**SystemVision™ for New Homes**

**Program**

**SERVICE AGREEMENT**

THIS SERVICE AGREEMENT (this "Agreement") is made and entered into this 1st day of September, 2019 (the "Effective Date"), by and between NORTH CAROLINA ADVANCED ENERGY CORPORATION (“Program Sponsor”), a North Carolina nonprofit corporation, whose address is 909 Capability Drive, Suite 2100, Raleigh, NC 27606-3870, the North Carolina Housing Finance Agency (“Agency”) whose address is 3508 Bush Street, Raleigh, NC 27609, and Organization Name (“CPLP Member”), whose address is Address, City State Zip.

**RECITALS**

1. “The North Carolina Housing Finance Agency” (“Agency”) has established and oversees a “Community Partners Loan Pool” (the “CPLP Program”) which provides funding to help low-to-moderate income households achieve home ownership through subordinate mortgage financing to the home buyers and support funding to the local housing organizations that assist them. The housing organizations are selected to participate in the CPLP Program through a formal application process.
2. The Program Sponsor sponsors the “SystemVision™” for New Homes program which provides a process and the Program Sponsor administers the program standards set forth in Exhibit 1 (the “SV Program Standards”) for the inclusion of house-specific new construction energy-efficiency and comfort measures and includes the services of Program Sponsor-trained individuals, firms, and/or organizations.
3. The Agency, the CPLP Member, and the Program Sponsor wish to enter into this agreement to facilitate inclusion of the Program Sponsor’s SystemVision™ program option under the Agency-administered CPLP Program.
4. This Agreement pertains to the most current version of the SV Program Standards. The Agency and the Program Sponsor set the SV Program Standards and shall communicate in writing to the CPLP Member if SV Program Standards are revised. A minimum of a sixty (60) days notice will be provided before the CPLP Member shall be expected to comply with any revision to the SV Program Standards.
5. The Agency, the CPLP Member, and the Program Sponsor are entering into this Agreement upon the terms and conditions set out herein. In consideration of the mutual promises and benefits contained herein, the parties hereby agree as follows:

**ARTICLE 1**

**SERVICES**

**Section 1.1** **Services**

A. The Program Sponsor agrees to perform certain plan and specification review, training, inspections, performance testing and to provide certification and guarantees, as more completely described in Appendix A, which is attached hereto and incorporated herein by reference (hereinafter “Services”).

B. The CPLP Member agrees to:

1. Reserve CPLP Program funds for eligible home buyers and eligible homes with NCHFA in accordance with CPLP Program Guidelines in a format required by the Agency;
2. Submit to the Program Sponsor for its review house plans, specifications, and other attachments as needed for each residence at least three (3) weeks prior to ordering materials and setting specifications;
3. Make any necessary design changes that may be required by the Program Sponsor;
4. Ensure its builders and contractors attend SystemVision training prior to attempting certification for the first time and at each revision of the SV Program;
5. Set specifications, order materials, and build in accordance with the SV Program Standards and the Program Sponsor reviewed and approved plans;
6. Schedule all required framing, insulation, and final inspections with Program Sponsor and provide a minimum of three (3) business days notice prior to the date of the inspection. Requests shall be made by emailing svinspections@advancedenergy.org;
7. Submit unit information to Program Sponsor and arrange for access to homes for inspection, Performance Testing, and utility data collection by Program Sponsor before execution of CPLP loan documents;
8. When CPLP Member is not the developer/builder/general contractor, the Program Sponsor will enter into a written agreement directly with the developer/builder/general contractor for homes attempting certification. The developer/builder/general contractor, in accordance with its contract with the Program Sponsor, shall compensate the Program Sponsor for expenses related to certification. If the CPLP Member intends to request the SystemVision certification fee from NCHFA for these homes when a CPLP borrower is assisted, prior to requesting the SystemVision fee the CPLP Member shall enter into a Memorandum of Understanding with the builder/general contractor to agreeing to provide funding from the SystemVision fee to the builder/general contractor.

1. Request CPLP Program funds from the Agency when the construction of a home is completed, as verified by the Certificate of Occupancy and/or inspection; and
2. Pay the Program Sponsor the compensation identified in Appendix B for the Services the Program Sponsor provides. The CPLP Member understands that it is required to pay the Program Sponsor for any Services provided in connection with this Agreement regardless of whether the CPLP Member has received funding from the Agency.
3. The Agency agrees to:
4. Receive and review CPLP Program reservations submitted by the CPLP Member;
5. Notify the CPLP Member if the reservation request for CPLP Program funds is approved or denied and of the date of expiration of the reservation;
6. Notify the CPLP Member and the Program Sponsor in the event that the CPLP Program funding is temporarily or permanently unavailable;
7. Provide Program loan funds to approved homebuyers, pursuant to CPLP Program Guidelines;
8. Disburse SV Program-related CPLP funds pursuant to CPLP Program Participation Guidelines and the CPLP HOME Written Agreement with the Agency;
9. Notify participating CPLP Member and the Program Sponsor in the event that the Program Participation Guidelines are changed.

**ARTICLE 2**

**COMPENSATION**

**Section 2.1** **Compensation**

In full and complete compensation for all Services provided by the Program Sponsor hereunder, the CPLP Member agrees that the Program Sponsor shall be paid according to the payment schedule set forth in Appendix B, which is attached hereto and incorporated herein by reference. For this purpose, the Agency will provide funds to the CPLP Member, which will, in turn, disburse payments to the Program Sponsor on a unit-by-unit basis.

