

Master Sale and Integration Management Agreement

This Master Sale and Integration Management Agreement (this “**Agreement**”) is entered into on [date] (the “**Effective Date**”) by and between Gridscape Solutions, Inc., a California corporation (“**Gridscape**”), and **Chabot-Las Positas Community College District**, an accredited institution (the “**Client**”, and together with Gridscape, the “**Parties**” and each a “**Party**”).

RECITALS

WHEREAS, Gridscape is a leading smart energy solutions company that specializes in developing and deploying innovative, standards-compliant products for renewable microgrid and electric vehicle charging systems (the “**Products**”);

WHEREAS, the Client wishes to purchase and procure the integration of the Products with the energy systems on the Chabot College Campus, located at 25555 Hesperian Boulevard, Hayward, California 94545, with Products to be installed at the location(s) shown on the map attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Parties wish to set forth the terms on which the Client may purchase and Gridscape may sell and arrange for the integration of the Products.

AGREEMENT

1 Defined Terms

Unless otherwise expressly stated herein, capitalized terms used in this Agreement have the meanings ascribed to them where they are first used. These meanings will apply to both the plural and singular forms, as context may require.

2 Scope of Agreement

2.1 This Agreement governs the terms of all purchases by the Client of the Products. The Parties shall agree to the specific products, prices, and special arrangements for systems integration in one or more Purchase Orders (as defined below).

2.2 This Agreement does not govern ongoing services that Gridscape may separately agree to provide to the Client, including without limitation operations, maintenance, energy management, and data collection and analysis services. Gridscape has no liability and Client has no recourse under this Agreement for Gridscape’s failure to provide any energy management services, maintenance services, or software update services which are not part of the scope of this Agreement. A Product will not be regarded as defective or as failing to perform according to its specifications under this Agreement for the sole reason that Gridscape is not providing any such services.

3 Purchase Orders

3.1 *Issuance of Purchase Orders.* The Parties may agree to the sale, purchase, and system integration of Gridscape’s products by issuing one or more purchase orders in the form

attached as Exhibit B (each, a “**Purchase Order**”). Each Purchase Order shall specify the following information:

- (a) a unique Purchase Order Number,
- (b) the address of the site at which the Products will be delivered and integrated (the “**Location**”),
- (c) the Expected Delivery Date (as defined in Section 6 below),
- (d) the Expected Integration Completion Date (as defined in Section 6 below),
- (e) the Products to be integrated with the Client’s energy system,
- (f) the Price (as defined in Section 4 below),
- (g) the payment schedule, and
- (h) product warranty terms.

3.2 *Client Changes.* The Client may request changes to a Purchase Order that has been issued in accordance with Section 3.1 but with respect to which system integration has not yet been completed. The Client shall deliver any such requests in writing to Gridscape. Within 20 Business Days (being days other than Saturdays, Sundays, or federal or California state public holidays), Gridscape will provide a response to Client indicating whether the requested changes are technically feasible and, if so, the additional cost of the changes and any additional time necessary to complete agreed milestones associated with the original Purchase Order. Any change to a Purchase Order will be in writing, signed by both parties, and will set forth the changes requested, any additional cost, and any changes to milestone dates.

3.3 *Gridscape Changes.* Gridscape may propose changes to hardware components of the Products in a Purchase Order by delivering in writing a request to the Client setting forth the reason for the proposed change, any changes to the specifications or capabilities of the Products, and any changes in the Price or relevant milestone dates. If Gridscape’s proposed changes will result in a material change in the Price or milestone dates, the Parties shall mutually discuss the changes. The proposed changes shall not go into effect unless and until the Parties mutually agree to said proposed changes.

4 Billing and Payments

4.1 *Price and Taxes.* Each Purchase Order will include the total Price of the Products, inclusive of the cost of delivery and system integration. Unless otherwise stated in the Purchase Order, the Price does not include any direct or indirect local, state, federal, or foreign taxes, levies, duties, or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, “**Taxes**”). The Client is responsible for paying all Taxes associated with its purchases hereunder, excluding any taxes based on Gridscape’s net income or property.

