

INSTALLATION, REPAIR AND SERVICE CONTRACT

THIS CONTRACT ("Contract"), made and entered into the _____ day of _____
19____, by and between _____ ("Dealer"), and _____
_____ ("Contractor"):

WITNESSETH

WHEREAS, Dealer holds a good and valid dealer's license from the Commissioner of Insurance of the State of Mississippi permitting Dealer to sell new or used manufactured, mobile and relocatable homes to the public pursuant to the Rules and Regulations for the Uniform Standards Code for the Factory-Built Homes Law of the State of Mississippi; and,

WHEREAS, the Contractor is an independent contractor in the business of installing, repairing, and servicing manufactured, mobile or relocatable homes with the public and holds a good and valid license to do so from the Commissioner of Insurance of the State of Mississippi pursuant to the Rules and Regulations for the Uniform Standards Code for the Factory-Built Homes Law of the State of Mississippi; and,

WHEREAS, the Contractor agrees to install, repair and service manufactured, mobile and relocatable homes ("work") sold by Dealer to the public, subject to the terms and conditions of this Contract and according to all laws, rules and regulations of the United States of America, the State of Mississippi, any applicable City, County, or local government ("according to law").

NOW, THEREFORE, in consideration of the mutual obligations to be performed hereunder and sums herein agreed to be paid and received, the parties hereto agree as follows:

1. **CONTRACTOR'S OBLIGATIONS:** Contractor agrees to:

- a. Comply with provisions of this Contract.
- b. Install, repair and service manufactured, mobile and relocatable homes according to the specifications of the manufacturer and according to law upon receipt of a work order from Dealer. In the event there is a conflict between the specifications of the manufacturer and installation, repair or service according to law, the terms and provisions of the law shall govern.
- c. Undertake and complete all work in a prompt, professional and workmanlike manner and to secure all necessary permits and permissions to perform the work.
- d. Respond to any and all questions, inquiries, investigations, or inquiries and cooperate with all governmental entities concerning Contractor's work, furnishing Dealer a copy of any notices, complaints, suits, or other inquiries or disputes and Contractor's response for the purpose of demonstrating compliance with the provisions of this Contract.
- e. Communicate with the owner of the manufactured, mobile and relocatable home (and the owner of the land where the home is located, if different from the owner) sufficiently in advance of beginning operations and immediately upon completion of operations.

2. **TIME AND WEATHER:** Contractor shall begin operations on the work under this Contract as soon as reasonably possible upon receipt of a Work Order from Dealer and shall work continuously until this Contract is completed. Contractor shall schedule the sequence of work at Contractor's discretion but shall, in any event, complete the work in a timely manner and within the time frame established by Dealer. Contractor's acceptance of the job order constitutes Contractor's agreement to the reasonableness of the time frame and anticipates bad weather. In times of bad weather, Contractor shall not perform any operations that would be prohibited according to law or cause excessive damage to the property or extra work under this Contract. Damages caused by work performed

in bad weather shall be immediately remedied by Contractor at Contractor's sole cost and expense. TIME IS OF THE ESSENCE IN THIS CONTRACT.

3. **PRICE AND PAYMENT:** Contractor shall perform the work according to the current Price Sheet agreed upon by the parties. That Price Sheet, as it may change from time to time, is incorporated by reference in this Contract. Contractor shall present to Dealer invoices describing such work upon completion of the work. Dealer shall pay Contractor after verification by Dealer of the work by inspection by Dealer, the owner of the home, the owner of the property, local governing authorities or other appropriate persons or entities in the reasonable discretion of the Dealer. Contractor shall be issued a 1099 form concerning payments made to Contractor and Dealer shall not have any obligation to pay or withhold social security, income, or other taxes. To assure Contractor's satisfactory performance of the contract, Dealer shall have the right to withhold payment where the work fails to meet the provisions of this Contract. Upon correction of such deficiencies Contractor may invoice Dealer for the work.

4. **INDEPENDENT CONTRACTOR STATUS:** It is expressly stipulated that Contractor is not an agent or employee of Dealer and has no authority of any kind or character to incur or permit the imposition of any obligation or liability of any kind on behalf of or against Dealer. Contractor is and shall be an independent contractor with sole responsibility to complete the work, at Contractor's sole cost and expense, including but not limited to:

- a. conducting the operations consistent with the terms of the agreement in any manner the Contractor, in Contractor's sole discretion, deems expedient;
 - b. setting hours of performance and the beginning and ending of the work in Contractor's sole discretion;
 - c. furnishing experienced personnel trained by Contractor to perform the duties set forth in this Contract;
 - d. hiring, firing, supervising, and paying Contractor's own employees;
 - e. furnishing all tools, materials, machinery and equipment necessary to perform the work;
- and,
- f. obtaining all licenses, permits and permissions necessary to complete the work.

