#### HARRISON DEPARTMENT OF PUBLIC WORKS

Town and /Village of Harrison Alfred F. Sulla, Jr. Municipal Building 1 Heineman Place Harrison, New York 10528

Christopher Park General Foreman, DPW



April 18, 2023

Supervisor Richard Dionisio and Members of the Town Board Town of Harrison 1 Heineman Place Harrison, New York 10528

E-17

Re: Christmas Decorations - American Christmas, LLC

Dear Supervisor Dionisio and Members of the Town Board:

Town Board authorization is requested for the Purchasing Department to issue a purchase order to American Christmas, LLC in an amount not to exceed \$116,680.00, for the purchase of Christmas decorations, to be used town-wide. A detailed copy of the proposal is attached from your information and review.

Further, funding for this purchase is available in the Street Lighting Materials and Supplies Operating Budget, account # 001-5182-100-0410.

Respectfully submitted, Park

Christopher Park

DPW General Foreman

CP/fmb

Cc: Maureen MacKenzie, Comptroller

**Purchasing Department** 

P:\Christmas Decorations\Authorization to Purchase to Town Board 041223.docx



American Christmas, LLC 30 Warren Place Mount Vernon, NY 10550 1. (914) 663-0600 www.americanxmas.com



### Town/Village of Harrison

Sale Holiday Decoration Agreement

Agreement #:

53192

Date:

04/17/23

Client #:

29113

Submitted By:

Daniel Casterella

Email:

dcasterella@americanxmas.com

Submitted By:

Jana Bonvino

Email:

jbonvino@americanxmas.com

# **Business Terms Summary**

30 Warren Place, Mount Vernon, NY 10550 Tel: (914) 663-0600 www.americanxmas.com

This Agreement is the property of American Christmas; use for other solicitation is strictly prohibited.

Agreement #: 53192		Company:	City Hall  1 Heineman Place			
Date:	April 17, 2023		Harrison, NY 10530  Town/Village of Harrison			
Salesperson: Email:	Daniel Casterella deasterella@americanxmas.com Jana Bonvino jbonvino@americanxmas.com	Location:				
Please indicate y	our acceptance with a check mark in the boxes be	elow.			<del> </del>	
Item Description		Location	Quantity	Unit Price	Item Total	
1. 9' long x 14" wide Section of Garland, Lit Only.		Exterior	172	\$140.00	\$24,080.00	
2. Polaris Mast Pole Mount		Exterior	80	\$1,000.00	\$80,000.00	
3. AE Custom Pole Mount		Exterior	4	\$1,500.00	\$6,000.00	
4. Snowflake Pole Mount		Exterior	6 .	\$1,100.00	\$6,600.00	
2023 Order Payment Schedule June 1 (50%). November 1 (50%)				2023 Subtotal:	\$116,680.00	
	Not	e; Prices do not include sa	des tax. Sales tax will	be applied to any i	nvoice amounts.	
	By signing this contract, you a	ncknowledge all the terms	s listed in this Agree	ment.		
AGREEMENT ACCEPTED THIS —— DAY OF ———		, 2023.				
Contact: Flo	rinda Broderick□	Contact:				
Title: Sr. Off	ĭice Assistant□	Title:				
Authorized Signature;		Authorized S	Authorized Signature:			
Print Name:			Print Name:			
	ny Name:		Print Company Name:			

American Christmas, LLC 30 Warren Place Mount Vernon, NY 10550 Tel. (914) 663-0600 Order: Town/Village of Harrison

Order Number: 53192

#### ITEM DESCRIPTION

#### **Exterior**

1. 172 - 9' long x 14" wide Section of Garland, Lit Only.

Each one of the 86 Poles will receive 2 Sections of Garland.

- 2. 80 Polaris Mast Pole Mount
- 3. 4 AE Custom Pole Mount
- 4. 6 Snowflake Pole Mount

## **Important Notes**

30 Warren Place, Mount Vernon, NY 10550 Tel: (914) 663-0600 www.americanxmas.com

- a) The payment terms are 50% Due on June 1, 2023 and 50% Due on November 1, 2023.
- b) Local Sales Tax will be added to the invoice for the states of New York, unless tax exemption documentation is provided.
- c) Hooks and electrical outlets to be provided and installed, where applicable, by client.
- d) This agreement is subject to availability of materials when a signed contract is received by American Christmas.
- e) Maintenance due to acts of God, GFI breakers and vandalism is not included.
- f) If GFI breakers exist, they may trip when it rains, snows or if there is moisture present. The system will need to be monitored by client.

