

C o F Contract No. 2015-0397

23 February 2016

Refer to: P15001-JG-15-273 – **Kidde Fire Trainers Internal Tracking Number**

Via E-mail: michaelp@franklintn.gov

City of Franklin
109 Third Ave South
Franklin, TN 37064

Attn: Michael Pardue, Training Division Captain, City of Franklin Fire Department

Subject: City of Franklin Trainer Maintenance and Upgrade Proposal with Warranty Option

- Enclosure: 1) Scope of Work and Pricing Proposal
2) KFT Fire Trainer, LLC Terms and Conditions

Dear Captain Pardue:

KFT Fire Trainer, LLC is pleased to provide our proposal to provide maintenance and upgrade options for your training system Fire Trainer® T-1000.

As the designer, manufacturer and installer of the Fire Trainer® T-1000 located at your facility, KFT Fire Trainer, LLC is the sole source provider that can successfully perform the outlined upgrades as we maintain the resources, intellectual property, materials and equipment necessary to fully conduct the upgrades and retrofits.

The quoted pricing in the table below is the lowest municipal unit pricing available at this time and we don't foresee the pricing changing in the near future.

After reviewing our offering should you have any questions, or if we may be of further assistance, please do not hesitate to contact the undersigned via email at james.gould@kft.firetrainer.com or via phone at (201) 300-8102.

Yours sincerely,



James Gould
Director of Service and Upgrade Sales

This document includes information that is proprietary to KFT Fire Trainer, LLC that shall not be disclosed outside of the addressee's organization and will not be duplicated, used or disclosed - in whole or in part - for any reason other than to evaluate our offering, provided that it shall be understood by both parties that the addressee shall consider and treat the document as an open record of the addressee after award to KFT, and as such, the document would not be confidential.

Enclosure (1)
Scope of Work and Pricing

Item	Description	Price
1	<p>Upgrade Gas Detection System:</p> <ul style="list-style-type: none"> ➤ Replace existing MSA draw sample system with Detector Electronics IR draw sample system ➤ Monthly calibration instead of weekly (saving on calibration gas) to ensure proper operation ➤ Continuous self-test indicating fault or fouled optics ➤ Not easily poisoned impacting safety or system operation ➤ 5 Year warranty on the IR sensor element and 1-year warranty on all other components 	\$39,170
2	<p>Operator Interface Panel Kitchen Fireplace</p> <ul style="list-style-type: none"> ➤ The display will replace all local control assemblies and displays allowing the instructors to setup all fireplace scenarios from one location and not at the respective fireplaces. ➤ The OIP allows the user to: <ul style="list-style-type: none"> ○ Conduct the Daily Operational Readiness Test (DORT) ○ Conduct Span Check ○ Visually monitor fireplace status ○ Track view error messages ○ Set fireplace training parameters ○ Save parameter sets for future use ➤ The display will be factory programmed and tested for delivery to your facility ➤ We will provide one technician to conduct onsite installation system testing and end user training ➤ We will provide updated manual change pages to reflect the new interface ➤ Provide a 1-year warranty on the replacement display 	\$10,700
3	<p>Aqua Mesh ® Fireplace Conversions</p> <ul style="list-style-type: none"> ➤ Convert the kitchen fireplaces from the existing air burner technology to our new Aqua Mesh® technology similar to the desk fireplace ➤ Test for proper operation ➤ Provide updated manual pages reflecting the new system components ➤ Provide updated wiring diagrams ➤ Provide operator training on the Aqua Mesh components ➤ Provide a 1-year warranty 	\$10,200

Enclosure (1)
Suffolk County Fire Academy, Maintenance Support Proposal
P16001-JG-16-30

