

# The Fireworks Firm Ltd Display Terms & Conditions

## 1. DEFINITIONS

- 1.1 The Client means the person or company whose name and address appears on the display booking confirmation form.
- 1.2 Conditions mean the terms and conditions herein.
- 1.3 Contract means the agreement by the company to provide and the client to pay for such services as listed on the display booking form or this contract document, signed by the client or an authorised person on behalf of the client.
- 1.4 The Company means The Fireworks Firm Ltd t/a (1) Absolutely Fabulous Fireworks and (2) Brilliant Fireworks of 4 Park Parade, Gunnersbury Lane, Ealing. London. W3 9BD.
- 1.5 Display means one or more firework displays referred to on the booking confirmation form more particularly requested by the client.

## 2. GENERAL

- 2.1 The following are the sole conditions under which company is prepared to enter into any transaction with client. They are to be read subject to any express provisions of any written contract between client and company signed by duly authorised agent of the company. Insofar as there is any difference from or variation of these conditions by any conditions which would otherwise be implied or which are conditions customary in the trade or which are conditions which the client might in the absence of these conditions impose these conditions shall be paramount. These conditions together with any written contract signed by the company constitute the entire bargain between the company and the client. That bargain may be varied only by a written agreement signed by the company. The company shall not be deemed to accept other conditions nor to waive any of these conditions by
  - 2.1.1 failing to object to provisions contained in any purchase order or other communication from the client or
  - 2.1.2 knowledge of client's usual trading conditions.
  - 2.1.3 any concession latitude or waiver allowed by the company at any time or
  - 2.1.4 by signing any acknowledgement or order or any other form submitted to the company by the client.

## 3. THE CLIENTS OBLIGATIONS

- 3.1 The client agrees to pay in full the company for the display as detailed on the order form.
- 3.2 In this clause "pay in full" means payment of or crediting by the company of the client with the full price of the display together with all consequential expenses for which the client is liable including (without limiting the generality of the foregoing) storage charges freight charges customs dues bankers' charges and expenses in connection with late payments when payment in full has not been made and
  - 3.2.1 any part of such payment is overdue or
  - 3.2.2 client shall become bankrupt or
  - 3.2.3 (if the client is a limited company) the directors of the client shall resolve to wind up the client or the

liquidation of the client shall be commenced or

3.2.4 a receiver is appointed or

3.2.5 the client is involved in any proceedings in which its solvency is involved or impugned or is deemed to be unable to pay its debts or

3.2.6 the client ceases or threatens to cease to trade or serious doubts arise as to the client's solvency.

3.3 In the event of the client becoming insolvent the company may at any time thereafter by notice in writing to the trustee or liquidator of the client request monies owing for the administration and labour costs involved in manufacture fusing or setting up of the display before it is fired.

#### 4. QUOTATIONS AND ORDERS

4.1 The Company may reject or amend a display order by written notice to the client within 30 days of receipt of the said display order form in which case company has no liability to client other than for any part of the display order which the company is prepared to supply.

4.2 In such circumstances as the company reject the display order the deposit paid by the client will be returned within 30 days of receipt.

4.3 Unless otherwise specified quotations remain firm for 3 months from the date of issue but may be withdrawn at any time and are subject to confirmation at the time of acceptance.

4.4 The acceptance of a quotation whether verbal or written must be accompanied by clear and sufficient information on the booking order form to enable company to proceed immediately with manufacture and/or supply of the display.

4.5 The company is not obliged to regard a letter of intent as acceptance of an order and is not obliged to commence manufacturing and/or supply of the display upon receipt of a letter of intent.

#### 5. NOTIFICATION OF LOSS OR DAMAGE AT A DISPLAY

5.1 Notification by the client or any third party of any alleged damage to any person or property either directly or indirectly caused by the actions omissions or effects of the company must be made immediately following the display and before the senior firer departs from the display site.

5.2 Failure to make a claim within such time limits and of which time limits shall be of the essence except where client or third party is reasonably unable to so comply shall constitute unqualified acceptance of display and a waiver by client or third party of all claims relating to loss or damage.

5.3 Should any person receive any injury alleged caused either directly or indirectly by the actions omissions or effects of the company these must be made immediately following the display and before the senior firer departs from the display site by the person concerned or if not able to do so by a qualified person in authority to report such an incident.

#### 6. VARIATIONS IN QUANTITY OR EFFECTS

6.1 All orders are by the client and accepted by the company on the understanding that the company can only provide such effects as described in the show plan or schedule subject to availability of such stock.

6.2 Company shall not be responsible to client in any respect if company is unable to deliver due to unavailability of stock or due to its allocation to other customers.

#### 7. SUSPENSION OR CANCELLATION OF THE DISPLAY BY THE COMPANY

- 7.1 Upon the happening of the relevant event as defined in clause 3 hereof the company shall immediately become entitled (without prejudice to its other claims and rights) to suspend further performance of contracts for such time as it shall in its reasonable discretion think fit or if company reasonably so considers to treat all or any contracts as wrongfully repudiated by the client and forthwith terminate all or any contracts. Company will notify client in writing of the exercise of its option to suspend or terminate contracts as the case may be.
- 7.2 The senior firer on site holds all responsibility on behalf of the company with regards to the safe firing of the display. If in his opinion it is not safe for whatever reason to fire all or part or any specific effect he will suspend or cancel that part or all of the display. In such circumstances the company reserves the right to charge the client the full amount of the display or credit part of the display costs as the circumstances dictate.
- 7.3 If due to poor weather conditions the display is cancelled by the company after consultation with the client the company reserves the right to charge the client the full amount of the display or credit part of the display costs as the circumstances dictate. The amount of refund payable by the company to the client in this instance shall be no more than 50% for your first £500, 30% for £501-£1,000 and 20% for the remaining balance.
- 7.4 The senior firer will make his decision on firing a display based on the safety of the pyrotechnic crew the public and property involved. His decision is final and binding and will not be swayed by financial gains or losses by the client or company set against the safety of the persons involved either directly or indirectly.

