

FIREWORKS DISPLAY AGREEMENT**Display Date: 7/4/2022**

AGREEMENT by and between Santore's World Famous Fireworks, LLC whose address is 846 Stillwater Bridge Road, Schaghticoke, NY 12154 (hereinafter "Santore"); and **The City of Mamaroneck, NY** (hereinafter "**SPONSOR**").

WHEREAS, SANTORE designs, produces, and conducts fireworks displays; and

WHEREAS, SPONSOR wishes to engage Santore to design, produce and perform a fireworks display on the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the terms, conditions and covenants hereinafter set forth, the parties hereto do mutually agree as follows:

1. FIREWORKS DISPLAY: On, **July 4, 2022** (hereinafter "the Display Date"), Santore shall provide the fireworks and equipment for the display at the Fireworks Display location. The display will be under the supervision of a Santore trained technician. It is agreed that Santore shall be the sole fireworks supplier and producer for the event contracted for herein. (Note: The actual start and stop time of the display will be determined by the governmental authorities having jurisdiction over the display).

ALTERNATE DATE: **July 5, 2022**

2. COST AND PAYMENTS:

| | |
|---------------------------------|--------------------|
| FIREWORKS DISPLAY PRICE: | \$19,500.00 |
|---------------------------------|--------------------|

The total (Fireworks Display Price plus all other applicable charges) sum of **\$19,500.00** shall be due and payable as follows:

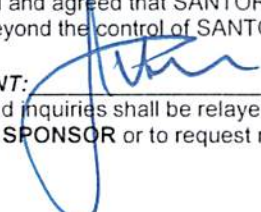
- a. The sum of: **\$9,750.00** is due on **January 15, 2022**.
- b. The Balance of **\$9,750.00** (which includes any taxes that may be applied to this sale) shall be paid by Official Check made payable to Santore no later than the display date.

Please Note: SPONSOR is responsible for the payment of all governmental fees and taxes, including, but not limited to, sales, use, excise, license, permit, entertainment, or other fees, taxes or surcharges imposed or otherwise applied to this exhibition. Also, please see Section 16(c) below.

3. POSTPONEMENT/RESCHEDULING: July 5, 2022

| Description | % of Fireworks Display Price | Additional Costs |
|-------------------------------------|------------------------------|---|
| If notified by 6:01 AM on 7/4/22 | 10% | Any 3 rd Party Vendor Expenses |
| When fireworks tech leaves facility | 20% | Any 3 rd Party Vendor Expenses |

Any request made by SPONSOR for rescheduling/canceling shall be directed to info@santorefireworks.com or by phone (518) 664-9994. It is understood and agreed that SANTORE shall have no obligation to reschedule a display except as required by inclement weather or reasons beyond the control of SANTORE.

4. SPONSOR'S AGENT:  CELL PHONE: **914-467-0264** all be designated as SPONSOR'S agent to whom all questions and inquiries shall be relayed. Sponsor's agent shall be the only agent of SPONSOR authorized to make decisions on behalf of SPONSOR or to request rescheduling of the fireworks display on the part of SPONSOR.

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5. EXHIBITION PLANNER CHECKLIST: It is understood and agreed by the parties hereto that the Fireworks Display shall be contingent upon the strict compliance by **SPONSOR** with all items specified on the Exhibition Planner Checklist (EPC) which is annexed hereto and made a part hereof. Failure on the part of **SPONSOR** to comply with all requirements set forth in the EPC to the satisfaction of **Santore** within the time limits therein set forth shall be deemed to be an event of default of **SPONSOR'S** obligations hereunder.

6. SECURITY/SAFETY: **SPONSOR** shall provide and maintain sufficient Security before, during and after the Fireworks Display until the pyrotechnician in charge declares the area clear. Security shall be deemed to include, but not limited to, be all security lines, police protection, snow fencing, rope lines, barricades or any other item deemed necessary by the local government or by **Santore**. **SPONSOR** shall also provide and maintain an area clear of any buildings cars and spectators with a minimum radius as specified by current edition of NFPA Code 1123, as a Fire Safety Zone (FSZ) during the entire period commencing from the time the fireworks are delivered to the site until the area is declared clear by the pyrotechnician. It is understood and agreed that **Santore** will cease all fireworks discharge due to any security breach of the FSZ. **Santore** shall not be responsible for personal injury, vehicle or property damage occurring within the FSZ as a result of the **SPONSOR's** failure to maintain the FSZ in accordance with the standards of current edition of NFPA 1123 which, incidentally, are only minimum standards of distances. **SPONSOR** acknowledges and agrees that **Santore** responsibilities are limited to the Fireworks Display and that **Santore** is relying on **SPONSOR** to maintain the aforementioned FSZ and to comply with all Federal, State, municipal and local laws, orders, regulations and ordinances pertaining to the implementation of any and all security measures at the site of the Fireworks Display. Any site visits made during the display setup by or on behalf of **SPONSOR** shall be in accordance with the current edition of NFPA 1123- and under the direct supervision of the **Santore** technician in charge. Any such inspection shall not in any way interfere with the safety, setup or schedule of the preparation for and disassembly after the Fireworks Display. The **Santore** technician in charge may, at his discretion, cancel any inspection that in his sole opinion may compromise the safety of the setup or the Fireworks Display or the setup schedule. The **SANTORE** technician may at any time temporarily discontinue the discharge of fireworks for any reason.