4	<p>PLC Hardware Upgrade Kitchen Fireplace:</p> <ul style="list-style-type: none"> ➤ Replace all Allen Bradley 1785 PLC 5 control system hardware with the latest Allen Bradley control system hardware 1756 ControlLogix®. <ul style="list-style-type: none"> ○ Extending the training systems PLC life for a minimum of 7 years <p>See note (1)</p>	\$25,160
	<p>Complete System Upgrade as Outlined above items 1-4 Performing all of the above at one time including a 2 Year warranty. (Items above taken together will provide a 5% off of \$85,230)</p>	\$80,970
5	<p>O-100 Maintenance and Repair</p> <ul style="list-style-type: none"> ➤ Conduct repairs and maintenance on the O-100 Props to include: <ul style="list-style-type: none"> ❖ Tanker ❖ Stove ❖ Propane Tank ❖ All associated O-100 Pilot Boxes 	\$5,955
	<p>Include in the two-year warranty:</p> <ul style="list-style-type: none"> ➤ Provide annual trainer maintenance <ul style="list-style-type: none"> ○ Check the operational performance of all fireplaces and make adjustments as required. ○ Clean and/or replace all filter elements. ○ Inspect all fans and blowers and lubricate all bearings. ○ Inspect all pilot spark igniters and replace as required. ○ Inspect all pilot spark flame rods and replace as required. ○ Inspect the fuel control station and make adjustments as required. ○ Clean the fuel control station inlet strainer ○ Inspect and calibrate all gas detection assemblies and replace sensor elements as required. ○ Inspect and adjust all smoke generators ○ Inspect the Programmable Logic Controller battery and replace as required. ○ Clean all equipment cabinets ➤ Provide replacement parts for any parts that fail in the newly installed hardware during normal system operation 	

Enclosure (1)
Scope of Work and Pricing

Note (1)

* 1756 ControllLogix hardware provides a minimum of 7 years additional PLC life to the T-1000 training system.
** With the addition of the new 1756 ControllLogix we can add additional remote fires throughout the burn building. (Optional)

Delivery & Completion

6 months after KFT Fire Trainer, LLC notifying addressee of its acceptance of a resulting order.

FOB City of Franklin Fire Training Simulator Structure, 419 Century Court, Franklin, TN 37064 freight prepaid and added

Proposal Validity

Prices are valid for orders placed by 30 June 2016

KFT Fire Trainer, LLC Standard Terms & Conditions as modified and attached apply to any resulting order.

Payment Terms

Relate to the complete upgrade

KFT Fire Trainer, LLC proposes the following invoice milestones, payable Net 30 calendar days from date of delivery and completion of milestones two and three.

- 20% invoiced upon receipt of order
- 60% invoiced upon delivery to site
- 20% after acceptance by addressee and operator training

Exclusions:

Prices exclude any taxes, fees, permits, inspections, surety bonding or liquidated damages provisions.

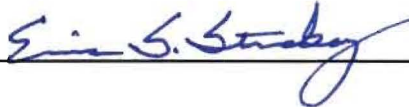
Accepted and Approved

For KFT Fire Trainer, LLC

For City of Franklin, Tennessee

Submitted

By: James Gould

By: 

Title: Director, Service and Upgrade Sales

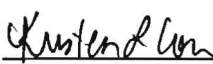
Title: City Administrator

Date: 23 February 2016

Date: 4-1-2016



Approved as to form:

By: 

Title: Assistant City Attorney

Date: 03.29.16

Enclosure (2)

**KFT FIRE TRAINER, LLC - STANDARD TERMS AND CONDITIONS as modified for KFT Fire Trainer, LLC
Internal Tracking Number P15001-JG-15-273 and City of Franklin Contract No. 2015-0397**

ARTICLE 1: WORK KFT Fire Trainer, LLC shall provide the equipment, data, services and/or training listed in accordance with KFT Fire Trainer, LLC formal quotation, statement of work and specifications.

