complications in the design, manufacture, launch and production ramp of new vehicles and other products such as our energy storage products and the Solar Roof, which could harm our brand, business, prospects, financial condition and operating results.

We have experienced in the past launch, manufacturing and production ramp delays or other complications in connection with new vehicle models such as Model S and Model X, and new vehicle features such as the all-wheel drive dual motor drivetrain on Model S and the second version of autopilot hardware. For example, at times since the launch of Model X, we encountered unanticipated challenges, such as certain supply chain constraints, that forced us to decrease the production of these vehicles from our initial expectations. If unexpected issues arise or recur with respect to any of our production vehicles, we may experience further delays. In addition, because our vehicle models share certain production facilities with other models, the volume or efficiency of production with respect to one model may impact the production of other models.

We may also experience similar delays or other complications in bringing to market and ramping production of new vehicles, such as Model 3, and other products such as our energy storage products and the Solar Roof. Any significant additional delay or other complication in the production of our current products or the development, manufacture, launch and production ramp of our future products, including complications associated with expanding our production capacity, supply chain or regulatory approvals, could materially damage our brand, business, prospects, financial condition and operating results.

We may experience delays in realizing our projected timelines and cost and volume targets for the production, launch and ramp of our Model 3 vehicle, which could harm our business, prospects, financial condition and operating results.

Our future business depends in large part on our ability to execute on our plans to develop, manufacture, market and sell the Model 3 vehicle, which we intend to offer at a lower price point and to produce at significantly higher volumes than our present production capabilities for the Model S or Model X vehicles. We unveiled a prototype of Model 3 in March 2016 and have announced our goal to achieve volume production and deliveries of this vehicle in the second half of 2017.

We have no experience to date in manufacturing vehicles at the high volumes that we anticipate for Model 3, and to be successful, we will need to complete implementation of efficient, automated and low-cost manufacturing capabilities, processes and supply chains necessary to support such volumes. We will also need to continue extensive testing to ensure that Model 3 is in compliance with our quality standards and applicable regulations prior to beginning mass production and delivery of the vehicles. Moreover, our Model 3 production plan has required and will require significant investments of cash and management resources.

Our production plan for Model 3 is based on many key assumptions, including:

- that we will be able to complete building and equipping a new dedicated final assembly line for high volume production of Model 3 at the Tesla Factory without exceeding our projected costs and on our projected timeline;
- that we will be able to continue to expand Gigafactory 1 in a timely manner to produce high volumes of quality lithium-ion cells and integrate such cells into finished battery packs for Model 3, all at costs that allow us to sell Model 3 at our target gross margins;
- that the equipment and processes which we are installing for Model 3 production will be able to accurately manufacture high volumes of Model 3 vehicles within specified design tolerances and with high quality;
- that we will be able to maintain suppliers for the necessary components on terms and conditions that are acceptable to us and that we will be able to obtain components on a timely basis and in the necessary quantities to support high volume production;
- that we will be able to complete our final tooling, production planning and validation for Model 3 and the delivery of final component designs to our suppliers in a timely manner; and
- that we will be able to attract, recruit, hire and train skilled employees, including employees on the production line, to operate our planned high volume production facilities to support Model 3, including at the Tesla Factory and Gigafactory 1.

If one or more of the foregoing assumptions turns out to be incorrect, our ability to successfully launch Model 3 on time and at volumes and prices that are profitable, as well as our business, prospects, operating results and financial condition, may be materially and adversely impacted.

We may be unable to meet our growing vehicle production and delivery plans, both of which could harm our business and prospects.

Our plans call for significant increases in vehicle production and deliveries to high volumes in a short amount of time. Our ability to achieve these plans will depend upon a number of factors, including our ability to add production lines and capacity as planned while maintaining our desired quality levels and optimize design and production changes, and our suppliers' ability to support our needs. In addition, we have used and may use in the future a number of new manufacturing technologies, techniques and processes for our vehicles, which we must successfully introduce and scale for high volume production. For example, we have introduced aluminum spot welding systems and high-speed blow forming of certain difficult to stamp vehicle parts. We have also introduced unique design features in our vehicles with different manufacturing challenges, such as a 17 inch display screen, dual motor drivetrain, autopilot hardware and falcon-wing doors. We have limited experience developing, manufacturing, selling and servicing, and allocating our available resources among, multiple products simultaneously. If we are unable to realize our plans, our brand, business, prospects, financial condition and operating results could be materially damaged.

Concurrent with the significant planned increase in our vehicle production levels, we will also need to continue to significantly increase deliveries of our vehicles. We have limited experience in delivering a high volume of vehicles, and no experience in delivering vehicles at the significantly higher volumes we anticipate for Model 3, and we may face difficulties meeting our delivery and growth plans into both existing markets as well as new markets into which we expand. If we are unable to ramp up to meet our delivery goals globally, this could have a material adverse effect on our business, prospects, financial condition and operating results.

We are dependent on our suppliers, the majority of which are single source suppliers, and the inability of these suppliers to deliver necessary components of our products in a timely manner at prices, quality levels, and volumes acceptable to us, or our inability to efficiently manage these components, could have a material adverse effect on our financial condition and operating results.

Our products contain numerous purchased parts which we source globally from hundreds of direct suppliers, the majority of whom are currently single source suppliers despite efforts to qualify and obtain components from multiple sources whenever feasible. Any significant unanticipated demand would require us to procure additional components in a short amount of time, and in the past we have also replaced certain suppliers because of their failure to provide components that met our quality control standards. While we believe that we will be able to secure additional or alternate sources of supply for most of our components in a relatively short time frame, there is no assurance that we will be able to do so or develop our own replacements for certain highly customized components of our products. Moreover, we have signed long-term agreements with Panasonic to be our manufacturing partner and supplier for lithium-ion cells at Gigafactory 1 in Nevada and PV cells and panels at Gigafactory 2 in Buffalo, New York. If we encounter unexpected difficulties with key suppliers such as Panasonic, and if we are unable to fill these needs from other suppliers, we could experience production delays and potential loss of access to important technology and parts for producing, servicing and supporting our products.

This limited supply chain exposes us to multiple potential sources of delivery failure or component short ages for the production of our products, such as those which we experienced in 2012 and 2016 in connection with our slower-than-planned Model S and Model X ramps. Furthermore, unexpected changes in business conditions, materials pricing, labor issues, wars, governmental changes, natural disasters such as the March 2011 earthquakes in Japan and other factors beyond our and our suppliers' control, could also affect our suppliers' ability to deliver components to us on a timely basis. The loss of any single or limited source supplier or the disruption in the supply of components from these suppliers could lead to product design changes and delays in product deliveries to our customers, which could hurt our relationships with our customers and result in negative publicity, damage to our brand and a material and adverse effect on our business, prospects, financial condition and operating results.

Changes in our supply chain have also resulted in the past, and may result in the future, in increased cost. We have also experienced cost increases from certain of our suppliers in order to meet our quality targets and development timelines as well as due to design changes that we made, and we may experience similar cost increases in the future. Certain suppliers, including for Model X, have sought to renegotiate the terms of the supply arrangements. Additionally, we are negotiating with existing suppliers for cost reductions, seeking new and less expensive suppliers for certain parts, and attempting to redesign certain parts to make them less expensive to produce. If we are unsuccessful in our efforts to control and reduce supplier costs, our operating results will suffer.

We expect the foregoing discussion to apply generally to Model 3. However, because we plan to produce Model 3 at significantly higher volumes than Model S or Model X, the negative impact of any delays or other constraints with respect to our suppliers for Model 3 could be substantially greater than any such issues experienced with respect to our products to date. As some of our suppliers for our current production vehicles do not have the resources, equipment or capability to provide components for the Model 3 in line with our requirements, we have engaged a significant number of new suppliers, and such suppliers will also have to ramp to achieve our needs in a short period of time. There is no assurance that these suppliers will ultimately be able to meet our cost, quality and volume needs. Furthermore, as the scale of our vehicle production increases, we will need to accurately forecast, purchase, warehouse and transport to our manufacturing facilities components at much higher volumes than we have experience with. If we are unable to accurately match the timing and quantities of component purchases to our actual production plans or capabilities, or successfully implement automation, inventory management and other systems to accommodate the increased complexity in our supply chain, we may have to incur unexpected storage, transportation and write-off costs, which could have a material adverse effect on our financial condition and operating results.

Our future growth and success is dependent upon consumers' willingness to adopt electric vehicles and specifically our vehicles, especially in the mass market demographic which we are targeting with Model 3.

Our growth is highly dependent upon the adoption by consumers of alternative fuel vehicles in general and electric vehicles in particular. Although we have successfully grown demand for Model S and Model X to date and have seen very strong initial demand for Model 3, and we believe that we will be able to continue to grow demand separately for each of these vehicles and their variants, there is no guarantee of such future demand or that our vehicles will not compete with one another in the market. Moreover, the mass market demographic which we are targeting with Model 3 is larger, but more competitive, than for Model S and Model X.

If the market for electric vehicles in general and Tesla vehicles in particular does not develop as we expect, or develops more slowly than we expect, our business, prospects, financial condition and operating results could be harmed. The market for alternative fuel vehicles is relatively new, rapidly evolving, and could be affected by numerous external factors, such as:

- perceptions about electric vehicle features, quality, safety, performance and cost;
- perceptions about the limited range over which electric vehicles may be driven on a single battery charge;
- competition, including from other types of alternative fuel vehicles, plug-in hybrid electric vehicles, and high fuel-economy internal combustion engine vehicles;
- volatility in the cost of oil and gasoline;
- government regulations and economic incentives; and
- access to charging facilities.

Future problems or delays in expanding Gigafactory 1 and operating it in line with our expectations could negatively affect the production and profitability of our battery-based products, such as Model 3 or our energy storage products.

To lower the cost of cell production and produce cells in high volume, we intend to integrate the production of lithium-ion cells and finished battery packs for our vehicles including Model 3 and energy storage products at Gigafactory 1. While Gigafactory 1 began producing lithium-ion cells for energy storage products in January 2017, we have no other direct experience in the production of lithium-ion cells, including those intended for use in vehicles. Although we continue to remain on track with our progress at Gigafactory 1, given the size and complexity of this undertaking, it is possible that future events could result in the cost of expanding and operating Gigafactory 1 exceeding our current expectations and Gigafactory 1 taking longer to expand than we currently anticipate. In order to build our Model 3 vehicles at our planned volume and target gross margin, we must have significant battery cell production from Gigafactory 1. If we are unable to expand Gigafactory 1 in a timely manner, and attract, hire and retain a substantial number of highly skilled personnel to work there in order to produce high volumes of quality lithium-ion cells at reasonable prices, our ability to supply battery packs to our vehicles, especially Model 3, and other battery-based products according to our schedule and/or at a price that allows us to sell them at our target gross margins and in the quantities we estimate could be negatively impacted. Any such future problems or delays with Gigafactory 1 could negatively affect our brand and harm our business, prospects, financial condition and operating results.

If our vehicles or other products that we sell or install fail to perform as expected, our ability to develop, market and sell our products and services could be harmed.

If our vehicles, other OEMs' vehicles that contain our powertrains or our energy products were to contain defects in design and manufacture that cause them not to perform as expected or that require repair, our ability to develop, market and sell our products and services could be harmed. For example, the operation of our vehicles is highly dependent on software, which is inherently complex and could conceivably contain defects and errors. Issues experienced by customers have included those related to the software for the 17 inch display screen, the panoramic roof and the 12 volt battery in the Model S and the seats and doors in the Model X. Although we attempt to remedy any issues we observe in our products as effectively and rapidly as possible, such efforts may not be timely, may hamper production or may not be up to the satisfaction of our customers. While we have performed extensive internal testing on the products we manufacture, we currently have a limited frame of reference by which to evaluate detailed long-term quality, reliability, durability and performance characteristics of our battery packs, powertrains, vehicles and energy storage products. There can be no assurance that we will be able to detect and fix any defects in our products prior to their sale to or installation for consumers.

Any product defects or any other failure of our products to perform as expected could harm our reputation and result in delivery delays, product recalls, product liability claims, significant warranty and other expenses, and could have a material adverse impact on our business, financial condition, operating results and prospects. Our Model X vehicles have not yet been evaluated by NHTSA for a star rating under the New Car Assessment Program, and while based on our internal testing we expect to obtain comparable ratings to those achieved by Model S, there is no assurance this will occur.

If we fail to scale our business operations and otherwise manage future growth effectively as we rapidly grow our company, especially internationally, we may not be able to produce, market, sell and service our products successfully.

Any failure to manage our growth effectively could materially and adversely affect our business, prospects, operating results and financial condition. We continue to expand our operations significantly, especially internationally, including by a planned transition to high volume vehicle production and the worldwide sales and servicing of a significantly higher number of vehicles than our current vehicle fleet in the coming years, with the launch and ramp of Model 3. Furthermore, we are developing and growing our energy storage product and solar business worldwide, including in countries where we have limited or no previous operating experience in connection with our vehicle business. Our future operating results depend to a large extent on our ability to manage our expansion and growth successfully. We may not be successful in undertaking this global expansion if we are unable to control expenses and avoid cost overruns and other unexpected operating costs; establish sufficient worldwide sales, service and Supercharger facilities in a timely manner; adapt our products to meet local requirements; implement the required infrastructure, systems and processes; and find and hire a significant number of additional manufacturing, engineering, service, electrical installation, construction and administrative personnel.

If we are unable to continue to reduce the manufacturing costs of Model S and Model X or control manufacturing costs for Model 3, our financial condition and operating results will suffer.

As we have gradually ramped production of Model S and Model X, manufacturing costs per vehicle have decreased. While we expect ongoing cost reductions to be realized by both us and our suppliers, there is no guarantee we will be able to achieve sufficient cost savings to reach our gross margin and profitability goals. We incur significant costs related to procuring the materials required to manufacture our vehicles, assembling vehicles and compensating our personnel. We may also incur substantial costs or cost overruns in increasing the production capability of our vehicle manufacturing facilities, such as for Model 3. Furthermore, if we are unable to achieve production cost targets on our Model X and Model 3 vehicles pursuant to our plans, we may not be able to meet our gross margin and other financial targets.

Furthermore, many of the factors that impact our manufacturing costs are beyond our control, such as potential increases in the costs of our materials and components, such as lithium-ion battery cells or aluminum used to produce body panels. If we are unable to continue to control and reduce our manufacturing costs, our operating results, business and prospects will be harmed.

We are significantly dependent upon revenue generated from the sale of a limited fleet of electric vehicles, which currently includes the Model S and Model X and which will also include Model 3 in the near term.

We currently generate a significant percentage of our revenues from the sale of two products: Model S and Model X vehicles. Model 3, for which we are planning to achieve volume production and deliveries in second half of 2017, has required and will require significant investment prior to commercial introduction, and there is no guarantee that it will be commercially successful. Historically, automobile customers have come to expect a variety of vehicles offered in a manufacturer's fleet and new and improved vehicle models to be introduced frequently. In order to meet these expectations, we may in the future be required to introduce on a regular basis new vehicle models as well as enhanced versions of existing vehicle models. To the extent our product variety and cycles do not meet consumer expectations, our future sales may be adversely affected.

Our vehicles and energy storage products make use of lithium-ion battery cells, which have been observed to catch fire or vent smoke and flame, and such events have raised concerns, and future events may lead to additional concerns, about the batteries used in automotive applications.

The battery packs that we produce make use of lithium-ion cells. On rare occasions, lithium-ion cells can rapidly release the energy they contain by venting smoke and flames in a manner that can ignite nearby materials as well as other lithium-ion cells.

While we have designed the battery pack to passively contain any single cell's release of energy without spreading to neighboring cells, there can be no assurance that a field or testing failure of our vehicles or other battery packs that we produce will not occur, which could subject us to lawsuits, product recalls, or redesign efforts, all of which would be time consuming and expensive. Also, negative public perceptions regarding the suitability of lithium-ion cells for automotive applications or any future incident involving lithium-ion cells such as a vehicle or other fire, even if such incident does not involve our vehicles, could seriously harm our business.

In addition, we store a significant number of lithium-ion cells at the Tesla Factory and plan to produce high volumes of cells and battery modules and packs at Gigafactory 1. Any mishandling of battery cells may cause disruption to the operation of our facilities. While we have implemented safety procedures related to the handling of the cells, there can be no assurance that a safety issue or fire related to the cells would not disrupt our operations. Such damage or injury could lead to adverse publicity and potentially a safety recall. Moreover, any failure of a competitor's electric vehicle or energy storage product may cause indirect adverse publicity for us and our products. Such adverse publicity could negatively affect our brand and harm our business, prospects, financial condition and operating results.

Increases in costs, disruption of supply or shortage of materials, in particular for lithium-ion cells, could harm our business.

