



Express Start Service Contract

This Contract is made effective _____, 20_____, by and between Colorado Modular Homes, a Colorado corporation ("CMH"), and _____, (individually or collectively "Owner") for those certain services and materials described below for the benefit of Owner at the property located in _____ County, Colorado, legally described as: _____ ("Owner's Property").

1. Scope of Services (collectively the "Work") – Described in the _____, _____, Design Expectations, the home manufacturer's documents, subsequent executed change orders, and _____ collectively Exhibit B, attached hereto and incorporated herein by this reference.

Owner acknowledges and agrees CMH is not contracted hereunder as, nor shall CMH serve as, the general contractor for oversight and/or completion of Owner's home.

2. Contract Price - The Owner agrees to pay the total "Contract Price" for the materials furnished and work performed by the CMH, initially estimated at: \$ _____ (U.S. Dollars). Said Contract Price is subject to change as provided herein.

The parties acknowledge that allowances are incorporated in the Contract Price. Said allowances will be used for labor, materials, and profit unless otherwise expressly provided herein. The parties agree that allowances are not to be construed as fixed bids by CMH and that allowances may vary from the actual final costs depending on subcontractor bids. If any cost changes from the allowance either a change order will be executed by the parties as provided in Section 6, or the owner will approve the actual bid approving the new amount. For the current known allowances, see **Exhibit C**, attached hereto and incorporated herein by this reference.

Payment is due to CMH pursuant to the terms of Invoices submitted to Owner or ten (10) days after the sending/mailling date of such Invoices, whichever is sooner. Such Invoices shall be incorporated into this Contract for terms. Payments past due from Owner which are unpaid for five (5) days shall be subject to a late fee of 5%, and said late payments and late fees shall bear interest at the rate of 15% per annum until cured to CMH. During any such default, CMH reserves the right to cease all Work until such cure is made. Additionally, Owner shall indemnify and hold harmless CMH, CMH's shareholders, fiduciaries, employees, successors, affiliates, and assigns from and against claims, damages, losses and expenses, including, but not limited to, late fees and interest charged by subcontractors, attorney's fees, and expert witness' fees, provided that such claim, damage, loss or expense is attributable, directly or indirectly, upon Owner's breach of this Contract. All other legal remedies are hereby reserved by CMH.

Owner acknowledges and agrees that Owner's responsibility to pay under this Contract shall never be conditioned on Owner's financing.

3. Deposit - An initial deposit of \$ _____ is due from Owner to CMH upon execution of this Contract. Said deposit shall be applied to the express start fee invoice once the project commences.

4. Commencement - Commencement and completion of the Work is conditioned upon: 1) final approval of plans and the complete permitting of the Work; 2) unforeseen manufacturing delays; 3) Owner's delay in timely payment to CMH; 4) Owner's failure to timely execute any Change Order requested by Owner; 5) Owner's unreasonable delay in making selections and/or providing information needed by CMH; 6) any other act by Owner or Owner's general contractor and agents in timely performing duties required in this Contract; 7) strikes; 8) weather conditions which hinder progress; and/or 9) any other conditions that are not within CMH's control. Owner acknowledges and agrees that CMH shall not be liable for any such delay(s).

5. Concealed/Unexpected Conditions - If unexpected or concealed conditions arise on Owner's Property which will increase the Contractor's Price, Contractor will submit a change order to address changes and additional time, if applicable, necessary to continue the Work. The change order must be resolved in order to proceed with the Work. Examples of unexpected conditions included, but are not limited to, conflicts within the construction documents, inadequacy of the weight bearing capacity of the soil, abnormally inaccessible utilities, unusual subsurface conditions, and the misrepresentation of Owner about any conditions at Owner's Property.

6. Change Orders - Without invalidating this Contract, and pursuant to the terms hereof, the parties may make changes to this Contract. However, no such changes are to be made except upon a prior written order (signed by both parties) consisting of the change, and any additional cost(s). Alternatively, Owners approval of any contractor bids that are over an allowance are also deemed an approval of any cost increase associated with the bid. CMH is not under any obligation to approve all changes requested by Owner. Owner's refusal to execute and timely return to CMH any Change Order which CMH deems reasonable and necessary to successfully complete the Work may be deemed a breach of this Contract at CMH's discretion. If there are multiple Owners, any single Owner may sign a Change Order on his or her own behalf and on behalf of the other(s), and the signature shall be binding on all Owners. All executed Change Orders shall be incorporated into this Contract for terms. CMH reserves the right to immediately terminate this Contract if any Change Order reasonably requested by CMH is not timely executed and returned by Owner.

7. Warranty - CMH offers a limited warranty hereunder. Please refer to the attached **Exhibit A** for the terms and conditions of said warranty, which are incorporated herein by this reference.

8. Insurance and Hold Harmless - During the term of this Contract, CMH shall maintain insurance for protection from claims under the Colorado Workers Compensation Act as required by law, and from claims for damages because of bodily injury or death which may arise out of or result from CMH's operations under this Contract, with a limit of liability of at least \$500,000.00. Owner acknowledges and agrees that CMH provides no other insurance for Owner's benefit, inclusive of builder's risk insurance coverage. Additionally, Owner shall hold harmless and indemnify CMH, CMH's shareholders, officers, fiduciaries, employees, successors, affiliates, and assigns, from and against claims, damages, losses and expenses, including, but not limited to attorney's fees and costs incurred and/or late fees and interest charged by the Manufacturer, provided that such claim, damage, loss or expense is attributable, directly or indirectly, upon Owner's breach of this Contract.