ARTICLE 2: FACILITIES FURNISHED BY BUYER

Without cost to KFT Fire Trainer, LLC, Buyer shall furnish the necessary site, easements, facility, utilities, access and other to allow for the proper maintenance services to be provided, and water, air, light, and power at the locations of the work sufficient for KFT Fire Trainer, LLC to fulfill its responsibility requirements, identified in the aforesaid Statement of Work (Enclosure 1). Buyer shall also identify and provide such permits, priorities or other order of public authorities as may be necessary for KFT Fire Trainer, LLC to perform the maintenance work described in the aforesaid Statement of Work (Enclosure 1) on a non-interference basis. Buyer agrees to provide a safe and secure workplace for KFT Fire Trainer, LLC personnel including but not limited to:

- (a) Buyer will provide us with an overview of the site hazards prior to work beginning;
- (b) Buyer will provide utility and other system connections in a condition that is safe and properly locked/tagged out in accordance with appropriate OSHA regulations in order to ensure the safety of KFT Fire Trainer, LLC personnel;
- (c) Buyer will provide appropriate work area controls so as to prevent unauthorized access to the area where work being performed by KFT Fire Trainer, LLC personnel is occurring; and

(d) Buyer will remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations.

ARTICLE 3: BUYER'S REPRESENTATIVE Buyer shall provide a representative authorized to act for Buyer under this contract. The representative shall be available during normal working hours as often as may be necessary to implement Buyer's responsibilities under this contract.

All formal correspondence under this contract shall be addressed to and forwarded from the parties' representatives as identified and to the addresses specified below:

BUYER:

Purchasing Manager
City of Franklin
109 3rd Ave. South
Franklin, TN 37064 USA

KFT FIRE TRAINER, LLC:
Contracts Program Manager
KFT Fire Trainer, LLC
17-Philips Parkway
Montvale, NJ 07645-1810 USA

ARTICLE 4: TIME OF COMPLETION KFT Fire Trainer, LLC will deliver the equipment, data and/or services to the Buyer's designated site in accordance with schedule set forth in its quotation.

ARTICLE 5: DELAYS AND EXTENSION OF TIME Notwithstanding any contract provisions to the contrary, KFT Fire Trainer, LLC acceptance is conditioned on being allowed additional time for the performance of the Work due to delays beyond its reasonable control including, but not limited to, the Force Majeure events set forth in

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Article 13, and/or the act, omission, neglect, fault or default of others not under the control of KFT Fire Trainer, LLC. The additional time allowed shall be, at a minimum, a period equivalent to the delay.

ARTICLE 6: CONTRACT PRICE AND

PAYMENTS The price to be paid by Buyer to KFT Fire Trainer, LLC for the performance of the work specified in Article 1 hereof shall be as set forth in KFT Fire Trainer, LLC quotation, which price includes all taxes or contributions at the present rate imposed by the Federal or State governments on KFT Fire Trainer, LLC payrolls and compensation to its employees. The contract price is based on one mobilization to unload the material and another when KFT Fire Trainer, LLC begins installation. Buyer shall be responsible for the cost of any additional mobilizations to the extent they are caused by the delay of Buyer. The cost of additional mobilizations shall be set forth in KFT Fire Trainer, LLC quotation.

Unless otherwise specified, the prices shown do not include any other taxes. Unless prohibited by statute, Buyer agrees to pay to KFT Fire Trainer, LLC the amount of any Federal, State, City or other tax that KFT Fire Trainer, LLC may be required to pay on account of the ownership at the place of delivery, or the manufacture, transportation, sale or use of the product which is the subject of this order.

Payments shall be made to KFT Fire Trainer, LLC as set forth in KFT Fire Trainer, LLC quotation. Payment with respect to goods ordered is due 30 days following invoice by the KFT Fire Trainer, LLC. KFT Fire Trainer, LLC

ARTICLE 7: ENTIRE CONTRACT

(a) These terms and conditions, including the Addendum attached hereto, along with Kidde Fire Trainers quotation shall constitute the entire agreement between the parties with respect to the subject matter hereof.

(b) This contract shall supersede all prior oral and written agreements, communications and documents between the parties with respect to the subject matter hereof.

(c) No agreement or understanding in any way modifying these terms and conditions will be binding upon KFT Fire Trainer, LLC unless made in writing and signed by an authorized employee of Buyer and KFT Fire Trainer, LLC.

(d) The invalidity, in whole or in part, of any of the foregoing articles or paragraphs of these Terms shall not affect the remainder of such articles or paragraphs or any other article or paragraph of these Terms, which shall continue in full force and effect.