We may experience increases in the cost or a sustained interruption in the supply or shortage of materials. Any such increase, supply interruption or shortage could materially and negatively impact our business, prospects, financial condition and operating results. We use various materials in our business including aluminum, steel, lithium, cobalt, nickel and copper, as well as lithium-ion cells from suppliers. The prices for these materials fluctuate, and their available supply may be unstable, depending on market conditions and global demand for these materials, including as a result of increased production of electric vehicles and energy storage products by our competitors, and could adversely affect our business and operating results. For instance, we are exposed to multiple risks relating to lithium-ion cells. These risks include:

- the inability or unwillingness of current battery manufacturers to build or operate battery cell manufacturing plants to supply the numbers of lithium-ion cells we require;
- disruption in the supply of cells due to quality issues or recalls by battery cell manufacturers or any issues that may arise with respect to cells manufactured at our own facilities;
- an increase in the cost, or decrease in the available supply, of materials used in the cells; and
- fluctuations in the value of the Japanese yen against the U.S. dollar as our battery cell purchases for Model S and Model X are currently denominated in Japanese yen.

Our business is dependent on the continued supply of battery cells for the battery packs used in our vehicles and energy storage products. While we believe several sources of the battery cells are available for such battery packs, and expect to eventually rely substantially on battery cells manufactured at our own facilities, we have to date fully qualified only a very limited number of suppliers for the cells used in such battery packs and have very limited flexibility in changing cell suppliers. In particular, we have fully qualified only one supplier for the cells used in battery packs for our current production vehicles. Any disruption in the supply of battery cells from such suppliers could disrupt production of our vehicles and of the battery packs we produce for other automobile manufacturers until such time as a different supplier is fully qualified. Furthermore, fluctuations or shortages in petroleum and other economic conditions may cause us to experience significant increases in freight charges and material costs. Substantial increases in the prices for our materials or prices charged to us, such as those charged by battery cell suppliers, would increase our operating costs, and could reduce our margins if we cannot recoup the increased costs through increased vehicle prices. Any attempts to increase vehicle prices in response to increased material costs could result in cancellations of vehicle orders and reservations and therefore materially and adversely affect our brand, image, business, prospects and operating results.

We may become subject to product liability claims, which could harm our financial condition and liquidity if we are not able to successfully defend or insure against such claims.

Product liability claims could harm our business, prospects, operating results and financial condition. The automobile industry in particular experiences significant product liability claims and we face inherent risk of exposure to claims in the event our vehicles do not perform as expected resulting in personal injury or death. We also may face similar claims related to any misuse or failures of new technologies that we are pioneering, including autopilot in our vehicles. Finally, as our solar energy systems and energy storage products generate and store electricity, they have the potential to cause injury to people or property. A successful product liability claim against us could require us to pay a substantial monetary award. Our risks in this area are particularly pronounced given the limited number of vehicles and energy storage products delivered to date and limited field experience of our products. Moreover, a product liability claim could generate substantial negative publicity about our products and business and could have material adverse effect on our brand, business, prospects and operating results. In most jurisdictions, we generally self-insure against the risk of product liability claims, meaning that any product liability claims will likely have to be paid from company funds, not by insurance.

The markets in which we operate are highly competitive, and we may not be successful in competing in these industries. We currently face competition from new and established domestic and international competitors and expect to face competition from others in the future, including competition from companies with new technology.

The worldwide automotive market, particularly for alternative fuel vehicles, is highly competitive today and we expect it will become even more so in the future. There is no assurance that our vehicles will be successful in the respective markets in which they compete. Many established and new automobile manufacturers such as BMW, Daimler, General Motors and Toyota, as well as other companies, have entered or are reported to have plans to enter the alternative fuel vehicle market, including hybrid, plug-in hybrid and fully electric vehicles. Most of our current and potential competitors have significantly greater financial, technical, manufacturing, marketing and other resources than we do and may be able to devote greater resources to the design, development, manufacturing, distribution, promotion, sale and support of their products. Virtually all of our competitors have more extensive customer bases and broader customer and industry relationships than we do and almost all of these companies have longer operating histories and greater name recognition than we do. Increased competition could result in lower vehicle unit sales, price reductions, revenue shortfalls, loss of customers and loss of market share, which could harm our business, prospects, financial condition and operating results. In addition, upon the launch of our Model 3 vehicle, we will face competition from existing and future automobile manufacturers in the extremely competitive entry-level premium sedan market, including Audi, BMW, Lexus and Mercedes.

The solar and energy storage industries are highly competitive. We face competition from other manufacturers, developers and installers of solar and energy storage systems, as well as from large utilities. Decreases in the retail prices of electricity from utilities or other renewable energy sources could make our products less attractive to customers and lead to an increased rate of customer defaults under our existing leases and power purchase agreements. Moreover, solar panel and lithium-ion battery prices have declined and are continuing to decline. As we increase our battery and solar panel manufacturing capabilities, including at Gigafactory 1 and 2, future price declines may harm our ability to produce energy storage systems and solar panels at competitive prices.

If we are unable to establish and maintain confidence in our long-term business prospects among consumers, analysts and within our industries, then our financial condition, operating results, business prospects and stock price may suffer materially.

Consumers may be less likely to purchase our products now if they are not convinced that our business will succeed or that our service and support and other operations will continue for many years. Similarly, suppliers and other third parties will be less likely to invest time and resources in developing business relationships with us if they are not convinced that our business will succeed. Accordingly, in order to build and maintain our business, we must maintain confidence among customers, suppliers, analysts and other parties in our liquidity and long-term business prospects. Maintaining such confidence may be particularly complicated by certain factors, such as our limited operating history, unfamiliarity with our products, competition and uncertainty regarding the future of electric vehicles or our other products and services and our quarterly production and sales performance compared with market expectations. Many of these factors are largely outside our control, and any negative perceptions about our long-term business prospects, even if exaggerated or unfounded, would likely harm our business and make it more difficult to raise additional funds if needed.

Our plan to expand our network of Tesla stores, galleries, service centers and Superchargers will require significant cash investments and management resources and may not meet expectations with respect to additional sales or installations of our products or availability of Superchargers.

Our plan to expand our network of Tesla stores, galleries, service centers and Superchargers will require significant cash investments and management resources and may not meet our expectations with respect to additional sales or installations of our products. This ongoing global expansion, which includes planned entry into markets in which we have limited or no experience selling, delivering, installing and/or servicing our products, and which may pose legal, regulatory, cultural and political challenges that we have not previously encountered, may not have the desired effect of increasing sales and installations and expanding our brand presence to the degree we are anticipating. Furthermore, the increasing number of Model S and Model X vehicles, as well as the significant increase in our vehicle fleet size that we expect from Model 3, will require us to continue to increase the number of our Supercharger stations significantly. If we fail to do so, our customers could become dissatisfied, which could adversely affect sales of our vehicles. We will also need to ensure we are in compliance with any regulatory requirements applicable to the sale, installation and service of our products, the sale of electricity generated through our solar energy systems, and operation of Superchargers in those jurisdictions, which could take considerable time and expense. If we experience any delays or cannot meet customer expectations in expanding our network of Tesla stores, galleries, service centers and Superchargers, this could lead to a decrease in sales or installations of our products and could negatively impact our business, prospects, financial condition and operating results.

We face risks associated with our international operations and expansion, including unfavorable regulatory, political, tax and labor conditions, and with establishing ourselves in new markets, all of which could harm our business.

We currently have international operations and subsidiaries in various countries and jurisdictions that are subject to legal, political, and regulatory requirements and social and economic conditions that may be very different from those affecting us domestically. Additionally, as part of our growth strategy, we will continue to expand our sales, service and Supercharger locations internationally. International expansion requires us to make significant expenditures, including the establishment of local operating entities, hiring of local employees and establishing facilities in advance of generating any revenue.

We are subject to a number of risks associated with international business activities that may increase our costs, impact our ability to sell our products and require significant management attention. These risks include conforming our products to various international regulatory and safety requirements as well as charging and other electric infrastructures, difficulty in establishing, staffing and managing foreign operations, challenges in attracting customers, foreign government taxes, regulations and permit requirements, our ability to enforce our contractual rights; trade restrictions, customs regulations, tariffs and price or exchange controls, and preferences of foreign nations for domestically manufactured products.

If we fail to effectively grow and manage the residual, financing and credit risks related to our vehicle financing programs, our business may suffer.

We offer vehicle financing arrangements through our local subsidiaries in the United States, Canada, Germany and the UK, including leasing directly through certain of those subsidiaries. The profitability of the leasing program depends on our ability to accurately project residual values, secure adequate financing and/or business partners to fund and grow this program, and screen for and manage customer credit risk. We expect the need for leasing and other financing options to be significantly higher with the volumes we expect for our vehicles in the future, especially Model 3, for which we also expect a higher proportion of uptake for such programs than for Model S or Model X. If we are unable to adequately fund our leasing program with internal funds, or partners or other external financing sources, and compelling alternative financing programs are not available for our customers, we may be unable to grow our sales. Furthermore, if our leasing business grows substantially, our business may suffer if we cannot effectively manage the greater levels of residual and credit risks resulting from growth. Finally, if we do not successfully monitor and comply with applicable national, state and/or local financial regulations and consumer protection laws governing lease transactions, we may become subject to enforcement actions or penalties, either of which may harm our business.

Our resale value guarantee and leasing programs for our vehicles expose us to the risk that the resale values of vehicles returned to us are lower than our estimates and may result in lower revenues, gross margin, profitability and liquidity.

We have provided resale value guarantees to many of our customers, under which such customers may sell their vehicles back to us at certain points in time at pre-determined resale values. Customers can lease our vehicles through both leasing partners and from us directly, through our captive finance companies. The resale values of any vehicles resold or returned to us pursuant to these programs may be lower than our estimates, which are based on a limited secondary market for our vehicles. If we incorrectly estimate the residual values of our vehicles, or the volume of vehicles returned to us is higher than our estimates and/or we are not able to resell them timely or at all, our profitability and/or liquidity could be negatively impacted. In cases where customers retain their vehicles past the guarantee period, our gross margin will be negatively impacted as all remaining revenues and costs related to the vehicle will be recognized at no gross profit.

We apply lease accounting on sales of vehicles with a resale value guarantee and on leases made directly by us or by our leasing partners. Under lease accounting, we recognize the associated revenues and costs of the vehicle sale over time rather than fully upfront at vehicle delivery. As a result, these programs generate lower revenues in the period the car is delivered and higher gross margins during the period of the resale value guarantee as compared to purchases in which the resale value guarantee does not apply. A higher than anticipated prevalence of these programs could therefore have an adverse impact on our near term revenues and operating results. Moreover, unlike the sale of a vehicle with a resale value guarantee or programs with leasing partners which do not impact our cash flows and liquidity at the time of vehicle delivery, under a lease held directly by us, we may receive only a very small portion of the total vehicle purchase price at the time of lease, followed by a stream of payments over the term of the lease. To the extent we expand our leasing program without securing external financing or business partners to support such expansion, our cash flow and liquidity could also be negatively impacted.

The unavailability, reduction or elimination of, or unfavorable determinations with respect to, government and economic incentives in the United States and abroad supporting the development and adoption of electric vehicles or solar energy could have some impact on demand for our products and services.

We currently benefit from certain government and economic incentives supporting the development and adoption of electric vehicles. In the United States and abroad, such incentives include, among other things, tax credits or rebates that encourage the purchase of electric vehicles. In Norway, for example, the purchase of electric vehicles is not currently subject to import taxes, taxes on non-recurring vehicle fees, the 25% value added tax or the purchase taxes that apply to the purchase of gas-powered vehicles. Notably, the quantum of incentive programs promoting electric vehicles is a tiny fraction of the amount of incentives that are provided to gas-powered vehicles through the oil and gas industries. Nevertheless, even the limited benefits from such programs could be reduced, eliminated or exhausted. For example, in April 2017 and January 2016, respectively, previously available incentives in Hong Kong and Denmark that favored the purchase of electric vehicles expired and in Denmark was replaced with a newly phased-in incentive that is less generous than the incentive that it replaced. Moreover, under current regulations, a \$7,500 federal tax credit available in the United States for the purchase of qualified electric vehicles with at least 17 kWh of battery capacity, such as our vehicles, will begin to phase out with respect to any vehicles delivered in the second calendar quarter following the quarter in which we deliver our 200,000th qualifying vehicle in the United States. In addition, California implemented regulations phasing out a \$2,500 cash rebate on qualified electric vehicles for high-income consumers, which became effective in March 2016. In certain circumstances, there is pressure from the oil and gas lobby or related special interests to bring about such developments, which could have some negative impact on demand for our vehicles.

In addition, certain governmental rebates, tax credits and other financial incentives that are currently available with respect to our solar and energy storage product businesses allow us to lower our installation costs and cost of capital and encourage customers to buy our products and investors to invest in our solar financing funds. However, these incentives may expire on a particular date, end when the allocated funding is exhausted or be reduced or terminated as renewable energy adoption rates increase, often without warning. For example, the federal government currently offers a 30% investment tax credit (“ITC”) for the installation of solar power facilities and energy storage systems that are charged from a co-sited solar power facility. The ITC is currently scheduled to decline to 10%, and expire altogether for residential systems, by January 2022. Likewise, in jurisdictions where net energy metering is currently available, our customers receive bill credits from utilities for energy that their solar energy systems generate and export to the grid in excess of the electric load they use. Several jurisdictions have reduced or eliminated the benefit available under net energy metering, or have proposed to do so. Such reductions in or termination of governmental incentives could adversely impact our results by making our products less competitive for potential customers, increasing our cost of capital and adversely impacting our ability to attract investment partners and to form new financing funds for our solar and energy storage assets.

Moreover, we and our fund investors claim the ITC in amounts based on the fair market value of our solar and energy storage systems. Although we obtain independent appraisals to support the claimed fair market values, the relevant governmental authorities have audited such values and in certain cases have determined that they should be lower, and they may do so in the future. Such determinations may result in adverse tax consequences and/or our obligation to make indemnification or other payments, or contribute additional assets, to our funds or fund investors.

If we are unable to integrate SolarCity successfully into our business, we may not realize the anticipated benefits of our acquisition of SolarCity.

We have devoted to date, and continue to devote, substantial attention and resources to integrating into our company the business and operations of SolarCity, which we acquired in November 2016. Our company has no prior experience integrating a business of the size and scale of SolarCity. If the integration process takes longer than expected or is more costly than expected, we may fail to realize some or all of the anticipated benefits of the acquisition.

Potential difficulties we may encounter in the integration process include the following:

- the inability to successfully combine our business with that of SolarCity in a manner that permits the combined company to achieve the synergies we expect from the acquisition, which would result in the anticipated benefits of the acquisition not being realized partly or wholly in the time frame currently anticipated or at all;
- complexities associated with managing the combined businesses;
- integrating personnel from the two companies;
- creation of uniform standards, controls, procedures, policies and information systems; and
- potential unknown liabilities and unforeseen increased expenses, delays or regulatory conditions associated with the acquisition.

Any failure by us to realize the expected benefits of our substantial investments and commitments with respect to the manufacture of PV cells, including if we are unable to comply with the terms of our agreement with the Research Foundation for the State University of New York relating to our Gigafactory 2, could result in negative consequences for our business.

As part of our acquisition of SolarCity, we acquired certain PV cell manufacturing and technology assets, and a build-to-suit lease arrangement with the Research Foundation for the State University of New York (the “Foundation”). This agreement with the Foundation provides for the construction of Gigafactory 2 in Buffalo, New York, which at full capacity we expect will be capable of producing 1 gigawatt of PV cells annually, including for our Solar Roof. Under this agreement, we are obligated to, among other things, employ specified minimum numbers of personnel in the State of New York during the 10-year period following the arrival of manufacturing equipment, the receipt of certain permits and other specified items at Gigafactory 2, and spend or incur approximately \$5 billion in combined capital, operational expenses, costs of goods sold and other costs in the State of New York during the 10-year period following the achievement of full production output at Gigafactory 2. If we fail in any year over the course of the term of the agreement to meet these obligations, we would be obligated to pay a “program payment” of \$41.2 million to the Foundation in such year. Any inability on our part to comply with the requirements of this agreement may result in the payment of significant amounts to the Foundation, the termination of our lease at Gigafactory 2, and/or the need to secure an alternative supply of PV cells for products such as our Solar Roof. Moreover, if we are unable to utilize the other manufacturing and technology assets that were acquired in the SolarCity acquisition in accordance with our expectations, we may have to recognize accounting charges pertaining to the write-off of such assets. Any of the foregoing events could have a material adverse effect on our business, prospects, financial condition and operating results.

We are exposed to fluctuations in currency exchange rates, which could negatively affect our financial results.

Our revenues and costs denominated in foreign currencies are not completely matched. As we have increased Model S deliveries in markets outside of the United States, we have much higher revenues than costs denominated in other currencies such as the euro, Chinese yuan, Norwegian krone, pound sterling and Canadian dollar. Any strengthening of the U.S. dollar would tend to reduce our revenues as measured in U.S. dollars, as we have historically experienced. In addition, a portion of our costs and expenses have been, and we anticipate will continue to be, denominated in foreign currencies, including the Japanese yen. If we do not have fully offsetting revenues in these currencies and if the value of the U.S. dollar depreciates significantly against these currencies, our costs as measured in U.S. dollars as a percent of our revenues will correspondingly increase and our margins will suffer. Moreover, while we undertake limited hedging activities intended to offset the impact of currency translation exposure, it is impossible to predict or eliminate such impact. As a result, our operating results could be adversely affected.