If the CPLP Member does not reserve CPLP Program funds with the Agency or if the Agency does not approve and disburse the CPLP loan to an eligible CPLP homebuyer, then the CPLP Member will not be eligible to receive CPLP Program funds for that unit. However, the CPLP Member is still required to pay the Program Sponsor for the services it provided on that unit. The CPLP Member has the option of substituting a qualified homebuyer for one the Agency does not approve and the Agency will provide CPLP Program funds for the unit if funds are still available.

**ARTICLE 3**

**TERM**

**Section 3.1** **Term**

This Agreement shall be for a three (3) year term from the Effective Date unless earlier terminated as provided herein. Articles 3, 4, 5, 6 and 7 shall survive termination of this Agreement. This Agreement may then be renewed or extended with or without modifications upon agreement from all parties.

**ARTICLE 4**

**CONFIDENTIALITY**

**Section 4.1 Confidentiality**

1. During the course of performance of the Services, the CPLP Member, the Agency and the Program Sponsor may gain knowledge of information or data of a proprietary or confidential nature belonging to the other parties (hereinafter referred to as the "Confidential Information"). Both parties acknowledge and agree neither to divulge nor discuss any such Confidential Information to any third parties without the express written consent of the other party, nor to use such information for any purpose not connected with the Services or the housing which receives the Services covered hereby.
2. In order to be considered Confidential Information, such information must be conspicuously labeled “Confidential” or “Proprietary Information: Do Not Disclose” or in some other matter to alert the other party that the information is intended to be confidential or is proprietary and should not be disclosed. It is understood and agreed that the Program Standards, the revisions the Program Sponsor makes to a recipient’s plans and specifications and the contractor and sub-contractor training shall not be considered Confidential Information.
3. The obligations set forth in subparagraph (a) above shall not extend to any portion of Confidential Information:
	1. which is known to the other party prior to disclosure or is information generally available to the public;
	2. which was not acquired, at any time, directly or indirectly and /or in any manner, from the party owning the Confidential Information and which the other parties lawfully had in its possession prior to the Effective Date;
	3. which, hereafter, through no act on the part of other parties, becomes information generally available to the public; or
	4. which corresponds in substance to information furnished to the other parties on a non-confidential basis by any third party having a legal right to do so.

**ARTICLE 5**

**REPRESENTATIONS, WARRANTIES, AND**

**COVENANTS OF PROGRAM SPONSOR**

**Section 5.1 Performance Standards**

The Program Sponsor shall perform the Services with care, skill, timeliness and diligence, in accordance with the applicable professional standards currently recognized by the profession, and shall be responsible for the professional quality, technical accuracy, completeness and coordination of all forms, services, reports or other items required by the Program Sponsor under this Agreement. The Program Sponsor represents and warrants that it has the experience, capability and resources, including but not limited to sufficient personnel and supervisors, to efficiently and expeditiously perform the Services to be provided hereunder in accordance with the highest professional standards, and the Program Sponsor further represents and warrants that it will at all times devote the necessary personnel and supervisors to perform the Services hereunder in such a manner. In the event that the Program Sponsor breaches a representation or warranty set forth in this paragraph 5.1, the Program Sponsor’s sole liability and CPLP Member’s sole remedy shall be that the Program Sponsor shall re-perform the Services, at its cost, in a manner consistent with this paragraph.

**Section 5.2** **Compliance with Laws; Insurance**

1. During the term of this Agreement, each party and all of its employees, subcontractors, agents, representatives and invitees shall fully comply with all applicable laws, governmental regulations, rules, requirements, ordinances, and other requirements of local and state authorities and the Federal government in connection with the Services hereunder.
2. The Program Sponsor is solely responsible for the safe transportation, use, storage, and disposal of any chemicals, tools, equipment and other materials used by the Program Sponsor in full compliance with all applicable laws.
3. All parties shall maintain insurance coverage, at their own expense, for the duration of the Agreement sufficient and reasonable to conduct their work and no workers compensation, medical, liability, unemployment or any other insurance of any party hereto, shall extend to any other party, its employees or subcontractors hereto.

**Section 5.3** **Indemnification;** **Limitation of Liability**

CPLP Member shall indemnify, defend, and hold harmless the Agency, its officers, agents and employees, from and against any and all claims, costs, damages, expenses, and liabilities of any kind whatsoever, arising from or related to CPLP Member’s performance of this Agreement.

In all events and for all causes of action hereunder, the maximum liability of the Program Sponsor to any party hereto for all claims, losses, expenses and damages, will not exceed the amount received by the Program Sponsor with respect to the home or unit that is subject to or the cause of, the claim, loss or damage. The parties hereto agree that this limitation is an essential part of this Agreement and Program Sponsor would not enter into this Agreement without this limitation. This limitation shall survive any failure of its essential purpose. In no event shall Program Sponsor be liable for special, incidental, consequential, indirect or exemplary damages, related to or as a result of this Agreement, including, without limitation, loss or revenue, profits or goodwill.

**ARTICLE 6**

**TERMINATION**

**Section 6.1** **Termination for Breach**

Any party may immediately terminate this Agreement in the event of breach of a material obligation of the other such termination to be effective upon receipt of written notification unless otherwise specified.