- 4.2 *Invoices.* When a payment is due, Gridscape may issue an invoice to the Client. The Client shall pay one hundred percent (100%) of each invoice within no less than thirty (30) calendar days following the date of the invoice. If the Client disputes an invoice in good faith, the Client will promptly notify Gridscape and the amount payable shall exclude the disputed portion of the invoice.
- 4.3 *Overdue Payments.* Any payment not received by Gridscape by the due date and not subject to a good faith dispute may accrue, at Gridscape's option, late charges at the lesser of 1.0% of the outstanding balance per month, or the maximum rate permitted by law, from the date such payment was due until the date paid.

5 **Ownership of Products, Intellectual Property, and Environmental Incentives**

- 5.1 *Title and Risk of Loss.* Title to and risk of loss of the hardware components of Products will pass from Gridscape to the Client when Gridscape has delivered and installed such hardware components to the Location.
- 5.2 *Purchase Money Security Interest.* Gridscape shall retain and the Client hereby grants Gridscape a purchase money security interest in the Product(s) under the applicable Purchase Order until the Client has paid Gridscape in full as agreed to hereunder. Until such full payment is received, the Client grants Gridscape a first-priority security interest in any of the Client's existing and after-acquired rights in the Product(s) under the applicable Purchase Order, including in all modifications, accessions, accessories, replacements, and proceeds.
- 5.3 *Ownership of Intellectual Property Rights.*
- (a) In this Agreement, “**Intellectual Property Rights**” means copyrights, trademarks, patents, and trade secrets, including without limitation rights as to their design, functionality, and embedded or provided software.
 - (b) All Intellectual Property Rights in the Products are Gridscape's sole and exclusive property or, where applicable, the property of Gridscape's suppliers and affiliates. Gridscape reserves all rights not expressly granted herein, including without limitation, all rights to modifications and derivative works based on such property.
 - (c) This Agreement involves the sale of Products and licensing of the use of related embedded and provided software and is not a sale of any Intellectual Property Rights in such Products. The Client acknowledges the foregoing and that such Intellectual Property Rights are protected by trade secrets, patent and copyright laws and other laws protecting intellectual property.
 - (d) Gridscape hereby grants to the Client a limited, personal, non-sub licensable, non-transferable, non-exclusive license to use such Intellectual Property Rights to the extent it is necessary for, and for the sole purpose of, using the Products in compliance with the purposes for which the Products are designed.
 - (e) The Client shall not:

- (i) copy, make available, provide access to, or distribute, license or otherwise transfer, directly or indirectly, any Intellectual Property rights in the Products to any third party;
- (ii) decompile, disassemble, reverse-assemble, analyze or otherwise examine such property, equipment, or software for reverse engineering thereof;
- (iii) unless otherwise agreed to in writing, use any Products or the Intellectual Property Rights therein to develop other products, devices, inventions, hardware or software;
- (iv) use, test or analyze the Products for comparison or competitive testing or “benchmarking” (except for the Client's confidential internal purposes) or publish, disclose or disseminate Gridscape's Confidential Information; or
- (v) remove, fail to maintain or obscure any proprietary notices on the Products.

5.4 *Environmental Incentives.* The Client retains right, title, and interest in any and all Environmental Incentives associated with, or resulting from, the integration and operation of the Products. In this Agreement “**Environment Incentives**” means all rights, credits (including tax credits), rebates, benefits, reductions, offsets, and allowances and entitlements of any kind, however entitled or named (including carbon, SO_x, and NO_x credits and allowances), whether arising under federal, state or local law, international treaty, trade association membership, or the like, attributable to the installation or ownership of the Products, whether existing now or created at any time in the future. Without limiting the foregoing, Environmental Incentives include self-generation incentives, green tags, white tags, renewable energy credits, capacity credits, demand response credits, tradable renewable certificates, portfolio energy credits, and the right to apply for (and entitlement to receive) rebates or other incentives under any demand-side management or energy efficiency programs offered by a utility company, a third-party provider, or federal, state, or local government.