If we are unable to attract and/or retain key employees and hire qualified personnel, our ability to compete could be harmed.

The loss of the services of any of our key employees could disrupt our operations, delay the development and introduction of our vehicles and services, and negatively impact our business, prospects and operating results. In particular, we are highly dependent on the services of Elon Musk, our Chief Executive Officer, and Jeffrey B. Straubel, our Chief Technical Officer.

None of our key employees is bound by an employment agreement for any specific term and we may not be able to successfully attract and retain senior leadership necessary to grow our business. Our future success depends upon our ability to attract and retain executive officers and other key technology, sales, marketing, engineering, manufacturing and support personnel and any failure to do so could adversely impact our business, prospects, financial condition and operating results.

Key talent may leave Tesla due to various factors, such as a very competitive labor market for talented individuals with automotive or technology experience. In California and other regions where we have operations, there is increasing competition for individuals with skillsets needed for our business, including specialized knowledge of electric vehicles, software engineering, manufacturing engineering, and other skills such as electrical and building construction expertise. This competition affects both our ability to retain key employees and hire new ones. Our continued success depends upon our continued ability to hire new employees in a timely manner, especially to support our expansion plans and ramp to high-volume manufacture of vehicles, and retain current employees. Additionally, we compete with both mature and prosperous companies that have far greater financial resources than we do and start-ups and emerging companies that promise short-term growth opportunities. Difficulties in retaining current employees or recruiting new ones could have an adverse effect on our performance.

We are highly dependent on the services of Elon Musk, our Chief Executive Officer.

We are highly dependent on the services of Elon Musk, our Chief Executive Officer, Chairman of our Board of Directors and largest stockholder. Although Mr. Musk spends significant time with Tesla and is highly active in our management, he does not devote his full time and attention to Tesla. Among other commitments, Mr. Musk also currently serves as Chief Executive Officer and Chief Technical Officer of Space Exploration Technologies, a developer and manufacturer of space launch vehicles.

We are subject to various environmental and safety laws and regulations that could impose substantial costs upon us and negatively impact our ability to operate our manufacturing facilities.

As a manufacturing company, including with respect to facilities such as the Tesla Factory, Gigafactory 1 and Gigafactory 2, we are subject to complex environmental, health and safety laws and regulations at numerous jurisdictional levels in the United States and abroad, including laws relating to the use, handling, storage, disposal and human exposure to hazardous materials. The costs of compliance, including remediating contamination if any is found on our properties and any changes to our operations mandated by new or amended laws, may be significant. We may also face unexpected delays in obtaining permits and approvals required by such laws in connection with our manufacturing facilities, which would hinder our operation of these facilities. Such costs and delays may adversely impact our business prospects and operating results. Furthermore, any violations of these laws may result in substantial fines and penalties, remediation costs, third party damages, or a suspension or cessation of our operations.

Our business may be adversely affected by any disruptions caused by union activities.

It is common for employees at companies with significant manufacturing operations such as us to belong to a union, which can result in higher employee costs and increased risk of work stoppages. Moreover, regulations in some jurisdictions outside of the United States mandate employee participation in industrial collective bargaining agreements and work councils with certain consultation rights with respect to the relevant companies' operations. Although we work diligently to provide the best possible work environment for our employees, they may still decide to join or seek recognition to form a labor union, or we may be required to become a union signatory. Furthermore, we are directly or indirectly dependent upon companies with unionized work forces, such as parts suppliers and trucking and freight companies, and work stoppages or strikes organized by such unions could have a material adverse impact on our business, financial condition or operating results. If a work stoppage occurs, it could delay the manufacture and sale of our products and have a material adverse effect on our business, prospects, operating results or financial condition.

Our products and services are subject to substantial regulations, which are evolving, and unfavorable changes or failure by us to comply with these regulations could substantially harm our business and operating results.

Motor vehicles are subject to substantial regulation under international, federal, state, and local laws. We incur significant costs in complying with these regulations, and may be required to incur additional costs to comply with any changes to such regulations. We are subject to laws and regulations applicable to the import, sale and service of automobiles internationally. For example, in countries outside of the United States, we are required to meet vehicle-specific safety standards that are often materially different from requirements in the United States, thus resulting in additional investment into the vehicles and systems to ensure regulatory compliance in those countries. This process may include official review and certification of our vehicles by foreign regulatory agencies prior to market entry, as well as compliance with foreign reporting and recall management systems requirements.

Additionally, our vehicles are equipped with a range of autopilot features that assist drivers, relieving them of certain tedious and potentially dangerous aspects of road travel. Autopilot is a recently-introduced feature with which domestic and foreign regulators have limited experience. Any current or future proposed regulations in this area, if passed, could impact whether and how our customers are able to use our vehicles equipped for autopilot, and which, depending on the severity of the regulations, could adversely affect our business.

Moreover, as a manufacturer and installer of solar panels and energy storage systems and a supplier of electricity generated and stored by the solar energy and energy storage systems we install for customers, we are impacted by federal, state and local regulations and policies concerning electricity pricing, the interconnection of electricity generation and storage equipment with the electric grid, and the sale of electricity generated by third-party owned systems. For example, existing or proposed regulations and policies would permit utilities to limit the amount of electricity generated by our customers with their solar energy systems, charge fees and penalties to our customers relating to the purchase of energy other than from the grid, adjust electricity rate designs such that the price of our solar products may not be competitive with that of electricity from the grid, restrict us and our customers from transacting under our power purchase agreements or qualifying for government incentives and benefits that apply to solar power, and limit or eliminate net energy metering. If such regulations and policies remain in effect or are adopted in other jurisdictions, or if other regulations and policies that adversely impact the interconnection of our solar and energy storage systems to the grid are introduced, modified or eliminated, they could deter potential customers from purchasing our solar and energy storage products, threaten the economics of our existing contracts and cause us to cease solar and energy storage system sales and operations in the relevant jurisdictions, which could harm our business, prospects, financial condition and results of operations.

We are subject to various privacy and consumer protection laws.

Our privacy policy is posted on our website, and any failure by us or our vendor or other business partners to comply with it or with federal, state or international privacy, data protection or security laws or regulations could result in regulatory or litigation-related actions against us, legal liability, fines, damages and other costs. We may also incur substantial expenses and costs in connection with maintaining compliance with such laws, in particular data protection laws in the EU, which are currently in a state of transition. Although we take steps to protect the security of our customers' personal information, we may be required to expend significant resources to comply with data breach requirements if third parties improperly obtain and use the personal information of our customers or we otherwise experience a data loss with respect to customers' personal information. A major breach of our network security and systems could have negative consequences for our business and future prospects, including possible fines, penalties and damages, reduced customer demand for our vehicles, and harm to our reputation and brand.

We may be compelled to undertake product recalls or take other actions, which could adversely affect our brand image and financial performance.

Any product recall in the future may result in adverse publicity, damage our brand and adversely affect our business, prospects, operating results and financial condition. For example, certain limited vehicle recalls that we initiated in the past two years have related to a component that could prevent the parking brake from releasing once engaged, industry-wide issues with airbags from a particular supplier, a front seat belt issue in a single field vehicle, and an internal test that revealed unintended movement in the Model X third row seats during a collision. None of our past recalls have been related to our electric powertrain. In the future, we may at various times, voluntarily or involuntarily, initiate a recall if any of our products or our electric vehicle powertrain components that we provide to other vehicle OEMs, including any systems or parts sourced from our suppliers, prove to be defective or noncompliant with applicable laws and regulations, such as federal motor vehicle safety standards. Such recalls, whether voluntary or involuntary or caused by systems or components engineered or manufactured by us or our suppliers, could involve significant expense and could adversely affect our brand image in our target markets, as well as our business, prospects, financial condition and results of operations.

Our current and future warranty reserves may be insufficient to cover future warranty claims which could adversely affect our financial performance.

Subject to separate limited warranties for the supplemental restraint system, battery and drive unit, we provide four year or 50,000 mile limited warranties for the purchasers of new Model S and Model X vehicles and pre-owned Model S vehicles certified and sold by us. The limited warranty for the battery and drive unit covers the drive unit for eight years, as well as the battery for a period of eight years (or for certain older vehicles, 125,000 miles if reached sooner than eight years), although the battery's charging capacity is not covered under any of our warranties or Extended Service plans. In addition, customers of new Model S and Model X vehicles have the opportunity to purchase an Extended Service plan for the period after the end of the limited warranty for their new vehicles to cover additional services for up to an additional four years or 50,000 miles, provided it is purchased within a specified period of time.

For energy storage products, we provide limited warranties against defects and to guarantee minimum energy retention levels. For example, we guarantee that each Powerwall 2 product will maintain at least 70-80% of its stated energy capacity after 10 years, and that each Powerpack 2 product will retain specified minimum energy capacities in each of its first 10 to 15 years of use. We also offer extended warranties for periods of up to 20 years at an additional cost at the time of purchase, as well as workmanship warranties and system capacity and availability guarantees to customers who elect to have us install their systems or perform preventative maintenance services, respectively.

Finally, customers who buy energy from us under solar energy system leases or power purchase agreements are covered by warranties equal to the length of the agreement term, which is typically 20 years. Systems purchased for cash are covered by a warranty of up to 10 years, with extended warranties available at additional cost. In addition, we pass through to our customers the inverter and panel manufacturers' warranties, which generally range from 5 to 25 years, subjecting us to the risk that the manufacturers may later cease operations or fail to honor their underlying warranties. Finally, we provide a performance guarantee with our leased solar energy systems that compensates a customer on an annual basis if their system does not meet the electricity production guarantees set forth in their lease.

If our warranty reserves are inadequate to cover future warranty claims on our products, our business, prospects, financial condition and operating results could be materially and adversely affected. Warranty reserves include management's best estimate of the projected costs to repair or to replace items under warranty. These estimates are based on actual claims incurred to-date and an estimate of the nature, frequency and costs of future claims. Such estimates are inherently uncertain and changes to our historical or projected experience, especially with respect to products such as Model 3 that are new and/or that we expect to produce at significantly greater volumes than our past products, may cause material changes to our warranty reserves in the future.

We are currently expanding and improving our information technology systems and use security measures designed to protect our systems against breaches and cyber-attacks . If these efforts are not successful, our business and operations could be disrupted and our operating results and reputation could be harmed.

We are currently expanding and improving our information technology systems, including implementing new internally developed systems, to assist us in the management of our business. In particular, our volume production of multiple vehicles necessitates continued development, maintenance and improvement of our information technology systems in the United States and abroad, which include product data management, procurement, inventory management, production planning and execution, sales, service and logistics, dealer management, financial, tax and regulatory compliance systems. The implementation, maintenance and improvement of these systems require significant management time, support and cost. Moreover, there are inherent risks associated with developing, improving and expanding our core systems as well as implementing new systems, including the disruption of our data management, procurement, manufacturing execution, finance, supply chain and sales and service processes. These risks may affect our ability to manage our data and inventory, procure parts or supplies or manufacture, sell, deliver and service vehicles, or achieve and maintain compliance with, or realize available benefits under, tax laws and other applicable regulations. We also maintain information technology measures designed to protect us against system security risks, data breaches and cyber-attacks.

We cannot be sure that these systems or their required functionality will be effectively implemented, maintained or expanded as planned. If we do not successfully implement, maintain or expand these systems as planned, our operations may be disrupted, our ability to accurately and/or timely report our financial results could be impaired, and deficiencies may arise in our internal control over financial reporting, which may impact our ability to certify our financial results. Moreover, our proprietary information could be compromised and our reputation may be adversely affected. If these systems or their functionality do not operate as we expect them to, we may be required to expend significant resources to make corrections or find alternative sources for performing these functions.

Our insurance strategy may not be adequate to protect us from all business risks.

We may be subject, in the ordinary course of business, to losses resulting from products liability, accidents, acts of God and other claims against us, for which we may have no insurance coverage. While we currently maintain general liability, automobile, property, workers' compensation, and directors' and officers' insurance policies, as a general matter, we do not maintain as much insurance coverage as many other companies do, and in some cases, we do not maintain any at all. Additionally, the policies that we do have may include significant deductibles, and we cannot be certain that our insurance coverage will be sufficient to cover all future claims against us. A loss that is uninsured or which exceeds policy limits may require us to pay substantial amounts, which could adversely affect our financial condition and operating results.

Our financial results may vary significantly from period-to-period due to fluctuations in our operating costs.

We expect our period-to-period financial results to vary based on our operating costs which we anticipate will increase significantly in future periods as we, among other things, design, develop and manufacture Model 3, energy storage and solar products and other future products, increase the production capacity at our manufacturing facilities to produce vehicles at higher volumes, including ramping up the production of Model S and Model X, expand Gigafactory 1, open new Tesla stores and service centers with maintenance and repair capabilities, open new Supercharger locations, develop Gigafactory 2, increase our sales and marketing activities, and increase our general and administrative functions to support our growing operations. As a result of these factors, we believe that quarter-to-quarter comparisons of our financial results, especially in the short-term, are not necessarily meaningful and that these comparisons cannot be relied upon as indicators of future performance. Moreover, our financial results may not meet expectations of equity research analysts or investors. If any of this occurs, the trading price of our stock could fall substantially, either suddenly or over time.

Any unauthorized control or manipulation of our vehicles' systems could result in loss of confidence in us and our vehicles and harm our business.

Our vehicles contain complex information technology systems. For example, our vehicles are designed with built-in data connectivity to accept and install periodic remote updates from us to improve or update the functionality of our vehicles. We have designed, implemented and tested security measures intended to prevent unauthorized access to our information technology networks, our vehicles and their systems. However, hackers have reportedly attempted, and may attempt in the future, to gain unauthorized access to modify, alter and use such networks, vehicles and systems to gain control of, or to change, our vehicles' functionality, user interface and performance characteristics, or to gain access to data stored in or generated by the vehicle. We encourage reporting of potential vulnerabilities in the security of our vehicles via our security vulnerability reporting policy, and we aim to remedy any reported and verified vulnerabilities. Accordingly, we have received reports of potential vulnerabilities in the past and have attempted to remedy them. However, there can be no assurance that vulnerabilities will not be identified in the future, or that our remediation efforts are or will be successful.

Any unauthorized access to or control of our vehicles or their systems or any loss of data could result in legal claims or proceedings. In addition, regardless of their veracity, reports of unauthorized access to our vehicles, their systems or data, as well as other factors that may result in the perception that our vehicles, their systems or data are capable of being “hacked,” could negatively affect our brand and harm our business, prospects, financial condition and operating results. We have been the subject of such reports in the past.

Servicing our indebtedness requires a significant amount of cash, and we may not have sufficient cash flow from our business to pay our substantial indebtedness.

As of March 31, 2017, we had outstanding in aggregate principal amounts \$205 million of the 2018 Notes, \$920 million of the 2019 Notes, \$1.38 billion of the 2021 Notes and \$977.5 million of the 2022 Notes (collectively, the “Tesla Convertible Notes”). In addition, we have established a senior secured asset based revolving credit agreement (the “Credit Agreement”) that allows us to borrow, under certain circumstances, up to \$1.2 billion. As of March 31, 2017, we had \$934 million in borrowings under the credit facility pursuant to the Credit Agreement. We are also party to a warehouse credit facility with lender commitments of \$600 million (the “Warehouse Facility”), of which we had borrowed \$445 million as of March 31, 2017. Moreover, as of March 31, 2017, our subsidiary SolarCity Corporation, together with its subsidiaries, had total outstanding indebtedness of \$3.59 billion, including under its credit facilities (the “SolarCity Credit Facilities”). Such outstanding indebtedness included \$359 million drawn under a secured revolving credit facility with lender commitments of \$393.5 million as of March 31, 2017, which matures in December 2017, as well as \$230 million in aggregate principal amount of 2.75% convertible senior notes due 2018, \$566 million in aggregate principal amount of 1.625% convertible senior notes due 2019 and \$113 million in aggregate principal amount of zero coupon convertible senior notes due 2020 (collectively, the “SolarCity Convertible Notes”). Our substantial consolidated indebtedness may increase our vulnerability to any generally adverse economic and industry conditions, and we and our subsidiaries may, subject to the limitations in the terms of our existing and future indebtedness, incur additional debt, secure existing or future debt or recapitalize our debt.

Pursuant to their terms, holders may convert their Tesla Convertible Notes at their option prior to the scheduled maturities of the respective Tesla Convertible Notes under certain circumstances. The 2018 Notes have been convertible at their holders’ option during each quarter commencing with the fourth quarter of 2013, except the first quarter of 2014. Upon conversion of the applicable Tesla Convertible Notes, we will be obligated to make cash payments in respect of the principal amounts thereof, and we may also have to deliver cash and/or shares of our common stock, in respect of the conversion value in excess of such principal amounts on such Tesla Convertible Notes. For example, as of March 31, 2017, we have repaid in cash approximately \$455 million in aggregate principal amount of the 2018 Notes due to early conversions. The SolarCity Convertible Notes are also currently convertible into shares of our common stock at conversion prices ranging from \$300.00 to \$759.36 per share. In addition, holders of the Tesla Convertible Notes and the SolarCity Convertible Notes will have the right to require us to repurchase their notes upon the occurrence of a fundamental change at a purchase price equal to 100% of the principal amount of the notes, plus accrued and unpaid interest, if any, to, but not including, the fundamental change purchase date.