**Section 6.2** **Termination for other than Breach**

Any Party shall have the absolute and unconditional right, in its sole judgment and discretion, to terminate this Agreement for any reason, with or without cause, by notice to the other party such termination to be effective thirty (30) days following the date notice is given.

**Section 6.3** **Effect of Termination / Financial Compensation**

In the event of termination for other than breach, notwithstanding the termination, this Agreement shall continue in full force and effect as to any unit which is “in progress” ("in progress" is defined as any unit which the Program Sponsor has already performed House Plan and Specification Review) until the Program Sponsor provides the Services with respect to such housing. The Program Sponsor shall be compensated by the CPLP Member for such units “in progress” as set out in Section 2.1, Article 2.

**ARTICLE 7**

**MISCELLANEOUS**

**Section 7.1 E-VERIFY**

1. NCHFA and CPLP Member agree to comply with the provisions of N.C.G.S. 26-7.1 and N.C.G.S. 153A-99.1 respectively regarding the use of the Federal E-Verify system for all new employees.
2. Program Sponsor agrees to comply with the requirement of N.C.G.S. 64-26(a) which requires private employers with 25 or more employees in the State of North Carolina to comply with the Federal E-Verify system for verification of all employees’ legal work status.
3. NCHFA and CPLP Member agree to comply with HB 786 which prohibits state agencies and counties from entering into contracts with contactors who have not (or their subcontractors have not) complied with the E-Verify requirements of Article 2, Chapter 64 of the North Carolina General Statutes.

**Section 7.2 DEBARMENT AND SUSPENSION**

CPLP Member and Program Sponsor each agree to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State, or local government agency;
2. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
3. Have not within a three (3) year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

**Section 7.3 LOBBYING**

CPLP Member and Program Sponsor each agree to the best of its knowledge and belief that:

1. No Federal, State or local government appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal, State or local government agency, a member of Congress, North Carolina’s General Assembly or local government body; an officer or employee of Congress, North Carolina’s General Assembly or local government body, or an employee of a Member of Congress, North Carolina’s General Assembly or local government body in connection with the awarding of any Federal, State or local government contract, the making of any Federal, State or local government grant, the making of any Federal, State or local government loan, the entering into of any Federal, State or local government cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal, State or local government contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal, State or local government appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency; a Member of Congress, North Carolina’s General Assembly or local government body; an officer or employee of Congress, North Carolina’s General Assembly or local government body; or an employee of a Member of Congress, North Carolina’s General Assembly or local government body in connection with the Federal, State or local government contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying." in accordance with its instructions.

**Section 7.4** **Prohibition on Gifts**

N.C.G.S. §133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. The undersigned, by execution of this Agreement, attests, for their entire organization and its employees or agents, that they are not aware that any such gift has been offered, accepted, or promised by any employees of their organization.

**Section 7.5** **State Laws**

Each of the parties hereto agree they:

1. Will comply with the provisions of the Equal Employment Practices Act set out in Article 49A of Chapter 143 of the North Carolina General Statutes.
2. Will comply, as applicable, with the provisions of the Wage and Hour Act, Occupational Safety and Health Act of North Carolina, Controlled Substance Examination Regulation, Retaliatory Employment Discrimination, Safety and Health Programs and Committees, Workplace Violence Prevention, and other applicable provisions of Chapter 95 of the North Carolina General Statutes regarding labor standards.
3. Will make available and accessible any and all records associated with this Agreement to the North Carolina State Auditor’s Office in accordance with N.C.G.S. 147.64.7(4) for a period of not less than seven (7) years.

**Section 7.6 Record Retention**

Records shall not be destroyed, purged or disposed of without the express written consent of NCHFA. Federal and State records retention policy requires all records obtained or made pursuant to this Agreement to be retained for a minimum of five (5) years or until all audit exceptions have been resolved, whichever is longer. Also, if any litigation, claim, negotiation, audit or other action involving this Agreement has been started before expiration of the five (5) year retention period described above, the records must be retained until completion of the action and resolution of all issues that arise from it, or until the end of the regular five (5) year period described above, whichever is later.

**Section 7.7 Governing Law**

This Agreement will be governed by the laws of the State of North Carolina without regard to its conflicts of law provisions. Each party expressly consents to the jurisdiction of the courts of the State of North Carolina.

**Section 7.8 Permits**

The Program Sponsor shall obtain and pay for all permits, governmental fees, and licenses necessary for the performance of its Services to be provided hereunder and shall obtain all required inspections, authorizations and approvals prior to commencement of the Services hereunder.

**Section 7.9 Independent Contractor**

* 1. The Program Sponsor shall perform this Agreement solely as an independent contractor, and as such will select, engage and discharge its employees and otherwise direct and control the performance of its Services. Neither the Program Sponsor nor anyone employed by it shall be, represent, act, or purport to act as, or be deemed to be, the agent, representative, employee, or servant of the Agency or the CPLP Member.
	2. Neither the Agency, the CPLP Member nor the Program Sponsor has authority to make any statement, representation, or commitment of any kind nor to take any action binding upon the other without the other's prior written authorization.