## 8. QUALITY

- 8.1 Displays supplied are warranted to be within normal and excepted limits of the industry quality for such a display. All other warranties or conditions as to quality or description (statutory or otherwise) are excluded
- 8.2 The liability of company for breach of this warranty (or for any other claim based on any deflection in the display) is limited to giving the client a reasonable credit or allowance in respect of the display but in no circumstances will company's maximum liability exceed the net invoice value of the defective display.
- 8.3 Complaints as to quality can be considered only if written notice is given to company within 24 hours of the display. No liability shall attach to company hereunder unless and until this procedure has been strictly carried out.

## 9. CANCELLATION OR NON PAYMENT BY THE CLIENT

- 9.1 If client purports to cancel a contract for the display the 25% deposit (or amount paid) is non-refundable.
- 9.2 If client purports to cancel a contract for the display giving less than 42 days notice but more than 28 days notice in writing the client is liable to company for a sum equal to 25% of the contract value.
- 9.3 If client purports to cancel a contract for the display giving less than 28 days notice but more than 10 days notice in writing the client is liable to company for a sum equal to 50% of the contract value.
- 9.4 If client purports to cancel a contract or refuses to accept delivery of the display hereunder with less than 10 days notice the client is liable to company for a sum equal to the total value of the contract. This includes the cancellation due to adverse weather conditions.

## 10. DELIVERY

- 10.1 Delivery date means the date upon which the display is required for delivery as quoted on the order form.
- 10.2 If the company fails to deliver the display for any reason other than beyond company's reasonable control or the client's fault and company is liable to the client, the company's liability is limited to a full refund of monies paid by the client for that particular display and no further compensation for loss of the display or any consequential loss will be considered.

## 11. PAYMENT

- 11.1 Time of payment shall be of the essence. Unless otherwise stated in writing by company all accounts are payable in two sections the first payment equal to 10% of the total display cost including vat is payable with the booking confirmation form. The remaining balance is payable 6 weeks before the display is fired. All displays booked within 6 weeks of the event are required to pay the full amount when sending in the booking form.
- 11.2 Should the company not receive full payment before the due time of firing the display the company reserves the right to not continue with the display but to charge the client the full amount.
- 11.3 Should the client have a written credit agreement with the company all accounts are then payable within 30 days of invoice date and are not subject to discounts save such discounts agreed between company and client and stated on the order form. All discounts are conditional on the invoice being paid in full on the due date. If payment is not so made then no discount shall apply and the full amount of the display shall be payable.
- 11.4 If the client fails to pay an invoice on the due date then company may charge in addition to the amount shown on the invoice:
- 11.4.1 interest (both before and after any judgement) on the amount unpaid at the rate specified under the Late Payment of Commercial Debts (Interest) Act 1998 (which at present is 8% per annum above the official dealing rate) from the date of payment
- 11.4.2 an administration fee of £50 per month or part month from the date of the invoice until the date of payment
- 11.4.3 the cost of time spent pursuing payment and any travelling expenses incurred and the amount of all legal costs incurred by company in connection with recovery of the whole or any part of the monies due to company (on a full indemnity basis) whether or not proceedings are commenced or costs can be awarded by the court.

## 12. LOSS IN RATES OF EXCHANGE AND PRICE VARIATION

- 12.1 If a contract is entered into at a price in any currency other than English sterling and any decline in the value of such currency as compared with English sterling takes place between the date when the contract is made and the date or dates upon which the payments are due client shall pay to company an additional amount equivalent to any exchange loss incurred by company by reason of such decline
- 12.2 Value added tax and any other taxes applicable will be charged in accordance with legislation in force at the appropriate time
- 12.3 Until an order has become binding on company by the receipt of a signed booking form (contract) all prices are subject to change without prior notice.

## 13. FORCE MAJEURE

- 13.1 Company may cancel the display totally or partially without any liability to the client for failure to deliver or delay in delivery during any period in which it is prevented from or hindered or delayed in supplying or delivering by normal route or means of delivery the display of the description covered by contract through any circumstances outside the control of company including but not limited to wars fires strikes lockouts accident reductions or governmental action whether within or outside the UK or in the event of a reduction or cessation in the availability of the said display products or materials for any reason whatsoever beyond the reasonable control of the company.

## 14. PROPER LAW AND JURISDICTION

- 14.1 All disputes arising out of or in connection with the contract shall be governed by English law and client accepts the jurisdiction of such court whether in England or elsewhere as company may nominate

## 15. NOTICES

- 15.1 Any notice shall be in writing and may be served by prepaid first class letter post delivery or facsimile to the last known address of the appropriate party. Services shall be deemed to be effective 24 hours after delivery by post, upon written receipt after delivery and instantaneously by facsimile or e-mail.