#### Termination:

Customer may also terminate the Agreement for convenience to the extent permitted by the Business Terms Summary, and subject to payment of any termination fees specified therein (the "Termination Fees"). Customer acknowledges and agrees that the Termination Fees are not a penalty, but instead are a reasonable estimate of the compensation equitably due for the harm caused to American Christmas in the event of termination of this Agreement for convenience by Customer, which compensation the parties agree is very difficult to accurately estimate. The Termination Fees are available upon request or noted in a separate Table.

## Standard Terms and Conditions of Sale

30 Warren Place, Mount Vernon, NY 10550 Tel. (914) 663-0600 www.americanxmas.com

PURCHASE AND SALE OF PRODUCTS AND SERVICES. These Standard Terms and Conditions of Sale ("Terms") apply to the attached business terms summary (the "Business Terms Summary") submitted by American Christmas, LLC ("American Christmas") for the sale of Purchased Products (as defined below), rental of Rented Products (as defined below, and collectively with the Purchased Products, the "Products"), and/or provision of services ("Services"), to the customer reflected in such Business Terms Summary ("Customer"). Unless the Business Terms Summary provide otherwise, the Business Terms Summary and these Terms constitute an agreement that shall be valid for a period of: (i) ninety (90) days from its date if dated before July 1; (ii) sixty (60) days from its date if dated in July; and (iii) thirty (30) days from its date if dated in August; after which the agreement Terms shall become null and void. The Business Terms Summary and these Terms shall become a binding agreement following execution by Customer and delivery to American Christmas within the applicable time period specified above (the Business Terms Summary and these Terms, collectively the "Agreement"). Any terms set forth on a purchase order or other procurement document issued by Customer in addition to, or in compliance with, those set forth in this Agreement are rejected and shall be of no force or effect. The failure of American Christmas failure to object to provisions contained in any purchase order, procurement document or other communication from Customer shall not be deemed a waiver of these provisions. No modification or waiver of this Agreement shall be binding unless agreed to in writing by authorized representatives of American Christmas and Customer.

TERM. The term of this Agreement (the "Term") shall begin on the date of receipt by American Christmas of this Agreement countersigned by Customer and, unless earlier terminated pursuant to the paragraph entitled TERMINATION below, and shall continue for the term specified in the Business Terms Summary.

TERMINATION. A party may terminate this Agreement due to material breach by the other party upon thirty (30) days' advance written notice to the breaching party, provided the breach is not cured in such thirty (30) day period. In the event of a breach due to failure to make timely payment hereunder, the foregoing period shall be seven (7) days. Customer may also terminate the Agreement for convenience to the extent permitted by the Business Terms Summary, and subject to payment of any termination fees specified therein (the "Termination Fees"). Customer acknowledges and agrees that the Termination Fees are not a penalty, but instead are a reasonable estimate of the compensation equitably due for the harm caused to American Christmas in the event of termination of this Agreement for convenience by Customer, which compensation the parties agree is very difficult to accurately estimate.

PURCHASED PRODUCTS. In the event the Business Terms Summary states that certain Products are to be purchased by Customer from American Christmas ("Purchased Products"), American Christmas shall sell, and Customer shall purchase, such Purchased Products subject to the terms of this Agreement. Title to Purchased Products shall pass to Customer upon receipt by American Christmas of payment in full for such Products as required by this Agreement.

RENTED PRODUCTS. In the event the Business Terms Summary states that certain Products are to be rented to Customer ("Rented Products"), American Christmas shall rent the Rented Products to Customer for the Term. American Christmas shall at all times retain the full legal title to the Rented Products. Customer shall maintain the Rented Products in good repair condition and working order, ordinary wear and tear excepted, and shall use the Rented Products solely in connection with the installations described in the Business Terms Summary. Customer assumes the risk that, and shall promptly notify American Christmas in writing if, any item of Equipment becomes lost, stolen, damaged, or destroyed. Customer shall obtain and maintain for the Term at