**Section 7.10 Notices**

1. All notices hereunder shall be delivered (i) personally, (ii) by registered or certified mail, postage prepaid, or (iii) by overnight courier service to the following addresses of the respective parties:

If to PROGRAM SPONSOR: North Carolina Advanced Energy Corporation

 909 Capability Drive

 Suite 2100

 Raleigh, NC 27606-3870

 Attn: Brian Coble

If to THE AGENCY: North Carolina Housing Finance Agency

 P.O. Box 28066

 Raleigh, NC 27611-8066

 Attn: Sonia Joyner

If to CPLP Member: CPLP Member Name

 CPLP Member Mailing Address

 CPLP Member City, ST, Zip

 Attn: CPLP Member Primary Contact, Primary Contact Title

1. Notices shall be effective upon receipt if personally delivered, on the fifth business day following the date of mailing if mailed, and upon receipt if sent by overnight courier service. A party may change its address listed above by notice to the other parties.

**Section 7.11 Force Majeure**

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money owed) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused by or is the result of any acts of God; acts of the public enemy; insurrections; riots; embargoes, labor disputes, including strikes, lockouts, job actions, or boycotts; fires; explosions; or floods. The party so affected shall give prompt notice to the other parties of such cause and shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.

**Section 7.12** **Conformance with Law**

All parties shall at all times during the term of this Agreement strictly adhere to all applicable local, federal and state laws and implementing regulations as they currently exist and may hereafter be amended, including 41 C.F.R. § 60- 1.4(b). The parties shall also require compliance with these statutes and regulations in subcontract agreements, if any, permitted under this Agreement. The parties also will comply with any and all laws and regulations prohibiting discrimination in the specific program(s) which is/are the subject of this Agreement and, furthermore, each party makes the following assurances:

1. The parties shall not discriminate against any person on the basis of race, color, national origins, age, sex, religion and/or handicap, in performance of work under this Agreement.
2. At all times during the performance of this Agreement, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied benefits of the service, programs or activities performed by the parties or be subjected to any discrimination by the parties.

All parties are equal opportunity employers. Any party to the contract who is a federal contractor shall meet the required provisions and affirmative action obligations of their federal contracting status.

**Section 7.13** **Headings**

The headings of the Articles and Sections of this Agreement are intended solely for convenience and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation hereof.

**Section 7.14 Severability**

In case any one or more of the provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**Section 7.15 Assignment**

This Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other. The term “assignment” shall include any transfer by merger, acquisition, stock transfer or other consolidation with another entity. Any assignment attempted without the written consent of the other parties shall be void.

**Section 7.16 Survivorship**

All rights to payment accrued hereunder that have not been previously paid in full by the recipient for services performed in Appendix A, Articles 4 and 8, and Paragraphs 6.1 and 6.2 will survive the termination of this Agreement and remain binding upon and for the benefit of the parties hereto.

**Section 7.17 Attachments**

Any attachment, appendix or exhibit to this Agreement is hereby incorporated into and made a part of this Agreement. In the event of a conflict between the provisions contained in the body of this Agreement and any such attachment, appendix or exhibit, the terms in the body of this Agreement shall control.

**Section 7.18 Waiver; Modification of Agreement**

No waiver, amendment, or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both parties hereto. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

**Section 7.19** **Non-Appropriation**

The parties acknowledge that the CPLP Member is a governmental entity or Non-profit organization and the validity of this Agreement is based upon the availability of public funding under the authority of its statutory mandate. In the event that public funds are unavailable and not appropriated for the performance of CPLP Member’s obligations under this Agreement, then this Agreement shall automatically expire without penalty to CPLP Member thirty (30) days after written notice to the other parties of the non-appropriation of public funds.

All payments made by the Agency under this Agreement shall be made from funds available to it and are conditioned on the ability of sufficient funding to support the CPLP Program. Current CPLP funding amounts shall be posted in the CPLP Program Guidelines.

**Section 7.29** **Entire Agreement**

This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto. No course of dealing or usage of trade shall be used to modify the terms hereof.

**Section 8.13** **Counterparts**

This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

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

**NORTH CAROLNA North Carolina**

**ADVANCED ENERGY CORPORATION Housing Finance Agency**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name: Brian Coble Printed Name: Sonia Joyner

Title: Senior Vice President Title: Director of Home Ownership Program

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CPLP MEMBER**

**­­­­­­­­­­­­­­­­**

By:

Printed Name:

Title:

Date:

**APPENDIX A**

**SERVICES PROVIDED BY the PROGRAM SPONSOR**

The Program Sponsor agrees to provide the Services described below to the CPLP Member. All such Services shall be provided in strict accordance with the terms and conditions of the Agreement to which this Appendix A is attached.

1. **House Plan and Specification Review.**

Within fifteen (15) business days of the Program Sponsor’s receipt of plans, specifications and the completed Plan Review Input Form from the CPLP Member detailing the housing which a CPLP Member proposes to construct, the Program Sponsor shall review such plans and specifications and shall provide feedback to the CPLP Member as to required modifications to such plans as necessary so that the housing will meet the SV Program Standards. The CPLP Member shall provide the Program Sponsor with a copy of the revised plans and specifications.

1. **Training.**

 The Program Sponsor will provide reasonable training of CPLP Member, its construction manager and sub-contractors as necessary to ensure that the contractors and sub-contractors understand the revised plans and specifications, SV Program Standards and the construction techniques for achieving the SV Program Standards. The Program Sponsor will instruct staff identified by the CPLP Member so that staff may adequately educate the Homeowner(s) (as defined in the Guaranty) of the Homeowner Responsibilities applicable to the Guaranty and how best to utilize the building performance upgrades related to the SV Program Standards, as well as, the Homeowner’s responsibility to support data collection relative to energy consumption. Program Sponsor shall use its professional judgment to ensure that all parties are appropriately trained.