6 Delivery and System Integration

6.1 *Delivery and Expected Delivery Date.* Gridscape shall arrange for delivery of the Products to the Location and shall use commercially reasonable efforts to ensure that all hardware components of the Products are delivered on or before the Expected Delivery Date listed in the relevant Purchase Order.

6.2 *System Integration.*

- (a) Gridscape will select, subject to Client’s approval, a licensed and qualified third-party contractor (the “**Contractor**”) to perform reassembly, hardware testing, system integration, calibration, and all other necessary and desirable tasks to integrate the Product with the Client’s systems and facilities and make the Product operational.

- (b) Within 60 Business Days after the date of a Purchase Order, Gridscape will deliver to the Client an Integration Completion Checklist, setting forth testing and commissioning criteria for the successful completion of system integration.

When the Contractor believes that all system integration work has been successfully completed, the Contractor will deliver notices to Gridscape and the Client proposing a testing date no earlier than 10 Business Days from the date of the notice. The Client, with Gridscape's assistance, will test the system for successful completion of the criteria set forth in the Integration Completion Checklist. If the Integration Completion Checklist is not completed successfully, then Gridscape will cause the Contractor to reperform the system integration work and notify Gridscape and the Client of a new test date. If the Integration Completion Checklist is successfully completed, then the date on which the Contractor delivered notice of testing will be the Integration Completion Date.

- (c) Subject to Section 6.3 below, the cost of delivery and system integration of the Product is incorporated into the Price and shall be performed at no extra charge to the Client.
- (d) Gridscape will use commercially reasonable efforts to ensure that the Integration Completion Date occurs on or before the Expected Integration Completion Date.
- (e) The Client acknowledges that Gridscape is not a licensed contractor and does not undertake any obligation under this Agreement to perform any work or activities that would require a contractor's license under applicable law. Any such work or activities requiring a contractor's license shall be performed by a licensed contractor selected by Gridscape.

6.3 *Client Obligations.* For Gridscape to cause the Contractor to successfully complete the system integration work by the Expected Integration Completion Date, the Client must comply with the following obligations. If the Client fails to comply with the following obligations, then in addition to any other remedies, Gridscape may deliver a request for an adjustment of the milestones associated with the system integration and/or the Price and the Parties will negotiate in good faith to agree to the amounts of any such adjustment.

- (a) The Client shall grant the Contractor, and their respective agents and subcontractors (together, the "**Integration Specialists**") the right to enter upon and to access such portions of the Location(s) and such utility lines, gas lines, ductwork, electrical lines, metering equipment and the like as are reasonably necessary for the delivery, system integration, and testing of the Products. The Client shall ensure that other persons, including its employees and agents, allowed access to the Location by the Client do not interfere with the Products or their delivery, system integration, or testing.
- (b) To the extent that it is necessary or appropriate for the Client itself to obtain any permit, approval, or license, the Client will promptly upon request of Gridscape or the Integration Specialists perform all actions necessary to obtain such permit, approval, or license. The Client will provide prompt and full assistance to

Gridscope and the Integration Specialists in obtaining any other necessary permit, approval, or license.

- (c) The Client is responsible for providing and maintaining a continuous power supply and broadband internet service at the Location during system integration and shall bear all costs associated with supplying such power.

6.4 *Gridscope and Contractor Obligations.* Gridscope shall ensure that the Integration Specialists comply with the following obligations:

- (a) The Integration Specialists will exercise their access rights in such a manner as to not materially interfere with the operations of the Location, including the operations of the Client or its tenants.
- (b) Except with regard to permits, approvals, and licenses that it is necessary for the Client itself to obtain, Gridscope shall obtain or shall ensure that the Integration Specialists obtain all permits, approvals, and licenses necessary to undertake the system integration work or operate the Products at the Location.
- (c) Gridscope will maintain, and will ensure that the Contractor maintains, at its own expense the following insurance coverage:
 - (i) worker's compensation coverage of at least the statutory minimum,
 - (ii) commercial general liability of at least \$1,000,000 per occurrence and at least \$4,000,000 in the aggregate, and
 - (iii) coverage for any vehicles operated by the Contractor of at least \$1,000,000 combined limit per occurrence for bodily injury and property damage.
- (d) Gridscope will further ensure that the Contractor requires its subcontractors to maintain policies of insurance of the types described above with insurance limits that are customary for the industry in which each such subcontractor operates and coverage limits that are commercially reasonable given the nature of the work to be provided by such subcontractor. Gridscope will designate and will ensure that the Contractor and, to the extent applicable, its subcontractors designate, the Client as an additional insured under its third-party legal liability policies required hereunder. At Client's request, Gridscope will provide one or more certificates of insurance evidencing compliance with the foregoing requirements.
- (e) All insurance policies shall be with financially sound and reputable insurance companies that have an A.M. Best rating of A- and a financial strength category of "VII" or higher.
- (f) Gridscope shall ensure that their contractors and subcontractors who will be installing the microgrid shall obtain appropriate payment and performance bonds.

