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State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

April 30, 2014

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, NH 03301

Sole Source

Requested Action

Pursuant to RSA 21-P:12-a(c), authorize the Department of Safety, Division of Fire Standards and Training and Emergency Medical Services, to amend the **sole source** agreement with Kidde Fire Trainers, Inc. (VC#166651, B001) 17 Phillips Parkway, Montvale, NJ 07645-1810, in the amount of \$115,700.00 to provide upgrade services for the Fire Trainer T2000 and A2000 Live Fire Training Systems. All other terms and conditions of the contract remain the same. The original contract with Kidde Fire Trainers, Inc. was approved on March 20, 2013 by Governor and Council, Item #77A. This contract amendment in the amount of \$115,700.00 increases the total amount from \$130,167.00 to \$245,867.00. Effective upon Governor and Council approval through June 30, 2015. Funding source: 100% Fire and EMS Funds.

Funding is available in the SFY2014 operating budget as follows:

02-23-23-237010-40650000 Dept. of Safety Div of FST&EMS – Fire Standards and EMS Admin	<u>FY2014</u>
103-502664 Contracts for Operational Services	\$115,700.00

Explanation

This contract is **sole source** because the overall system is a proprietary system in which Kidde is the only vendor able to provide support, upgrades and maintenance. This amendment is needed in order to renovate and upgrade one of the existing live fire training buildings currently in use at the Fire Academy. This building was last upgraded over a decade ago and is currently operating with inadequate, obsolete technology. When certain aspects of the building cease to function, the division has had limited ability to obtain new or refurbished parts to get the building operational again due to the age of these systems since the devices or parts are no longer manufactured. This building is necessary for training firefighters on their ability to enter a burning building and extinguish a fire safely; therefore, having these systems fully functional is imperative to the safety of those firefighters and their instructors.

Respectfully submitted,

J. J. Barthelmes
John J. Barthelmes
Commissioner of Safety

Contract Amendment

To provide maintenance services

Kidde Fire Trainers, Inc. (VC#166651)

It is hereby agreed that the initial contract, approved by Governor and Council on March 20, 2013, Item #77A between Kidde Fire Trainers, Inc. as "Contractor" and the Department of Safety, Division of Fire Standards & Training and Emergency Medical Services as "State," for maintenance services for the Fire Trainer T2000 and A2000 Live Fire Training Systems is amended as follows:

1. Increase the following appropriations:

Activity Code: 2370

FST & EMS – FST & EMS Admin

02-23-23-237010-40650000-103-502664

FY2014

Contracts for Operational Services

\$115,700.00

Funding Source: 100 %
Fire and EMS Fund.

2. Both parties agree to amend the agreement to include the following upgrade options:

Computer System Upgrade Burn Building

- Update operating system from Windows® XP to Windows® 7 or 8
- Provide one new desktop PC
- Provide one 21" Flat Panel Monitor
- Provide new system interface card (Allen Bradley KT)
- Provide the latest version of our Operator Interface Software (OIS)
- Load and test the interface software (in-plant)
- Deliver system to the site for integration and system commissioning

Gas Monitoring System Upgrade Burn Building

- Provide updated IR combustible draw sample panels for the burn building in an enclosure
- Remove existing combustible draw sample panels
- Install new updated panel
- Provide IR sensors for each equipment room
- Reprogram system to change from 7 day span to 30 day span
- Provide updated wiring diagrams
- Provide operator training
- Provide updated manual pages
- Provide 5 year warranty on the IR sensors

Propane Gas Fueled Smoke Generator (Burn Building)

- Provide two propane gas fueled smoke generators to support the bedroom and kitchen fireplaces located in the burn building
- Provide the mechanical installation of the needed propane gas piping
- Provide the needed electrical installation
- Updated control system to operate the generators
- Provide updated wiring diagrams

- Provide operator training
- Provide updated manual pages
- Provide one 55 gallon drum of Kidde Fire Trainers Type II smoke fluid
- Provide a 1 year warranty

Total cost of these upgrades with maintenance is \$115,700.00.

3. All other provisions of that certain service agreement shall remain in full force and effect.

William R. Lane
(Contractor)

By: [Signature]

Title: President

Company: Kidde Fire Trainers Inc.

State of: New Jersey

County of: Bergen

On the 25 day of March, 2014, there appeared before me in the state and county foresaid, a person who satisfactorily identified himself as William R. Lane and acknowledged that he executed this document.

In witness whereof, I hereunto set my hand and official seal.

