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## **CONTRACTOR PARTICIPATION AGREEMENT**

The California Building Performance Contractors Association (CBPCA) is offering a Home Performance with ENERGY STAR® program (hereinafter referred to as the “Initiative”) to improve the energy performance, durability, healthiness and safety of existing residential buildings in the Southern California Edison (SCE) service area. This Initiative is funded by California energy ratepayers under the auspices of the California Public Utilities Commission (CPUC).

The objective of the Initiative is to enhance the delivery of building performance services that use state-of-the-art diagnostic tools and the principles of building science to reduce energy consumption cost-effectively, while simultaneously addressing issues pertaining to indoor air pollutants (particularly carbon monoxide), ventilation, and moisture control. In association with several subcontractors and EPA’s HOME PERFORMANCE WITH ENERGY STAR® program, CBPCA is offering a package of support services to both contractors and consumers. Those CBPCA services are designed to increase awareness of and demand for building performance contracting, while, at the same time, building an infrastructure of trained contractors able and willing to deliver comprehensive home performance diagnostic and remediation services to the owners of existing homes.

This Agreement sets out the terms and conditions under which contractors will participate in the Initiative. Under this Agreement, contractors contract to provide building performance services to customers, and to meet Initiative standards in doing so. CBPCA agrees to provide technical and marketing support for participating contractors. This Agreement is completely voluntary and can be terminated at any time for any reason by the participating contractor or by CBPCA.

Some of the services and support that CBPCA will make available to participating contractors include the following:

- Initial training and field advisory assistance in business practices, sales, home diagnostics, and installation practices at nominal cost
- Optional training to use software to assist in home analysis, job tracking, energy savings estimates, and reporting.
- The opportunity to respond to leads generated from the CBPCA’s public awareness campaign throughout the SCE service territory
- Opportunity to participate in related project financing programs of the Electric and Gas Industries Association, which offer consumers simplified non-mortgage loans, including discounted rates for some types of improvements.
- Use of marketing materials with ENERGY STAR® and CBPCA affiliations, which can include contractor company logo and other information
- Certain specific uses of the HOME PERFORMANCE WITH ENERGY STAR® and CBPCA logos in the contractor’s own marketing
- Use of the ENERGY STAR logo and the Home Performance with ENERGY STAR name consistent with both EPA guidelines and agreements reached between EPA and CBPCA regarding use of the logo and name.
- One year of free membership in the California Building Performance Contractors Association

By signing this Agreement, we the undersigned agree to play an active role in this CALIFORNIA HOME PERFORMANCE WITH ENERGY STAR® Initiative by providing high-quality building performance services to Initiative customers. As a condition of participating in the Initiative and gaining CBPCA’s benefits as described above, we the undersigned agree that:

- We will accept referrals from the Initiative and will provide services to these referral leads in accordance with the Initiative guidelines and this Agreement.
- We will make every effort to pursue these leads, as well as leads generated by our own means, in a timely and professional fashion. We recognize that if we fail to contact leads provided to us within three weeks, the lead may be offered to another participating contractor.
- We will use the ENERGY STAR logo and the Home Performance with ENERGY STAR name consistent with both EPA guidelines and agreements reached between EPA and CBPCA regarding use of the logo and name.