7 Product Limited Warranty

7.1 Gridscape Products Limited Warranty.

- (a) Gridscape warrants to the Client that for the warranty period set forth in the Purchase Order (the "**Warranty Period**"), all hardware Products manufactured by Gridscape or its affiliates will:
 - (i) conform to the Products' manufacturer's specifications, standards, and warranty,
 - (ii) comply with customary, industry standard, safety requirements (including customary warning labeling), and
 - (iii) be free from defects in materials and workmanship under normal use and service (the "**Limited Warranty**").
- (b) Gridscape will ensure that all hardware Products manufactured by parties other than Gridscape or its affiliates will be subject to manufacturers' warranties for a term at least as long as the warranty period specified in the Purchase Order. Following the Integration Completion Date, Gridscape will arrange the assignment and transfer of all such manufacturers' warranties to the Client.
- (c) The warranties set forth herein do not apply to any software embedded in or otherwise provided in connection with the Products and the Client agrees that such software is provided as-is. Warranties with respect to such software, if any, will be set forth in a separate services agreement and subject to the terms thereof.

7.2 Limitations of Warranty.

- (a) The warranties and remedies provided in this section and Gridscape's obligations and liabilities hereunder do not apply with respect to Products under the following conditions:
 - (i) the Client attempts to remedy a non-conformity without first making commercially reasonable effort to reach agreement on a remedy with Gridscape;
 - (ii) normal wear and tear,
 - (iii) vibration that does not impact the System's performance or the Client's operations,
 - (iv) any Products that have been subjected to any of the following actions or omissions (or similar actions or omissions) of the Client (including its distributors, agents or affiliated entities, or their employees), or any third party: misuse, abuse, neglect, negligence, or accident; force majeure events including but not limited to lightning, flood, earthquake, fire, or other events outside the reasonable control of Gridscape; alteration,

improper removal or reinstallation; improper application, modification, maintenance or repair; other than conducted by Gridscape or its agents or as instructed by or agreed with Gridscape; disassembly, reverse engineering, re-engineering or re-assembly; non-observance of Gridscape's system integration, user's and/or maintenance instructions;

(v) Products that have been installed or operated in conflict with the procedures outlined in any manual or written instruction provided to the Client by Gridscape, except to the extent installed or operated by Gridscape;

(vi) damage or deterioration that occurs after the expiration or voiding of this Limited Warranty or that is reported more than 10 Business Days after the expiration or voiding of this Limited Warranty; or

(vii) theft or vandalism of the Products or any of its components.

(b) Additionally, any relocation of the Products not authorized by Gridscape may void the Limited Warranty.

7.3 *Remedy Under Warranty.* If, during the Warranty Period, the Products fail to meet the Limited Warranty and have not been subjected to any of the conditions set forth in Section 7.2 above, then Gridscape or its agent will, in consultation with the Client, in accordance with the manufacturer's warranty, either repair or replace the defective Products without charge. If a remedy cannot be agreed upon, the Client shall issue Gridscape a written notice describing in sufficient detail any such defect and request Gridscape bring the relevant Products into conformance within thirty (30) days of receipt of the Client's notice. If Gridscape fails to bring such Products into conformance within such thirty (30) days, Gridscape will replace the non-conforming Products at its own expense. If, after repeated attempts, Gridscape cannot make the system operational, Client may terminate this Agreement and may request that Gridscape remove the Product(s) and restore site to pre-installation condition, at no additional cost to the Client.