7. CREDITS: As a material inducement to **Santore** agreeing to enter into this Agreement, **SPONSOR** shall give **Santore** program credit as sole fireworks supplier and producer in all press releases, advertising, and any other program announcements, printed or otherwise.

8. INABILITY to DELIVER or CONDUCT FIREWORKS DISPLAY/FORCE MAJEURE. **Santore** shall not incur any liability for any loss or for any failure to perform any obligation hereunder due to causes beyond its reasonable control including without limitation legal or regulatory restrictions, labor disputes of whatever nature, power loss, telecommunications failure, acts of God, or any other cause beyond its reasonable control. In the event **SANTORE** is unable to deliver the Fireworks Display on the Delivery Date this contract will remain in full force and effect and the Fireworks Display will be performed on the Alternate Date or if no Alternate Date is stated then on such other date as may be agreed upon by the parties.

9. CONTRACT SUBJECT TO GOVERNMENT REGULATION: This Agreement and **Santore** obligations hereunder are subject to all applicable Federal, State, Municipal and local laws, rules, ordinances, regulations and codes, now or hereinafter in effect, and to the conditions and limitations contained in the permits required to be obtained by **SPONSOR** prior to the Fireworks Display. In the event any Federal, State, municipal or local law, rule, regulation or ordinance shall be enacted which (a) in any way prohibits, limits or restricts the sale, performance or operation of the exhibition of the Fireworks Display, or (b) in any way limits or reduces **SPONSOR'S** ability to allow spectators onto **SPONSOR'S** property to enjoy the Fireworks Display on the Display Date to less than [750] spectators, or (c) or in the event **SPONSOR'S** permit in any way limits or restricts the sale, performance or operation of said exhibition, **Santore** shall limit or restrict its performance or the Fireworks Display so as to comply with such law, rule, regulation or ordinance or limitation or restriction of **SPONSOR'S** permit and in the case of section (b) herein, **SANTORE** and **SPONSOR** agree to reschedule Firework Display to a date where such restrictions are removed and that any Deposit or Balance made by **SPONSOR** shall be deemed a credit towards the rescheduled date and if Fireworks Display cannot be rescheduled in the same calendar year, such Deposit and/or Balance paid shall be credited to 2022 Fireworks Display. **SPONSOR** acknowledges that any such limit or restriction placed on the performance or operation of the Fireworks Display shall in no way result in or entitle **SPONSOR** to a reduction or abatement in the full contract price.

10. GENERAL PROVISIONS:

- a) This agreement constitutes the entire agreement between the parties relating to the subject matter hereof, and may not be changed, modified, renewed or extended except by a written agreement, signed by both parties. **SPONSOR** acknowledges and agrees that **Santore** has not made any representations or warranties except those specifically set forth in this contract.

Should any clause, section, or part of this agreement be held or declared to be void or illegal for any reason, all other clauses, sections, or parts of this agreement which can be effected without such illegal clause, section, or part shall nevertheless continue in full force and effect.

- b) **SPONSOR** is responsible for removal of paper debris associated with the Fireworks Display.
- c) **Santore** is not responsible for procuring any marine services associated with the production of **SPONSOR'S** event. Should **SPONSOR** require these services, **Santore** may, upon written request, assist **SPONSOR** in the location and contracting of

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such services. All additional costs and fees associated with marine services are the responsibility of the **SPONSOR**. It is specifically understood and agreed that **Santore** shall not be responsible in any way if any third-party service with which **SPONSOR** has contracted for service fails to perform and the display cannot proceed as planned.

