

**PYRO SHOWS OF TEXAS  
6601 NINE MILE AZLE ROAD  
FORT WORTH, TX 76135**

## **Contract Agreement**

**This Agreement**, made this \_\_\_\_ Day of August, 2016, by and between **PYRO SHOWS OF TEXAS, Inc.**, a Texas Corporation, whose address is 6601 Nine Mile Azle Road, Fort Worth, Texas 76135, and hereinafter referred to as **PYRO SHOWS** and **CITY OF SEGUIN**, with its principle place of business located at 816 Fred Byrd Drive, Seguin, Texas 78155 hereinafter referred to as "Customer."

### **WITNESSETH**

In consideration of the mutual promises and undertakings set forth herein, receipt of said consideration being acknowledged, the parties hereby agree as follows:

**I. FIREWORKS DISPLAY:** PYRO SHOWS agrees to furnish to customer a firework display (hereinafter "SHOW") pursuant to our custom proposal 17-TX-07-03 CUST-20000-0129 dated this 4<sup>th</sup> Day of August, 2016. The show will be given on the **3<sup>rd</sup> Day of July, 2017**. In case of rainout, display show will be held on \_\_\_\_\_.

**II. CANCELLATION:** PYRO SHOWS shall determine what weather conditions prohibit PYRO SHOWS from proceeding with the Show; in which case, PYRO SHOWS agrees to present the Show on the following day or previously agreed upon rain date. In addition to contracted Show cost, Customer shall remit the actual additional expenses PYRO SHOWS shall incur in presenting the show on subsequent occasion to include labor, lodging, per diem etc. PYRO SHOWS shall remit to the Customer receipts of additional expenses incurred for payment. In no event shall these additional expenses be more than ten percent (10%) of the contracted price of the Show. In the event the Show must be **RESCHEDULED** to a mutually agreed upon date other than the previously agreed upon rain date, in addition to the original contracted Show cost, Customer shall remit the actual additional expenses PYRO SHOWS shall incur in presenting the Show on subsequent occasion to include labor, lodging, per diem etc.; in no event shall these expenses be more than thirty percent (30%) of the contracted price of the Show. PYRO SHOWS shall remit to the Customer receipts of additional expenses incurred for payment. Should Customer elect to **CANCEL** the Show for any reason and not reschedule, Customer must provide PYRO SHOWS with a thirty (30) days' written notice by certified mail, return receipt, to PYRO SHOWS' address as set forth above. Customer agrees that PYRO SHOWS may withhold the 50% deposit if Customer cancels show.

**III. SECURITY AREA:** Customer agrees to furnish sufficient space for PYRO SHOWS to properly conduct the Show as determined by NFPA 1123-2010 (hereinafter "Security Area"). Customer agrees to provide adequate security protection to preclude persons unauthorized by PYRO SHOWS from entering the Security Area. For the purposes of the Agreement, "Unauthorized Persons" shall mean anyone other than the employees of PYRO SHOWS or persons specifically designated in writing by the sponsor, and submitted and approved, to PYRO SHOWS prior to the event.

**IV. SITE CLEANUP:** PYRO SHOWS shall be responsible for basic cleanup of the launch area to include policing of the fallout zone for any unexploded ordnance and removal of all large paper debris, wood, wire, foil, racks, mortars and firing equipment used in the setup for the show. Customer shall be responsible for cleanup of debris located in and around fallout zone.

**V. INDEMNIFICATION AND HOLD HARMLESS:** To the extent permitted by law, Customer agrees to hold PYRO SHOWS harmless from any damages caused to Customer which result as a consequence of unauthorized persons entering the Security Area. Furthermore, to the extent permissible by law, Customer agrees to defend and indemnify PYRO SHOWS from any and all claims brought against PYRO SHOWS for damages caused wholly or in part by Unauthorized Person who have entered the Security Area.

**VI. AMENDMENT & ASSIGNMENT:** To the extent permitted by law, this agreement is deemed personal and confidential to Customer, his heirs, executors and administrators only, and may not be sold, assigned, amended, or transferred without the prior written consent of PYRO SHOWS.

**VII. COMPLIANCE WITH THE LAWS AND REGULATIONS:** Promptly upon the execution of this Agreement, Customer shall apply for the approval hereof to any agency, officer or authority of any government if such approval is required by any applicable law, ordinance, code or regulation. Customer agrees to indemnify and hold harmless PYRO SHOWS from against all claims, suits, and causes of action, demands, penalties, losses or damages which may arise or accrue because of the failure or neglect of customer to obtain such approval. This Agreement is made expressly subject to and Customer expressly agrees to comply with and abide by all applicable laws, ordinances, codes and regulations insofar as the same may be applicable to the terms and conditions of this Agreement, including all rules and regulations now existing or that may be promulgated under and in accordance with any such law or laws.