7.4 *Disclaimer of Warranties.* SUBJECT TO ANY LIMITATIONS UNDER APPLICABLE LAW, AND EXCEPT AS EXPLICITLY STATED OTHERWISE, THE LIMITED WARRANTIES SET FORTH HEREIN ARE EXPRESSLY IN LIEU OF AND EXCLUDE ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR PARTICULAR PURPOSE, USE, OR APPLICATION, AND ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF GRIDSCAPE. EXCEPT AS SPECIFIED IN THESE LIMITED WARRANTIES, ALL PRODUCTS ARE PROVIDED "AS IS".

8 Representations and Warranties

8.1 *Representations.* Each Party represents that:

(a) it is an entity organized, validly existing, and in good standing under the laws of its organization and each other jurisdiction where it is required to be so qualified in connection with the transactions contemplated under this Agreement; and

- (b) it has the right to enter into this Agreement and its execution of this Agreement will not violate the terms of any contract, obligation, law, regulation or ordinance to which it is subject.

8.2 *Compliance with Law.*

- (a) Each Party shall comply with all applicable state, national and international laws, rules, treaties, and regulations in the execution of this Agreement and use of the Products.
- (b) A Party will notify the other Party within fourteen (14) days if it receives written notification of non-compliance with any laws from any Person or entity in connection with the Products or this Agreement.

9 **Confidentiality**

9.1 *Disclosing and Receiving Parties.* For the purposes of this Agreement, a Party that provides Confidential Information (as defined in Section 9.2) to the other Party is the **"Disclosing Party"** and the party receiving such information is the **"Receiving Party."**

9.2 *Confidential Information.*

- (a) **"Confidential Information"** means non-public information relating to the business of the Disclosing Party obtained by virtue of this Agreement that either is marked or identified as confidential, is identified as confidential at the time of disclosure either orally or in writing, or due to its character and nature, a reasonable person under like circumstances would understand to be confidential, including without limitation, information relating to the Client's and Gridscape's planned or existing computer systems and systems architecture, including computer hardware, computer software, source code, object code, documentation, and methods of processing and operational methods.
- (b) Notwithstanding the foregoing, Confidential Information shall not include information which Receiving Party can demonstrate (i) was rightfully in its possession, without confidentiality obligations, before receipt; (ii) is or subsequently becomes publicly available without Receiving Party's breach of any obligation owed the Disclosing Party; (iii) is disclosed to Receiving Party, without confidentiality obligations, by a third party who has the right to disclose such information; or (iv) was independently developed without reliance on any Confidential Information of the Disclosing Party.

9.3 *Restrictions.* The terms of this Section 9.3 shall apply during the term of this Agreement and for two years following termination. The Receiving Party may use Confidential Information solely to exercise its rights and fulfill its obligations hereunder. The Receiving Party shall instruct and require all of its employees, agents, contractors advisors and consultants (**"Representatives"**) who have access to the Confidential Information of the Disclosing Party to maintain the confidentiality of the Confidential Information, and Receiving Party shall exercise at least the same degree of care, but not less than reasonable care, to safeguard the confidentiality of the Confidential Information as the

Receiving Party would exercise to safeguard the confidentiality of the Receiving Party's own confidential property. The Receiving Party shall not disclose the Confidential Information, or any part or parts thereof, except on a "need to know" basis to those of its Representatives who are bound to confidentiality obligations at least as protective of the Confidential Information as those set forth herein.