- d) **SPONSOR** is responsible for any additional marine costs and fees, city permit/escort fees, County /State/PD/FD/FM fees, local town permit fees, etc.
- e) Except as otherwise provided herein in section (b)", in the event **SPONSOR** cancels the Fireworks Display the full contract price as set forth herein shall become immediately due and payable. **SPONSOR** will have up to 30 days from the date of cancellation to request **Santore** to reschedule the Fireworks Display. Fireworks Display shall take place no later than six months from originally scheduled Fireworks Display and may not be rescheduled to 7/1 – 7/4 of any year without express consent of **Santore**.
- f) **Santore** agrees to procure liability insurance on behalf of **SPONSOR**, and to indemnify **SPONSOR**, to the extent thereof, for all claims arising out of **Santore** negligence. Any additional insurance that is required that incurs a cost, will be the **SPONSOR'S** responsibility.

11. SPONSOR'S DEFAULT: In the event **SPONSOR** shall fail to pay any sum when due under the terms of this contract, **SPONSOR** shall pay, in addition to such amount, interest at the rate of 1.5% per month on the unpaid amount from the original due date. **SPONSOR** does further agree that it shall pay **Santore** reasonable attorney fees and other costs in the event **Santore** shall commence any proceeding (Arbitration or any other proceeding) or incur fees to compel **SPONSOR** to pay any sums due hereunder or otherwise as a result of **SPONSOR'S** default of any of the terms and provisions herein contained.

12. LIQUIDATED DAMAGES: It is agreed by and between the parties hereto that in the event of **SPONSOR'S** default hereunder **Santore** shall be entitled to receive the entire contract price and same shall be considered "liquidated damages" based upon an understanding between the parties hereto that **Santore** will have suffered damages due to Sponsor's default. The damages suffered by **Santore** as a result of Sponsor's default will be substantial, but incapable of determination with mathematical precision. It is, therefore, agreed by the parties that the amount due **Santore** is not a penalty, but rather a mutually beneficial and reasonable estimate of the damages suffered by **Santore**.

13. SUBSTITUTIONS: **Santore** shall have the right, at its discretion, to substitute any fireworks it deems necessary provided same does not detract from the aesthetic value or quality of the program. This includes, but is not limited to, shell sizes, quantities, types and brand names. Any substitutions shall in no way result in or entitle **SPONSOR** to a reduction or abatement of the full contract price.

14. ARBITRATION: Any and all disputes, differences, or any other type of controversy arising out of or in relation to this Agreement, including as to the meaning or interpretation of any provision hereof, shall be resolved by arbitration in **Union County, NJ**, pursuant to the commercial rules then obtaining of the American Arbitration Association. Only one (1) arbitrator shall be required, and the arbitrator may award attorneys' fees. The award of the arbitrator shall be final and binding and judgment may be entered thereon in any court of competent jurisdiction. The arbitrator sitting in such controversy shall have no power to alter or modify any express provision of this Agreement, nor to make any award which by its terms effects any such alteration or modification. Either party may seek from the court of competent jurisdiction any provisional remedy in aid of arbitration, including, but not limited to, injunction, attachment or replevin, pending the determination of any claim or controversy in arbitration. Any and all disputes, controversies, actions, claims, causes of action, or proceedings arising under, out of, or in connection with or relating to the terms of this contract, and any amendment thereof, commenced by, between or against any of the parties of this contract shall be deemed to have arisen from a transaction of business in New York, and shall be resolved by application of the substantive laws of the State of New Jersey.

15. BINDING EFFECT: This contract shall not be binding on **Santore** until executed by **SPONSOR** and **Santore** and **Santore** is in receipt of the down payment required hereunder.

16. EXHIBITION PLANNER CHECKLIST (EPC):

- a. **FIREWORKS DISPLAY PERMIT:** (Note: The actual start and stop time of the display will be determined by the governmental authorities having jurisdiction over the display).

SPONSOR'S RESPONSIBILITY: It is Sponsor's responsibility to call your State, City, County, Town, Borough, or Village Fire Marshal or other appropriate authority to file for and obtain the Fireworks Display permit. **Santore** will prepare the paperwork for the permit application on **SPONSOR'S** behalf. Upon receipt of your permit, you must send the permit to our office for our records no later than 30 days prior to your display date. Failure to do so could seriously jeopardize your display. You must obtain information on:

- 1. Filing application deadline and fees.
- 2. Local and state requirements for fireworks license for transportation and/or display. If a license is required, fax all forms immediately to us.
- 3. Fire Marshal's requirements for security of fireworks truck upon arrival, and the security of the fire zone before and during the display.

