



**PRODUCT TESTING AND QUALITY IMPROVEMENT FUNDING AGREEMENT FOR THE FIREWORKS QUALITY IMPROVEMENT PROGRAM**

**THIS AGREEMENT** is entered into by and between the American Fireworks Standards Laboratory (AFSL) and

\_\_\_\_\_ (Participating Shipper) to set forth the funding arrangements for the AFSL Fireworks Quality Improvement Program.

“Participating Shipper” shall include all of the Participating Shipper’s parent, subsidiary and related companies and other affiliates. Affiliates shall include all persons who control, are controlled by, or are under common control with the Participating Shipper or Bureau Veritas officers or directors.

“Participating Importer” shall include all of the Participating Importer’s parent, subsidiary and related companies and other affiliates. Affiliates shall include all persons who control, are controlled by, or are under common control with the Participating Importer or Bureau Veritas officers or directors.

WHEREAS, in a serious effort to reduce injuries by improving the quality and compliance with U.S. Federal regulations of Chinese fireworks, certain American importers (Participating Importers) and AFSL, through friendly discussions, have voluntarily entered into Participating Importer Agreement relating to fireworks produced in China and labeled for sale or ultimate shipment to the United States of America as Fireworks, UN0336, 1.4G (formerly DOT Class C Common Fireworks) and associated novelty items (Governed Fireworks);

WHEREAS, The Product Testing and Quality Improvement Funding Agreement for the Fireworks Quality Improvement Program (the “Agreement”) provides for various quality improvement efforts to be undertaken by AFSL for the benefit of American fireworks importers;

NOW THEREFORE, the parties agree as follows:

**Term of Agreement** - This Agreement becomes effective upon execution by the parties hereto and continues for so long as the Shipper acts as agent for one or more Participating Importers or until the AFSL terminates this Agreement.

**Fireworks Testing** – Fireworks designated by AFSL as Category I fireworks shall be independently tested in China under the AFSL Fireworks Quality Improvement Program, a copy of which is attached as **Appendix A** and incorporated herein by reference. **Appendix B** contains a current list of Category I fireworks. This list is subject to change at AFSL’s discretion. All other





Governed Fireworks will be designated as Category II and will not be subject to AFSL's testing requirement in China.

**Quality Improvement Funding** - AFSL will incur certain costs in administering the quality improvement programs. To support the quality improvement programs, Participating Importers have authorized a Quality Testing Fee on all shipments of Governed Fireworks to the United States to be assessed on them by Participating Shipper. The amount of the Quality Testing Fee is established at US\$0.50 for Category I fireworks and US\$0.25 for Category II fireworks. These fees will be reviewed annually and may be adjusted based on the projected program requirements.

**Shipper Duties** - Participating Shipper agrees to invoice and collect the Quality Improvement Testing Fee for each carton of Governed Fireworks it ships to **the participating U.S. importer.** Participating Shipper shall require all shipments of Category I fireworks to be tested for compliance with AFSL's safety standards by the AFSL-authorized testing company. The testing company, after verification of the Participating Shipper's and the Participating importer's active status in AFSL's testing program, shall test such product in accordance with AFSL testing procedures and certify the results to the Participating Shipper, the Participating Importer and AFSL. Participating Shipper agrees to invoice and collect the Quality Test Fee for each carton of Governed Fireworks exported to the Participating Importer by Participating Shipper in the amount as set forth in this Agreement or as otherwise modified by AFSL. Participating Shipper shall, by the twentieth (20th) day of the month following receipt of the Quality Testing Fees or by the twentieth (20th) day of the month following receipt of payment for the shipment, whichever is sooner, pay the Quality Testing Fee amount, less the shipper's service fee of 10% of the collected amount, in U.S. dollars, to the escrow account administered by Tricor Secretaries Limited for the use by AFSL in administering the Fireworks Quality Improvement Program. The shipper's service fee is not deductible from payments made after the due date.

If Participating Shipper received payment for the shipment but fails to collect the Quality Testing Fee(s), Participating Shipper shall be required to pay the Quality Testing Fee (s) to the escrow account within ten (10) days of receipt of payment for the shipment. Upon a showing to AFSL's General Counsel that Participating Shipper in good faith attempted to collect the Quality Testing Fee (s), AFSL will refund the amount of the Quality Testing Fee(s), with interest at the then prevailing prime rate plus 2%. AFSL will not consider a refund for a Quality Testing Fee if the Participating Importer, or any related company, had previously refused to pay Quality Testing Fees to Participating Shipper, or Participating Shipper knew, or had reason to know, that the Participating Importer or any related company had previously refused to pay Quality Testing Fees to any other agent.

Participating Shipper agrees to submit monthly reports of shipments of Governed Fireworks to the escrow agent by the twentieth (20th) day of each month in a form similar to that found in **Appendix B and C**. All reports to the escrow agent will be treated as confidential and will not be





disclosed to others, including parties to this Agreement, with the exception of notification to AFSL General Counsel in cases of breaches of this Agreement by Shipper.

The escrow agent will compare Quality Testing Fee payments to the escrow account against reports submitted by the administrator of the AFSL testing program and U.S. Customs import figures to confirm compliance with this Agreement. In the event of a material discrepancy between the amount paid by Participating Shipper and the amount indicated that should have been paid, Participating Shipper, upon request, shall provide documentation to the escrow agent to demonstrate the correct amount of the Quality Testing Fee.

Participating Shipper agrees not to ship to any Participating Importer any Category I fireworks that have not been tested by the AFSL-authorized testing company unless the AFSL-authorized testing company confirms in writing that testing has been requested and cannot be provided in a timely manner.

**AFSL's Duties** - AFSL will provide Participating Shipper with a list of Participating Importers by the fifteenth (15th) day of each month, and such list shall be effective for the month following. AFSL agrees to authorize Participating Shipper to request independent testing of Category I fireworks if Participating Shipper satisfies all Bureau Veritas obligations under this Agreement.

**Termination** - AFSL may terminate this Agreement at any time it determines that Participating Shipper has breached a provision of this Agreement. Such termination shall not waive any of AFSL's rights in equity or law for breach of this Agreement.

**Arbitration** - Any disputes that cannot be resolved through friendly discussion shall be resolved through arbitration. The escrow agent shall serve as arbitrator to resolve any disputes.

**Revisions** - This Agreement may be revised by the mutual written agreement of the parties and must be carried out with friendly discussions.

**American Fireworks Standards Laboratory**

\_\_\_\_\_  
(Shipper)

\_\_\_\_\_  
Robert Howell Date

\_\_\_\_\_  
(Authorized Signature) Date