Our ability to make scheduled payments of the principal and interest on our indebtedness when due or to make payments upon conversion or repurchase demands with respect to our convertible notes, or to refinance our indebtedness as we may need or desire, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not continue to generate cash flow from operations in the future sufficient to satisfy our obligations under our existing indebtedness, and any future indebtedness we may incur, and to make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as reducing or delaying investments or capital expenditures, selling assets, refinancing or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance existing or future indebtedness will depend on the capital markets and our financial condition at such time. In addition, our ability to make payments may be limited by law, by regulatory authority or by agreements governing our future indebtedness. We may not be able to engage in any of these activities or engage in these activities on desirable terms or at all, which could result in a default on our existing or future indebtedness and have a material adverse effect on our business, results of operations and financial condition.

Our debt agreements contain covenant restrictions that may limit our ability to operate our business.

The terms of our Credit Facility and/or certain of the SolarCity Credit Facilities contain, and any of our other future debt agreements may contain, covenant restrictions that limit our ability to operate our business, including restrictions on our ability to, among other things, incur additional debt or issue guarantees, create liens, repurchase stock or make other restricted payments, and make certain voluntary prepayments of specified debt. In addition, under certain circumstances we are required to comply with a fixed charge coverage ratio. As a result of these covenants, our ability to respond to changes in business and economic conditions and engage in beneficial transactions, including to obtain additional financing as needed, may be restricted. Furthermore, our failure to comply with our debt covenants could result in a default under our debt agreements, which could permit the holders to accelerate our obligation to repay the debt. If any of our debt is accelerated, we may not have sufficient funds available to repay it.

The classification of our convertible notes may have an effect on our reported financial results.

Our 2018 Notes and the SolarCity Convertible Notes have been historically, and our 2019 Notes, 2021 Notes and 2022 Notes may become in the future, convertible at the option of their holders prior to their scheduled terms under certain circumstances. Even if holders do not elect to convert their convertible notes, if such notes become convertible prior to their scheduled maturity dates, we would be required to reclassify such notes and the related debt issuance costs as current liabilities and certain portions of our equity outside of equity to mezzanine equity, which would have an adverse impact on our reported financial results for such quarter, and could have an adverse impact on the market price of our common stock.

We may need or want to raise additional funds and these funds may not be available to us when we need them. If we cannot raise additional funds when we need or want them, our operations and prospects could be negatively affected.

The design, manufacture, sale, installation and/or servicing of automobiles, energy storage products and solar products is a capital intensive business. Until we are consistently generating positive free cash flows, we may need or want to raise additional funds through the issuance of equity, equity-related or debt securities or through obtaining credit from financial institutions to fund, together with our principal sources of liquidity, the costs of developing and manufacturing our current or future vehicles, energy storage products and/or solar products, to pay any significant unplanned or accelerated expenses or for new significant strategic investments, or to refinance our significant consolidated indebtedness, even if not required to do so by the terms of such indebtedness. We need sufficient capital to fund our ongoing operations, continue research and development projects, establish sales and service centers, build and deploy Superchargers, expand Gigafactory 1, develop Gigafactory 2 and to make the investments in tooling and manufacturing capital required to introduce new vehicles, energy storage products and solar products. We cannot be certain that additional funds will be available to us on favorable terms when required, or at all. If we cannot raise additional funds when we need them, our financial condition, results of operations, business and prospects could be materially and adversely affected.

Additionally, we use capital from third-party fund investors to reduce the cost of capital of our solar energy system installations, improve our margins, offset future reductions in government incentives and maintain the price competitiveness of our solar energy systems. The availability of this tax-advantaged financing depends upon many factors, including the confidence of the investors in the solar energy industry and the quality and mix of our customer contracts, any regulatory changes impacting the economics of our existing customer contracts, changes in legal and tax advantages or risks or government incentives associated with these financings, and our ability to compete with other renewable energy companies for the limited number of potential fund investors. Moreover, interest rates are at historically low levels. If the rate of return required by investors rises as a result of a rise in interest rates, it will reduce the present value of the customer payment streams underlying, and therefore the total value of, our financing structures, increasing our cost of capital. If we are unable to establish new financing funds on favorable terms for third-party ownership arrangements to enable our customers' access to our solar energy systems with little or no upfront cost, we may be unable to finance installation of our customers' systems, or our cost of capital could increase and our liquidity may be negatively impacted, any of which would have an adverse effect on our business, financial condition and results of operations.

We may face regulatory limitations on our ability to sell vehicles directly which could materially and adversely affect our ability to sell our electric vehicles.

We sell our vehicles directly to consumers. We may not be able to sell our vehicles through this sales model in each state in the United States as some states have laws that may be interpreted to impose limitations on this direct-to-consumer sales model. In certain states in which we are not able to obtain dealer licenses, we have opened galleries, which are not full retail locations.

The application of these state laws to our operations continues to be difficult to predict. Laws in some states have limited our ability to obtain dealer licenses from state motor vehicle regulators and may continue to do so.

In addition, decisions by regulators permitting us to sell vehicles may be subject to challenges by dealer associations and others as to whether such decisions comply with applicable state motor vehicle industry laws. We have prevailed in many of these lawsuits and such results have reinforced our continuing belief that state laws were not designed to prevent our distribution model. In some states, there have also been regulatory and legislative efforts by vehicle dealer associations to propose bills and regulations that, if enacted, would prevent us from obtaining dealer licenses in their states given our current sales model. A few states have passed legislation that clarifies our ability to operate, but at the same time limits the number of dealer licenses we can obtain or stores that we can operate. We have also filed a lawsuit in federal court in Michigan challenging the constitutionality of the state's prohibition on direct sales as applied to our business.

Internationally, there may be laws in jurisdictions we have not yet entered or laws we are unaware of in jurisdictions we have entered that may restrict our sales or other business practices. Even for those jurisdictions we have analyzed, the laws in this area can be complex, difficult to interpret and may change over time.

We may need to defend ourselves against intellectual property infringement claims, which may be time-consuming and could cause us to incur substantial costs.

Others, including our competitors, may hold or obtain patents, copyrights, trademarks or other proprietary rights that could prevent, limit or interfere with our ability to make, use, develop, sell or market our products and services, which could make it more difficult for us to operate our business. From time to time, the holders of such intellectual property rights may assert their rights and urge us to take licenses, and/or may bring suits alleging infringement or misappropriation of such rights. We may consider the entering into licensing agreements with respect to such rights, although no assurance can be given that such licenses can be obtained on acceptable terms or that litigation will not occur, and such licenses could significantly increase our operating expenses. In addition, if we are determined to have infringed upon a third party's intellectual property rights, we may be required to cease making, selling or incorporating certain components or intellectual property into the goods and services we offer, to pay substantial damages and/or license royalties, to redesign our products and services, and/or to establish and maintain alternative branding for our products and services. In the event that we were required to take one or more such actions, our business, prospects, operating results and financial condition could be materially adversely affected. In addition, any litigation or claims, whether or not valid, could result in substantial costs, negative publicity and diversion of resources and management attention.

Our facilities or operations could be damaged or adversely affected as a result of disasters.

Our corporate headquarters, the Tesla Factory and Gigafactory 1 are located in seismically active regions in Northern California and Nevada. If major disasters such as earthquakes or other events occur, or our information system or communications network breaks down or operates improperly, our headquarters and production facilities may be seriously damaged, or we may have to stop or delay production and shipment of our products. We may incur expenses relating to such damages, which could have a material adverse impact on our business, operating results and financial condition.

Risks Related to the Ownership of our Common Stock

The trading price of our common stock is likely to continue to be volatile.

The trading price of our common stock has been highly volatile and could continue to be subject to wide fluctuations in response to various factors, some of which are beyond our control. Our common stock has experienced an intra-day trading high of \$327.66 per share and a low of \$178.19 per share over the last 52 weeks. The stock market in general, and the market for technology companies in particular, has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. Broad market and industry factors may seriously affect the market price of companies' stock, including ours, regardless of actual operating performance. In addition, in the past, following periods of volatility in the overall market and the market price of a particular company's securities, securities class action litigation has often been instituted against these companies. For example, a shareholder litigation like this was filed against us in 2013. While the plaintiffs' complaint was dismissed with prejudice, any future shareholder litigation could result in substantial costs and a diversion of our management's attention and resources.

We may fail to meet our publicly announced guidance or other expectations about our business, which could cause our stock price to decline.

We occasionally provide guidance regarding our expected financial and business performance, such as projections regarding sales and production, as well as anticipated future revenues, gross margins, profitability and cash flows. Correctly identifying key factors affecting business conditions and predicting future events is inherently an uncertain process and our guidance may not ultimately be accurate. Our guidance is based on certain assumptions such as those relating to anticipated production and sales volumes and average sales prices, supplier and commodity costs, and planned cost reductions. If our guidance is not accurate or varies from actual results due to our inability to meet our assumptions or the impact on our financial performance that could occur as a result of various risks and uncertainties, the market value of our common stock could decline significantly.

Transactions relating to our convertible notes may dilute the ownership interest of existing stockholders, or may otherwise depress the price of our common stock.

The conversion of some or all of the Tesla Convertible Notes or the SolarCity Convertible Notes would dilute the ownership interests of existing stockholders to the extent we deliver shares upon conversion of any of such notes. Our 2018 Notes and the SolarCity Convertible Notes have been historically, and the other Tesla Convertible Notes may become in the future, convertible at the option of their holders prior to their scheduled terms under certain circumstances. If holders elect to convert their convertible notes, we could be required to deliver to them a significant number of shares of our common stock. Any sales in the public market of the common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the convertible notes may encourage short selling by market participants because the conversion of such notes could be used to satisfy short positions, or anticipated conversion of such notes into shares of our common stock could depress the price of our common stock.

Moreover, in connection with each issuance of the Tesla Convertible Notes, we entered into convertible note hedge transactions, which are expected to reduce the potential dilution and/or offset potential cash payments we are required to make in excess of the principal amount upon conversion of the applicable Tesla Convertible Notes. We also entered into warrant transactions with the hedge counterparties, which could separately have a dilutive effect on our common stock to the extent that the market price per share of our common stock exceeds the applicable strike price of the warrants on the applicable expiration dates. In addition, the hedge counterparties or their affiliates may enter into various transactions with respect to their hedge positions, which could also cause or prevent an increase or a decrease in the market price of our common stock or the convertible notes.

Elon Musk has pledged shares of our common stock to secure certain bank borrowings. If Mr. Musk were forced to sell these shares pursuant to a margin call that he could not avoid or satisfy, such sales could cause our stock price to decline.

Certain banking institutions have made extensions of credit to Elon Musk, our Chief Executive Officer, a portion of which was used to purchase shares of common stock in certain of our public offerings and private placements at the same prices offered to third party participants in such offerings and placements. We are not a party to these loans, which are partially secured by pledges of a portion of the Tesla common stock currently owned by Mr. Musk. If the price of our common stock were to decline substantially and Mr. Musk were unable to avoid or satisfy a margin call with respect to his pledged shares, Mr. Musk may be forced by one or more of the banking institutions to sell shares of Tesla common stock in order to remain within the margin limitations imposed under the terms of his loans. Any such sales could cause the price of our common stock to decline further.

Anti-takeover provisions contained in our governing documents, applicable laws and our convertible notes could impair a takeover attempt.

Our certificate of incorporation and bylaws afford certain rights and powers to our board of directors that could contribute to the delay or prevention of an acquisition that it deems undesirable. We are also subject to Section 203 of the Delaware General Corporation Law and other provisions of Delaware law that limit the ability of stockholders in certain situations to effect certain business combinations. In addition, the terms of our convertible notes require us to repurchase such notes in the event of a fundamental change, including a takeover of our company. Any of the foregoing provisions and terms that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock, and could also affect the price that some investors are willing to pay for our common stock.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULT UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

See Index to Exhibits at end of this Quarterly Report on Form 10-Q for the information required by this Item.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Tesla, Inc.

Date: May 9, 2017

/s/ Deepak Ahuja
Deepak Ahuja
Chief Financial Officer
(Principal Financial Officer and
Duly Authorized Officer)

INDEX TO EXHIBITS

Exhibit Number	Exhibit Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
4.1	Waiver to Fifth Amended and Restated Investors' Rights Agreement, dated as of March 15, 2017, between the Registrant and certain holders of the capital stock of the Registrant named therein.	8-K	001-34756	4.1	March 17, 2017	
4.2	Fourth Supplemental Indenture, dated as of March 22, 2017, by and between the Registrant and U.S. Bank National Association.	8-K	001-34756	4.2	March 22, 2017	
4.3	Form of 2.375% Convertible Senior Note Due March 15, 2022 (included in Exhibit 4.2).	8-K	001-34756	4.2	March 22, 2017	
10.1	Amended and Restated 2010 Equity Incentive Plan, effective as of February 1, 2017.	10-K	001-34756	10.5	March 1, 2017	
10.2	Form of Stock Option Agreement under 2010 Equity Incentive Plan.	10-K	001-34756	10.6	March 1, 2017	
10.3	Form of Restricted Stock Unit Award Agreement under 2010 Equity Incentive Plan.	10-K	001-34756	10.7	March 1, 2017	
10.4	Amended and Restated 2010 Employee Stock Purchase Plan, effective as of February 1, 2017.	10-K	001-34756	10.8	March 1, 2017	
10.5	Form of Call Option Confirmation relating to 2.375% Convertible Notes due March 15, 2022.	8-K	001-34756	10.1	March 22, 2017	
10.6	Form of Warrant Confirmation relating to 2.375% Convertible Notes due March 15, 2022.	8-K	001-34756	10.2	March 22, 2017	
10.7**	Offer Letter between the Registrant and Deepak Ahuja dated February 21, 2017.	—	—	—	—	X
10.8	Tenth Amendment to Amended and Restated Agreement For Research & Development Alliance on Triex Module Technology, effective as of March 31, 2017, by and between The Research Foundation For The State University of New York, on behalf of the Colleges of Nanoscale Science and Engineering of the State University of New York, and Silevo, LLC.	—	—	—	—	X
10.9 †	Administrative Agent Action No. 31, dated as of March 30, 2017, by and among by and among Megalodon Solar, LLC, as borrower, SolarCity Corporation, as limited guarantor, Bank of America, N.A., as collateral agent and administrative agent, and the group agents party thereto.	—	—	—	—	X
10.10 †	Required Group Agent Action No. 32, dated as of March 31, 2017, by and among by and among Megalodon Solar, LLC, as borrower, SolarCity Corporation, as limited guarantor, Bank of America, N.A., as collateral agent and administrative agent, and the group agents party thereto.	—	—	—	—	X
31.1	Rule 13a-14(a) / 15(d)-14(a) Certification of Principal Executive Officer	—	—	—	—	X
31.2	Rule 13a-14(a) / 15(d)-14(a) Certification of Principal Financial Officer	—	—	—	—	X
32.1*	Section 1350 Certifications	—	—	—	—	X

Exhibit Number	Exhibit Description	Incorporated by Reference				Filed Herewith
		Form	File No.	Exhibit	Filing Date	
101.INS	XBRL Instance Document	—	—	—	—	X
101.SCH	XBRL Taxonomy Extension Schema Document	—	—	—	—	X
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	—	—	—	—	X
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	—	—	—	—	X
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	—	—	—	—	X
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	—	—	—	—	X

* Furnished herewith.

** Indicates a management contract or compensatory plan or arrangement.

† Confidential treatment has been requested for portions of this exhibit.



February 20, 2017

Deepak Ahuja

Dear Deepak:

Tesla, Inc. ("Tesla" or the "Company") is pleased to offer you the exempt, salaried position of Chief Financial Officer (CFO) on the terms set forth below. As CFO you will perform the duties customarily associated with this position. You will report to Elon Musk, Chief Executive Officer. Your duties, responsibilities, job title, and work location may be changed at any time by Tesla.

Your annualized salary will be \$500,000 per year, subject to standard payroll deductions and withholdings. As an exempt employee, you will not be entitled to overtime. You will be eligible for vacation and sick leave according to Tesla's standard policy. Subject to the rules of the applicable plan documents, you will also be eligible to receive other benefits Tesla may provide to its employees (e.g., health and dental insurance coverage) beginning on your date of hire. Tesla may consider you for bonuses, although the amount of such bonuses, if any, and the criteria for determining the award of such bonuses, if any, shall be in the sole discretion of Tesla. Of course, Tesla reserves the right to modify your compensation and benefits from time to time, as it deems necessary.