ARTICLE 8: INCREASE IN COST If the contract delivery schedule is greater than twelve (12) months, the Contract Price may be adjusted annually on the anniversary of the execution date to reflect increases in material and labor costs. If the "Producer Commodity Prices for Metals and Metal Products Index" increases by 30% or more, the KFT Fire Trainer, LLC reserves the right to increase the contract price by 10%.

ARTICLE 9: INSPECTION AND ACCEPTANCE

a) INSPECTION - During the progress of the work and up to the date of equipment acceptance, KFT Fire Trainer, LLC shall at all times afford the Buyer every reasonable, safe

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and proper opportunity for inspecting all work done.

b) ACCEPTANCE – Within five (5) days of completion of the maintenance services, KFT Fire Trainer, LLC shall notify Buyer in writing of the date of completion. The Certificate of Acceptance, included as Enclosure 1, shall be signed by Buyer at successful completion of each maintenance service.

ARTICLE 10: WARRANTY

(a) KFT Fire Trainer, LLC warrants to Buyer that any part will be free from defects in materials or workmanship for a period of three (3) months (but not longer than its useful life) from the date of part shipment.

(b) Warranty adjustment

1. If any defect appears within the warranty period, Buyer shall immediately provide KFT Fire Trainer, LLC written notice.

2. Buyer's sole and exclusive remedy shall be for KFT Fire Trainer, LLC to repair or furnish a replacement part for any part, which, upon test and examination by KFT Fire Trainer, LLC, proves defective within the above warranty.

(c) Exclusions from Warranty

1. THE FOREGOING WARRANTIES ARE THE SOLE AND EXCLUSIVE WARRANTIES GIVEN BY KFT FIRE TRAINER, LLC IN CONNECTION WITH THE SERVICES PERFORMED AND PRODUCTS PROVIDED HEREUNDER, AND ARE IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY KFT FIRE TRAINER, LLC, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

2. To the extent permissible by Tennessee law, KFT Fire Trainer, LLC will not be liable for any special or consequential damages or for loss, damages or expense directly or indirectly arising from the use and maintenance of the equipment or any inability to use such equipment either separately or in combination with any other equipment or material or from any other cause, nor shall KFT Fire Trainer, LLC be liable for personal injury, death, or property damage arising from or connected with the use or maintenance of the equipment made the basis of this agreement.

3. The warranty does not extend or apply to any part of which the part or equipment has been subjected to misuse, neglect, accident, or improper use in violation of any KFT Fire Trainer, LLC operator's manual.

4. The warranty does not extend or apply to any part of which the part or equipment has been repaired, altered, or disconnected by any party other than KFT Fire Trainer, LLC unless under the direction of KFT Fire Trainer, LLC.

ARTICLE 11: INSURANCE KFT Fire Trainer, LLC shall carry Contractor's Comprehensive Bodily Injury and Property Damage Liability Insurance and shall comply with Worker's Compensation Laws relating to the compensation of its injured workmen and will provide Buyer with a Certificate of Insurance, all in compliance with City of Franklin Insurance Requirements attached as Enclosure 3. Buyer's execution of contract to which this Enclosure 2 is attached shall be null and void unless and until KFT Fire Trainer, LLC provides Buyer, and Buyer accepts and approves as adequate, one or more certificates of insurance that meet or exceed

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said City of Franklin Insurance Requirements. City of Franklin shall be named as additional insured under the Commercial General Liability policy and with respect to liability arising out of bodily injury or property damage, but only to the extent resulting from the negligent acts or omissions of KFT Fire Trainer, LLC or its willful misconduct arising out of the ongoing performance of its obligations under the contract. Buyer shall be responsible for and, at Buyer's option and expense, shall insure against theft, vandalism or all other damage to, destruction of and loss of use of Buyer's existing property, and, prior to, during or after acceptance, all deliverable Article 1 equipment located on the Buyer's property or in the Buyer's facility, due to fire or other perils, however caused.