1. **On-site Quality Control.**

During the course of construction of the housing by CPLP Member, Program Sponsor will make sufficient visits to the site(s) to (i) inspect the work being done by the CPLP Member, its construction manager and subcontractors to assure it is being done in a way to meet SV Program Standards and (ii) to assist the construction manager and subcontractors in meeting the SV Program Standards.

The Program Sponsor shall not be obligated to inspect or test each house constructed by the CPLP Member. On houses which are inspected, there will be up to two initial inspections. The two inspections typically occur: (1) after framing and insulation, and (2) when the house is completed. For any home that does not pass an inspection, the CPLP Member may be charged $100 per hour for the third inspection, with a maximum charge of $200 for the third inspection; and $150 per hour for each additional inspection after the third inspection with a maximum charge of $300 for each inspection after the third inspection. Hourly time includes travel time. The maximum aggregate charges for all inspections after the two initial inspections shall not exceed $1,000.

1. **Performance Testing.**

The Program Sponsor shall implement a performance-testing and certification program. For homes completed or passing the SV Program Standards after July 1, 2019 the SV Program will provide the Comfort and Energy Use Guaranty. The Program Sponsor shall perform tests on as many homes as it deems necessary to provide the certifications and guarantees. While any home may be tested, every home may not be tested.

As part of the certification process, the CPLP Member shall coordinate with its HVAC subcontractors to submit to the Program Sponsor written documentation that all heating, air conditioning, and ventilation equipment has been installed in accordance with manufacturers’ specifications and SV Program Standards. The Program Sponsor will provide them a form for this purpose. If, through testing and inspections (“Performance Testing”), the Program Sponsor determines that equipment has been installed contrary to manufacturers’ specifications or SV Program Standards, the CPLP Member shall ensure that the HVAC contractor shall, at its expense, make all necessary repairs as necessary in order for the equipment to meet the manufacturers’ specifications and the SV Program Standards. If there is disagreement between the Program Sponsor and the contractor about whether or not manufacturers’ specs have been met, a technical representative of the manufacturer shall be called in to make the final determination.

After a house fails the Performance Testing for the first time, the Program Sponsor will, at its discretion:

1. work with the CPLP Member and/or appropriate subcontractors to bring the house up to standards; or
2. bring the house up to program standards itself; or
3. refuse to certify the house due to non-cooperation of third parties. It is understood that this option is a last resort, and will only be used after substantial efforts by the Program Sponsor have been made to resolve the issues, and only after The Agency has been given an opportunity to resolve the issues by working with CPLP Member and the appropriate subcontractor.

The Program Sponsor will make reasonable efforts to work with the CPLP Member and/or appropriate subcontractors to help them bring the house up to SV Program Standards. In the event that these efforts are unsuccessful, the Program Sponsor may decide to make the necessary alterations to the house, with the permission of the CPLP Member

If a house does not pass Performance Testing the second time due to failure of CPLP Member or its contractors to follow the Program Sponsor’s directions, the Program Sponsor shall have no further responsibility under this Agreement as to such house unless, CPLP Member and/or contractor agree to pay the Program Sponsor for cost of any future supervision and/or Performance Testing. Then, the Program Sponsor will continue to work with CPLP Member and/or contractor until such house passes Performance Testing.

1. **Certification and Guaranty.**

Once the Program Sponsor has successfully completed the performance testing for a particular house or subset of houses built by a CPLP Member, the Program Sponsor will certify to CPLP Member and the Agency that the house(s) constructed by the CPLP Member meet the SV Program Standards and the Program Sponsor will issue a Comfort and Energy Use Guaranty (the “Guaranty”) for such house. A specific house does not need to be tested by the Program Sponsor in order for the Program Sponsor to provide a certification for such house. The Guaranty shall extend for two (2) years and may be enforced by the original owner/occupant of the house. The Guaranty shall either be in the form attached hereto as Exhibit 2, depending on the construction methods used.

1. **Data Collection System.**

The Program Sponsor shall establish and maintain a process for the collection of data and a data management system for the data collected through the SV Program plan review, inspections, and testing and for tracking energy consumption for homes that participate in the SV Program. Data collection may include but is not limited to the following methods: direct data collection from the homeowner, usage of energy tracking software provided by the Program Sponsor, and/or the installation of energy consumption monitoring devices on SV Program participating homes by the Program Sponsor. Alternate methods of data collection must be approved in advance by the Agency and the CPLP Member. The Program Sponsor agrees to analyze and provide energy usage data upon the Agency’s request regarding homes participating in the SV Program.

**APPENDIX B**

**COMPENSATION PROVIDED TO PROGRAM SPONSOR BY CPLP MEMBER**

The Program Sponsor will be compensated for the performance of all Services described in Appendix A as follows:

CPLP Member will pay the Program Sponsor $1,200 per house for providing all of the Services listing in Appendix A to such house. Payment will be due and payable upon completion of all the Services as to any such house. Full payment is due even if a house fails Performance Testing and the Program Sponsor refuses to re-certify the house due to non-cooperation of third parties, or a house fails Performance Testing on two successive occasions. Payment will be made within 30 days of the Program Sponsor invoicing CPLP Member.