5. **INSPECTION, BREACH AND REMEDIES:** Dealer or a representative on Dealer's behalf shall have the right to inspect Contractor's work for the purpose of determining whether or not the work was conducted in accordance with this Contract. In the event of noncompliance, Dealer shall immediately notify Contractor and specify the particulars wherein Contractor is not in compliance herewith. Contractor shall correct the operations within two (2) business days of receipt of such notice of noncompliance. If the Contractor fails or refuses to timely remedy the operations then Dealer may, at its option, declare all work under the Contract to be suspended and/or that the Contract shall be null and void upon thirty (30) days notice to the Commissioner of Insurance. Upon cancellation of this Contract, Dealer shall have no obligation to pay Contractor for any work not meeting the requirements of this Contract and Dealer may withhold from sums otherwise due Contractor any damages incurred due to Contractor's failure to perform the terms and conditions of the Contract. Dealer may pursue any remedies available to recover from Contractor any damages it incurs as a result of Contractor's breach of the Contract. Dealer shall further be entitled to recover its reasonable attorney's fees and out-of-pocket expenses arising out of Contractor's breach in Dealer's pursuit of any remedies against Contractor.

6. **COMPLIANCE WITH LAWS:** Contractor hereby covenants and warrants that all of Contractor's work will be conducted in strict compliance with all local, state and federal laws, rules,

regulations, and executive orders, including but not limited to: all environmental laws, rules and regulations; compliance with all laws, rules and regulations concerning manufactured, mobile or relocatable housing, hauling of the home, equipment, or materials necessary for the installation, repair or service of the home including, but not limited to applicable weight limitations, traffic, safety, zoning and other laws; all applicable labor laws including the requirements of the Fair Labor Standards Act; all applicable state worker's compensation laws; and, the Occupational Safety and Health Act.

7. **INDEMNIFICATION:** Contractor covenants, contracts, and agrees to come in, indemnify, protect, and hold Dealer harmless from and against any and all claims, demands, causes of action or suits of whatever kind or nature, whether to persons or property, arising out of, on account of, or as a result of, directly or indirectly, Contractor's operations hereunder. Contractor shall afford to Dealer at Contractor's expense a complete defense of any such claim, demand, cause of action or suit, and Contractor shall bear in connection therewith all attorney's fees, costs of preparation and maintenance of the defense and all expert witness, trial, and court costs to the end that Dealer shall incur no cost whatsoever as a result of such claim, demand, cause of action or suit.

8. **INSURANCE:** Contractor covenants and obligates itself, as well as any of its agents, to carry insurance during the term of this Contract, and shall furnish certificates of such insurance to Dealer prior to commencing work. Such certificates shall name Dealer as an additional insured and shall contain such endorsements providing that such insurance is primary over any other insurance available to Contractor. Insurance shall be placed with companies acceptable to Dealer and Contractor. Subrogation against Dealer is hereby waived by Contractor and the policies shall be endorsed accordingly. The minimum insurance shall be the following amounts and coverage:

- a. Comprehensive Vehicle Liability Insurance, including contractual coverage and owned, hired and non-owned vehicle coverage, \$1,000,000 combined single limit bodily injury and property damage each occurrence or such other higher amount as may hereafter be required of Contractor by law, (if the insurance provisions are applicable to Contractor);
- b. Comprehensive General Liability Insurance, including contractual liability coverage, with limits of not less than \$500,000 combined single limit bodily injury and property damage each occurrence;
- c. Umbrella Insurance in the amount of \$1,000,000;
- d. Worker's Compensation Insurance in statutory amounts, fully covering Contractor's operations hereunder, including coverage for all members of Contractor's organization, whether employer, sole proprietor, partner, officer, and all employees;
- e. Employer's Liability Insurance in the amount of \$500,000 for each accident or occurrence, \$500,000/disease policy limit, and \$100,000/disease limit for each employee.

Dealer shall be given thirty (30) days advance notice by certified mail of any material change or cancellation of said policy. In the event Contractor fails to deliver evidence of coverage or the coverage is canceled or materially changed, Dealer may, at its option, immediately terminate this Contract after thirty (30) days prior notice to the Commissioner of Insurance or refuse to accept any performances hereunder until Contractor furnishes to Dealer satisfactory evidence that Contractor is currently carrying the insurance coverage stated above.

9. **ASSIGNMENTS AND SUB-CONTRACTS:** This Contract shall be binding on the heirs, successors, assigns of the parties hereto but shall not be assigned by Contractor without the prior written consent of Dealer. Contractor understands that the work to be performed under the Contract are personal services and Contractor shall not subcontract any such work without obtaining Dealer's prior written permission.

10. **CONTRACTOR'S AGENT:** During Contractor's operations hereunder, Contractor agrees to have on the premises a designated agent for receipt of any notices, including notices concerning Contract non-compliance.