ARTICLE 12: LIMITATION OF LIABILITY Only to the extent permitted by Tennessee law, the aggregate liability of KFT Fire Trainer, LLC hereunder whether in contract, tort (including negligence) or otherwise, will be limited to one times the contract value, provided however the foregoing limitation does not limit the liability of KFT Fire Trainer, LLC for any injury to, or death of a person, caused by the gross negligence of KFT Fire Trainer, LLC. Under no circumstances shall either party be liable for special, indirect, or consequential damages of any kind including, but not limited to, loss of profits, loss of good will, loss of business opportunity, additional financing costs or loss of use of any equipment or property, whether in contract, tort (including negligence), warranty or otherwise. KFT Fire Trainer, LLC will not be liable for any breach of this Contract unless written notice of the claim is given to Contractor within one (1) year of the date of the occurrence of the breach.

ARTICLE 13: FORCE MAJEURE Under no circumstances shall either party be liable for any loss, damage or delay due to any cause beyond either party's reasonable control, including but not limited to acts of government, acts of terrorism, strikes, lockouts, other labor disputes, fire, explosion, theft, weather damage, flood, earthquake, riot, civil commotion, war, mischief or act of God. In the event of a force majeure claim by either party, KFT Fire Trainer, LLC does not waive Buyer's duty to comply with the terms of Article 6 or any other payment schedule agreed upon by the parties.

ARTICLE 14: PROPRIETARY INFORMATION "Proprietary Information" shall mean all information, data, manuals, drawings, designs, or software disclosed by, authorized to be disclosed by, or otherwise obtained from KFT Fire Trainer, LLC, its affiliates or subsidiaries, in connection with this contract (including the Statement of Work).

Unless the Buyer has received Kidde Fire Trainer's express written consent to the contrary, Buyer shall: (a) use the Proprietary Information solely for the purposes of this contract, and not for any other purpose (including, without limitation, designing, manufacturing, or selling similar equipment), (b) safeguard the Proprietary Information to prevent its disclosure to or use by third parties, (c) not disclose the Proprietary Information to any third party; and (d) not reverse engineer, disassemble, or decompile the Proprietary Information. Except that with respect to (c), Buyer may disclose Proprietary Information to a third party contracted by Buyer to perform emergency repair work for the Buyer, where the item or process concerned is not otherwise reasonably within

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Buyer's capabilities to enable timely performance of the work, provided that the disclosure of information shall be made solely for the purpose of repair work for Buyer and shall be provided together with the legend below.

ARTICLE 15: SETTLEMENT OF DISPUTES OR DISAGREEMENTS In the event of any dispute or disagreement arising under this contract, it is mutually agreed, that upon written notice of either to the other party, both Buyer and KFT Fire Trainer, LLC will attempt settle such dispute or disagreement.

ARTICLE 16: GOVERNING LAWS The laws of the state of Tennessee shall govern the terms of this Agreement and all rights and obligations hereunder. Any disputes arising from this agreement shall be venued in the Courts of Williamson County, Tennessee.

ARTICLE 17: ASSIGNMENT Notwithstanding anything in this agreement, KFT Fire Trainer, LLC reserves their right to assign the duties under this agreement to an affiliate or subsidiary but not unless and until Buyer has been notified of such assignment.

ARTICLE 18: EXPORT CONTROL Buyer agrees to conduct its operations under this Contract and perform all its responsibilities in full compliance with export and other foreign trade controls under any applicable United States (U.S.) laws restricting sales or transfers to other countries or parties of commodities, software, technology, or technical data. Any other provision of this Contract to the contrary notwithstanding, Buyer agrees that no commodities, software, technology, or technical data of U.S. origin or with U.S. origin content will be sold, exported, re-exported or transmitted except in full compliance with all applicable laws, including all relevant U.S.

government requirements. In addition, Buyer shall comply with all applicable laws, including U.S. government requirements, governing the transfer of information and items to U.S. embargoed and sanctioned countries and denied and restricted parties. Any violation of this section, as determined solely by KFT Fire Trainer, LLC, shall be deemed a material breach of this Contract.

ARTICLE 19: COMPLIANCE WITH LAWS Buyer represents, warrants, certifies and covenants (collectively "Covenants") that it will comply with all laws applicable to the goods, services and/or the activities contemplated or provided under these Terms, including, but not limited to, any national, international, federal, state, provincial or local law, treaty, convention, protocol, common law, regulation, directive or ordinance and all lawful orders, including judicial orders, rules and regulations issued thereunder.