If after the Program Sponsor’s initial House Plan and Specification Review, and the Program Sponsor informing CPLP Member and the Agency informing the recipient of the measures and non-binding estimated extra cost for the house to comply with the SV Program Standards, (i) CPLP Member decides not to pursue obtaining further CPLP Program funds from the Agency for the materials, labor and equipment necessary to upgrade the house as originally planned to meet the Program Requirements or (ii) the Agency decides not to fund CPLP Member for the costs for the materials, labor and equipment necessary to upgrade the house as originally planned to meet the SV Program Requirements then Program Sponsor will be paid $250.00 instead of the normal $1,200.00 fee within thirty (30) days of Program Sponsor’s invoice and Program Sponsor will have no further obligation to render the remaining Services for such house. In such event, the Program Sponsor shall use commercially reasonable efforts to invoice CPLP Member for the House Plan and Specification Review after it has been notified by the CPLP Member or The Agency that the house so inspected is not receiving additional CPLP Program funds from The Agency.

The Program Sponsor shall not be obligated to inspect or test each house constructed by the CPLP Member. On houses which are inspected, there will be up to two initial inspections. The two inspections typically occur: (1) after framing and insulation, and (2) when the house is completed. For any home that does not pass an inspection, the CPLP Member may be charged $100 per hour for the third inspection, with a maximum charge of $200 for the third inspection; and $150 per hour for each additional inspection after the third inspection with a maximum charge of $300 for each inspection after the third inspection. Hourly time includes travel time. The maximum aggregate charges for all inspections after the two initial inspections shall not exceed $1,000. Payment will be due and payable upon completion of all the Services as to any such house. Full payment is due even if a house fails Performance Testing and the Program Sponsor refuses to re-certify the house due to non-cooperation of third parties, or a house fails Performance Testing on two successive occasions. Payment must be made within thirty (30) days of the Program Sponsor invoicing CPLP Member.

The maximum total fees shall not exceed $1,000 per house for additional re-inspections. When a house does not pass its first inspection or first reinspection, it is the CPLP Member’s responsibility for any fees occurred for additional re-inspections. The Program Sponsor may choose to waive fees. Should multiple reinspection fees exceed $1,000 in the aggregate, the house will be deemed unacceptable for participation in the SV Program. The Agency will not compensate the CPLP Member for any fees related to multiple re-inspections performed by the Program Sponsor or for any costs related to houses deemed unacceptable for participation in the SV Program.

**Exhibit 1**

*System****Vision for New Homes*** SV Program Standards 2019

1. **Air Tightness**
	1. *Air tightness* shall be less than or equal to .20 CFM50 per square foot of conditioned envelope area.
	2. All *air leakage* paths from the home to the crawl space and from the crawl space to outside shall be air sealed.

\*For air sealing checklist details, see [www.systemvision.org](http://www.systemvision.org).

1. **Moisture Management and Indoor Air Quality**
	1. *Drainage*: Finished grade shall be sloped away from foundation walls or slab. Surface drainage shall be diverted to a storm sewer conveyance or other approved point of collection that does not create a hazard. Lots shall be graded to drain surface water away from foundation walls. The grade shall fall a minimum of 6 inches (152 mm) within the first 10 feet (3,048 mm) from the foundation walls. For exceptions, see the North Carolina Residential Building Code Section R401.3.
	2. *Slabs*: A ground vapor/moisture barrier with a rating of no more than 0.1 perm shall be installed under the slab and have 100% coverage with overlapped seams.
	3. *Crawl Spaces*: All crawl spaces shall be closed and have the following components:
		1. A sump pump or drain to daylight with a backflow preventer shall be located at the lowest point of the crawl space.
		2. All air leakage paths from the home to the crawl space and from the crawl space to outside shall be air sealed.
		3. Vapor/Moisture Barrier
			1. Walls: Vapor/moisture barrier shall be sealed, mechanically fastened and run up walls to within 3 inches of mudsill.
			2. Floors: Vapor/moisture barrier shall be sealed at all seams and penetrations and to wall vapor/moisture barrier.
		4. Drying Mechanism: A standalone dehumidifier or supply register with backflow preventer that provides 1 CFM/30SF of floor area.
		5. For the duration of construction, crawl spaces shall have at least (1) a vapor/moisture barrier covering the ground.

(2) a drying strategy (e.g., temporary crawl space vents or a dehumidifier).

* 1. *Metal drip edge* flashing shall be installed on all roof edges according to National Roofing Contractors Association or manufacturer specifications.
	2. *Roof overhang depth* from the face of the wall to the face of the fascia must be a minimum of 12 inches.
	3. Only if installed, *gutters* must have downspouts that terminate at least 5 feet away from the foundation and be independent of the foundation drain system.
	4. At least one entry will have a *weather-protected overhang* of 3 feet in depth and a width of at least 18 inches from either side of the entry’s rough opening.
1. **Framing and Insulation**
	1. *Roof framing* shall allow for 10 inches of vertical space from the exterior of the top-plate to roof sheathing.
	2. *Insulation* shall be installed to the Insulation Institute’s or manufacturer’s specifications, with no gaps, voids, compression or wind intrusion. Insulation and the continuous air barrier shall be installed in physical contact with each other.
	3. *Attic accesses* shall be insulated to a minimum of R-30. Insulation must be securely fastened. This will require an insulated, air sealed and weatherstripped box to be constructed for attic pull-down stairs.
	4. Insulation levels shall, at minimum, equal those in the following table.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Climate Zone | Slab | Walls | Ceiling\*\* | Floors\* | Crawl Space Walls\* |
| 3 | NA | R-19 or R-15 + 3 cont | R-38 | R-19 | R-5 cont |
| 4 | R-10 | R-19 or R-15 + 3 cont | R-49 | R-19 | R-10 cont |
| 5 | R-10 | R-21 or R-15 + 5 cont | R-49 | R-30 | R-15 cont |

To locate climate zone, see https://up.codes/viewer/north\_carolina/iecc-2009/chapter/3/climate-zones#3

\*Closed crawl spaces require either the subfloor or walls to be insulated.