[Signature]
Notary Public/Justice of the Peace

VALERIE L. ARSEN-GROHOWSKI
ID # 2337261
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 11/18/2015

My Commission Expires: 11/18/2015
(Affix Seal)

STATE OF NEW HAMPSHIRE

By: [Signature]

Title: Director of Administration

The foregoing contract, having been reviewed by this office, is approved as to form, substance and execution

OFFICE OF THE ATTORNEY GENERAL

By: [Signature]
Assistant Attorney General

On: May 19, 2014

Governor and Council of New Hampshire

On: _____

Signed: _____

Title: _____

State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that KIDDE FIRE TRAINERS INC. a(n) New Jersey corporation, is authorized to transact business in New Hampshire and qualified on October 24, 2003. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 15th day of April, A.D. 2014

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



30 April 2014

Via E-mail: heather.newland@dos.nh.gov

NH Fire Academy
33 Hazen Drive
Concord, NH 03305

Attention: Heather Newland, Administrative Supervisor

Subject: New Hampshire Amendment dated 25 March 2014 Consent to Sign

Dear Ms. Newland,

In response to your e-mail dated April 17, 2014 to Carol Heward of Kidde Fire Trainers, LLC, I, as Chairman of the Board and Officer of Kidde Fire Trainers, LLC confirm by this letter that the consent dated 20 March 2014 is still in effect and has not been repealed or revoked. Mr. William Lane had the authority to sign the amendment on 25 March 2014. In addition, Mr. William Lane continues to have signature authority.

Please contact me with any questions at (312) 219-7972, or by e-mail at dgreer@keystonecapital.com.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Greer", is written over the typed name "David Greer".

David Greer
Chairman
Kidde Fire Trainers, LLC

Managing Director
Keystone Capital

KIDDE FIRE TRAINERS, LLC

**CONSENT IN LIEU OF A SPECIAL MEETING
OF THE BOARD OF MANAGERS**

MARCH 20, 2014

The undersigned, being all of the members of the Board of Mangers of Kidde Fire Trainers, LLC, a Delaware limited liability company (the "Company"), in lieu of holding a special meeting of the Board of Managers of the Company, hereby take the following actions and adopt the following resolutions by written consent pursuant to the Limited Liability Company Agreement of the Company and Section 18-404 of the Limited Liability Company Act of the State of Delaware:

ELECTION OF OFFICER

RESOLVED, that the following individual is hereby appointed as an officer of the Company in the capacity set forth opposite his name until his successor will be duly elected and qualified or until his earlier death, resignation or removal immediately after the closing of the transactions contemplated by that certain Stock Purchase Agreement, as amended, by and between UTC Fire & Security Corporation and Kidde Fire Trainer Holdings, LLC dated December 16, 2013:

William R. Lane	President
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RATIFICATION OF OFFICERS

RESOLVED, that the Board of Managers of the Company hereby affirms that the following individuals are all of the officers of the Company:

David A. Greer	Chairman
William R. Lane	President
Kent P. Dauten	Vice President
Scott L. Gwilliam	Vice President
Jason S. Van Zant	Vice President
Dennis J. Howe	Vice President
Brian C. Chung	CFO, Controller, Treasurer and Secretary

RATIFICATION

RESOLVED, that all acts and deeds heretofore done or actions taken by the Board of Managers, officers or any agent of the Company, for and on behalf of the Company, in entering into, executing, acknowledging or attesting to any

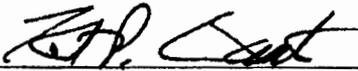
arrangements, agreements, instruments or documents in carrying out the terms and intentions of the foregoing resolutions be, and each of them are, hereby in all respects ratified, approved and confirmed.

The actions taken by this consent shall have the same force and effect as if taken at a special meeting of the Board of Managers of the Company duly called and constituted pursuant to the Limited Liability Company Agreement of the Company and the laws of the State of Delaware.

This consent may be executed in two or more counterparts, each of which, shall be deemed an original and for all purposes, and together shall constitute one and the same consent.

* * * * *

IN WITNESS WHEREOF, the undersigned have executed this consent as of the date first written above.



Kent P. Dauten

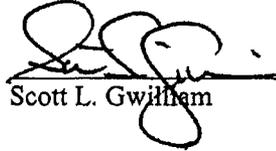
Scott L. Gwilliam

David A. Greer

William R. Lane

IN WITNESS WHEREOF, the undersigned have executed this consent as of the date first written above.

Kent P. Dauten



Scott L. Gwilliam

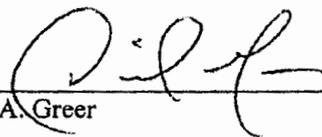
David A. Greer

William R. Lane

IN WITNESS WHEREOF, the undersigned have executed this consent as of the date first written above.

Kent P. Dauten

Scott L. Gwilliam



David A. Greer

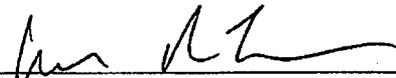
William R. Lane

IN WITNESS WHEREOF, the undersigned have executed this consent as of the date first written above.