9. Limitation of Scope and/or Liability - This Contract shall not create a joint venture, partnership, employer/employee relationship or any relationship except for that of a client and an independent contractor. The parties acknowledge and agree that CMH, CMH's employees and/or sub-contractors are not entitled to any worker's compensation or unemployment benefits from Owner hereunder. Owner acknowledges that CMH is not a modular manufacturer or architectural, engineering, or design firm; accordingly, CMH is not responsible to review or approve the work of any such third parties, inclusive of the Manufacturer of the

home. Additionally, because this is a limited service transaction, Owner hereby waives to the fullest extent permitted by applicable law any claim against CMH for special, incidental, consequential, or punitive damages.

10. Governing Law, Jurisdiction, Venue, and Assignment - This Contract will be construed, interpreted, and applied according to the laws of the state of Colorado as they exist on the date this Contract is executed. Exclusive jurisdiction and venue shall be in Colorado. This Contract shall not be assigned without the prior written consent of all parties.

11. No Waiver - Excuse of the performance of any obligation hereunder shall not constitute waiver of that term or requirement.

12. Severability - The parties agree that each portion of this Contract is independent, and if any Section or provision is found to be unenforceable, the rest of the Contract will remain valid and effective, and the parties will attempt to replace such provision with a similar, enforceable provision.

13. Disputes/Mediation/Arbitration—

Should any dispute arise regarding the performance of this Contract that the parties cannot satisfactorily resolve, the parties agree to first participate in non-binding mediation except as otherwise provided hereon. The parties shall bear their own costs associated with the mediation and split the mediation service's fees equally.

Failing successful mediation, the parties agree to submit such disputes to binding arbitration by a single arbitrator, and the arbitrator's decision shall be enforceable, final, and non-appealable, except as provided by Colorado law. The dispute shall be referred to a single arbitrator acceptable to the parties. Any dispute over the selection of the arbiter shall be resolved by the filing of a declaratory judgment action, for the purpose of resolving that issue only, in the Colorado District Court selected by CMH. The party demanding arbitration shall give written notice to the opposite party promptly after the matter in dispute arises, but in no event longer than twelve 12 months after the issue arises. Further, a written notice of demand for arbitration shall not be valid if given after the date on which a legal action concerning the matter in dispute would be barred by the appropriate statute of limitations or statute of repose. The decision of the arbitrator may be entered as a judgment in Colorado state court. This arbitration agreement shall be deemed to be a self-executing arbitration agreement. Any disputes concerning the interpretation or the enforceability of this arbitration agreement, including without limitation, its revocability or violability for any cause, the scope of arbitrable issue, and any defense based upon waiver, estoppels or laches, shall be decided by the arbitrator. The prevailing party shall be entitled to its legal fees and costs in such arbitration from the other party. All parties to this Contract hereby waive trial by jury in any action, claim, or counterclaim arising out of or in any way relating to this Contract and any warranties provided by CMH and/or the Manufacturer. Owner understands that this waiver and consent and agreement to mediate and arbitrate are material terms and consideration inducing CMH to enter into this Contract. If any provision of this arbitration agreement shall be determined to be unenforceable by the arbitrator or by court, the remaining provisions shall be deemed to be servable and enforceable according to their terms.

Owner acknowledges and agrees that CMH need not submit to mediation and/or arbitration any claims for payment, collection, replevin, or other lien claims, and may proceed with those claims in the County Owner's Property and/or Clear Creek County, Colorado, at CMH's discretion.

Owner further acknowledges and agrees that CMH reserves the right to terminate this Contract if Owner materially breaches this Contract. CMH can so terminate this Contract upon written notice to Owner; all amounts due and payable from Owner to Contractor at the time of such termination must be paid in full within ten (10) days after the sending/mailling date of such written notice of termination. Except as expressly

limited by this Contract, and with regard to Owner's breach of this Contract, CMH reserves all other legal remedies.

14. Entire Agreement - This Contract and its attachments and incorporated documents constitute the entire agreement of the parties, and shall inure to the benefit of the parties, their successors and assigns. No other oral statements, and no other written documents not included in or expressly incorporated into this Contract affect the rights of the parties. This Contract may only be modified in writing by a document that specifically references this Contract and is signed by all parties to this Contract. Time is of the essence with respect to giving of all notices and the performance of all obligations arising hereunder; provided, however, that if the last day for the giving of any notice or the performance of any obligation shall be a Saturday, Sunday or legal holiday in the State of Colorado, the time for the giving of such notice or the performance of such obligation shall be extended until midnight of the next full business day. Additionally, the parties acknowledge that they have been advised, and have had time, to have their respective legal and/or tax counsel review this Contract, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Contract.

15. Effective Date and Signature - This Contract shall become effective on the day it is signed by both parties.

Owner: I/We the undersigned have read, understand, and agree to each of the provisions of this Contract and hereby acknowledge receipt of a copy of this Contract and Exhibits. I/We have reviewed the Contract with legal counsel, or have had the opportunity to do so, prior to our voluntary signing of this Contract.

Signature

Signature

Print Name

Print Name

Mailing Address: _____

Telephone: _____

E-mail: _____

Facsimile: _____

Address for notice if different than above: _____.

Preferred method of notice in addition to mailing: _____ (Fax or E-mail).

CMH:

Colorado Modular Homes,
a Colorado corporation

By _____

_____, as _____

264 Snow Ridge Rd, Evergreen, Colorado 80439

Telephone: (303) 968-7183

E-mail: Jason@CoModularHomes.com

Website: www.comodularhomes.com