ARTICLE 20: FEDERAL ACQUISITION REGULATIONS The components, equipment and services proposed by KFT Fire Trainer, LLC are commercial items as defined by the Federal Acquisition Regulations ("FAR") and the prices in any resulting contract and in any change proposal are based on KFT Fire Trainer, LLC standard commercial accounting policies and practices which do not consider any special requirements of U.S. Government cost principles and do not meet the requirements of Part 31 of the FAR or any similar procurement regulations. KFT Fire Trainer, LLC agrees only to perform a contract for the sale of a commercial item on a fixed-price basis. In addition, KFT Fire Trainer, LLC will not agree to submit or certify to any cost or pricing data nor will KFT Fire Trainer, LLC agree to any requirements to establish price reasonableness under FAR Part 15 or such

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similar regulations. In stating its position, KFT
Fire Trainer, LLC refers to FAR Part 12 -
"Acquisition of Commercial Items." All Sales

under \$3,000 are made pursuant to FAR Part
13, Simplified Acquisitions.

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Addendum

This addendum shall modify and supersede the KFT Fire Trainer, LLC, Service Terms and Conditions (the "Agreement") attached hereto. The Agreement, together with this Addendum and the attached documents, constitutes the entire agreement ("Contract"). Should any terms and conditions contained herein differ, then these terms and conditions shall supersede.

1. Assignment/Subcontracting. Neither party may assign any rights or obligations under this Contract without the prior written consent of the other party. This Contract shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Vendor may subcontract any portion of the work only with the prior consent of the City, but such subcontracting will not relieve Vendor of its duties under this Contract.

2. Taxes. As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. Upon request, the City shall supply Vendor with a copy of its Sales and Use Tax Exemption Certificate. Vendor shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred

3. Time of the Essence. The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.

4. Notices. Any notice provided pursuant to the Contract, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth in the Agreement or such other address as either party may in the future specify in writing to the other.

5. Confidentiality and Proprietary rights. Vendor waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page (or section as the case may be) as confidential or proprietary. Proprietary rights do not extend to the data created by the City's users of the System; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation and City shall retain exclusive rights, title, and ownership of all data and images created therefrom at the moment of creation and utilization, through and including image creation. City may be required to disclose documents under state or federal law. City shall notify Vendor if a request for documents has been made and shall give Vendor a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. In exchange, Vendor agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Vendor's representation that materials supplied by Vendor (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Vendor and Vendor assumes control over that claim.

6. Arbitration/Mediation. No arbitration shall be required as a condition precedent to filing any legal claim arising out of or relating to the Contract. No arbitration or mediation shall be binding.

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7. Waiver. Neither party's failure or delay to exercise any of its rights or powers under the Contract will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

8. Warranties/Limitation of Liability/Waiver. City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Vendor to limit its liability shall be void and unenforceable.

9. Severability. If any term or provision of the Contract is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Contract will not be affected.

10. Precedence. In the event of conflict between this Addendum and the provisions of the Agreement, or any other contract, agreement or other document to which the Agreement or this Addendum may accompany, the provisions of this Addendum will to the extent of such conflict take precedence unless such document expressly states that it is amending this Addendum.

11. Indemnification. KFT Fire Trainer, LLC agrees to indemnify and hold City harmless from and against legal liability for all judgments, losses, damages, and expenses, to the extent such judgments, losses, damages, or expenses are caused by KFT Fire Trainer, LLC negligent act, error or omission in the performance of the services of this agreement. In the event judgments, losses, damages, or expenses are caused by the joint or concurrent negligence of KFT Fire Trainer, LLC and City, they shall be borne by each party in proportion to its own negligence. The terms and conditions of this paragraph shall survive completion of this services agreement.

12. Entire Agreement. This Addendum, including any contract, agreement or other document which it may accompany, constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of this Addendum. The terms and conditions of this Addendum may not be changed except by an amendment expressly referencing this Addendum by section number and signed by an authorized representative of each party.

