

**PERFORMANCE AGREEMENT / CONTRACT for the
TRANSPORTATION /INSTALLATION
OF MANUFACTURED HOMES**

PARTIES TO THE CONTRACT:

_____ and _____
(Retailer Name) (Transporter/Installer Name)
_____(address) _____(address)
_____(address) _____(address)

DATE:

In exchange for monetary compensation, the Transporter / Installer agrees to transport/ install the manufactured homes of "Retailer" (defined to include the hiring party(ies) of the Transporter/Installer) under the following conditions, covenants, and conditions:

- 1) **CARGO INSURANCE REQUIREMENT** - First, the Transporter shall carry cargo insurance with limits which meet or exceed the wholesale value of the home the Transporter moves. In the case of a multi-section home, the transporter must have limits which meet or exceed the value of the entire home (all sections). Second, the Transporter that moves multi-section homes shall have cargo insurance that will replace the entire home in the event that one section of the home is destroyed and the manufacturer will not re-manufacture a replacement section; the Transporter must have a "pair and set" clause in its policy. Third, the Transporter will not have an "Act of God" exclusion in its cargo insurance policy nor an "age of home" exclusion. Fourth, the Transporter will have "unattended cargo" coverage to cover the home in the event a section of the home is damaged while in the care, custody, or control of the Transporter, but not connected to the Transporter's vehicle;
- 2) **COMMERCIAL AUTO INSURANCE REQUIREMENT** - The Transporter shall carry commercial auto insurance with a per occurrence liability limit of at least \$1,000,000. The transporter will provide the retailer a certificate of insurance and name the retailer as an "additional insured" on his commercial auto insurance policy;
- 3) **GENERAL LIABILITY INSURANCE REQUIREMENT** - The Transporter/ Installer shall carry general liability insurance with a per occurrence liability limit of at least \$1,000,000. The Transporter will provide the Retailer with a certificate of insurance and name the Retailer as an "additional insured" on his general liability insurance policy;
- 4) **WORKERS COMPENSATION INSURANCE REQUIREMENT** - The Transporter/ Installer is solely responsible for carrying the workers compensation insurance for himself and all of his employees. The Transporter/ Installer will defend and indemnify the Retailer against all claims against the Retailer by the Transporter/Installer or his employees relating to on-the- job-injuries. The Transporter/Installer further agrees to sign all workers compensation related forms which designate the Transporter/ Installer as an independent contractor and / or indemnify Retailer against any claims made by the Transporter/Installer or his employees;
- 5) **INDEMNIFICATION AND DEFENSE** - The Transporter / Installer shall indemnify and defend the Retailer against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or relating to the alleged negligence, performance, and or non-performance of the Transporter / Installer, its employees, the Transporter / Installer's Sub-

Contractors, and or anyone for whose acts the Transporter / Installer may be legally liable. This defense includes paying all legal fees and costs associated with any claim or demand made by a third-party against the Retailer that relate to the alleged negligence of the Transporter / Installer, even if such claims also allege the Retailer was negligent, too. Such obligations shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would or do exist as to a party or person described in this paragraph;;

- 6) **HOME DAMAGE GUARANTEE** - The Transporter/ Installer shall pay for any and all damages, including loss of value, sustained by the Retailer's home(s) or other property while such property is in the care, custody, or control of the Transporter/ Installer, regardless of fault or whether the Transporter/ Installer's insurance covers the damage;
- 7) **LICENSE / BOND / INSURANCE** - The Transporter / Installer must be licensed to do business in the state of _____ , must be bonded according to all applicable laws of said state, and must be insured at this state's minimum standards or as described elsewhere in this agreement, whichever coverage requirement is greater / more expansive;
- 8) **INDEPENDENT CONTRACTOR STATUS** - All parties to this agreement agree that the Transporter / Installer is an independent contractor. The Transporter / Installer is in control of the details of his own work, the specific time of performance, the supplying of tools, the supplying of labor, etc., to complete the contracted job. The Transporter/Installer is not an agent or employee of the Retailer, and has no expectation of continued work with Retailer after completion of the job. If the Transporter/Installer quits prior to completion of the contracted job, then Transporter/Installer is liable for breach of contract;
- 9) **MAXIMUM SPEED LIMIT** - The Transporter/ Installer agrees that no manufactured home will be transported at a speed in excess of any posted speed limit or 50 mph, whichever is lower;
- 10) **LEGAL FORUM** - In the event this agreement must be enforced in court, it will be interpreted according to _____ state law and any legal proceedings shall be held in the county where the manufactured home Retailer's sales center is located;
- 11) **ARBITRATION AGREEMENT** - The Retailer often enters into Arbitration agreements with consumers. In order to reduce the amount of time and resources associated with any claim(s) filed by a consumer against the Retailer that involves any services or products provided to the Retailer by the Transporter/Installer, the Transporter/Installer agrees to submit himself/itself to this Arbitration process and pay its proportionate share of the Arbitrator's fees and any other ancillary costs incurred as a result of the Arbitration process.

This complete Agreement shall remain in full force and in full effect until amended in writing. In the event a party to the contract must sue to enforce any part of this Agreement, the losing party in the litigation shall pay all attorneys fees, other fees, litigation costs, and court costs on behalf of the winning party.

Retailer

Transporter/Installer

Signature
Printed name
Co. Name
Address

Date