



# BILTMORE®

August 25, 2014

Buncombe County Commissioners  
c/o Kathy Hughes  
60 Court Plaza, Room 206  
Asheville, NC 28801

Dear Commissioners:

Biltmore Estate is hosting a dinner event at Diana on the night of Friday, October 10, 2014. The group would like to have a fireworks display that evening. Fireworks would be set off from the same location as usual. The attendance is expected to be approximately 275 guests.

I have contacted Pyrotechnico out of New Castle, PA who has provided fireworks displays for The Biltmore Company in the past. They have agreed to provide the display for this event as well. Enclosed is a copy of the \$10 million insurance certificate. You will see that The Biltmore Company is named as the additional insured.

A voice message was left today for Terry Gentry requesting verbal approval. Our Company Police will handle the arrangements for Fire and Rescue to have the appropriate staff and equipment on hand.

I ask your approval of these plans as described. Thank you for your time and attention to this matter.

Sincerely,



Beth Poslusny  
Director of Catering  
Biltmore Estate  
828-225-1658  
bposlusny@biltmore.com

Enclosure



#### Headquarters

P.O. Box 149  
New Castle, PA 16103

TEL: 724. 652. 9555  
800. 854. 4705

FAX: 724. 652. 1288  
EMAIL: info@pyrotecnico.com  
WEB: www.pyrotecnico.com

#### U.S. Locations

Atlanta, GA	877. 924. 0102
Las Vegas, NV	800. 956. 7976
Montgomery, AL	800. 255. 1199
New Orleans, LA	800. 783. 2513
Tampa, FL	888. 352. 7976

## Fireworks Display Contract

THIS CONTRACT (this "Contract") is made this 18<sup>th</sup> day of August, 2014 by and between **PYROTECNICO**, a Pennsylvania Corporation ("Pyrotecnico"), and Biltmore Estate ("Sponsor"), with its principal place of business located in Asheville, North Carolina

WHEREAS, Pyrotecnico is desirous of providing Sponsor with a fireworks exhibition and display for Sponsor's benefit under such terms and conditions as provided herein, and thereby, the parties agree as follows:

### 1. Fireworks Display.

Pyrotecnico shall sell, furnish and deliver to Sponsor certain fireworks which Pyrotecnico agrees to exhibit and display on

**DATE: October 10, 2014 Biltmore Benefit - Diana /Rain Date: \_\_\_\_\_ (Please fill in Rain Date)**

(Note: Rain dates not available on July 2-4, 2014 – If planning a Rain Date during July 4<sup>th</sup> week, please consult with your Show Producer before submitting) in accordance with the program set forth and agreed upon at the time of the signing of this Contract, the specifics of which are set forth in the "Fireworks Exhibition and Display Program" attached hereto and incorporated herein by reference thereto (the "Fireworks Display").

### 2. Payment Schedule.

For and in consideration of the Fireworks Display, Sponsor agrees to pay Pyrotecnico the contract price of \$2,500.00 (the "Contract Price") paid as follows: a. 50% of the Contract Price due upon the signing of this Contract; b. the balance of the Contract Price due within ten (10) days of completion of Fireworks Display.

Sponsor agrees to pay interest at the rate of 1½ % per month on any delinquent balance of the Contract Price until paid in full. Payment shall be made by certified check or otherwise as agreed by Pyrotecnico to Pyrotecnico at P.O. Box 149, New Castle, PA 16103. Furthermore, in the event Sponsor fails to perform its obligations and responsibilities as set forth herein and it becomes necessary for Pyrotecnico to enforce its rights by hiring an attorney or third party, Sponsor shall be responsible for all fees and costs incurred by Pyrotecnico to collect said sums.