13. Additions/Modifications. If seeking any addition or modification to the Contract, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Contract, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Contract or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Contract; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

14. Applicable Law; Choice of Forum/Venue. The Contract constitute the entire agreement and are made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.

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15. Termination. Either party may terminate these Standard Procurement Terms and Conditions, with or without cause, upon thirty (30) calendar days' notice to the other. Upon termination by the vendor, the City shall be entitled to retain ownership of any and all goods and equipment purchased. Upon termination by the City, the KFT Fire Trainer, LLC shall be entitled to receive any amounts due as a result of goods and equipment already delivered and/or services already rendered; however, the City shall maintain ownership and control of any goods and equipment purchased. Upon termination of services, whether connected or unconnected to goods and equipment, such services shall be rendered until the conclusion of the 30th day as stated in the notice or until a contractual benchmark has been achieved, or as the parties may otherwise agree.

16. Breach. Upon deliberate breach of the Contract, by either party, the non-breaching party shall be entitled to terminate the Contract without notice, with all of the remedies it would have in the event of termination and may also have such other remedies as it may be entitled to in law or in equity.

17. Default. If KFT Fire Trainer, LLC fails to perform or comply with this contract, then the City (i) may cancel the purchase award and/or the accompanying contract or agreement or purchase order, in whole or in part, without penalty or protest by KFT Fire Trainer, LLC, (ii) may consider such failure to perform or comply as a breach of contract, or (iii) reserves the right to purchase its requirements from the vendor that submitted the next lowest and best responsive and responsible bid, or the vendor that submitted the next best proposal, if that vendor will still honor that bid or proposal, or to seek new bids or proposals, or to pursue one or more other options available to the City in compliance with its then current purchasing policy.

18. Survival. This Addendum shall survive the completion of or any termination of the Contract, agreement or other document to which it may accompany.

Enclosure (3)

City of Franklin Insurance Requirements

City of Franklin Contract No.: 2015-0397

1. Before commencing delivery of the products and services specified in the contract to which this Enclosure 3 is attached, KFT Fire Trainer, LLC (“the vendor”) shall provide one or more unexpired certificates of insurance providing evidence of the following minimum types and limits of insurance coverage:

Type of Coverage	Limits of Coverage	Certificate of Insurance
Commercial General Liability	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$1,000,000 Personal and Advertising Injury \$2,000,000 Products-Completed Operations Aggregate Waiver of Subrogation shall apply Primary and Non-Contributory Insurance shall apply	Certificate of Insurance shall indicate Certificate Holder* as Additional Insured with Additional Insured endorsement attached for both Premises/Operations and Products/Completed Operations
Automobile Liability (Owned, Non-Owned, and Hired Vehicles)	\$1,000,000 Combined Single Limit Each Accident	Certificate Holder* only
Workers Compensation	Statutory limits Waiver of Subrogation shall apply	Certificate Holder* only
Employers Liability	\$1,000,000 Bodily Injury Each Accident \$1,000,000 Policy Limit Bodily Injury by Disease \$1,000,000 Each Employee Bodily Injury by Disease	Certificate Holder* only

*Certificate Holder shall be listed as follows:

City of Franklin
 109 3rd Ave. South
 Franklin, TN 37064

2. If and when insurance coverage documented by the certificate(s) of insurance referenced above expires before the expiration of the maintenance phase for the ordered products and/or services, then the vendor shall immediately suspend on-site maintenance services unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds the insurance requirements as specified above.
3. In the event that insurance coverage documented by the certificate(s) of insurance referenced above is materially modified or canceled before the expiration of the maintenance phase for the ordered products and/or services, then the vendor shall, immediately upon learning of any such material modification or cancellation, suspend on-site maintenance services and shall, within three (3) calendar days of such learning, notify the City of any such material modification or cancellation.
4. The vendor agrees to impose the City’s insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by the City in advance of that subcontractor commencing work for this procurement.
5. Before commencing delivery of the products and services specified in the contract to which this Enclosure 3 is attached, the vendor shall provide evidence of a current AM Best rating of A- or better.