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4. Federal regulations require that we carry an accurate route plan to the display site. Fax us a copy of the route instructions from the nearest US Interstate to the display area (approved by the fire marshal or other authority, if necessary).
5. Notify FAA on day of your display, according to the instructions in the FAA Letter of Approval, which will be forwarded to you prior to your display.

b. COAST GUARD PERMITS (where required):

1. If the fireworks are to be displayed on or near the water, the following may be required: (Requests for permits must be filed at least 60 days prior to the Display Date (135 days prior for 4th of July events).
2. Coast Guard Application and Permit to Handle Hazardous Materials.
3. Coast Guard Marine Event Permit.

c. SPONSOR RESPONSIBILITIES AND EXPENSES (The following services need to be provided and paid for by the SPONSOR in addition to the Fireworks Display Price.


- 1) **SECURITY:** MUST BE PROVIDED FOR FIREWORKS TRUCK(S) AND TO MAINTAIN THE FIRE SAFETY ZONE AT STAGING AREA FROM FIREWORKS TRUCK(S) ARRIVAL, UNTIL TRUCK DEPARTURE WHICH MAY BE FOLLOWING THE REQUIRED FIRST LIGHT DUD SEARCH ON THE MORNING AFTER THE DISPLAY.
- 2) **Sand:** Please provide ____ yards of sand.
- 3) **Laborer(s):** ____ laborers to arrive at fireworks site on _____. (They will not handle fireworks).
- 4) **Hotel Room(s):** ____ hotel rooms (within 10 miles of show site).
- 5) **Vehicle(s):** Four-wheel drive vehicle for movement on sand: Yes _____ No _____
- 6) **If you have ordered a set piece(s), you are responsible for erecting the scaffolding and it must be ready when the crew arrives**

d. RADIO SIMULCAST EXPENSES (if applicable):

- 1) Set up and staff a firework simulcast command center on site by 1:00 PM on the display date.
- 2) Provide broadcast relay to **Santore** Firing Center. Call our office for details.
- 3) Speaker system for VIP viewing stands.

e. INSURANCE: Please list below the additional insured, as they should appear on the insurance certificate:

| | |
|----|----|
| 1. | 3. |
| 2. | 4. |

| | | | |
|---|------|--|---------------|
| Name of Sponsor | Date | Signature:  | Date 12/14/21 |
| By: _____ | | Print Name August N. Santore, Jr. | |
| Signed by on behalf of Sponsor (Signature) | | Title Owner | |
| Title of authorized representative of Sponsor | | | |

Santore

DISPLAY SITE PLAN QUESTIONNAIRE

All items listed below are subject to all governing Federal, State, Municipal and local laws, rules, ordinances, regulations and codes, now or hereinafter in effect, and to the conditions and limitations contained in the permits required or to be obtained by Sponsor.

SPONSOR:

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Display Date July 4, 2022 Rain Date: July 5, 2022
Budget: \$19,500.00

Display Location: Harbor Island Park

Time of Display: 9:15pm (Note: The actual start and stop time of the display will be determined by the governmental authorities having jurisdiction over the display).

IMPORTANT: PLEASE PROVIDE A SITE PLAN FOR YOUR EVENT LOCATION, INDICATING WITH AN X THE EXACT SPOT WHERE FIREWORKS ARE TO BE SET-UP.

Local Fire Marshal: _____ Telephone No: _____
Cell Phone No: _____

Crew Contact Person: _____ Telephone No: _____
Cell Phone No: _____

The Following information is necessary in order for us to provide your community or organization with a display that conforms with fireworks safety regulations and for the issuance of your insurance certificate.

DISTANCES, IN FEET, FROM THE FIRING AREA TO THE FOLLOWING: FEET

SPECTATORS, AUDIENCE OR PARKED CARS.....

OCCUPIED BUILDINGS (HOMES, APARTMENTS, ETC.).....

PUBLIC BUILDINGS (SCHOOLS, HOSPITALS, CHURCHES, ETC.).....

TEMPORARY EVENT SET-UPS (CONCESSIONS, TENTS, ETC.).....

MAIN PARKING AREAS.....

HIGHWAYS OR ROADS.....

OVERHEAD OBJECTS (POWER LINES, LIGHT POLES, TREES, ETC.....

FUEL STORAGE.....

PLEASE PROVIDE DIRECTIONS FROM NEAREST INTERSTATE TO DISPLAY SITE. A MAP WOULD ALSO BE HELPFUL.

Local Motels/Hotels: _____ Telephone Nos. _____

Signature: _____

Title: Village Manager

Date: 12/14/21

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