Tesla, Inc. offers a competitive benefits package described below:

Shares: Should you decide to accept the position we will recommend to Tesla's Board of Directors, or committee thereof, that the company grant you an equity award of \$15,000,000 of which 25% will be in the form of Stock Options and the rest in the form of Restricted Stock Units ("RSUs"), which you will only receive at the time of vesting, as described below. This value is determined based on our standard equity granting policies. The actual number of RSUs and Stock Options that you receive will depend on the value of our stock at or around the time your grant is approved, as determined by Tesla's Compensation Committee. Please note that for purposes of this allocation, one (1) Stock Option is equivalent to three (3) Stock Option Shares ("SOSs"). This award shall be subject to the terms and conditions of Tesla's 2010 Equity Incentive Plan and your Award Agreement, including vesting requirements.

Specifically, the RSUs shall vest over a period of four years as follows: twenty-five percent (25%) of the award shall vest on the first anniversary and six and twenty-five hundredths percent (6.25%) shall vest quarterly thereafter for the following twelve quarters on the date vesting begins, (such date to be indicated in your Award Agreement), subject to your continuing eligibility through the applicable vesting dates. No RSUs shall vest other than on the first anniversary and twelve subsequent quarterly vest dates, and no right to any vesting shall be earned or accrued prior to such date.

In contrast, with respect to Stock Options, twenty-five percent (25%) of the SOSs, subject to the Stock Option, shall vest on the first anniversary and the remaining SOSs shall vest monthly over the next thirty-six (36) months in equal monthly amounts subject to your continuing eligibility through applicable vesting dates. No SOSs shall vest other than on the first anniversary and thirty-six subsequent monthly vest dates and no rights to any vesting shall be earned or accrued prior to such date.

Please be aware that Tesla makes no representation about the future value of the equity award granted herein, and you should be aware that the value of this award will fluctuate in the future. Finally, the receipt of this award is subject to your signing the appropriate Award Agreement through the E*Trade portal.

401K Program: You will be eligible to participate in Tesla's 401K program after your first pay check. Our 401K program is administered by Fidelity Investments.

Vacation Program: Regular full-time employees and part-time employees who work 20 hours per week are eligible for PTO immediately and accrue PTO at 1.25 days per month (for a total of 15 days per calendar year).

The Company is excited about your joining and looks forward to a beneficial and fruitful relationship. Nevertheless, you should be aware that your employment with the Company is for no specified period and constitutes at-will employment. As a result, you are free to resign at any time, for any reason or for no reason, with or without notice. Similarly, the Company is free to conclude its employment relationship with you at any time, with or without cause, and with or without notice.

We ask that, if you have not already done so, you disclose to Tesla any and all agreements relating to your prior employment that may affect your eligibility to be employed by Tesla or limit the manner in which you may be employed. It is Tesla's understanding that any such agreements will not prevent you from performing the duties of your position and you represent that such is the case. We want to emphasize that we do not wish you to bring any confidential or proprietary materials of any former employer which would violate any obligations you may have to your former employer. You agree not to make any unauthorized disclosure to Tesla or use on behalf of Tesla any confidential information belonging to any of your former employers (except in accordance with agreements between Tesla and any such former employer). You also warrant that you do not possess any property containing a third party's confidential and proprietary information. Of course, during your employment with Tesla, you may make use of information generally known and used by persons with training and experience comparable to your own, and information which is common knowledge in the industry or is otherwise legally available in the public domain. Moreover, you agree that, during the term of your employment with the Company, you will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which Tesla is now involved or becomes involved during the term of your employment, nor will you engage in any other activities that conflict with your obligations to Tesla.

As a Tesla employee, you will be expected to abide by all Tesla policies and procedures, and, as a condition of your employment, you will sign and comply with Tesla's standard confidentiality agreement which prohibits unauthorized use or disclosure of Tesla confidential information or the confidential information of Tesla's clients.

In addition, to ensure the rapid and economical resolution of disputes that may arise in connection with your employment with Tesla, you and Tesla agree that any and all disputes, claims, or causes of action, in law or equity, arising from or relating to your employment, or the termination of your employment, will be resolved, to the fullest extent permitted by law by **final, binding and confidential arbitration** in your city and state of employment conducted by the Judicial Arbitration and Mediation Services /Endispute, Inc. ("JAMS"), or its successors, under the then current rules of JAMS for employment disputes; provided that:

- a. Any claim, dispute, or cause of action must be brought in a party's individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding; and
- b. The arbitrator shall have the authority to compel adequate discovery for the resolution of the dispute and to award such relief as would otherwise be permitted by law; and
- c. The arbitrator shall not have the authority to consolidate the claims of other employees and shall not have the authority to fashion a proceeding as a class or collective action or to award relief to a group or class of employees in one arbitration proceeding; and
- d. The arbitrator shall issue a written arbitration decision including the arbitrator's essential findings and conclusions and a statement of the award; and
- e. Both you and Tesla shall be entitled to all rights and remedies that you or Tesla would be entitled to pursue in a court of law; and
- f. Tesla shall pay all fees in excess of those which would be required if the dispute was decided in a court of law.

Nothing in this agreement is intended to prevent either you or Tesla from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Notwithstanding the foregoing, you and Tesla each have the right to resolve any issue or dispute arising under the Proprietary Information and Inventions Agreement by Court action instead of arbitration.

Arbitrable claims do not include, and this Agreement does not apply to or otherwise restrict, administrative claims you may bring before any government agency where, as a matter of law, the parties may not restrict your ability to file such claims (including discrimination and/or retaliation claims filed with the Equal Employment Opportunity Commission and unfair labor practice charges filed with the National Labor Relations Board). Otherwise, it is agreed that arbitration shall be the exclusive remedy for administrative claims.

You acknowledge and agree that: (i) in the course of your employment by the Company, it will be necessary for you to create, use, or have access to (A) technical, business, or customer information, materials, or data relating to the Company's present or planned business that has not been released to the public with the Company's authorization, including, but not limited to, confidential information, materials, or proprietary data belonging to the Company or relating to the Company's affairs (collectively, "Confidential Information") and (B) information and materials that concern the Company's business that come into the Company's possession by reason of employment with the Company (collectively, "Business Related Information"); (ii) all Confidential Information and Business Related Information are the property of the Company; (iii) the use, misappropriation, or disclosure of any Confidential Information or Business Related Information

would constitute a breach of trust and could cause serious and irreparable injury to the Company; and (iv) it is essential to the protection of the Company's goodwill and maintenance of the Company's competitive position that all Confidential Information and Business Related Information be kept confidential and that you do not disclose any Confidential Information or Business Related Information to others or use Confidential Information or Business Related Information to your own advantage or the advantage of others.

In recognition of the acknowledgment above, you agree that until the Confidential Information and/or Business Related Information becomes publicly available (other than through a breach by you), you shall: (i) hold and safeguard all Confidential Information and Business Related Information in trust for the Company; (ii) not appropriate or disclose or make available to anyone for use outside of the Company's organization at any time any Confidential Information and Business Related Information, whether or not developed by you; (iii) keep in strictest confidence any Confidential Information or Business Related Information; (iv) not disclose or divulge, or allow to be disclosed or divulged by any person within your control, to any person, firm, or corporation, or use directly or indirectly, for your own benefit or the benefit of others, any Confidential Information or Business Related Information; and (v) upon the termination of your employment, return all Confidential Information and Business Records and not make or retain any copies or exacts thereof.

If you accept our offer, your first day of employment as a Transition Employee will be February 22nd 2017, and your first day of employment as CFO will be March 2nd, 2017. This letter agreement constitutes the complete, final and exclusive embodiment of the entire agreement between you and Tesla with respect to the terms and conditions of your employment, and it supersedes any other agreements or promises made to you by anyone, whether oral or written. This Agreement cannot be changed, amended, or modified except in a written agreement signed by an officer of Tesla. This letter agreement shall be construed and interpreted in accordance with the laws of the State of California.

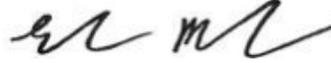
As required by immigration law, this offer of employment is condition ed upon satisfactory proof of your right to work in the United States.

This offer of employment is contingent upon the successful completion of your reference and background checks.

If you choose to accept our offer under the terms described above, please indicate your acceptance, by signing below and returning it to me by February 21st, 2017 after which date this offer will expire.

We look forward to your favorable reply and to a productive and enjoyable work relationship.

Very truly yours,
Tesla, Inc.

A handwritten signature in black ink, appearing to be 'EM', written in a cursive style.

Elon Musk
Chairman of the Board and CEO

Accepted by: /s/ Deepak Ahuja

Date: February 21, 2017

Start Date: February 22nd 2017

**TENTH AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR RESEARCH & DEVELOPMENT ALLIANCE ON
TRIX MODULE TECHNOLOGY**

This TENTH AMENDMENT TO AMENDED AND RESTATED AGREEMENT FOR RESEARCH & DEVELOPMENT ALLIANCE ON TRIEX MODULE TECHNOLOGY (this “Tenth Amendment”) is effective as of March 31, 2017 (the “Effective Date”) and is by and between THE RESEARCH FOUNDATION FOR THE STATE UNIVERSITY OF NEW YORK (“FOUNDATION”), a non-profit educational corporation existing under the laws of the State of New York, having an office located at 257 Fuller Road, Albany, New York 12203, on behalf of the Colleges of Nanoscale Science and Engineering of the State University of New York Polytechnic Institute), and SILEVO, LLC (as successor in interest of SILEVO INC.) (“SILEVO”), a Delaware limited liability company with its principal office located at 47700 Kato Road, Fremont, California 94538. FOUNDATION and SILEVO are each referred to herein sometimes individually as a “Party” or, collectively, as “Parties.”

I. RECITALS

- 1.1. FOUNDATION and SILEVO entered into that certain Amended and Restated Agreement for Research & Development Alliance on Triex Module Technology effective as of September 2, 2014, as amended by a First Amendment thereto effective as of October 31, 2014, a Second Amendment thereto effective as of December 15, 2014, a Third Amendment thereto effective as of February 12, 2015, a Fourth Amendment thereto effective as of March 30, 2015, a Fifth Amendment thereto effective as of June 30, 2015, a Sixth Amendment thereto effective as of September 1, 2015, a Seventh Amendment thereto effective as of October 9, 2015, an Eighth Amendment thereto effective as of October 26, 2015 (the “Eighth Amendment”) and a Ninth Amendment thereto effective as of December 9, 2015 (as amended, the “Agreement”).
- 1.2. FOUNDATION and SILEVO wish to amend the Agreement as more particularly set forth herein.

THEREFORE, in consideration of the mutual promises and covenants contained in this Tenth Amendment and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

II. DEFINED TERMS

- 2.1 In addition to the terms defined elsewhere in this Tenth Amendment, capitalized terms that are used but not defined herein shall have the meanings ascribed to such terms in the Agreement.
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III. AMENDMENTS

3.1 Scope Changes

(a) FOUNDATION and SILEVO shall use commercially reasonable best efforts to eliminate construction cost increases due to changes in the scope of the Manufacturing Facility. References in the Agreement to \$400 Million (which was reduced to \$348.1 Million in Amendment No. 8) with respect to FOUNDATION's obligation to acquire Manufacturing Equipment will be reduced to \$274,735,529 and instead, notwithstanding anything to the contrary in the Agreement (including references to \$350 Million and \$750 Million), FOUNDATION will pay for the items described in the summary attached hereto as Exhibit A, in addition to the contributions for which FOUNDATION is responsible under the Agreement. Notwithstanding the foregoing, in the event that the items described in Exhibit A of this Tenth Amendment (including those items included in Exhibit A to the Eighth Amendment) are completed for less than an aggregate of \$125,264,471, then the FOUNDATION's obligation to acquire Manufacturing Equipment shall be increased above \$274,735,529 by any such amount.

(b) The last sentence of Section 3.1(a) of Amendment No. 8 is hereby deleted and replaced with the following: " SILEVO shall acquire a portion of the Manufacturing Equipment costing approximately \$125,264,471, which equipment will be owned by SILEVO. "

(c) The following sentence is hereby added to the end of Section 5.1(c) of the Agreement: "Notwithstanding anything herein to the contrary, the FOUNDATION shall apply any unused portion of the FOUNDATION's \$274,735,529 commitment to acquire Manufacturing Equipment for the Manufacturing Facility (as such amount may be increased pursuant to the last sentence of Section 3.1(a) of this Tenth Amendment) as directed by SILEVO to (i) purchase additional Manufacturing Equipment for use at the Manufacturing Facility, (ii) install, test and commission Manufacturing Equipment at the Manufacturing Facility, (iii) make additions, modifications or improvements to the Manufacturing Facility, or (iv) take such other actions related to the condition of the Manufacturing Facility or Manufacturing Equipment as may be agreed upon by the Parties." Notwithstanding anything stated in this Section 3.1(c) to the contrary, any such application of the unused portion shall be consistent with any applicable Legal Requirements and shall be subject to the terms and conditions of the Grant Disbursement Agreement(s) between Fort Schuyler Management Corporation and Empire State Development.

IV. MISCELLANEOUS

No amendment or modification of this Tenth Amendment shall be valid or binding upon the Parties unless in a writing executed by both of the Parties. This Tenth Amendment, together with the Agreement, is the complete and exclusive statement of the agreement of the Parties in respect of the subject matter described in this Tenth Amendment and shall supersede all prior and contemporaneous agreements, communications, representations, and understandings, either oral or written, between the Parties or any officers, agents or representatives thereof. This Tenth Amendment may be signed in one or more counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute the same Tenth Amendment. Any signed copy of this Tenth Amendment made by photocopy, facsimile or PDF Adobe format shall be considered an original. Except as amended and/or modified by this Tenth Amendment, the Agreement (including Section 19.3 thereof) is hereby ratified and confirmed and all other terms of the Agreement shall remain in full force and effect, unaltered and unchanged by this Tenth Amendment. In the event of any conflict between the provisions of this Tenth Amendment and the provisions of the Agreement, the provisions of this Tenth Amendment shall prevail. Whether or not specifically amended by this Tenth Amendment, all of the terms and provisions of the Agreement are hereby amended to the extent necessary to give effect to the purpose and intent of this Tenth Amendment.

IN WITNESS WHEREOF, the Parties hereto have caused this Tenth Amendment to be executed and delivered by their duly authorized representatives as of the Effective Date.

THE RESEARCH FOUNDATION FOR
THE STATE UNIVERSITY OF NEW YORK

By: /s/ Paul C. Kelly
Name: Paul C. Kelly
Title: RF Operations Manager
Date: April 10, 2017

SILEVO, LLC
By: /s/ Peter Rive
Name: Peter Rive
Title: Vice President
Date: April 4, 2017

Exhibit A

Silevo Requested Additional Scope Cost Breakdown (approved as of 11/18/16)

ITEM	SCTY Cost to be Absorbed by FSMC (USD)
Add Warehouse rack sprinklers	\$768,000
Slab load increases	\$2,816,000
Add compactor at Wafer Dock	\$32,461
Add 1 CVD Crane	\$416,000
Add 30 person break room	\$320,000
LEED additional Design Fees	\$79,480
Trailer parking increased to 60 trailers	\$402,783
Add forklift charging stations	\$70,000
Add full height walls at Mezzanine Scrubber rooms	\$1,775,000
Chemical Loading Dock	\$165,000
Extend corridor between CUB and Wafer warehouse	\$910,000
Add Jib Crane	\$54,194
Admixture for Moisture reduction/barrier or sealer where CRC coatings are required	\$1,536,000
Electric car charging stations 2 units	\$28,900
Add Fence at Yard Perimeter	\$164,241
Add 30 office floor boxes	\$21,000
CUB exterior wall changed to Versa wall system	\$282,030
LED Light fixtures in Manuf.	\$209,000
Chi Town	\$10,934,000
Pre Action System at IT Rooms	\$70,000
PVAC Credit	(\$642,000)
I&C Plant PAX	\$601,000
Additional Conduit for Teledata Duct Bank	\$7,923
TUM 3 - Design Implementation	\$31,594
Full Capacity/TUM 0 (50%)	\$16,865,000
O/H Bridge Crane for PECVD	\$1,613,674
WWT/Recycling	\$12,400,000
SUBTOTAL 1 (Eighth Amendment)	\$51,931,280
Fireproofing Manuf Roof Steel	\$7,000,000
Secondary Entrance and Ring Road - design fees only	\$24,553

Ins. Carrier Premium - Add. Fire protection - Design Fees/Committed Costs -	\$34,098
Noise Study -	\$24,172
Add Spare Conduit at Substation	\$8,629
Add Jib Crane - Design Fees	\$26,843
Insurance Carrier premium -	\$8,848
TUM1/ 2 Revisions (ROME)/ Increased Sanitary/ Truck Off load/ Additional Eqpt pads	\$38,677,123
Revise Gate Location due to deletion of Guard Shack	(\$13,706)
Add Bypass Isolation Transfer Switch	\$313,538
Chemical Loading Dock Grade Beam	\$376,681

Exhibit A

Silevo Requested Additional Scope Cost Breakdown (approved as of 11/18/16)