### 3. Display Responsibilities.

Pyrotecnico and Sponsor will collaborate in the performance of all tasks relating to the Fireworks Display. These tasks include, but are not limited to, (i) procuring and furnishing a place suitable for the Fireworks Display (the "Display Site"), (ii) applying for, obtaining and securing all permits, licenses and approvals required by all applicable local, state and federal laws and regulations as well as those required by any local police and fire departments for the Fireworks Display (collectively, the "Required Approvals") Sponsor is responsible for the payment of all governmental fees and expenses imposed or applied to this exhibition including any fees or expenses incurred after the signing and execution of contract for said show, (iii) providing adequate private and/or public security, police and fire protection, (iv) securing an acceptable location with private and/or public security personnel to park the Pyrotecnico fireworks truck(s) overnight (or for such longer or shorter period as Pyrotecnico may reasonably require in order to effectively provide the Fireworks Display), (v) securing adequate protection to preclude all individuals, other than those authorized by Pyrotecnico, from entering the security area designated by Pyrotecnico, (vi) removing and keeping unauthorized persons, as well as, personal or real property of any kind, including, without limitation, motor vehicles, outside of the area designated by Pyrotecnico as the Display Site, fallout area or safe zone. Pyrotecnico and Sponsor shall fulfill their responsibilities as set forth herein in accordance with all local, state and federal rules, laws, orders and regulations, including those of the National Fire Protection Association (NFPA).

### 4. Crediting.

Sponsor agrees to credit Pyrotecnico as "Fireworks by Pyrotecnico" in all advertising/marketing materials that are within the Sponsors authority.

### 5. Indemnification and Limitation of Liability.

Sponsor shall indemnify, defend and hold Pyrotecnico and its shareholders, directors, officers, employees, agents, representatives and insurers harmless from any and all demands, claims, causes of action, judgments or liability (including, without limitation, the costs of suit and reasonable costs of experts and attorneys) arising from damage to or destruction of property (including, without limitation, real and personal) or bodily or personal injuries (including, without limitation, death), whether arising from tort, contract or otherwise, that occur directly or indirectly from (a) the gross negligence or willful misconduct of Sponsor or its employees, agents, contractors or representatives, or (b) the failure of Sponsor to comply with its obligations and responsibilities as set forth herein. Pyrotecnico shall indemnify, defend and hold Sponsor harmless from any and all demands, claims, causes of action, judgments or liability (including, without limitation, the costs of suit and reasonable costs of experts and attorneys) arising from damage to or destruction of property (including, without limitation, real and personal) or bodily or personal injuries (including, without limitation, death), whether arising from tort, contract or otherwise, that occur directly or indirectly from the gross negligence or willful misconduct of Pyrotecnico or its employees, agents, contractors or representatives. Sponsor shall not under any



circumstances be entitled to recover any consequential, incidental, exemplary, special and/or punitive damages from Pyrotecnico, including, without limitation, loss of income, business or profits.

## 6. Postponement.

In the event that weather is such that Pyrotecnico, in its sole and absolute discretion, determines that the Fireworks Display would be impossible or would unnecessarily increase the risk of damage or danger to person and/or property, the parties agree to immediately hold a postponement meeting at which time an attempt to reschedule the Fireworks Display shall be discussed with a view toward reaching a mutually satisfactory postponement time and/or date. If the parties agree to a new scheduled date, then Sponsor shall pay twenty-five percent (25%) of the contract price for expenses Pyrotecnico has incurred. In the event a mutually satisfactory postponement date for the Fireworks Display cannot be determined, this Contract shall become null and void and neither party shall have any further obligation or responsibility hereunder, provided however, that in such event Sponsor shall pay to Pyrotecnico a sum equal to seventy-five percent (75%) of the Contract Price as liquidated damages. All postponed shows must be rescheduled and completed within six (6) months from the date in which they were originally scheduled.

## 7. Cancellation.

If (i) Sponsor cancels this Contract for any reason, or (ii) Pyrotecnico is unable to timely complete all tasks relating to the Fireworks Display in accordance with this Contract with the assistance of Sponsor and cancels this Contract despite both parties best efforts, liquidated damages for such cancellation shall be paid by Sponsor to Pyrotecnico as follows: a. In the event the Fireworks Display is cancelled more than thirty (30) days before the date scheduled for the Fireworks Display, twenty-five percent (25%) of the amount of the Contract Price; b. In the event that the Fireworks Display is cancelled less than 30 days before the date scheduled for the Fireworks Display, seventy-five percent (75%) of the amount of the Contract Price.