- 9.4 *Compelled Disclosure.* The Receiving Party may disclose the Disclosing Party's Confidential Information to the extent required by a valid order by a court or other governmental body or by applicable law, provided, however, that unless legally prohibited from doing so, the Receiving Party will notify the Disclosing Party of the obligation to make such disclosure in advance of the disclosure so that the Disclosing Party will have a reasonable opportunity to object to such disclosure. The Receiving Party agrees to undertake whatever action is reasonably necessary to remedy any breach of the Receiving Party confidentiality obligations set forth herein or any other unauthorized disclosure or use of the Confidential Information by the Receiving Party or its Representatives.
- 9.5 *Remedies.* If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

10 Indemnification; Limitation of Liability

- 10.1 *Indemnification.* Each Party (the "Indemnitor") shall indemnify and save the other Party, its affiliates and their directors, officers, employees and agents (each, an "Indemnitee") harmless from and against any and all claims, losses, damages, injuries, and liability, and all costs and expenses attributable thereto, resulting from or arising out of the gross negligence or willful misconduct of the Indemnitor or its employees or agents in connection with Indemnitor's performance of its obligations in connection with this Agreement; provided, such indemnity shall not be available to the extent such claims, losses, damages, injuries or liabilities result from the gross negligence or willful misconduct of the Indemnitee.
- 10.2 *Disclaimer of Indirect Damages.* In no event will either Party be liable to the other Party for any indirect, special, incidental, exemplary, punitive or consequential damages, lost revenue, profits or business, or loss of or damage to data, whether based on breach of contract, tort (including negligence) or otherwise, arising from or related to this Agreement or the Services, regardless of whether the first Party has been advised, knew or should have known of the possibility of such damages.
- 10.3 *Limitation of Liability.* Notwithstanding any other wording in this Agreement, in no event shall either Party's aggregate liability arising out or related to this Agreement, whether in tort, contract, negligence or under any other theory of liability, exceed the Price of the applicable Purchase Order or Purchase Orders associated with such liability. The foregoing shall not limit the Client's payment obligations under this Agreement.

11 Default and Termination

- 11.1 *Termination.* This Agreement may be terminated by the non-defaulting Party in accordance with the following (each a “**Default**”):
- (a) if a Party defaults on any material term of this Agreement and fails to cure such Default within thirty (30) days after receipt of written notice of termination for reasons of Default from the non-defaulting Party, or
 - (b) if a Party becomes insolvent or a receiver or receiver-manager is appointed for any part of the property of that Party, or the other Party makes an assignment, proposal or arrangement for the benefit of creditors or proceedings are commenced by or for the other Party under any bankruptcy, insolvency or debtor’s relief law that are not terminated within sixty (60) days.
- 11.2 *Survival.* Any sums due from either Party that by the terms herein would be payable, or are incapable of calculation until, after the termination of this Agreement, shall survive and remain a continuing obligation until paid. Additionally, the following provisions of the Agreement shall survive termination: Article 4 (Billing and Payments), Article 5 (Ownership of Products, Intellectual Property, and Environmental Incentives), Article 7 (Product Limited Warranty), Article 9 (Confidentiality), Article 10.2 (Indemnification; Limitation of Liability), this Section 11.2 (Survival), Article 12 (Governing Law; Dispute Resolution), Article 13 (Notices), and Article 14 (General Provisions).

12 Governing Law; Dispute Resolution

- 12.1 *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to the conflicts of laws provisions thereof.
- 12.2 *Submission to Jurisdiction.* The Parties agree that in the event that any action or proceeding arises seeking to enforce any provision of, or based on any matter arising out of or in connection with this Agreement, the Parties shall attempt to resolve their disputes informally, in discussions involving the decisionmakers for each of the Parties. If these discussions are not successful, the Parties shall retain a mediator to resolve the dispute, with the mediation to be held within thirty (30) days of the date the dispute arises. If mediation is not successful, either Party shall have the right to bring the dispute before a federal court located in **Alameda County**, California or, if such courts lack jurisdiction, in a California state court located in **Alameda County**, and that any cause of action arising out of this Agreement shall be deemed to have arisen from a transaction of business in the State of California, and each of the Parties hereby irrevocably consents to the nonexclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such action or proceeding in any such court or that any such action or proceeding which is brought in any such court has been brought in an inconvenient forum. Each Party shall be responsible for their own costs, or portion thereof, for the dispute resolution including, but not limited to, attorney’s fees, discovery costs, and a pro-rata share of fees incurred in connection with such action or proceeding.

13 Notices

Any notice or communication required or permitted to be given under this Agreement will be in writing and will be considered to have been given if delivered by hand, by mail or courier provided the method of delivery permits the delivery to be verified, or by e-mail (upon confirmation of receipt thereof) to the address of each Party set forth below (or to such other address as either Party may designate by notice in accordance with this Section 13).