Guard Station - Design Fees/ committed costs -	\$27,617
IPS Tool Water Resource Change	\$65,248
Logistics and Second Entrance Traffic Analysis	\$13,991
MES Cable Tray	\$1,233,329
Teledata/ Security/ Card Access/Camera Infrastructure -	\$3,072,467
CUB Data Center Committed Costs - M+W Design Fees	\$20,708
Added Bulk Gas Scope - Praxair	\$599,737
Delete Inter Rack Sprinklers	(\$758,444)
BCDS Additional Scope - Mixers at Day Tanks	\$32,295
Epoxy in lieu of Sealer - Area 3	\$279,249
Sealing of Fireproofing -	\$10,781,250
Epoxy in lieu of Sealer - Area 1 and 2	\$352,688
Epoxy in lieu of Sealer - Area 4	\$511,755
Clean Texture/ HF Dip Tool Layout Changes (Berm and CRC Revisions)	\$9,768
Larger OH Doors for Tool Access	\$12,178
LSS - Facilities & Tool Interfaces to FMS Design	\$27,778
BCDS TBV #2 Relocation from Gridline N2 to N4 in Manufacturing Facility due to Tool relocations	\$4,579
Ammonia Collection - placeholder	\$19,536

I&C Plant PAX Facilities Controls Rationalization (In Addition to 601k)	\$769,763
Teledata/ Security Design Fees - EYP	\$44,273
CUB Data Center Committed Design Fees - EYP	\$12,221
O2 System in Inert Gas Room - O2 System to be monitored by HPM System - Design Fees	\$1,221
Tool Layout Change Progressive Build - Priority 3 PB 4 Extend Exhaust to Clean Tex Tool 208 - ROM	\$19,708
Tool Layout Change - Priority 1 PB 5 Relocate and Modify Exhaust Ductwork and POCs to CLN 209 and 210	\$87,111
Tool Layout Change - Progressive Build - Priority 1 PB 9 Extend and modify exhaust to ECP Tools - ROM	\$56,306
Tool Layout Change - Progressive Build - PB 43 Relocate Base Build Exhaust to ECP/ ISO Edge Tools - ROM	\$32,977
Tool Layout Change - Progressive Build - PB 41 Remove and relocate existing exhaust ductwork for Clean Tex Tools CLN 201, 202, 203 and 204 - ROM	\$55,677
Tool Layout Change - Priority 1 PB 6 Relocate Exhaust to PECVD Tool 214 - ROM	\$15,567
Safety Showers and infrastructure additional over the BOD as required for Tool Install scope Provide N2 Purifier	\$661,773 \$594,240
Thiourea Collection - placeholder	\$744,837
Additional Cameras and Security Requirements - Design	\$29,429

Larger Overhead Doors - Design Fees - EYP	\$10,990
Gown Room modifications at Module Assembly and Cell - M+W Design Fees	\$18,454
Tool Layout Change - Formerly Progressive Build Priority 1 - PB42 Remove & Relocate Exhaust to CLN 205, 206, 207, 208	\$81,908
Tool Utility Matrix Update - (TUM 4) - M+W Design Fees	\$38,481

Exhibit A

Silevo Requested Additional Scope Cost Breakdown (approved as of 11/18/16)

Office Painting Revisions - Reception and Cafeteria	\$2,208
Ammonia/ Thirourea Splitter Boxes - added to Base build scope of work to facilitate Ammonia and Thirourea Treatment systems	\$32,990
Extend Power and Data to Office Desks. Office furniture provided by SCTY did include prewired panels	\$69,624
Conference Room Marker boards - Level 5 Finish and Marker board Paint	\$16,273
O2 System in Inert Gas Room - O2 System to be monitored by HPM System - Construction	\$19,576
Provide added Door in Vestibule - Construction Placeholder	\$6,640
Add Data for IPADs at Office Conference Rooms for SCTY Corporate standard	\$18,851
H2 Over Pressure Protection - Construction Costs	\$24,111
TUM 3A Specification and Baseline Monitoring Report Update - M+W Design	\$19,312
Overhead doors in Manufacturing Area - M+W Design	\$9,584
Photo Ceiling Repairs due to Design Development in coordinating Progressive build MES Cable Tray	\$16,355
Progressive Build Base Build Scope - PB 2 increase to accommodate Tool Alignment - Relocate laterals Ar/ Ar/O2 blend from GL 15 to GL 11 and H2/N2 & GN2 from GL24 to GL 25. (Note: H2/ N@ and GN2 is currently on hold pending direction from SCTY) - placeholder	\$60,000
Progressive Build - BB Scope increase to accommodate Tool alignment - Priority 1 Design - PB 2, 5,6,9,10,11,12,13,14,15,16,27,34,35,36	\$72,498

Progressive Build - BB Scope increase to accommodate Tool alignment - Priority 2 & 3 Design -	\$177,201
PB4, PB8, PB14, PB19, PB20, PB21, PB22, PB23, PB24, PB25, PB26, PB28, PB 29, PB30, PB331, PB32, PB33, PB34, PB37, PB38 and PB14b. The scope of work for these items is identified in the attached M+W PCOs 128, 141 thru154, and 133, 155 , 156 and 158.	
Progressive Build - BB Scope increase to accommodate Tool alignment - Priority 1 Construction -	\$121,881
PB 12, PB 13, PB 14, PB14a, PB 14b, PB 15 and PB 16.	
Progressive Build - Priority 1 PB14A Align PCW lateral - Design Fees	\$3,510
Progressive Build - Priority 1 PB 11 Relocate DIW laterals to PVD Tools	\$153,778
Progressive Build - Priority 1 PB 10 Relocate and modify DIW lateral to HF Dip Tools - ROM	\$177,076
Tool Install - formerly Progressive Build - Priority 1 PB 34 and 35 Drains - ROM - Partial Release of Long Lead Materials	\$4,977,000
Tool Install - formerly Progressive Build - Priority 1 PB 34 and 35 Drains - ROM - Option 1 Fabricate and Install North side	\$ -
Tool Install Progressive Build - Priority 1 PB 27 Extend DIW to CLN Tools - ROM -	\$1,059,969
Progressive Build - Priority 1 PB 27 Modify DIW to CLN Tools - ROM -	(\$10,873)
Tool Install Progressive Build - Priority 1 PB 36 Photo Drains & Sleeves thru Photo ceiling - ROM	\$398,160

Exhibit A

Silevo Requested Additional Scope Cost Breakdown (approved as of 11/18/16)

Progressive Build - Priority 3 Design Credit - Credit for unused Design hours for PB3, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 37, and 38 associated with M+W PCO 179	(\$150,339)
Tool Install Progressive Build - Priority 1 PB 28 Photo Drains & Sleeves thru Photo ceiling - Credit for Unused Scope	(\$391,220)
Office Interiors	\$834,499
Thirourea Collection System - Reduced Scope of Work	(\$125,311)
CAL 149 Summary for the following CALs - CAL 63.1 IT Backbone SCTY Scope, CAL 85R1.1 Modifications to Gown Room, CAL 145 Bridge Crane Stops, CAL 146 Change Locksets Office Bathrooms 130 and 131, CAL Start, Test Commission Scope Deletion, CAL 148 Additional Electrical Circuits for Office Furniture	(\$418,165)
SUBTOTAL 2 (Post Amendment 8)	\$73,333,191
<hr/>	
TOTAL SPENDS	\$125,264,471

CONFIDENTIAL TREATMENT REQUESTED

Certain portions of this document have been omitted pursuant to a request for Confidential Treatment and, where applicable, have been marked with “[***]” to indicate where omissions have been made. The confidential material has been filed separately with the Securities and Exchange Commission.

ADMINISTRATIVE AGENT ACTION NO. 31

This **ADMINISTRATIVE AGENT ACTION NO. 31** (this “Action”), dated as of March 30, 2017 (the “Effective Date”), is entered into by and among Megalodon Solar, LLC, a Delaware limited liability company (“Borrower”), [***], a Delaware limited liability company (“[***]”), and Bank of America, N.A., as the Administrative Agent (the “Administrative Agent”) and the Collateral Agent (the “Collateral Agent”) and together with the Administrative Agent, the “Agents”) under the Loan Agreement, dated as of May 4, 2015 (as amended, the “Loan Agreement”), by and among the Borrower, the Agents, each of the Lenders and the other parties from time to time parties thereto. As used in this Action, capitalized terms which are not defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

A. [***] has granted a security interest in substantially all of its assets to the Collateral Agent under the Borrower Subsidiary Party Security Agreement.

B. [***] holds rights to certain SRECs that are generated, produced or otherwise created by or from its PV Systems.

C. Pursuant to that certain Assignment Agreement (the “Assignment Agreement”), dated as of the date hereof, by and among SolarCity Corporation, [***] and [***], a Delaware limited liability company (“[***]”), a copy of which is attached hereto as Exhibit L, [***] intends to sell, convey, assign and transfer certain of the SRECs generated by its PV Systems to [***].

D. [***] is an Affiliate of [***].

E. The disposition of SRECs contemplated under the Assignment Agreement is permitted without the consent of either Agent or any Lender subject to the terms and conditions set forth in Sections 6.4(c), 6.10(d) and 6.16 of the Loan Agreement.

F. Pursuant to Section 9.10(a)(ii) of the Loan Agreement, the Administrative Agent is authorized to instruct the Collateral Agent to release any Lien on any property granted to or held by the Collateral Agent under any Financing Document that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under any Financing Document.

G. The Borrower has requested that the Collateral Agent release its lien on all of the “Assigned Rights” described in the Assignment Agreement (the “Released Assets”), effective immediately upon execution of this Action.

Accordingly, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and subject to the conditions set forth herein, the parties hereto hereby agree as follows:

Administrative Agent Action No. 31

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

Section 1. Release; Covenants. Upon satisfaction of the condition precedent set forth in Section 3 on the Effective Date, without any further action by any party:

(a) the security interest granted to the Collateral Agent by [***] pursuant to the Borrower Subsidiary Party Security Agreement with respect to the Released Assets (and any related rights and assets described in the Assignment Agreement) shall automatically terminate and be released and all rights to the Released Assets shall revert to [***] ;

(b) the Collateral Agent authorizes the Borrower, [***] or any other party on behalf of the Borrower or [***] , to file a UCC financing statement amendment relating to the Released Assets in the form attached hereto as Exhibit 2 ; and

(c) the Collateral Agent shall, at the sole cost and expense of the Borrower, procure, deliver or execute and deliver to the Borrower, from time to time, all further releases, termination statements, financing statement amendments, certificates, instruments and documents, each in form and substance satisfactory to the Borrower and the Collateral Agent, and take any other actions, as reasonably requested by the Borrower or that are required to evidence the release of the Released Assets.

Section 2. Condition Precedent. This Action shall be effective upon the Administrative Agent's receipt of counterparts of this Action, executed and delivered by each of the other parties hereto.

Section 3. Representations and Warranties. The Borrower hereby represents and warrants as of the Effective Date that (a) the transactions contemplated by the Assignment Agreement are permitted under Sections 6.4(c), 6.10(d) and 6.16 of the Loan Agreement and (b) the Assignment Agreement (i) does not contain any provisions for liquidated damages, contingent liabilities or other damages, or the posting of collateral or other security and (ii) is entered into in the ordinary course of business at prices and on terms and conditions not less favorable to [***] than could be obtained on arm's-length basis from unrelated third parties.

Section 4. Reference to and Effect on Financing Documents. Each of the Loan Agreement and the other Financing Documents is and shall remain unchanged and in full force and effect, and, except as expressly set forth herein, nothing contained in this Action shall, by implication or otherwise, limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent or any of the other Secured Parties, or shall alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in each of the Loan Agreement and any other Financing Document. This Action shall also constitute a "Financing Document" for all purposes of the Loan Agreement and the other Financing Documents.

Section 5. Incorporation by Reference. Sections 10.5 (*Entire Agreement*), 10.6 (*Governing Law*), 10.7 (*Severability*), 10.8 (*Headings*), 10.11 (*Waiver of Jury Trial*), 10.12 (*Consent to Jurisdiction*), 10.14 (*Successors and Assigns*) and 10.16 (*Binding Effect; Counterparts*) of the Loan Agreement are hereby incorporated by reference herein, mutatis mutandis.

Section 6. Expenses. The Borrower agrees to reimburse the Administrative Agent in accordance with Section 10.4(b) of the Loan Agreement for its reasonable and documented out-of-pocket expenses in connection with this Action, including reasonable and documented fees and out-of-pocket expenses of legal counsel.

Section 7. Construction. The rules of interpretation specified in Section 1.2 of the Loan Agreement also apply to this Action, mutatis mutandis.

[*Signature Pages Follow*]

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the parties hereto have caused this Action to be duly executed by their respective authorized officers as of the day and year first written above.

MEGALODON SOLAR, LLC
as Borrower

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: President

[***],
as a Subject Fund

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: President

BANK OF AMERICA, N.A.
as Administrative Agent and Collateral Agent

By: /s/ Darleen R. DiGrazia
Name: Darleen R. DiGrazia
Title: Vice President

Signature Page to Administrative Agent Action No. 31

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

EXHIBIT 1
ASSIGNMENT AGREEMENT
ASSIGNMENT AGREEMENT
([*])**

This ASSIGNMENT AGREEMENT (this “ **Agreement** ”) is entered into as of March 30, 2017 (the “ **Effective Date** ”) by and among SolarCity Corporation, a Delaware corporation (“ **SolarCity** ”), [***], a Delaware limited liability company (the “ **Company** ” and the “ **Assignor** ”) and [***], a Delaware limited liability company (the “ **Assignee** ” and together with SolarCity and the Company, the “ **Parties** ”). Capitalized terms used in this Agreement and not otherwise defined herein have the respective meanings assigned to such terms in Annex A to this Agreement.

WITNESSETH

WHEREAS, the Company holds rights to certain RECs that are generated, produced or otherwise created by or from the PV Systems listed on Schedule 1 attached hereto;

WHEREAS, Company desires to absolutely and irrevocably assign, convey and transfer collectively the entire interest in the Assigned Rights to the Assignee; and

WHEREAS, this Agreement and the transactions hereunder are being entered into in contemplation of a loan to be extended to Assignee pursuant to the Term Loan Agreement (the “ **Credit Agreement** ”), dated as of [***], among Assignee, as Borrower, [***], as Lender, and [***], as Administrative Agent and Collateral Agent (in its capacity as Administrative Agent, the “ **Third Party Beneficiary** ”, and in its capacity as the Collateral Agent, the “ **Collateral Agent** ”).

NOW, THEREFORE, for value received, in consideration of the mutual agreements herein contained and other good and valuable consideration, receipt and sufficiency thereof being hereby acknowledged, the parties hereto hereby agree as follows:

1. Irrevocable Assignment.

(a) The Company, hereby absolutely and irrevocably sells, conveys, transfers, assigns and delivers unto the Assignee, without recourse to the Company, any and all of the Company’s right, title and interest in and to the Assigned Rights. The Assignee hereby irrevocably purchases and accepts the Assigned Rights and assumes, to the extent accruing from and after the Effective Date, any and all duties, obligations, responsibilities, claims, demands and other commitments with respect to or otherwise in connection with the Assigned Rights.

(b) It is the intention of the Parties that the Assigned Rights transferred by the Company to the Assignee pursuant to this Agreement shall not be part of the Company’s estate in the event of the filing of a bankruptcy petition by or against the Company under any bankruptcy or similar law. On and after the Effective Date hereunder, the Assignee

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

shall own the Assigned Rights transferred by the Assignor to the Assignee, and the Assignor shall not take any action inconsistent with such ownership and shall not claim any ownership interest in the Assigned Rights.

(c) This sub-paragraph shall be of no force and effect with respect to an assignment of an Assigned Right unless there has been a final determination in a bankruptcy proceeding where the Assignor is the debtor, that an assignment referred to in this paragraph is not an absolute assignment of the Assigned Right, and all appeal periods (after such final determination) have lapsed without appeal. In the event that the transfer of the Assigned Rights by the Assignor to the Assignee pursuant to this Agreement is deemed to be a secured financing (or is otherwise determined not to be an absolute assignment of all of Assignor's right, title and interest in, to and under or transfer of all of Assignor's equitable interest in, to and under the Assigned Rights transferred, or purportedly transferred hereunder), then (i) the Assignor shall be deemed hereunder to have granted to the Assignee, and the Assignor does hereby grant to the Assignee, a security interest in all of the Assignor's right, title and interest in, to and under such Assigned Rights, whether now owned or hereafter acquired and (ii) this Agreement shall constitute a security agreement under applicable law. For the avoidance of doubt: (i) in the event that a court determines that the transfer of the Assigned Rights is not an absolute assignment of the Assigned Rights or a "true sale" and such a determination is appealed, the Assignee shall be deemed to have the benefit of the security interest grant during the pendency of such appeals and (ii) if the appeals court holds, on a final, non-appealable basis that the Assigned Rights is an absolute assignment or a "true sale" then such security grant shall be deemed to have never been granted and shall have no force and effect.

2. Purchase Price .

(a) The purchase price for all of the Assigned Rights conveyed to the Assignee under this Agreement shall be the amount of \$[***] (the "**Purchase Price**"), payable or to be provided on the Effective Date by payment in cash in immediately available funds.

(b) The Purchase Price shall be paid to the Company, in consideration of the Assigned Rights transferred by the Company.

