

ARTISAN PYROTECHNICS, INC.

Pyrotechnic Contract

1) THIS AGREEMENT entered into this 22nd day of March 2018 by and between ARTISAN PYROTECHNICS, INC.; a Mississippi corporation hereinafter referred to as "ARTISAN" and The City of Pascagoula / Taylor Sublett, Community Events Coordinator hereinafter referred to as "PURCHASER".

2) ARTISAN agrees to furnish PURCHASER, in accordance with the terms and conditions hereinafter set forth, 1 pyrotechnic production submitted, accepted and made part hereof, including the services of a licensed pyrotechnic operator to take charge of and, along with sufficient helpers, safely discharge the display. The said production will be performed on April 14, 2018, on the Pascagoula River bank across from Free Flowin' on the Riverfront Music Festival in Lighthouse Park, 3621 Frederic St., Pascagoula, MS 39567.

3) PURCHASER, at its own expense, agrees to provide ARTISAN: A) A suitable PRODUCTION SITE in which to stage the pyrotechnic display including a firing and fallout zone reasonably acceptable to ARTISAN in which the pyrotechnics may be exhibited, rise and fall safely. B) Adequate policing, guard protection, roping, fencing and/or other crowd control measures to prevent the access of the public or its property or any other people or property not authorized by ARTISAN into the PRODUCTION SITE. C) Access by ARTISAN at all times, to the PRODUCTION SITE to set up the production. D) Ensure that the Spectator Area does not infringe on the PRODUCTION SITE. PURCHASER shall have the sole responsibility to police, monitor and appropriately control spectator access to the Spectator Area and police, monitor and appropriately control the behavior of persons in these areas. It is expressly agreed that ARTISAN, (including its operators and helpers) shall not inspect, police, monitor or otherwise supervise any area of the site other than the PRODUCTION SITE, except to ensure all spectators are outside the PRODUCTION SITE; and, after completion of the PRODUCTION, that the PRODUCTION SITE is cleared of any pyrotechnic debris originating from the production.

4) PURCHASER shall pay to ARTISAN the sum of TWO THOUSAND AND FIVE HUNDRED Dollars (\$2,500.00). **Full final payment is due by April 14, 2018.** If the production proceeds, this amount will be applied towards the remaining balance due. A finance charge at a periodic rate of 1.5% per month, 18% annual percentage rate, or the maximum rate permitted by law, whichever is less, will be charged on the unpaid balance after 45 days from the date of the display.

5) PURCHASER agrees to assume the risk of weather, or other causes beyond ARTISAN control, which may prevent the production from being safely discharged on the scheduled date or the cancellation of any event for which PURCHASER has purchased the production. It shall be within ARTISAN sole discretion to determine whether or not the production may be safely discharged on the scheduled date and at the scheduled time. If, for any reason beyond ARTISAN control, including, without limitation, inclement weather, ARTISAN is unable to safely discharge the production on the scheduled date or should any event for which PURCHASER has purchased the production be cancelled, the parties shall attempt to negotiate a new production date, which shall be within **90 days** of the original production date. PURCHASER further agrees to pay ARTISAN for any actual expenses made necessary by this postponement. Actual expenses include, but are not limited to, expenses for travel, lodging, labor, meals, rentals, permit fees, set-up and/or dismantling of production, additional taxes or surcharges, or any other additional expense that was incurred prior to and/or as a result of the postponement or cancellation. If the parties are unable to agree on a new production date, ARTISAN shall be entitled to liquidated damages from PURCHASER as if PURCHASER had cancelled the production on the date set for the production as follows:

PURCHASER shall have the option to unilaterally cancel this production at any time. If PURCHASER exercises this option, PURCHASER agrees to pay ARTISAN, as liquidated damages, the following percentages of the agreed contract price. 1) \$500 if cancellation occurs three (3) or more days before the date scheduled for the production, 2) 50% thereafter. If cancellation occurs prior to the date set for the production, PURCHASER, agrees to pay to ARTISAN, in addition to the above fee/percentages.

6) ARTISAN reserves the ownership rights and trade names that are used in or is a product of the pyrotechnic production to be performed. Any reproduction by sound, video or other duplication or recording process without the express written permission of ARTISAN is prohibited.

7) ARTISAN agrees to furnish insurance coverage in connection with the Production only, for the following risks and amounts: bodily injury and property damage, TWO MILLION DOLLARS (\$2,000,000) combined single limits. Such insurance shall include PURCHASER as an additional insured regarding claims made against PURCHASER for bodily injury or property damage arising from the operations of ARTISAN in performing the Production provided for in this Agreement. Such insurance afforded by ARTISAN shall not include claims made against PURCHASER for bodily injury or property damage arising from A) Failure of PURCHASER, including through or by its employees, agents or independent contractors, to perform its obligations under this Agreement, including, without limitation, those contained in Paragraph 3 of this Agreement; B) Failure of the PURCHASER to provide discretionary Spectator and Parking Areas referred to in Paragraph 3 of this Agreement.

8) Should PURCHASER fail to pay ARTISAN any fees, costs or expenses to which ARTISAN is entitled under the terms of this agreement to the extent allowed by Mississippi law, PURCHASER may pay to ARTISAN, in addition to any other relief to which ARTISAN may be entitled, all costs of collection, including but not limited to a minimum amount of **30% of the balance due or the maximum allowed by Mississippi law**, to cover the cost of collection in addition to interest from the date of written demand to date of full payment.

9) To the extent allowed by Mississippi Law, PURCHASER shall not, under any circumstances, be entitled to recover any consequential, incidental, exemplary, special, and/or punitive damages from ARTISAN including, without limitation, loss of income, business or profits. Nothing in this paragraph shall be construed as a modification or limitation of the insurance coverage afforded in Paragraph 8 above.

10) It is agreed nothing in this Agreement or in ARTISAN performance of the production provided for herein shall be construed as forming a partnership or joint venture between PURCHASER and ARTISAN. The parties hereto shall be severally responsible for their own separate debts and obligations and neither party shall be held responsible for any agreements or obligations not expressly provided for herein.

11) This Agreement shall be governed and interpreted under the laws of the State of Mississippi.

12) Any Notice to the parties permitted or required under this Agreement may be given by mailing such Notice in the United States Mail, postage prepaid, and **First** class, addressed as follows:

ARTISAN- Artisan Pyrotechnics, Inc., P. O. Drawer 250, Wiggins, Mississippi 39577.

PURCHASER – City of Pascagoula/ Taylor Sublett, Community Events Coordinator, P. O. Box 908 – Pascagoula, MS 39568

13) All terms of this Agreement are in writing and may only be modified by written agreement of both parties hereto. The parties acknowledge they have received a copy of said written agreement and agree to be bound by said terms of written Agreement, subject only to any written modifications signed by the parties hereto.

14) If there is more than one PURCHASER, they shall be jointly and severally be responsible to perform PURCHASER'S obligations under this Agreement. This Agreement shall become effective after it is executed and accepted by PURCHASER and after it is executed by ARTISAN at ARTISAN offices in Wiggins, Mississippi. This Agreement may be executed in several counter parts, including faxed copies, each one of which shall be deemed an original against the party executing same. This Agreement shall be binding upon the parties. PURCHASER agrees and acknowledges that because of the nature of fireworks, an industry accepted level of 3% of the product used in any production may not function as designed and this level of nonperformance is acceptable as full performance.

In Witness Whereof the parties hereto, by and through their duly authorized agents, have set their hands and seals this **22nd** day of **March** **2018.**

_____, Title President.
ARTISAN PYROTECHNICS, INC.

_____, Title _____
PURCHASER