If to Client:

Chabot-Las Positas Community College District

Address: 7600 Dublin Boulevard, 3rd Floor, Dublin, CA 94568

Attention: Owen Letcher, Vice Chancellor Facilities, Bond Programs and Operations

Email: oletcher@clpcdd.org

If to Gridscape:

Gridscape Solutions, Inc.

Address: 46711 Fremont Boulevard, Fremont, CA 94538

Attention: **Vipul Gore**

Email: vipulgore@grid-scape.com

14 General Provisions

14.1 *Force Majeure.* An "**Event of Force Majeure**" includes any circumstance beyond such party's reasonable control, including, for example, (a) damage caused by fluctuation of electrical power, accident, fire, water, lightning or other act of God, (b) damage caused by third-party acts, (c) damage caused by abnormal operating conditions such as high or low temperatures or humidity, (d) failure of any connection to the internet or failure of ancillary equipment or equipment not supplied by such party or not approved by such party. Neither party shall be liable for, and each party's obligations under the terms of this Agreement do not include, the provision of services, repairs or replacements necessitated by or related to, an Event of Force Majeure.

14.2 *Relationship of the Parties.* The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Neither party shall have the power to bind the other nor shall either party take any action reasonably likely to lead the public to think that it is the agent or representative of the other. This Agreement is non-exclusive. Nothing in this Agreement limits the ability of either party (i) to enter into other agreements with third parties with respect to arrangements similar in nature to or the same as those covered under this Agreement, or (ii) to provide goods or services that compete with the goods or services of the other party. There are no third-party beneficiaries of this Agreement.

14.3 *Cooperation and Further Assurances.* Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments, estoppels, and assurances and take such additional actions as are reasonably necessary and desirable to

carry out the terms and intent hereof, including but not limited to building permit applications, utility interconnection applications, and utility rebate forms. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this Section 14.3.

- 14.4 *Assignment.* This Agreement is not assignable without mutual consent, in writing by the Parties, not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Gridscape may, without the Client's consent, assign all its rights or obligations under this Agreement to an affiliate or financing party. Any assignment in violation of the foregoing will be null and void, shall be deemed a breach of the assigned agreement, and the non-assigning Party shall have the right to terminate such assigned agreement. Subject to the foregoing, this Agreement will inure to the benefit of, and be binding upon, the Parties hereto and their representatives, successors, permitted assigns, and other legal representatives.
- 14.5 *Amendment or Modification.* No amendment or modification to this Agreement or a Purchase Order will be binding unless in writing and signed by an authorized representative of each Party.
- 14.6 *Purchase Order Supersedes.* In the event of any inconsistency between any Purchase Order and this Agreement, the terms in the Purchase Order shall supersede.
- 14.7 *Headings.* Headings used in this Agreement are provided for convenience only and are not intended to construe meaning or intent.
- 14.8 *Joint Preparation.* Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not be construed more severely against one of the Parties than against the other.
- 14.9 *Entire Agreement.* This Agreement and its exhibits and attachments (and any terms and documents incorporated herein by reference, including written reference to information contained in a URL or documentation) is the Parties' entire agreement relating to the subject matter hereof and supersedes all prior or contemporaneous oral or written communications, proposals, representations and warranties and prevails over any conflicting or additional terms of any communication between the Parties relating to its subject matter.
- 14.10 *Execution and Counterparts.* This Agreement may be signed in two or more counterparts each of which together will be deemed to be an original and all of which together will constitute one and the same instrument. The signing of this Agreement and transmission by facsimile, electronic document transfer, or email will be acceptable and binding upon the Parties hereto.
- 14.11 *Waiver.* Any express waiver or failure to exercise promptly any right under this Agreement or Purchase Order will not create a continuing waiver or any expectation of non-enforcement.
- 14.12 *Severability.* If any part of this Agreement is held unenforceable, the validity of the remaining provisions shall not be affected. If any provision of this Agreement is held to

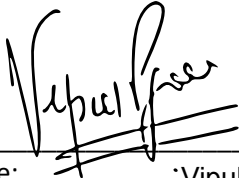
be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. To the extent that any and all provisions of this Agreement (including its exhibits or attachments) shall exclude or limit any statutory liability which, according to mandatory provisions of applicable law cannot be contractually excluded or limited by mutual agreement of the Parties, then such provision shall be given only such effect, if any, as is permitted by the applicable law.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Gridscape Solutions, Inc.