3. Representations and Warranties of SolarCity and the Company . Each of SolarCity and the Company hereby represents and warrants to the Assignee with respect to itself as follows:

(a) It (i) is duly organized and validly existing under the laws of its jurisdiction of organization, (ii) is in good standing under such laws, and (iii) has full power and authority to execute, deliver and perform its obligations under this Agreement.

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

(b) Its execution, delivery and performance of this Agreement have been duly authorized and this Agreement has been duly executed and delivered and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, except as enforceability may be limited by bankruptcy, insolvency and other legal principles pertaining to creditors' rights.

(c) The Assigned Rights to be conveyed to the Assignee hereunder are, immediately prior to their conveyance hereunder owned by the Company, collectively, free and clear of any adverse claim or restrictions on transferability and the Company has the full right, organizational power and lawful authority to convey its respective portion of the same and interests therein and, upon conveyance thereof hereunder, the Assignee will have acquired good and marketable title to and a valid ownership interest in such Assigned Rights, free and clear of any adverse claim or restrictions on transferability. No effective financing statement or other instrument similar in effect covering all or any part of any Assigned Rights conveyed hereunder is on file in any filing office, except such as may have been filed in favor of the Assignee as "Secured Party" or "Assignee".

(d) Other than as previously provided for in the Services Agreement (as supplemented by the Limited Termination Agreement), the Assigned Rights are not subject to any prior sale, transfer, assignment or participation or any agreement with respect to the same.

(e) No consent, approval, order or authorization of, and no filing with or notice to, any party is required which has not been obtained in connection with the authorization, execution, delivery or performance by it of this Agreement or under the transactions contemplated hereunder, including, without limitation, the transfer of the Assigned Rights to Assignee.

(f) Company is solvent and will not become insolvent as a result of the transactions contemplated by this Agreement and, after giving effect to the transactions contemplated by this Agreement, it will not have unreasonably small capital to conduct its business as now conducted or as planned.

(g) For accounting purposes, Company will treat the transactions effected by this Agreement as sales of assets to the Assignee in accordance with GAAP. Its financial records shall reflect that the assets conveyed hereunder have been conveyed to the Assignee, are no longer owned by it.

(h) No tax lien or similar adverse claim has been filed against Company, and no claim is being asserted against it, with respect to any such tax, assessment or other governmental charge. Any taxes, fees and other governmental charges payable by it in connection with the execution and delivery of this Agreement and the transactions contemplated hereby or thereby that are due have been paid.

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

(i) There is not now, nor will there be at any time in the future, any agreement or understanding between Company and the Assignee (other than as expressly set forth herein) providing for the allocation or sharing of obligations to make payments or otherwise in respect of any taxes, fees, assessments or other governmental charges.

(j) Company has not conveyed any interest in any Assigned Rights to the Assignee with any intent to hinder, delay or defraud any of Assignor's creditors.

(k) Company has received reasonably equivalent value in exchange for the conveyance of the Assigned Rights conveyed hereunder.

4. Representations and Warranties of Assignee. The Assignee hereby represents and warrants to SolarCity and the Company that the Assignee (a) is duly organized and validly existing under the laws of its jurisdiction of organization, (b) is in good standing under such laws, (c) has full power and authority to execute, deliver and perform its obligations under this Agreement and (d) has given fair consideration and reasonably equivalent value in exchange for the conveyance of the Assigned Rights conveyed hereunder.

5. Metering Data. SolarCity shall make available to Assignee all data reasonably available to SolarCity that is necessary for Assignee to monitor, measure, verify, calculate, disclose and claim for the benefit of Assignee any matter respecting the RECs included in the Assigned Rights or any aspects thereof pursuant to any present or future protocol, standard, or guidance. Such data shall include but not be limited to any meter data available from the PV Systems related to the Assigned Rights. In the event SolarCity is unable to provide such data to Assignee pursuant to this Section 5, SolarCity will use commercially reasonable efforts to ensure that any replacement services provider under the Services Agreement (or any new maintenance services agreement entered into by the Company in replacement of the Services Agreement) will make such data available to Assignee.

6. Consent to Collateral Assignment. Assignee may, and Assignor hereby acknowledges that Assignee may, pledge, grant a security interest in, and collaterally assign all of its rights under this Agreement to the Collateral Agent as security for the obligations of Assignee under the Credit Agreement and the related financing documents. Assignor irrevocably consents to any such pledge, grant and collateral assignment by Assignee. In the event that the Collateral Agent elects to exercise its security interest in this Agreement, the Collateral Agent may by notice to the Assignor assume (or transfer its rights and interests to a designee or assignee that shall assume) all rights of Assignee under this Agreement, and Assignor consents to such assumption or transfer and agrees that upon such assumption the Collateral Agent (or such designee or assignee) shall have the right to exercise directly all rights of Assignee under this Agreement.

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

7. Indemnity. SolarCity shall defend, indemnify and hold harmless the Assignee and the Third Party Beneficiary (each an “ **Indemnified Person** ”) from and against any and all costs, expenses, losses, damages, claims, and liabilities, suffered or sustained by any Indemnified Person (including reasonable fees and expenses of counsel and other professionals) arising out of or resulting from: (i) the defense of an action, proceeding, motion or other objection in which the sale, conveyance, transfer, assignment and delivery of the Assigned Rights contemplated hereunder is asserted to be any transaction other than a true sale of the Assigned Rights and (ii) with respect to the enforcement or protection of all of Assignee’s and Third Party Beneficiary’s claims and rights under this Agreement, including as part of any restructuring or bankruptcy.

8. Acknowledgements and Agreements. Each of SolarCity and the Company hereby agrees and acknowledges that, from and after the Effective Date, it shall have no right, title or interest whatsoever in or to the Assigned Rights.

9. Third Party Beneficiary. The Third Party Beneficiary shall be entitled to rely upon, shall be an express third party beneficiary of, and shall be entitled to enforce, the provisions of this Agreement, including without limitation, Section 7 and this Section 9. For the avoidance of doubt, the Agreement shall not be terminated, cancelled, amended, modified, supplemented or changed, or any provision, default, breach or performance waived, or any assignment or novation made in a manner without written consent of the Third Party Beneficiary (to be granted or withheld in its sole discretion). Notwithstanding any other provision hereof, this Section 9 shall terminate upon the Discharge Date (as defined in the Credit Agreement). The Parties hereto agree that the Third Party Beneficiary shall be an express third-party beneficiary of this Agreement as provided herein.

10. Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

11. Further Assurances. Each Party shall cooperate with the other and execute such instruments or documents and take such other actions as may reasonably be requested from time to time in order to carry out, evidence or confirm their rights or obligations or as may be reasonably necessary or helpful to give effect to this Agreement.

12. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF **NEW YORK** WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OR CHOICE OF LAWS.

13. Miscellaneous. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall constitute an original, but all of which counterparts together shall constitute one and the same instrument. This Agreement cannot be amended, modified or supplemented except by an instrument in writing executed by the Parties (including, for the avoidance of doubt, the Third Party Beneficiary).

[*Signature Page Follows*]

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be duly executed by their respective officers as of the Effective Date.

SOLARCITY

SolarCity Corporation

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: Chief Executive Officer

COMPANY

[***]

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: President

ASSIGNEE

[***]

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: President

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

ANNEX A

Definitions

“ **Assigned Rights** ” means all right, title and interest in and to any and all RECs that are generated, produced or otherwise created by or from each PV System described on Schedule 1 attached hereto during the period from and including the Effective Date through the applicable “End Date” for such PV System, as set forth on such Schedule 1, including for the avoidance of doubt RECs that are minted on or after the Effective Date as a result of the production of energy by any such PV System prior to the Effective Date.

“ **Code** ” means the Internal Revenue Code of 1986.

“ **Person** ” means any individual, partnership, limited liability company, joint venture, corporation, trust, unincorporated organization, or governmental entity or any department or agency thereof.

“ **PV System** ” means a photovoltaic system, including, as applicable, photovoltaic panels, racks, wiring and other electrical devices, conduit, weatherproof housings, hardware, one or more inverters, remote performance monitoring equipment, connectors, meters, disconnects and over current devices. For avoidance of doubt, usage-monitoring equipment, if any, shall not be considered a part of the PV System.

“ **RECs** ” means solar renewable energy certificates or credits issued under any state renewable portfolio standard or federal renewable energy standard, pollution allowances, carbon credits and similar environmental allowances or credits and green tag or other reporting rights under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program, but excluding, for the avoidance of doubt, (i) investment tax credits under Section 48 of the Code, production tax credits available under Section 45 of the Code or other federal, state or local Tax benefits or credits, (ii) state rebates and performance based incentives and (iii) to the extent accruing prior to the Effective Date, any liabilities, including adverse wildlife or environmental impacts.

Signature Page to Administrative Agent Action No. 31

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

SCHEDULE 1

Assigned Rights

InstallationID	JobID	State	SystemSize	SREC Factor	EstAnnualProduction	Adjust Production	MarketTypeName	Payment	PTODate	Year	RebateStatusName	State Certification	NON ID	MA 1	Fund	Draw	End Date
[Customer data omitted]																	

Exhibit 1

*** Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

EXHIBIT 2
UCC-3 AMENDMENT STATEMENT



UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)	THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY
B. E-MAIL CONTACT AT FILER (optional)	
C. SEND ACKNOWLEDGMENT TO: (Name and Address)	

12. INITIAL FINANCING STATEMENT FILE NUMBER 2016 6740698 filed 11/01/2016	13. <input type="checkbox"/> This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS File: <u> </u> Amendment Addendum (Form UCC3A) and provide Debtor's name in item 13
--	--

2. **TERMINATION:** Effectiveness of the Financing Statement identified above is terminated with respect to the security interest(s) of Secured Party authorizing this Termination Statement

3. **ASSIGNMENT (full or partial):** Provide name of Assignee in item 7a or 7b; add address of Assignee in item 7c; add name of Assignor in item 9
For partial assignment, complete items 7 and 9 add also indicate affected collateral in item 8

4. **CONTINUATION:** Effectiveness of the Financing Statement identified above with respect to the security interest(s) of Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law

5. **PARTY INFORMATION CHANGE:**
Check add of these two boxes: Debtor or Secured Party of record **AND** Check add of these three boxes to:
This Change affects: CHANGE name and/or address: Complete item 6a or 6b; add item 7a or 7b; add item 7c; ADD name: Complete item 7a or 7b; add item 7c; DELETE name: Give record name to be deleted in item 6a or 6b

6. **CURRENT RECORD INFORMATION:** Complete for Party Information Change - provide only add name (6a or 6b):

6a. ORGANIZATION'S NAME			
OR	6b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX			

7. **CHANGED OR ADDED INFORMATION:** Complete for Assignment or Party Information Change - provide add name (7a or 7b) (see exact add name; do not omit, modify, or abbreviate any part of the Debtor's name):

7a. ORGANIZATION'S NAME			
OR	7b. INDIVIDUAL'S SURNAME	INDIVIDUAL'S FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX			

7c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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8. **COLLATERAL CHANGE:** add check add of these four boxes: ADD collateral; DELETE collateral; RESTATE covered collateral; ASSIGN collateral
Indicate collateral:

All right, title and interest of the Debtor in and to any and all REC's that are generated, produced or otherwise created by or from each System described on Schedule 1 of Exhibit 1 to Administrative Agent Action No. 31, dated as of March 30, 2017, by and among Megalodon Solar, LLC, as Borrower, Debtor, Bank of America, N.A., as Collateral Agent and as Administrative Agent.

9. **NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT:** Provide only add name (9a or 9b) (name of Assignor, if this is an Assignment); if this is an Amendment authorized by a DEBTOR, check here and provide name of authorizing Debtor

9a. ORGANIZATION'S NAME			
Bank of America, N.A., as Collateral Agent			
OR	9b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)
SUFFIX			

10. **OPTIONAL FILER REFERENCE DATA:**
File: Delaware - UCC Debtor: [***] #15475355-34

FILING OFFICE COPY — UCC FINANCING STATEMENT AMENDMENT (Form UCC3) (Rev. 04/2011) International Association of Commercial Administrators (IACA)

Exhibit 2

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS

11. INITIAL FINANCING STATEMENT FILE NUMBER: Same as Item 1a on Amendment form 2016 6740698 filed 11/01/2016	
12. NAME OF PARTY AUTHORIZING THIS AMENDMENT: Same as Item 9 on Amendment form	
12a. ORGANIZATION'S NAME	Bank of America, N.A., as Collateral Agent
OR	
12b. INDIVIDUAL'S SURNAME	
FIRST PERSONAL NAME	
ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY	

13. Name of DEBTOR on related financing statement (Name of a current Debtor of record required for indexing purposes only in some filing offices - see instruction item 13). Provide only one Debtor name (13a or 13b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); see instructions if name does not fit			
13a. ORGANIZATION'S NAME			
OR			
13b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

14. ADDITIONAL SPACE FOR ITEM 8 (Collateral):

"RECs" means solar renewable energy certificates or credits issued under any state renewable portfolio standard or federal renewable energy standard, pollution allowances, carbon credits and similar environmental allowances or credits and green tag or other reporting rights under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program, but excluding, for the avoidance of doubt, (i) investment tax credits under Section 48 of the Code, production tax credits available under Section 45 of the Code or other federal, state or local Tax benefits or credits, (ii) state rebates and performance based incentives and (iii) to the extent accruing prior to March 30, 2017, any liabilities, including adverse wildlife or environmental impacts.

"System" means a photovoltaic system, including, as applicable, photovoltaic panels, racks, wiring and other electrical devices, conduit, weatherproof housings, hardware, one or more inverters, remote performance monitoring equipment, connectors, meters, disconnects and over current devices. For the avoidance of doubt, usage-monitoring equipment, if any, shall not be considered a part of the System.

15. This FINANCING STATEMENT AMENDMENT: <input type="checkbox"/> covers timber to be cut <input type="checkbox"/> covers as-extracted collateral <input type="checkbox"/> is filed as a fixture filing	17. Description of real estate:
16. Name and address of a RECORD OWNER of real estate described in item 17 (if Debtor does not have a record interest):	

Exhibit 2

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

CONFIDENTIAL TREATMENT REQUESTED

Certain portions of this document have been omitted pursuant to a request for Confidential Treatment and, where applicable, have been marked with “[***]” to indicate where omissions have been made. The confidential material has been filed separately with the Securities and Exchange Commission.

REQUIRED GROUP AGENT ACTION NO. 32

This **REQUIRED GROUP AGENT ACTION NO. 32** (this “Action”), dated as of March 31, 2017 (the “Effective Date”), is entered into by and among Megalodon Solar, LLC, a Delaware limited liability company (“Borrower”), Bank of America, N.A., as the Administrative Agent (“Administrative Agent”), the Collateral Agent for the Secured Parties (“Collateral Agent”) and each of Bank of America, N.A. (“BA Agent”), Credit Suisse AG, New York Branch (“CS Agent”), Deutsche Bank AG, New York Branch (“DB Agent”), ING Capital LLC (“ING Agent”), KeyBank National Association (“KB Agent”), National Bank of Arizona (“NBAZ Agent”), Silicon Valley Bank (“SVB Agent”) and CIT Bank, N.A. (“CIT Agent”) and collectively with BA Agent, CS Agent, DB Agent, ING Agent, KB Agent, NBAZ Agent and SVB Agent, the “Group Agents”), as Group Agents party to the Loan Agreement, dated as of May 4, 2015 (as amended, the “Loan Agreement”), by and among the Borrower, Administrative Agent, Collateral Agent, the Group Agents, the Lenders and the other parties from time to time party thereto. As used in this Action, capitalized terms which are not defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

A. The Borrower has requested the Required Group Agents to provide their consent to the addition and inclusion to the Loan Agreement and the other Financing Documents of (the “Subject Fund Transactions”) [***] (“ [***] ”), as a Subject Fund, and [***] (“ [***] ”), as a Borrower Subsidiary Party (collectively, [***] and [***], the “New Entities”);

B. The Required Group Agents are willing to provide their consent to the Subject Fund Transactions on the terms and subject to the conditions set forth in this Action; and

C. The Borrower, the Required Group Agents, the Administrative Agent and the Collateral Agent desire to amend the Loan Agreement as set forth herein.

Accordingly, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, and subject to the conditions set forth herein, the parties hereto hereby agree as follows:

Required Group Agent Action No. 32

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

Section 1. Amendments to the Loan Agreement. Subject to the prior satisfaction of the conditions precedent described in Section 3 hereof, the Loan Agreement will be amended as follows (clauses (a) – (d) below, collectively, the “Loan Agreement Amendments”):

(a) Schedule 1.1(b) to the Loan Agreement shall be amended by amending and restating the table therein in its entirety as follows:

Partnership Managing Member / Lessor Managing Member / Borrower Subsidiary (Other Non-Financed Structure)	Equity Interests Owned as of date related Partnership or Lessor Partnership becomes a Subject Fund
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]
[***]	[***]

(b) Appendix 1 of the Loan Agreement shall be amended and restated as set forth in Exhibit 1 attached hereto;

(c) Appendix 4 of the Loan Agreement shall be amended and restated as set forth in Exhibit 2 attached hereto; and

(d) Appendix 5 of the Loan Agreement shall be amended and restated as set forth in Exhibit 3 attached hereto.