its own expense, property damage and liability insurance and insurance against loss or damage to the Rented Products, in such coverage amounts and under such terms as American Christmas may reasonably require. Without the prior written consent of American Christmas, which may be withheld in its sole discretion, Customer shall not: (a) assign, transfer, or otherwise dispose of any Rented Products; (b) sublease any of the Rented Products or permit the Rented Products to be used by any other party; (c) create, incur, or permit to exist, any security interest, lien or encumbrance with respect to any of the Rented Products; or (d) cause or permit any of the Rented Products to be moved from the location specified in the Business Terms Summary. Customer acknowledge, covenants and agrees that the Rented Products shall be and remain personal property, notwithstanding the manner by which they may be attached or affixed to realty. In the event of a breach of this Agreement by Customer, American Christmas may, in addition such other rights as are available to it under this Agreement, at law or in equity: (i) take possession of any or all of the Rented Products and, for such purpose, enter upon any premises where the Rented Products are located with or without notice or process of law and free from all claims by Customer or any other person, or require Customer to deliver the Rented Equipment to American Christmas as it directs; and (ii) sell or re-lease any or all of the Rented Products, through public or private sale or lease transactions, and apply the proceeds thereof to Customer's obligations hereunder. Customer shall remain fully liable for any resulting deficiency. Customer shall pay all costs, expenses and fees (including reasonable attorneys' fees) incurred by American Christmas in retaking possession of, and removing, storing, repairing, refurbishing and selling or leasing such Rented Products and enforcing any obligations of Customer under this Agreement.

SERVICES GENERALLY. American Christmas shall perform the Services set forth in the Business Terms Summary, including all installation and de-installation services, in accordance with the requirements, specifications and schedules set forth therein. Customer shall provide to American Christmas such assistance, including resources, personnel and facilities, as American Christmas may reasonable request, or as may be specified in the Business Terms, in connection with the performance of the Services. Lifts and scaffolding are not included in any Services unless the Business Terms Summary state otherwise.

STORAGE SERVICES. In the event the Business Terms Summary states that American Christmas is to provide storage services with respect to any Products ("Storage Services"), American Christmas shall provide such Storage Services for the Term. While in the possession of American Christmas, title to Purchased Products shall remain with Customer. Customer shall obtain and maintain for the Storage Term at its own expense, property damage and liability insurance and insurance against loss or damage to Purchased Products stored by American Christmas hereunder.

PRICE; TAXES. The prices for the Products and Services purchased or rented under this Agreement are set forth in the Business Terms Summary. Such prices do not include freight, handling fees, or other duties, for which Customer shall be responsible. The prices stated are also exclusive of any sales, use, retailer's occupation, service occupation, excise, ad valorem, value added, or consumption taxes imposed by any governmental authority for the sale or rental of the Products. Customer shall be liable for such taxes (other than income taxes payable by American Christmas) and shall timely pay any such taxes directly to the applicable taxing authority; provided, however, that if required by law (including, without limitation, in the states of New York, New Jersey and Connecticut), American Christmas will bill such taxes as a separate line item on the applicable invoice and collect and remit them to the appropriate taxing authority. American Christmas will not collect or remit any such taxes if Customer has provided American Christmas with a valid tax exemption certificate (such validity to be determined by American

Christmas in its sole discretion). Customer shall reimburse American Christmas for all taxes or other charges or fees (including penalties and interest) American Christmas is required to pay to any governmental authority as a result of the manufacturer, sale, shipment or use of a Product, or provision of a Service (other than income taxes payable by American Christmas). Customer shall, upon request from American Christmas, cooperate with American Christmas to establish that any such tax that was the responsibility of Customer under this paragraph was paid or remitted by Customer directly to such taxing authority.

PAYMENT. Payment terms for Products and Services shall be as set forth in the Business Terms Summary. In the event the Business Terms Summary does not provide Payment Terms, payment for invoices shall be due within thirty (30) days of the date of the invoice. All sums shall be payable in legal tender of the United States of America. If Customer is in any respect in default under any provisions hereof, American Christmas may suspend its performance of this Agreement until the default is remedied. Any past due amounts owing to American Christmas shall accrue interest at the lesser of one-and-one-half percent (1.5%) per month, or the maximum interest rate permitted by applicable law. Customer shall pay to American Christmas all costs, expenses and fees including, without limitation, attorneys' fees, incurred by American Christmas in collecting any amounts due and owing hereunder, and in de-installing and returning Products to American Christmas.