11. **NOTICES:** Any notices necessary or required to be given under the terms hereof, unless otherwise expressly so provided, shall be in writing and may be transmitted either: (a) by hand to the party addressed (or in the case of Contractor, to its designated agent); or, (b) via U.S. Postal Service, postage prepaid, addressed as follows:

TO DEALER:

TO CONTRACTOR:

12. **INSURANCE DEPARTMENT REQUIREMENTS:** This Contract will be furnished to the Commissioner of Insurance of the State of Mississippi ("Commissioner") pursuant to rules and regulations of that office. Contractor acknowledges that Contractor has adequate facilities for the repair and servicing of factory-built homes, the storage of parts and accessories, has at least one operable service truck and complies with all the rules and regulations of the Commissioner and State Fire Marshall. The Commissioner shall be notified 30 days in advance of any cancellation of this Contract.

13. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties hereto and may not be modified or amended except by the written agreement of the parties hereto.

14. **APPLICABLE LAW:** This Contract shall be governed by the laws of the State of Mississippi.

IN WITNESS WHEREOF, the parties hereto have affixed their signature and/or their firm or corporate names by their duly authorized officers or agents on this the ___ day of _____, 19__.

WITNESSES:

"DEALER"

By: _____

Its: _____

WITNESSES:

"CONTRACTOR"

By: _____

Its: _____

WORK ORDER

To: _____
"Contractor"

From: _____
"Dealer"

Date: _____

Pursuant to our Installation, Repair and Service Contract ("Contract"), you are requested to perform the work described below by _____, 19____.

[Describe Work Here]

Upon completion of the work, please send an invoice for the work according to our current Price Sheet as referred to in the Contract. If you have any questions, please contact me.

ADDENDUM TO INSTALLATION, REPAIR AND SERVICE CONTRACT

This Addendum to Installation, Repair and Service Contract ("Addendum") is made by and between _____ (Dealer) and _____ (Contractor) as of this _____ day of _____, 199____. Dealer and Contractor have entered into an Installation, Repair and Service Contract ("Contract") simultaneously herewith and, being in agreement, wish to make the following modifications to the Contract.

1. In addition to the other rights and remedies available to the parties at law or equity, the parties shall be entitled to pursue arbitration. The undersigned agree that any dispute, claim or controversy whatsoever arising out of or in any way relating to the Contract, and the manufactured home and services or work that is the subject of the Contract or any Work Order issued pursuant to the Contract will be settled by means of final and binding arbitration in accordance with the commercial arbitration rules then in force of the American Arbitration Association (AAA). This arbitration shall include, but not be limited to: any dispute concerning the work by Contractor, the validity or enforceability of arbitration; all rights and liabilities of the parties and third parties (as defined below) under case law, statutory law, regulations or any and all other laws, regardless of the nature or basis for the right, liability or remedy. Judgment on the arbitration award may be entered in any court having jurisdiction. All parties agree that this arbitration provision of this contract, if invoked by either party, is a knowing and intentional waiver of all parties of any right by the parties to have a jury trial or a court action. All parties agree that arbitration is for the benefit of the parties and any customer, owner, lender or mortgagee, or their successors and assigns concerning any manufactured home subject to the Contract ("third parties"), just as if those third parties had signed this contract. Nothing in this Addendum requires any third party to invoke the arbitration provision, but they may do so at their discretion.
2. Nothing in this Addendum will prevent any party or beneficiary from seeking an administrative remedy from a state, federal or local agency that has jurisdiction over manufactured housing, nor does it relieve any party from any duty to comply with an order or directive of such agency. Any arbitrator shall have the full authority, in his or her discretion, to award the prevailing party, if any, all pre- and post-award expenses of the arbitration, including the arbitrator's fees and travel expenses, administrative fees, out-of-pocket expenses, witness fees, and attorneys' fees. Absent any award by the arbitrator, the parties shall share their arbitrator's fees, travel expenses and administrative fees, with each party bearing its own expenses.
3. Except as set forth in this Addendum, the terms of the Agreement shall remain unmodified and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have affixed their signature and/or their firm or corporate names by their duly authorized officers or agents on this the _____ day of _____, 19____.

WITNESSES:

"DEALER"

By: _____

Its: _____

"CONTRACTOR"

By: _____

Its: _____

WITNESSES:

PRICE SHEET

This Price Sheet ("Price Sheet") represents the agreement of the Dealer and the Contractor as to the work to be performed by the Contractor pursuant to the Installation, Repair and Service Contract ("Contract") between the parties. It may be amended by a subsequent written Price Sheet.

IN WITNESS WHEREOF, the parties hereto have affixed their signature and/or their firm or corporate names by their duly authorized officers or agents on this the _____ day of _____, 19____.

WITNESSES:

WITNESSES:

"DEALER"

By: _____
Its: _____

"CONTRACTOR"

By: _____
Its: _____