- In all our home performance retrofit projects, we will meet the standards as trained by the CBPCA and reviewed onsite by the CBPCA's representatives.
- We will allow CBPCA-trained persons to directly supervise and inspect all jobs we perform under the Initiative.
- We will acquire all required equipment and use it to do complete testing of home energy performance for each job, both in the initial diagnostic testing and at the conclusion of each job, and will report that data to CBPCA.
- We will work uniformly and consistently on all jobs to assist in home analysis, job tracking, energy savings estimates, and automated reporting of job characteristics and results to CBPCA.
- We will make staff available for further training, as deemed needed by CBPCA's trainers and job inspectors, to fulfill CBPCA job quality standards.
- We agree that any subcontracting or referrals to other contractors as a part of our home performance retrofit jobs will involve only contractors trained and in good standing with the CBPCA Initiative, unless they are subcontractors whom we directly supervise with staff with all relevant Initiative-approved training and capabilities who also perform the required after-installation tests and inspections.
- We will assist in the Initiative's recruiting of any contractors with whom we prefer to work as our trade allies.
- We will maintain effective procedures for quality assurance, including adequate trained supervision and a formal test-out of each job. We will also maintain effective procedures for resolution of customer complaints or disputes and responding to customer emergencies. We will make these procedures available to CBPCA on request, and will cooperate with CBPCA in any further efforts CBPCA may undertake to assist in resolving customer issues.
- We will provide a written guarantee of our labor and materials for a minimum of one (1) year from the date the service is performed. All equipment installed will carry manufacturer's warranty, with all such warranties delivered to the customer upon job completion.
- We will allow and facilitate random field inspections and testing of work that we have performed, in order to maintain quality of Initiative services. We recognize that CBPCA intends to inspect and test at least 10% of all jobs performed under the Initiative, with possibly higher percentages for individual contractors based on prior performance.
- We will maintain general liability insurance coverage of at least \$1 million. We agree to produce prompt evidence of coverage as a condition of acceptance into the Initiative, with CBPCA and other specific organizations named as "additional insureds" as requested by CBPCA in a separate instruction. We accept full responsibility for all work done by us under the Initiative, with no recourse to CBPCA or its affiliates.
- We acknowledge that participation in the Initiative is a privilege, and CBPCA may terminate our firm's participation in the Initiative for failure to maintain these standards or (at CBPCA's discretion) for any other reason for the good of the Initiative. In all cases involving termination of a firm's participation, CBPCA's written decision will be final and that firm will immediately cease to present itself as having any relationship with CBPCA, the EPA's HOME PERFORMANCE WITH ENERGY STAR® program and logo, and the Initiative.

**NO WARRANTY:** THIS IS AN AGREEMENT FOR CBPCA AND ITS SUBCONTRACTORS TO PROVIDE CERTAIN TRAINING SERVICES TO THE CONTRACTOR. CBPCA AND ITS SUBCONTRACTORS SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, TO THE CONTRACTOR AS TO THE CONDITION, MERCHANTABILITY, TITLE, DESIGN, OPERATION OR FITNESS FOR A PARTICULAR PURPOSE OF ANY OF TRAINING SERVICES PROVIDED HEREUNDER.

**LIMITATION ON LIABILITY:** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF CBPCA OR ANY OF ITS SPONSORS, FUNDERS, OR SUBCONTRACTORS UNDER THE TERMS OF THIS AGREEMENT EXCEED THE TOTAL PAYMENTS ACTUALLY RECEIVED BY CBPCA FROM CONTRACTOR HEREUNDER. IN NO EVENT SHALL CBPCA OR ANY OF ITS FUNDERS, OFFICERS, SUBCONTRACTORS, EMPLOYEES, OR ASSOCIATES BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES UNDER THIS AGREEMENT, HOWEVER CAUSED, EVEN IF CBPCA OR ANY OF ITS SUBCONTRACTORS IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CBPCA assumes no liability for the accuracy or completeness of any representations, express or implied, made by the Contractor to any party. CBPCA assumes no liability for damages arising from errors and omissions in testing,

work scope, construction activities, or inspection of work performed by individuals trained by CBPCA and its subcontractors.

**Indemnification:** Contractor shall defend, indemnify and hold harmless CBPCA, its affiliates, officers, directors, agents, employees, and subcontractors from and against any and all claims demands, actions, suits, liabilities, costs or expenses (including attorneys' fees and any other costs of defense of claims made) arising directly or indirectly out of any breach of Contractor's obligations under this Agreement. CBPCA and all the aforementioned affiliated parties shall be held harmless against any and all of Contractor's activities including but not limited to financial transactions, property damage, and personal injury.

**Insurance:**

- a. Contractor must carry appropriate general liability insurance and California contracting licenses as required by local and federal regulations.
- b. CBPCA (including all its affiliated parties as noted above) shall be listed as additional insured on the Contractor's general liability insurance as part of the Contractor participation and later renewal process.

**ACCEPTED AND AGREED TO:**

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

**STREET ADDRESS:** \_\_\_\_\_ **CITY:** \_\_\_\_\_

**STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_ **TELEPHONE:** \_\_\_\_\_

**FAX:** \_\_\_\_\_ **E-MAIL:** \_\_\_\_\_

**ACCEPTED FOR CBPCA:**

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

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