SHIPMENT. Delivery dates for shipments of Products are estimates only, and American Christmas shall have no liability for any failure to meet any estimated delivery date. Products shall be delivered by American Christmas to Customer at such delivery location as is specified in the Business Terms Summary. Customer must provide American Christmas at least fourteen (14) days' prior, written notice of any requested change to the delivery date or delivery location, which request shall not be binding upon American Christmas absent its prior, written consent, which may be withheld in its sole discretion. Unless otherwise specified in the Business Terms Summary, and except for Products rented and installed by American Christmas, Products will be shipped Standard Ground Service, which service shall not include expedited freight, redelivery or storage services. Products rented and/or installed by American Christmas will be delivered by American Christmas. Risk of loss of the Purchased Products shall pass to Customer at the American Christmas facility supplying the Products (the "Point of Delivery") upon delivery to a common carrier. Customer shall be responsible for all expenses incurred for the transportation, cartage and storage of the Products from and after delivery of such Products to the carrier at the Point of Delivery. American Christmas may, in its sole discretion, purchase insurance on any shipment to Customer, and charge Customer for same. American Christmas shall not be liable to Customer for any damages claimed or other liabilities resulting from delay in delivery.

LIMITED WARRANTY. American Christmas warrants to Customer that the Purchased Products manufactured by American Christmas will, for the Term of this Agreement, be substantially without material defect. If such a Purchased Product does not conform to this Limited Warranty and Customer provides written notice of same to American Christmas on or before the earlier to occur of thirty (30) days of the date of discovery of the defect, or ninety (90) days from the date of delivery of the Purchased Product to Customer, then American Christmas shall, at its expense, repair or replace the Purchased Product so that it does so conform or, at the discretion of American Christmas, provide a credit for the Purchased Product purchase price, provided that Customer complies with this Agreement, including the provision titled Warranty Service below. Purchased Products manufactured by third parties shall be subject to the warranties, if any, provided by the third party Product manufacturer. AMERICAN CHRISTMAS MAKES NO WARRANTY WITH RESPECT TO SUCH THIRD PARTY PRODUCTS.

American Christmas also warrants to Customer that the Services will be performed in a professional and workmanlike manner. If Services do not conform to this Limited Warranty and Customer provides written notice of same to American Christmas within thirty (30) days of the provision of such Services, then American Christmas shall, at its expense, reperform the Services in a conforming manner. These remedies shall be the sole obligation of American Christmas, and Customer's sole and exclusive remedy, for any breach of this Limited Warranty. THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS OR SERVICES. AMERICAN CHRISTMAS SPECIFICALLY DISCLAIMS ALL SUCH OTHER EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITED WARRANTY GIVES SPECIFIC LEGAL RIGHTS. OTHER RIGHTS MAY APPLY, WHICH VARY FROM STATE TO STATE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY.

LIMITED WARRANTY EXCEPTIONS. Notwithstanding the foregoing, the Limited Warranty shall not apply if: (i) the Product which is subject to the Limited Warranty has been modified, changed or altered, (ii) the Product is misused or used in any manner other than as contemplated by this Agreement; (iii) the nonconformity results in whole or in party from Customer's failure to maintain the Product as instructed by American Christmas, (iv) the nonconformity results in whole or in party from any cause outside the control of American Christmas; (v) the Products are used in an improper environmental condition, including an environment where they are exposed to fluids, or power fluctuations or interference, such as may be caused by lighting systems, dimmers, radio signals and other appliances; (vi) the Products are used with equipment not supplied, approved and installed by American Christmas; or (vii) Customer has not timely made all payments required hereunder.

WARRANTY SERVICE. No Purchased Products may be returned to American Christmas in connection with a warranty claim without the prior, written authorization of American Christmas. All Purchased Products so authorized by American Christmas for return must be returned in their original packaging, and be in unused condition, normal wear and tear excepted. If American Christmas determines following return of a Purchased Product, that the Purchased Product does not conform to the Limited Warranty, American Christmas shall repair or replace the Purchased Product as described in the LIMITED WARRANTY provision above, and shall return the Purchased Product to Customer at the expense of American Christmas. In the event American Christmas determines that any problem with a Purchased Product is not the result of a breach of warranty, or the Limited Warranty is otherwise inapplicable to the Purchased Product, Customer shall pay American Christmas for replacing the Purchased Product at the then-current prices and hourly rates of American Christmas, as well as all shipping and insurance costs related to transport of the Purchased Product.

INDEMNIFICATION. Customer agrees to indemnify, defend, and hold American Christmas harmless from any claims, demands, liabilities, damages, costs, expenses and fees (including reasonable attorneys' fees) arising out of or related to: (i) Customer's misuse or abuse of the Products, or failure to maintain and use the Products in accordance with this Agreement and the documentation and instructions provided by American Christmas; (ii) any personal injury or death, or property damage, resulting from the negligence, willful misconduct or violation of law by Customer; and (iii) any breach of this Agreement by Customer.

LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES SHALL AMERICAN CHRISTMAS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, INJURIES TO PERSONS OR PROPERTY, LOSS OF USE OF PROPERTY, OR DAMAGES FOR WHICH CUSTOMER MAY BE LIABLE TO OTHER PERSONS OR ENTITIES, ARISING FROM ANY SALE OF PRODUCTS OR SERVICES, EVEN IF AMERICAN CHRISTMAS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND WHETHER THE CLAIM IS FOR BREACH OR REPUDIATION OF CONTACT, BREACH OF WARRANTY, TORT, NEGLIGENCE OR OTHERWISE. THE MAXIMUM AGGREGATE LIABILITY OF AMERICAN CHRISTMAS ARISING OUT OF OR RELATING TO ANY SALE OF PRODUCTS OR SERVICES OR THIS AGREEMENT SHALL IN NO EVENT EXCEED THE AMOUNTS PAID BY CUSTOMER TO AMERICAN CHRISTMAS FOR THE PRODUCTS OR SERVICES GIVING RISE THE LIABILITY.

FORCE MAJEURE. "Force Majeure" means any event beyond the reasonable control of the party affected and includes, without limitation, fire, flood, other natural catastrophes, war, terrorist act, embargo, strike, labor dispute, riot, inability to secure materials, labor or transportation, epidemic, pandemic or other disease outbreak or the intervention or decree of any governmental authority. If any party is delayed by Force Majeure in the performance of its obligations under these Terms, it shall inform the other party, give a description of the cause of the Force Majeure, and provide a good faith estimate of the likely duration of the continuation of the Force Majeure. The affected party's time for performance of its obligations under this Agreement shall be extended during the continuation of the Force Majeure. The foregoing shall not apply to any obligation to make payment hereunder.

PROPRIETARY PRODUCTS. This Agreement, and any designs or other deliverables prepared by American Christmas for Customer, as well as the Products, contain the intellectual property and proprietary rights of American Christmas. No right or license to any such intellectual property or proprietary rights is granted by American Christmas to Customer. In no event shall Customer use or modify any American Christmas design or other information or materials other than as: (i) expressly permitted by this Agreement in connection with the installation(s) described therein, or (ii) approved in advance in writing by American Christmas. As a condition of purchase of a Product, Customer agrees not to disassemble, reverse engineer, modify, or copy the Product, or to permit any third party to do so. Customer must not remove any proprietary legends or markings on any of the Products. Customer agrees that American Christmas may reference Customer, and take and display pictures of the installation(s) described in the Business Terms Summary, in connection with its promotional activities and marketing materials.

NOTICES. All notices under this Agreement shall be in writing and sent to the respective addresses set forth in the Business Terms Summary or such other address as may be designated by a party upon written notice to the other hereunder. Notices under this Agreement will be sufficient only if mailed, postage prepaid, delivered overnight by a major commercial overnight mail carrier, or delivered by e-mail to the address specified in the Business Terms Summary, with a hardcopy to follow by certified mail, return receipt requested. If not received sooner, notice by e-mail will be deemed given and received as of the date of transmission, and notice by overnight carrier will be deemed given and received one (1) business day after sending.

MISCELLANEOUS. This Agreement may not be assigned by Customer without the prior, written consent of MK Illumination. Any purported assignment made in violation of this paragraph shall be void and ineffective for all purposes. This Agreement shall be construed in accordance with, and governed in all respects by, the internal laws of the State of New York (without giving effect to principles of conflicts of laws). Any dispute arising out of or relating to this Agreement shall be brought in the federal or state courts located in Westchester County, New York, the exclusive jurisdiction of which the parties irrevocably consent to for this purpose. The parties hereby waive any objection to the venue of such courts, including on grounds of forum non conveniens. This Agreement sets forth the entire agreement and understanding of the parties with respect to transactions contemplated hereby and supersedes any and all prior contracts, agreements and understandings of the parties relating to the subject matter hereof. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision contained herein. The United Nations Convention on the International Sale of Goods shall not apply.



# CELEBRATE Jogethen

THE TOWN AND VILLAGE OF HARRISON

AMERICAN CHRISTMAS by M. Jumnation



TRADITION MEETS STYLE

Mood



Lit pole motifs, lit garland wrapping up the poles - The Town and Village of Harrison is instantly transformed for the Holidays!