Chabot-Las Positas Community College District

By: 
Name: Vipul Gore
Title: President & CEO

By: _____
Name: _____
Title: _____

EXHIBIT A

Map of the Potential location of the Microgrid Battery System and the EV Charging Stations

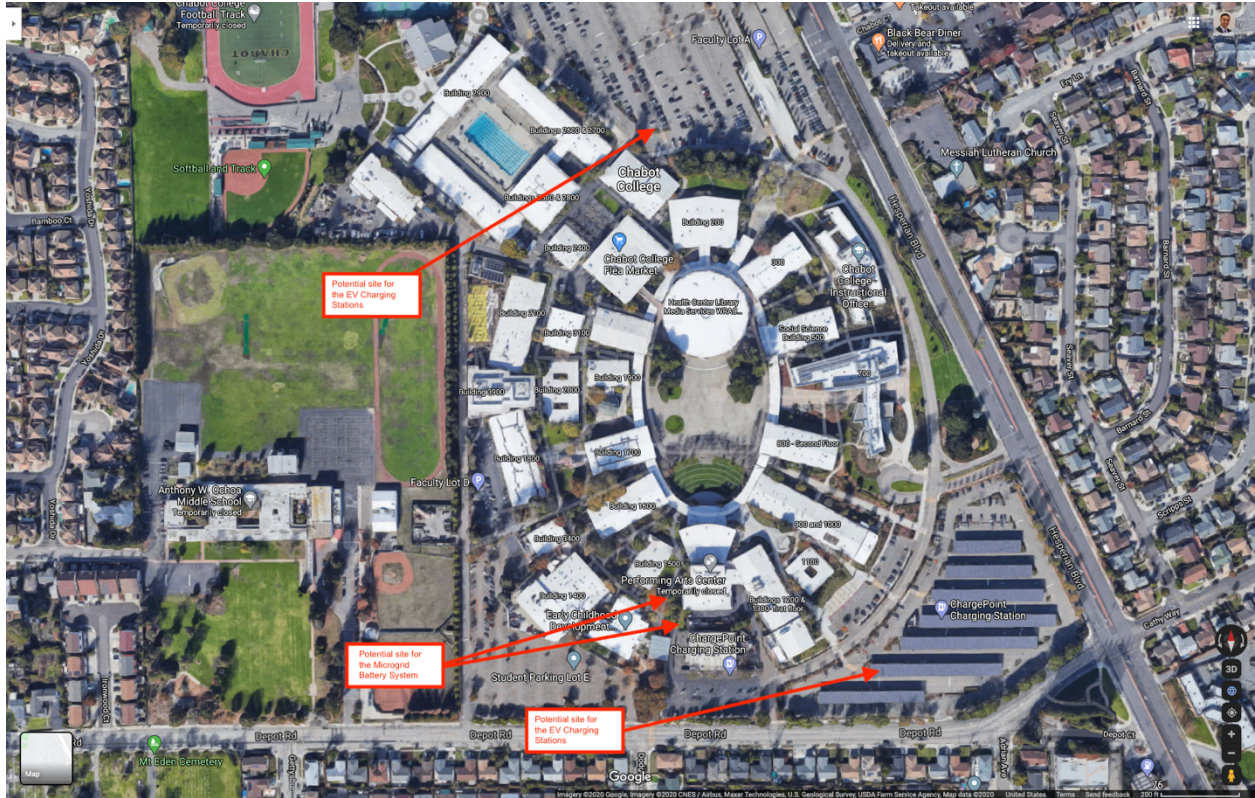


EXHIBIT B

Purchase Order #1 Attached

355-5/4672201.1

EXHIBIT C

Schedule of Values Attached