



KFT Terms and Conditions-Maintenance Contracts

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

ARTICLE 2: FACILITIES FURNISHED BY BUYER Without cost

to KFT Fire Trainer, 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 to fulfill its responsibility requirements, identified in the aforesaid Statement of Work (Attachment 1). Buyer shall also identify and provide such permits, priorities or other order of public authorities as may be necessary for KFT Fire Trainer to perform the maintenance work described in of the aforesaid Statement of Work (Attachment 1) on a non-interference basis. Buyer agrees to provide a safe and secure workplace for KFT Fire Trainer personnel including but not limited to:

- (a) Buyer will provide us with an overview of the known 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 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 personnel is occurring; and
- (d) Buyer will remove and remediate any waste or hazardous materials in accordance with applicable laws and regulations.
- (e) Buyer agrees to complete all required maintenance of KFT equipment as specified in the Operation and Maintenance Manual or other documentation provided at time of delivery. Buyer shall maintain accessible records documenting all maintenance performed. Any improper handling of the equipment provided requiring KFT corrective maintenance may result in KFT invoicing said work; provided KFT has the written consent of the buyer.

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:

Buyer To Provide Name and Address In Writing

SELLER:

Contracts Program Manager
KFT Fire Trainer, LLC
5 Pearl Court, Unit D
Allendale, NJ 07401 USA

ARTICLE 4: TIME OF COMPLETION KFT Fire Trainer 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, Contractor's 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 Article 13, and/or the act, omission, neglect fault or default of others not under the control of KFT Fire Trainer. The additional time allowed shall be, at a period equivalent to the delay.

ARTICLE 6: CONTRACT PRICE AND PAYMENTS

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

Payments shall be made to KFT Fire Trainer at a frequency as set forth in KFT Fire Trainer quotation pursuant to buyer procurement policies and requirements. Payment with respect to goods ordered is due 30 days following receipt of goods or receipt of invoice, whichever is later.

ARTICLE 7: ENTIRE CONTRACT

- (a) These terms and conditions along with KFT Fire Trainer 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 unless made in writing and signed by an authorized employee of Buyer and KFT Fire Trainer.
- (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.
- (e) This contract will not auto renew. At the conclusion of the term agreed upon by the buyer and seller, the buyer must sign a new contract. This process shall begin no less than 60 days prior date of expiration of the current contract.

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 reserves the right to increase the contract price by 3%.

ARTICLE 9: INSPECTION AND ACCEPTANCE

- a) INSPECTION - During the progress of the work and up to the



date of equipment acceptance, KFT Fire Trainer shall at all times afford the Buyer every reasonable, safe and proper opportunity for inspecting all work done.

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

ARTICLE 10: WARRANTY

(a) KFT Fire Trainer warrants to Buyer that any part will be free from defects in materials or workmanship for a period of twelve (12) 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 provide KFT Fire Trainer written notice.
2. Buyer's sole and exclusive remedy shall be for KFT Fire Trainer to repair or furnish a replacement part for any part, which, upon test and examination by KFT Fire Trainer, 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 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, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.
2. 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 operator's manual.
3. 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 unless under the direction of KFT Fire Trainer.

ARTICLE 11: INSURANCE KFT Fire Trainer shall carry Commercial General 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 upon request. 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 all deliverable Article 1 equipment, due to fire or other perils, after acceptance, however caused.

ARTICLE 12: 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.

ARTICLE 13: 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) required by law unless the Buyer has received KFT 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 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, unless otherwise required by law, and shall be provided together with the legend below. The attached legend (Attachment A) shall be completed and included on any reproduction which includes any Proprietary Information.

Notwithstanding the foregoing, it is expressly understood and agreed that should the Customer receive a request for information that KFT claims is proprietary, the Customer shall notify KFT in writing of the request and KFT shall have the sole responsibility to make arguments to the Texas Attorney General (the "AG") why such information should not be disclosed. The parties agree that the City shall be entitled to rely on the decision of the AG without being in default hereof or liable to KFT.

ARTICLE 14: GOVERNING LAWS The laws of the state of Texas, USA excluding its conflict of laws or provisions, shall govern the terms of this Agreement and all rights and obligations hereunder. No conflict of laws or provisions will be applicable. Any disputes arising from this agreement shall venue in the Courts of Texas.

ARTICLE 15: ASSIGNMENT: Notwithstanding anything in this agreement KFT Fire Trainer reserves their right to assign the duties under this agreement to an affiliate or subsidiary

ARTICLE 16: 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, shall be deemed a material breach of this Contract.



ARTICLE 17: 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.

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.

All Proprietary Information property of KFT Fire Trainer, LLC

ARTICLE 18: FEDERAL ACQUISITION REGULATIONS The components, equipment and services proposed by Seller 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 Seller's 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. Seller agrees only to perform a contract for the sale of a commercial item on a fixed-price basis. In addition, Seller will not agree to submit or certify to any cost or pricing data nor will Seller agree to any requirements to establish price reasonableness under FAR Part 15 or such similar regulations. In stating its position, Seller refers to FAR Part 12 - "Acquisition of Commercial Items." All Sales under \$3,000 are made pursuant to FAR Part 13, Simplified Acquisitions.

ARTICLE 19: EARLY TERMINATION For each Service Contract terminated by Customer after the Service Commencement Date, but before the end of the then-current Service Term, Customer guarantees to provide 60 day written notice of termination of contract. Customer will compensate KFT for all open invoices and work performed up to the termination date. KFT may choose to discontinue the Service because of a default by Customer. KFT shall likewise provide 60 day written notice to the Customer and shall complete all scheduled work promised up to the date of termination.

ARTICLE 20: PERIOD OF PERFORMANCE KFT Fire Trainer will initiate Technical Support at the buyer/owner's facility following the receipt and subsequent acceptance of a formal maintenance contract or purchase order. All equipment to be included in this agreement shall be listed on this agreement and is subject to inspection by KFT Fire Trainer, prior to commencement date. KFT shall conduct an operability inspection of all the equipment. Any noted deficiencies shall be corrected and billed to the customer at the stated rates for time and material.

Attachment A: Limited Rights Legend

Contract
No. Buyer:
Contractor: KFT Fire Trainer, LLC

Acceptance of the attached or enclosed proprietary information shall indicate your agreement to the following:
Unless required by law or unless the recipient of this Proprietary Information has received KFT Fire Trainer's express written consent to the contrary, the recipient shall: (a) use the Proprietary Information solely for the purposes of the above identified