THE TOWN AND VILLAGE OF HARRISON

Sample picture . O by American Chi

LET ONLY GARLAND

CHURCH

WEST HARRISON
AND DOWNTOWN

Ist and Festive!

Pole mount motif options for the best Holiday look and feel.

THE TOWN AND VILLAGE OF HARRISON

Another option of the motifs, lit garland wrapping up the poles.

THE TOWN AND VILLAGE

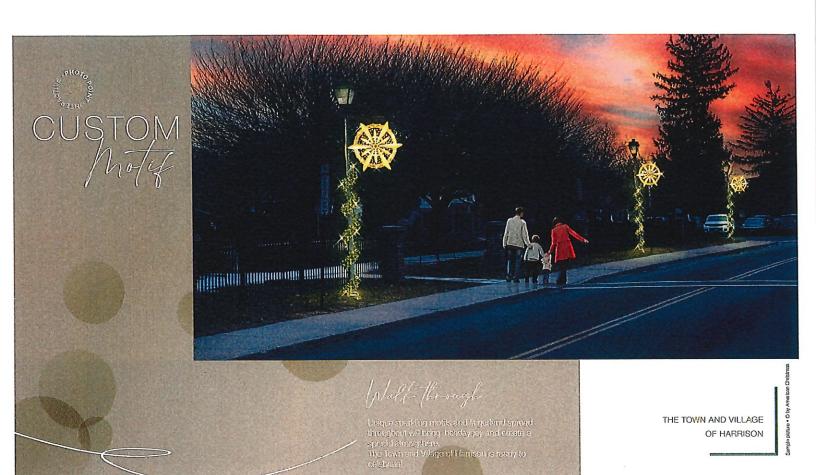
OF HARRISON



Harrison inspired!

This custom design is inspired by the Amelia Earhart Monument. The motif shape resembles an airplane propeller. It is a call back to The Town and Village of Harrison's historic resident's passion and achievements in aviation.

THE TOWN AND VILLAGE OF HARRISON



AMERICAN CHRISTMAS by VK. Turnination



3

Branches in the US – New York, Maryland, and North Carolina

d

Decorating since

1962



1-+00+

We install in 30 states



Regional Logistics Centers in California, New York, Dallas, Chicago, and Miami.

70

Full-Time Employees

We are always looking to grow our team and find cutting-edge talent.



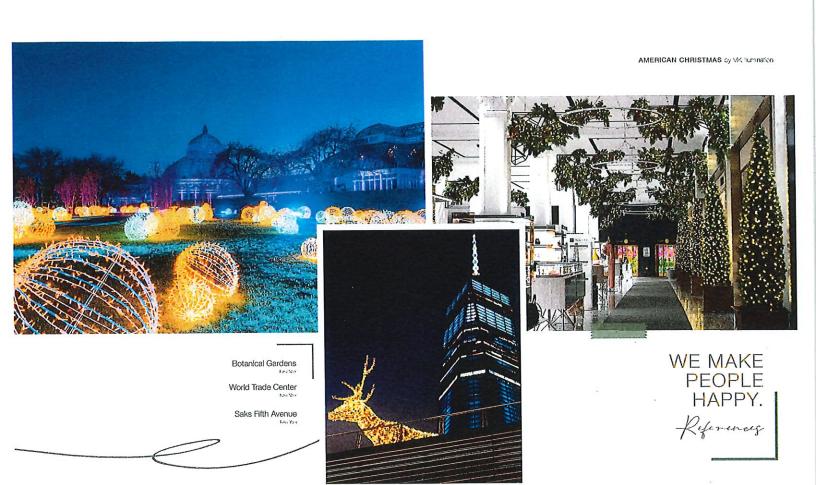
Manufacturing

Our manufacturing facilities stretch globally.
We own factories in Stovakia, the Philippines,
China, Turkey, Italy, Romania, South Africa,
Czech Republic, Mexico, Hungary, and the USA.



P Quality

Our purchasing process in China is solidified with our in-house dedicated quality control team based in Shenzhen – which ensures timelines and quality control for all our custom manufactured product. FACTS AND Figures



OUR CONTACT

Thank you

FOR REVIEWING OUR PRESENTATION

All designs and measurements are conceptual and are subject to change upon further development.

Dan Casterella

CEO

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Jana Bonvino

Account Manager

jbonvino@americanxmas.com

Kate Bezhevets

Designer

kbezhevets@americanxmas.com