**VIII. PERMITS AND LICENSES:** Customer shall assist PYRO SHOWS in the acquisition and maintenance of all necessary permits and licenses to enable PYRO SHOWS to perform fully hereunder unless otherwise forbidden by any other applicable statute, rule or otherwise. **Any expenses for security or stand by fire protection shall be the responsibility of the customer.** It is hereby stipulated that this Agreement is to be construed and governed by the laws of the State of Texas, and any suit involving this contract shall be brought in the Courts of Guadalupe County in the State of Texas, and the Customer hereby submits itself to the jurisdiction of said Courts and waives its rights to proceed against PYRO SHOWS in and other actions, in any other jurisdiction.

**IX. LATE PAYMENT:** PYRO SHOWS shall charge, and Customer agrees to pay, one and one half percent (1 1/2%) per month late payment fee for each month until PYRO SHOWS is paid the amount set forth in Paragraph XIV herein. The stated late payment fee shall begin to run from the applicable date(s) established in Section XV, unless this provision is prohibited by law.

**X. ADVERTISEMENT AND PROMOTIONS:** Customer agrees to state that fireworks display is being provided by Pyro Shows in all advertisements and promotions. Furthermore, Customer agrees to allow Pyro Shows to use sponsors name in Pyro Shows list of clients and any Pyro Shows advertisements and promotions.

**XI. COMPLAINTS:** In the event that Customer has a complaint concerning the Show, or any material or product used in or pursuant to the Show, or of the conduct of the Show by PYRO SHOWS, or any act or omission of PYRO SHOWS or its agents, either directly or indirectly, without limitation, Customer shall make complaint known to PYRO SHOWS in writing by certified mail to PYRO SHOWS' address as set forth above, within ten (10) days after the date of the Show. In the event that Customer fails to register any complaint in the time and in the manner specified, Customer agrees that it shall not claim such complaint as cause for an offset or withhold any payment due to PYRO SHOWS hereunder on account of or because of such complaint or any matter arising from, relating to or a consequence of the complaint. Furthermore, Customer agrees that should PYRO SHOWS have to collect any amount due PYRO SHOWS hereunder which Customer claims as an offset or which is withheld by Customer on account of, or because of, a complaint not registered with PYRO SHOWS in the time and in the manner specified herein, by law or through an Attorney-at-Law, PYRO SHOWS shall be entitled to collect attorneys' fees in the amount of 15% of the amount owing PYRO SHOWS or the maximum amount allowed by law, whichever is greater, along with all cost of collection.

**XII. WORKER'S COMPENSATION/EMPLOYEES:** PYRO SHOWS shall provide Worker's Compensation insurance for its employees only.

**XIII. INSURANCE:** Pyro Shows will provide General Liability Insurance and Automobile Liability in the amount of \$5,000,000, combined single limit, covering its activities and services in connection with the show described in this contract. Pyro Shows also agrees to include Customer and Customer's Sponsors as additional insured's under the terms of this coverage. Customer shall furnish Pyro Shows a list of those entities to be covered under this Liability Insurance.

**XIV. PAYMENT TERMS:** CITY OF SEGUIN shall pay PYRO SHOWS \$20,000 according to the terms and conditions set forth in the attached Proposal for presenting the Show. Customer shall submit a 50% deposit (\$10,000) upon return of signed contract by October 31, 2016. Balance will be due in PYRO SHOWS office 30 days after the day of show.

**XV. TAXES:** Customer shall be responsible for all applicable sales taxes.

**IMPORTANT:** Checks must be payable to PYRO SHOWS OF TEXAS, INC.

All the terms and conditions set forth on any addendum attached to this Agreement are made part of this Agreement and incorporated by reference herein.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

PYRO SHOWS OF TEXAS, INC.

BY: \_\_\_\_\_ Date \_\_\_\_\_  
Steve Frantz, Vice President

CITY OF SEGUIN

BY: \_\_\_\_\_ Signature \_\_\_\_\_ Print Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**WARRANTY EXCLUSIONS**

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

No representation of affirmation of fact including but not limited to statement regarding capacity, suitability for use, or performance of equipment or products shall be, or be deemed to be, a warranty by PYRO SHOWS for any purpose, nor give rise to any liability or obligation of PYRO SHOWS whatsoever.

IN NO EVENT SHALL PYRO SHOWS BE LIABLE FOR ANY LOSS OF PROFITS OR OTHER ECONOMIC LOSS, INDIRECT, SPECIAL, CONSEQUENTIAL, OR OTHER SIMILAR DAMAGES ARISING OUT OF ANY CLAIMED BREACH OF OBLIGATIONS HEREUNDER.