\*\*If using spray foam at the roof deck to create a sealed attic, use a minimum of 6 inches of either open or closed cell spray foam and covering the roof rafters.

* 1. In and around a crawl space, if insulation is installed at the foundation walls, insulated framed walls must be covered with a rigid air barrier and air sealed on all six sides, crawl space access shall be insulated with a minimum of R-5 rigid insulation securely fastened, and access shall be air sealed and weatherstripped to the outdoors.
1. **Heating, Air Conditioning and Ventilation**
	1. *Equipment Minimum Performance Values*:
		1. Furnaces: At least 90% efficient
		2. AC: At least 14 SEER
		3. Heat Pumps: At least 14 SEER and 8.2 HSPF
	2. All *duct connections* shall be sealed with a UL-listed “bucket” mastic product.
	3. *Total duct leakage*, measured in cubic feet per minute at 25 Pascals, shall not exceed 3% of the conditioned square footage. Building cavities shall not be used as ducts.
	4. *Mechanical systems* shall be sized to within 6,000 Btuh (or closest available size) of the whole-home ACCA Manual J total load. ACCA Manual J room-by-room load calculations, including all inputs and outputs, shall be submitted for each plan to verify sizing. A physical copy of the load calculation with the AHRI certificate shall be attached to the AHU or submitted to the rater prior to the final inspection.
	5. *Heat pumps* shall have an outdoor thermostat installed to prevent supplementary heater operation when the heat pump is capable of meeting load. The lockout shall be set no lower than 35F and no higher than 40F.
	6. The *measured airflow* for each room shall be within +\- 20% or 25 CFM of the ACCA Manual J calculation. This will require supply dampers to be installed for bedrooms and bathrooms.
	7. *Total system airflow* shall be set between 300 and 400 CFM per ton in cooling or to total system airflow as specified by the manufacturer.
	8. *Whole-House Ventilation*: There shall be a filtered whole-house mechanical fresh air ventilation system capable of meeting the current version of ASHRAE 62.2 that complies with one of the following options:

Option 1: *Supply Ventilation*: Air handler cannot have a PSC motor. System shall be designed to operate intermittently and automatically based on a timer and restrict outdoor air intake when not in use (e.g., motorized damper). Ventilation at a minimum shall occur 10% of every 24 hours and at a maximum 50% of every 24 hours. If additional ventilation is needed, Advanced Energy will adjust the guarantee to account for additional energy usage.

Option 2: Design and install an approved *balanced ventilation* strategy including ERVs or HRVs.

* 1. *Spot Ventilation*: All ventilation ducts shall terminate beyond the exterior skin of the building.
		1. All bathrooms shall have a fan vented to the outside that exhausts 50 CFM intermittently. (Requires a minimum fan rating of 70 CFM.)
		2. All kitchens shall have a fan vented to the outside that exhausts 100 CFM. (Requires a minimum fan rating of 120 CFM.)
	2. All *ventilation ducts*, excluding kitchen exhaust ducts, shall be insulated.
1. **Pressure Balancing**
	1. All rooms within the conditioned space, except baths and laundry, shall not exceed +/- 3 Pascals *pressure differentia*l with respect to the main body when interior doors are closed and AHU is operating. Returns, transfer grilles or jump ducts shall be used to balance each room in addition to door undercuts.
2. **Plumbing**
	1. Water heaters shall have a UEF as indicated in the table:

|  |  |
| --- | --- |
| Water Heater Type | UEF Value |
| Electric Tank | .93 |
| Gas Tank | .60 |
| Gas Tankless | .61 |
| Heat Pump | Any |

* 1. From the water heater, the first 3 feet of hot and cold pipes shall be insulated to ≥ R-4.
	2. Toilets shall be 1.3 GPF or less (including dual-flush models). Showerheads shall be 2.25 GPM or less. Kitchen faucets shall be 2.2 GPM or less. Bath faucets shall be 1.5 GPM or less.
1. **Appliances & Lighting**
	1. Dishwashers and refrigerators, if provided by the builder, shall be ENERGY STAR® certified.
	2. Home shall not have any incandescent lights. All exterior lighting shall use LEDs.
2. **Aging in Place/Visitability**
	1. One house entry door, one bedroom entry and one bathroom entry must be a minimum of 32 inches clear. A visitable route from an exterior entrance through interior hallways must provide access to these interior entries, and this route must be a minimum of 36 inches clear throughout.
	2. One bathroom shall have *continuous blocking* in walls using a minimum of 2x6 with the bottom located 31 inches above the floor around both toilet and shower to allow for future grab-bar installation.
3. **Combustion Safety and Radon Mitigation**
	1. Any *combustion appliance* inside the conditioned space or closed crawl space, other than gas ranges, shall be direct (sealed) vent or power (fan) vented. Vent-free gas logs and wood fireplaces are not allowed.
	2. One hard-wired *CO detector* shall be installed per 1,000 square feet of living space (minimum one per floor) in homes with any combustion appliance located within the conditioned space or that have an attached garage.
	3. Radon-ready house/passive mitigation: Install a 3 to 4 inch diameter PVC pipe T-fitting from below the crawl space liner or slab. Connect it to a pipe that runs vertically through the house and exhausts to the exterior a minimum of 12 inches above the roof and 10 feet from openings into conditioned spaces. Install a power supply accessible to the upper top 50% of the pipe in case there is a need to convert to an active radon system.