In the event that Sponsor chooses to terminate this Contract, it shall do so by written notice via certified mail addressed to Pyrotecnico, P.O. Box 149, New Castle, PA 16103. Notice shall be effective upon receipt of said written notice by Pyrotecnico. Except as provided in Section 6 above with respect to weather postponement, in the event of circumstances beyond the control of either party, such as fire, strikes, delay, or similar causes which prevent the delivery of materials or performances as set forth herein, the parties hereto release one another from any and all obligations and responsibilities contained herein, provided however, sponsor shall pay to Pyrotecnico 25% of contract price as liquidated damages.

## 9. Venue.

In any action on or relating to this Contract, the parties hereto consent to the exclusive jurisdiction and venue of the state courts located in Lawrence County, Pennsylvania and of the federal courts located in the United States District Court for the Western District of Pennsylvania.

## 10. Legal Construction.

If any provision of this Contract is held to be illegal, invalid or otherwise unenforceable, then: (a) the same shall not affect other terms or provisions of this Contract; and (b) such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements of the parties set forth herein. Pyrotecnico reserves the right to substitute products of equal or greater value.

## 11. Entire Agreement.

This Contract and the Fireworks Exhibition and Display Program constitutes the entire agreement between the parties hereto, and there are no other understandings, either oral or written, regarding to the subject matter hereof.

IN WITNESS WHEREOF, the undersigned executed this Contract by and through their authorized representatives whose names appear below.

PYROTECNICO:

By: Regina Ann James

Title: Corp Secy

Biltmore Estate

By: John Bolunsky

Title: Director of Catering



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/18/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER  
MCGRIFF, SEIBELS & WILLIAMS, INC.  
P.O. Box 10265  
Birmingham, AL 35202

CONTACT NAME: Melanie Allen  
PHONE (A/C, Ho, Ext): 800-476-2211  
E-MAIL: mall@mccgriff.com  
FAX (A/C, No):

INSURED  
S. Vitale Pyrotechnic Industries, Inc. dba Pyrotechnico  
P.O. Box 149  
New Castle, PA 16103

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A :RLI Insurance Company	13056
INSURER B :James River Insurance Company	12203
INSURER C :Catlin Specialty Insurance Company	15989
INSURER D :	
INSURER E :	
INSURER F :	

## COVERAGES

CERTIFICATE NUMBER:67CDHSSY

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			000292606	01/14/2014	01/14/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Policy Aggregate: \$ 5,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS Thr InterChg \$1mil <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			LFT0012742	01/14/2014	01/14/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp. \$2500 deductible Coll. \$2500 deductible
B	UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB  DED <input type="checkbox"/> RETENTION \$	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE		000292626	01/14/2014	01/14/2015	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
C	EXCESS UMBRELLA COVERAGE			XSA2002600115	01/14/2014	01/14/2015	XS Underlying \$4, Mil \$ 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Fireworks Display Date: October 10, 2014  
Location: Diana, shoot front lawn, Biltmore House, towards Diana

City of Asheville; Buncombe County

The above listed are Additional Insured respects to General Liability policy as required by written contract subject to policy terms, conditions and exclusions.

The Certificate Holder is Additional Insured with respect to General Liability as required by written contract.

## CERTIFICATE HOLDER

Biltmore Estates  
One North Pack Square  
Asheville, NC 28711

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



### **CONTACT/INSURANCE REQUISITION FORM**

Please return this form with your signed contract for the Insurance Certificate to be processed.

Account Name Biltmore

Address One North Pack Square

City, State & Zip Asheville NC 28711

Phone Number 828-225-1658 Fax Number \_\_\_\_\_

Contact Persons Name Ben Poslusny

Phone Numbers \_\_\_\_\_ Cell 828 777-9779

Fax Number \_\_\_\_\_

Email Address bposlusny@biltmore.com

Display Date & Time 10-10-14 Rain Date \_\_\_\_\_

Contact Person on site (Day of display) if different from above:

Name Ben Poslusny Cell phone number: 828 777-9779

Email address: bposlusny

Display Site Location and Address:  
Diana - Shoot front lawn Biltmore  
House towards Diana

Additionally Insured - If Applicable

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Please complete and return this form to Pyrotechnico:
  - Fax to: 724.652.1288 or
  - Email to: jpruett@pyrotechnico.com