Section 2. Consents. Subject to the prior satisfaction of the conditions precedent described in Section 3 hereof:

(a) the Required Group Agents consent to the Loan Agreement Amendments, with acknowledgement by each of the Administrative Agent and the Collateral Agent; and

(b) the Administrative Agent and the Required Group Agents consent to the Subject Fund Transactions pursuant to and in accordance with Section 2.10(a) of the Loan Agreement .

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

Section 3. Conditions Precedent. This Action shall be effective upon the satisfaction of the following conditions precedent:

(a) The Administrative Agent shall have received counterparts of this Action, executed and delivered by each of the other parties hereto.

(b) The Administrative Agent shall have received a certificate of the Borrower dated as of the Effective Date signed by a Responsible Officer of the Borrower (i) making the Tax Equity Representations with respect to [***] and (ii) certifying that each representation and warranty of the Borrower contained in Article 4 of the Loan Agreement is true and correct in all material respects as of the Effective Date (unless such representation or warranty relates solely to an earlier date, in which case it shall have been true and correct in all material respects as of such earlier date) other than those representations and warranties that are modified by materiality by their own terms, which shall be true and correct in all respects as of the Effective Date (unless such representation or warranty relates solely to an earlier date, in which case it shall have been true and correct in all respects as of such earlier date).

(c) The Borrower shall have delivered or caused to be delivered to the Administrative Agent a Tax Equity Required Consent from [***] in connection with the Subject Fund Transactions.

(d) Each of the Administrative Agent and each Group Agent shall have received an opinion, dated no earlier than the Effective Date, of Wilson Sonsini Goodrich & Rosati, counsel to the Loan Parties, the Borrower Subsidiary Parties and SolarCity, in form and substance reasonably acceptable to the Administrative Agent, the Collateral Agent and the Majority Group Agents, with respect to the Subject Fund Transactions.

(e) Each of the Administrative Agent and each Group Agent shall have received opinions, dated no earlier than the Effective Date, of Proskauer Rose LLP, special bankruptcy counsel to the Loan Parties, the Borrower Subsidiary Parties and SolarCity, each in form and substance reasonably acceptable to the Administrative Agent, the Collateral Agent and the Majority Group Agents, with respect to the Subject Fund Transactions.

(f) The Administrative Agent and the Collateral Agent shall have received (i) searches of UCC filings in the jurisdiction of incorporation or formation, as applicable, of each of the New Entities and the Borrower and each jurisdiction where a filing would need to be made in order to perfect the security interest of the Collateral Agent (for the benefit of the Secured Parties) in the Collateral in respect of the New Entities (the “New Collateral”), (ii) copies of the financing statements on file in such jurisdictions and evidence that no liens exist on the New Collateral pledged by [***] and the Borrower other than Permitted Liens of the type set forth in clauses (b), (c) or (d) of the definition thereof and (iii) copies of tax lien, judgment and bankruptcy searches in such jurisdictions.

(g) The Collateral Agent shall have received all documentation in connection with the New Collateral, including (i) a Joinder Agreement in the form attached as Exhibit C to the Security Agreement, executed by each of [***], the Collateral Agent and the Borrower, dated as of the Effective Date, (ii) a Joinder Agreement in the form attached as Exhibit B-1 to the CADA, executed by each of [***], the Collateral Agent and the Borrower, dated as of the Effective Date, (iii) a Joinder Agreement in the form attached as Exhibit C to the Borrower Subsidiary Party Security Agreement, executed by each of [***] and the Collateral Agent, dated as of the Effective Date and (iv) any other data, documentation, analysis or report reasonably requested by the Administrative Agent with respect to the New Entities.

(h) (i) The UCC financing statements relating to the New Collateral shall have been duly filed in each office and in each jurisdiction where required in order to create and perfect the first priority Lien and security interest set forth in the Collateral Documents (as supplemented and as such term is defined in the Loan Agreement, as amended) and (ii) the Borrower shall have properly delivered or caused to be delivered to the Collateral Agent all New Collateral in which the Lien and security interest described above is permitted to be perfected by possession or control, including delivery of original certificates representing all issued and outstanding Equity Interests in [***] and the pledged interests in [***] pursuant to the Borrower Subsidiary Party Security Agreement, along with the applicable blank transfer powers and proxies .

(i) Each of the other conditions precedent as set forth in Section 3.4 of the Loan Agreement shall have been satisfied with respect to the Subject Fund Transactions.

(j) The Administrative Agent shall have received for its own account all costs and expenses described in Section 6 of this Action, for which invoices have been presented in connection herewith.

Section 4. Reference to and Effect on Financing Documents. Each of the Loan Agreement and the other Financing Documents is and shall remain unchanged and in full force and effect, and, except as expressly set forth herein, nothing contained in this Action shall, by implication or otherwise, limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent or any of the other Secured Parties, or shall alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in each of the Loan Agreement and any other Financing Document . This Action shall also constitute a “Financing Document” for all purposes of the Loan Agreement and the other Financing Documents.

Section 5. Incorporation by Reference. Sections 10.5 (*Entire Agreement*), 10.6 (*Governing Law*), 10.7 (*Severability*), 10.8 (*Headings*), 10.11 (*Waiver of Jury Trial*), 10.12 (*Consent to Jurisdiction*), 10.14 (*Successors and Assigns*) and 10.16 (*Binding Effect; Counterparts*) of the Loan Agreement are hereby incorporated by reference herein, mutatis mutandis.

Section 6. Expenses. The Borrower agrees to reimburse the Administrative Agent in accordance with Section 10.4(b) of the Loan Agreement for its reasonable and documented out-of-pocket expenses in connection with this Action, including reasonable and documented fees and out-of-pocket expenses of legal counsel.

Section 7. Construction. The rules of interpretation specified in Section 1.2 of the Loan Agreement also apply to this Action, mutatis mutandis.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Action to be duly executed by their respective authorized officers as of the day and year first written above.

MEGALODON SOLAR, LLC ,
as Borrower

By: /s/ Lyndon Rive
Name: Lyndon Rive
Title: President

BANK OF AMERICA, N.A. ,
as a Group Agent

By: /s/ Sheikh Omer-Farooq
Name: Sheikh Omer-Farooq
Title: Managing Director

CIT BANK, N.A. ,
as a Group Agent

By: /s/ Rhys Marsh
Name: Rhys Marsh
Title: Managing Director

CREDIT SUISSE AG, NEW YORK BRANCH ,
as a Group Agent

By: /s/ Erin McCutcheon
Name: Erin McCutcheon
Title: Vice President

By: /s/ Patrick J. Hart
Name: Patrick J. Hart
Title: Vice President

DEUTSCHE BANK AG, NEW YORK BRANCH,
as a Group Agent

By: /s/ Rich Mauro
Name: Rich Mauro
Title: Vice President

By: /s/ Evelyn Peters
Name: Evelyn Peters
Title: Director

[Signature Page to Required Group Agent Action No. 32]

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

ING CAPITAL, LLC ,
as a Group Agent

By: /s/ Thomas Cantello
Name: Thomas Cantello
Title: Director

By: /s/ Mark Parrish
Name: Mark Parrish
Title: Vice President

KEYBANK NATIONAL ASSOCIATION ,
as a Group Agent

By: /s/ Benjamin Cooper
Name: Benjamin Cooper
Title: Vice President

NATIONAL BANK OF ARIZONA ,
as a Group Agent

By: /s/ Robert E. Cooper, Jr.
Name: Robert E. Cooper, Jr.
Title: Vice President

SILICON VALLEY BANK ,
as a Group Agent

By: /s/ Sayoji Goli
Name: Sayoji Goli
Title: Vice President

BANK OF AMERICA, N.A.
as Administrative Agent and Collateral Agent

By: /s/ Darleen R. DiGrazia
Name: Darleen R. DiGrazia
Title: Vice President

[Signature Page to Required Group Agent Action No. 32]

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

Advance Rate

For each Cash Sweep Fund, Non-Cash Sweep Fund and Other Structure, the Advance Rate will be the percentage determined for each System in such Subject Fund based on the “Type of Fund,” in accordance with the table below.

Type of Fund			
Cash Sweep Fund (baseline: CB (see below))	[***]		
Non Cash Sweep Fund ([***] baseline)	[***]		
Other Non-Financed Structure ([***] baseline)	[***]		
Other Financed Structure	[***]		

“ **CB** ” or “ **Cash Sweep Fund Baseline** ” means, the lesser of (a) [***] and (b) the percentage obtained by dividing (i) the maximum amount of debt that can be fully supported by Net Cash Flows distributable to the Managing Member(s) of such Subject Fund assuming interest is accruing at the Default Rate when applying the ITC Downside Case to that particular Subject Fund and only that Subject Fund by (ii) the Discounted Solar Asset Balance of such Subject Fund.

“ **ITC Downside Case** ” means a scenario in which a 30% reduction in fair market value occurs in the first month that a Subject Fund is included in the Available Borrowing Base and the Aggregate Advance Model is adjusted to calculate the Net Cash Flows distributable to the Managing Member(s) of such Subject Fund in light of such reduction in fair market value and any applicable Cash Sweep Event (as defined in [Appendix 7](#)).

For avoidance of doubt, the amounts set forth in this [clause \(ii\)](#) are indicative subject to final determination by the Administrative Agent at the time such Subject Fund is included in the Available Borrowing Base;

- (iii) [Reserved].
- (iv) All PV Systems in any Watched Fund shall have an Advance Rate of [***] for purposes of calculating the Available Borrowing Base. For avoidance of doubt, this shall include any PV Systems in a Watched Fund that were financed in previous tranches and whose Net Cash Flows were incorporated in previous Available Borrowing Base calculations.
- (v) To the extent that, despite negotiating in good faith, the Administrative Agent and the Borrower cannot agree on the Advance Rate under [clause \(ii\)](#) of this [Appendix 1](#), the Advance Rate determined by the Administrative Agent, acting at the direction of the Majority Group Agents, shall prevail.

Exhibit 1

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

EXHIBIT 3
APPENDIX 5

PROJECT DOCUMENTS

1. [***] Subject Fund

- Master Lease, dated as of [***], by and between [***] and [***].
- Equity Capital Contribution Agreement, dated as of [***], by and among SolarCity, [***] and [***].
- Amendment to Equity Capital Contribution Agreement, dated as of [***] (to add [***] as a Project State).
- Operating Agreement of [***], dated as of [***], by and between [***] and [***].
- Operating Agreement of [***], dated as of [***], by and among [On File with Administrative Agent], [***] and [***].
- Second Amended and Restated Limited Liability Company Agreement of [***] dated as of [***], by Megalodon Solar, LLC.
- Pass-Through Agreement, dated as of [***], by and between [***] and [***].
- Guaranty, dated as of [***], from SolarCity in favor of [On File with Administrative Agent], [***] and [***].

2. [***] Subject Fund

- Master Lease, dated as of [***], by and between [***] and [***].
- Equity Capital Contribution Agreement, dated as of [***], by and among SolarCity, [***] and [***].
- Amendment to Equity Capital Contribution Agreement, dated as of [***] (to add [***] as a Project State) by and among SolarCity, [***] and [***].
- First Amendment to Equity Capital Contribution Agreement, dated as of [***], by and among SolarCity, [***] and [***].
- Operating Agreement of [***], dated as of [***], by and between [***] and [***].
- Operating Agreement of [***], dated as of [***], by and between [On File with Administrative Agent] and [***].

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

- Second Amended and Restated Limited Liability Company Agreement of [***] dated as of [***], by Megalodon Solar, LLC.
- Pass-Through Agreement, dated as of [***], by and between [***] and [***].
- Guaranty, dated as of [***], from SolarCity in favor of [On File with Administrative Agent] and [***].

3. [***] Subject Fund

- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Contribution Agreement (Systems), dated as of [***], by and among [***], [***], Megalodon Solar, LLC and [***].
- Maintenance Services Agreement, dated as of [***], by and between SolarCity and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity and [***].

4. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amendment No. 1 to Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity and [***].
- Guaranty, dated as of [***], from SolarCity in favor of [On File with Administrative Agent].

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

5. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Amendment No. 1 to Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity and [***].
- Guaranty, dated as of [***], by and between SolarCity Corporation and [On File with Administrative Agent].
- Transition Manager Agreement, dated as of [***], by and among [***], SolarCity Corporation and [***].

6. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of October 30, 2015, by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by and between SolarCity Corporation and [On File with Administrative Agent].

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

7. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity and [***].
- Guaranty, dated as of [***], from SolarCity in favor of [On File with Administrative Agent].

8. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity Corporation and Louis Solar III, LLC.
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by and between SolarCity Corporation and [On File with Administrative Agent].

9. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Second Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

- Maintenance Services Agreement, dated as of [***], by and between SolarCity and [***].
- Asset Management Agreement, dated as of [***], by and between SolarCity and [***].
- Master Purchase and Equity Capital Contribution Agreement, dated as of [***], by and among SolarCity Corporation, [***], [***] and [On File with Administrative Agent].
- Amendment Agreement, dated as of [***], by and among SolarCity Corporation, [***], [***] and [On File with Administrative Agent].
- Guaranty, dated as of [***], by SolarCity Corporation in favor of [On File with Administrative Agent].
- Accession Agreement, dated as of [***], by and among SolarCity Corporation, [***] and [***].
- SREC Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].

10. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amendment No. 1 to Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by SolarCity Corporation in favor of [On File with Administrative Agent].

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

- Accession Agreement, dated as of [***], by and among [***], SolarCity Corporation and [***].
- SREC Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].

11. [***] Subject Fund

- Master Lease Agreement, dated as of [***], by and between [***] and [***].
- Omnibus Amendment No. 1 and Consent, dated as of [***], by and among SolarCity Corporation, [***] and [***], as acknowledged by [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Independent Manager Agreement, dated as of [***], by and among [***], [***] and [***].
- Security Agreement, dated as of [***], by and between [***] and [***].
- Depositary Agreement, dated as of [***], by and between [***] and [***].
- Guaranty, dated as of [***], by SolarCity Corporation in favor of [On File with Administrative Agent].
- UCC-1, filed [***], designating [***], as “[***]”, and [***], as “[***]”.
- Each Contribution Agreement entered into by and among SolarCity Corporation, [***] and the other parties thereto.
- Each Assignment and Assumption Agreement entered into by and between [***] and [***].

12. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amendment No. 1 to Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***] by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by and between SolarCity Corporation and [On File with Administrative Agent].
- Transition Manager Agreement, dated as of [***], by and among [***], SolarCity and [***].

13. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by SolarCity Corporation in favor of [***] and [On File with Administrative Agent].
- Transition Manager Agreement, dated as of [***], by and among [***], SolarCity Corporation, [On File with Administrative Agent] and [***].

14. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

- Maintenance Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- SREC Services Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity Corporation and [***].
- Guaranty, dated as of [***], by SolarCity Corporation in favor of [On File with Administrative Agent].

15. [***] Subject Fund

- Limited Liability Company Agreement of [***], dated as of [***], by and between [***] and [On File with Administrative Agent].
- Amended and Restated Limited Liability Company Agreement of [***], dated as of [***], by Megalodon Solar, LLC.
- Maintenance Services Agreement, dated as of [***], by and between SolarCity and [***].
- Administrative Services Agreement, dated as of [***], by and between SolarCity and [***].
- Master Development, EPC & Purchase Agreement, dated as of [***], by and between SolarCity and [***].
- Guaranty, dated as of [***], from SolarCity in favor of [On File with Administrative Agent].

Exhibit 3

[***] Confidential treatment has been requested for the bracketed portions. The confidential redacted portion has been omitted and filed separately with the Securities and Exchange Commission.

RULE 13a-14(a)/15d-14(a) CERTIFICATION

I, Elon Musk, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tesla, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2017

/s/ Elon Musk

Elon Musk
Chief Executive Officer
(Principal Executive Officer)

RULE 13a-14(a)/15d-14(a) CERTIFICATION

I, Deepak Ahuja, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Tesla, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's Board of Directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 9, 2017

/s/ Deepak Ahuja

Deepak Ahuja
Chief Financial Officer
(Principal Financial Officer)

SECTION 1350 CERTIFICATIONS

I, Elon Musk, certify, pursuant to 18 U.S.C. Section 1350, that, to my knowledge, the Quarterly Report of Tesla, Inc. on Form 10-Q for the quarterly period ended March 31, 2017, (i) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (ii) that the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Tesla, Inc.

Date: May 9, 2017

/s/ Elon Musk

Elon Musk

Chief Executive Officer

(Principal Executive Officer)

I, Deepak Ahuja, certify, pursuant to 18 U.S.C. Section 1350, that, to my knowledge, the Quarterly Report of Tesla, Inc. on Form 10-Q for the quarterly period ended March 31, 2017, (i) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and (ii) that the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Tesla, Inc.

Date: May 9, 2017

/s/ Deepak Ahuja

Deepak Ahuja

Chief Financial Officer

(Principal Financial Officer)