Acronyms and Abbreviations

AC Air conditioners

ACCA Air Conditioning Contractors of America

AHRI Air-Conditioning, Heating, & Refrigeration Institute

AHU Air handling unit

ASHRAE American Society of Heating, Refrigerating and Air-Conditioning Engineers

Btuh British thermal units per hour

CFM Cubic feet per minute

CFM50 Cubic feet per minute at 50 Pascals

CFM/30SF Cubic feet per minute per 30 square feet

CO Carbon monoxide

cont Continuous insulation

ERV Energy recovery ventilator

F Degrees in Fahrenheit

GPF Gallons per flush

GPM Gallons per minute

HRV Heat recovery ventilator

HSPF Heating Seasonal Performance Factor

IECC International Energy Conservation Code

LED Light-emitting diode

mm Millimeters

NA Not applicable

Perm Unit of measure for the water vapor permeability of a material

PSC Permanent split capacitor

PVC Polyvinyl chloride

SEER Seasonal Energy Efficiency Ratio

UA Sum of U-factor times assembly area. May be used to determine code compliance for insulation when using an

 alternate compliance path.

UEF Uniform Energy Factor

UL Underwriters Laboratories

**Exhibit 2**

**Comfort and Energy Use Guaranty**

Affordable Housing with *System****Vision***™

### Comfort and Energy Use Guarantee

***ENERGY USE GUARANTEE:***

Advanced Energy guarantees to the Original Homeowner for the two-year period after the original homeowner purchases the home, that the energy required to heat and cool the building will not exceed the Guaranteed Usage. Guaranteed Usage will be adjusted based on changes in energy rates and in the event of unusual weather conditions for the locale of the property. Should the Actual Usage for heating and cooling exceed the Guaranteed Usage in any one-year period, Advanced Energy will reimburse the Homeowner for 100% of the cost of the difference. The Guarantee will begin on the first day of the second month after closing.

***COMFORT GUARANTEE:***

Advanced Energy guarantees the comfort of the Original Homeowner for two years. Comfort is defined as a temperature differential of no greater than plus or minus 3 degrees F from the thermostat location to the center of any conditioned room within the zone. Should a comfort question arise, an Advanced Energy agent will evaluate the situation. Advanced Energy’s responsibility will be limited to repairing any defects in the building’s original envelope.

***HOMEOWNER RESPONSIBILITIES:***

In order to maintain this guarantee, the Homeowner agrees to:

1. Prudent use of windows and doors when HVAC system is in operation.
2. Operate and service heating, cooling, and ventilation (HVAC) systems as recommended by the manufacturer. Change HVAC and ventilation filters according to manufacturer recommendations.
3. Maintain thermostat settings no higher than 72 degrees F during the heating season and no lower than 76 degrees F during the cooling season.
4. Apprise Advanced Energy of any alterations or modifications to the property, facilities, equipment or occupancy that affect energy consumption so that appropriate adjustments can be made to the Guaranteed Usage. An additional fee will be required to evaluate or modify the Guaranteed Usage.
5. Comply with data collection requirements to provide Advanced Energy with access to utility billing data.
6. Submit any claims in writing with copies of monthly energy billing information to Advanced Energy within 30 days of the end of each annual period of the guarantee. Send to Advanced Energy, Guarantee Dept., 909 Capability Drive, Suite 2100, Raleigh, NC 27606.

***ANNUAL ACCOUNT ANALYSIS:***

Upon receipt of claim with energy billing information, Advanced Energy will prepare and return to the Homeowner an account analysis showing any reimbursement the Homeowner may be entitled to according to the guarantee. At its discretion Advanced Energy agents may inspect, meter or make repairs as necessary to lower the energy requirements for heating and cooling in the future. Heating and Cooling usage will be calculated by the following method: 1)The Base Load will be the average energy used for the three lowest months of full occupancy, multiplied times twelve; 2) Adjustments will be made for exceptional energy loads such as pools and hot tubs, 3) The total annual bill minus the annual base load minus adjustments = the heating and cooling bill.

***LIMITATIONS:***

Advanced Energy shall not be liable for any incidental or consequential damages resulting from breach of this Energy Use Guarantee other than expressly stated above, or any express or implied guarantee arising under state law. Guaranteed Usage will be adjusted based on changes in energy rates and in the event of unusual weather conditions for the locale of the property. The Advanced Energy Use Guarantee will not apply if excessive energy use results from the malfunction of heating, ventilation, and cooling equipment or failure of the Homeowner to fulfill all Homeowner Responsibilities. The Homeowner understands that Advanced Energy makes no warranties which extend beyond the warranty described hereof, including any express or implied warranties of merchantability or fitness for purpose. Without limiting the general disclaimers above, Advanced Energy makes no representations or warranties of any kind, express or implied, to anyone with respect to indoor Radon and Air Quality concerns.