Kent P. Dauten

Scott L. Gwilliam

David A. Greer



William R. Lane



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) **3/18/2015**
 3/27/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies, LLC-1 St. Louis Three City Place Drive, Suite 900 St. Louis MO 63141-7081 (314) 432-0500	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Evanston Insurance Company	35378
	INSURER B : Travelers Property Casualty Co of America	25674
	INSURER C : National Union Fire Ins Co Pittsburgh PA	19445
	INSURER D : The Phoenix Insurance Company	25623
	INSURER E :	
	INSURER F :	

COVERAGES KIDFI **CERTIFICATE NUMBER: 12857204** **REVISION NUMBER: XXXXXXXX**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Per Project Agg <input checked="" type="checkbox"/> Capped at \$5M GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	N	N	3C05707	3/18/2014	3/18/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
D	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	N	N	BA-8D006017-14-CAG	3/18/2014	3/18/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	N	N	BE 043707330	3/18/2014	3/18/2015	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	PJUB-4E132966-14	3/18/2014	3/18/2015	WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER 12857204 STATE OF NEW HAMPSHIRE - DEPT OF SAFETY DIVISION OF FIRE STANDARDS AND TRAINING AND EMERGENCY MEDICAL SERVICES 33 HAZEN DRIVE CONCORD NH 03305	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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State of New Hampshire

DEPARTMENT OF SAFETY
 OFFICE OF THE COMMISSIONER
 33 HAZEN DR. CONCORD, NH 03305
 603/271-2791

JOHN J. BARTHELMES
 COMMISSIONER

ERC # 77A
 03-20-2013

RG# 135364

March 11, 2013

Her Excellency, Governor Margaret Wood Hassan
 and the Honorable Executive Council
 State House
 Concord, NH 03301

Requested Action

Pursuant to RSA 21-P:12-a(c), authorize the Department of Safety, Division of Fire Standards & Training and Emergency Medical Services to enter into a retroactive sole source three-year contract with the Kidde Fire Trainers, Inc., 17 Phillips Parkway, Montvale, NJ 07645-1810 (VC 166651, B001), in the amount of \$130,167.00 to provide maintenance services for the Fire Trainer T2000 and A2000 Live Fire Training Systems from July 1, 2012, through June 30, 2015, upon Governor and Council approval. Funding source: 100% Fire and EMS Fund.

Funding is available in the SFY2013 operating budget and is anticipated to be available in SFY14 and SFY15 contingent upon the availability and continued appropriation of funds in future operating budgets, with authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified.

02-23-23-237010-40650000 Dept. of Safety – FS&T & EMS – FS&T & EMS Admin				
103-502664 – Contracts for Operational Services	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>	<u>Total</u>
	\$41,290.00	\$43,355.00	\$45,522.00	\$130,167.00

Explanation

This request is retroactive due to the complexity of the legal terminology and modifications made to the P37 form negotiated between the State and Kidde Fire Trainers, Inc. This contract is sole source because the software and hardware is proprietary; therefore, Kidde Fire Trainers, Inc. is the only vendor that can maintain the T2000 and A2000 Live Fire Training Systems. The T2000 and A2000 Live Fire Training systems are utilized to train firefighters during live fire evolutions on aircrafts and residential structures. The aircraft training system utilizes two mock fuselages, one for interior firefighting and the other for exterior firefighting. The structural training system utilizes a concrete building in which firefighters can train on kitchen and bedroom fire evolutions.

The contract provides for the annual maintenance of the T2000 and A2000 Live Fire Training Systems used for training at the Fire Academy. The annual maintenance is required in order to maintain the systems' optimum performance and efficiency.

Respectfully Submitted

John J. Barthelmes
 John J. Barthelmes
 Commissioner of Safety

Subject:

Kidde Fire Trainers, Inc. - Maintenance Agreement

FORM NUMBER P-37 (version 1/09)

AGREEMENT
The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION:

Form with fields for State Agency Name, Contractor Name, Address, Phone, Account Number, Completion Date, Price Limitation, Signatures, and Acknowledgements.

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work of sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees; by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

EXHIBIT A

2. EMPLOYMENT OF CONTRACTOR: SERVICES TO BE PERFORMED.

Kidde Fire Trainers, Inc. shall provide maintenance services to the Fire Trainer T2000 and A2000 Live Fire Training Systems located at the New Hampshire Fire Academy as requested by the Division of Fire Standards and Training & Emergency Medical Services per the attached proposal # 12001-VA-12-418 dated May 9, 2012.

The time frame for this contract is to start effective upon Governor and Council approval until June 30, 2015.

EXHIBIT B

5. CONTRACT PRICE: LIMITATION ON PRICE: PAYMENT.

The total cost of this agreement is \$130,167.00 and is broken down by fiscal years as follows;

Fiscal Year 2013:	\$41,290.00
Fiscal Year 2014:	\$43,355.00
Fiscal Year 2015:	\$45,522.00

Partial payments are accepted and invoices shall be submitted to:

New Hampshire Department of Safety
Division of Fire Standards & Training and Emergency Medical Services
33 Hazen Drive
Concord, NH 03305

EXHIBIT C

1. Both parties agree to replace the first sentence of section 13 of the P-37 terms with the following:
Contractor indemnifies the State against liability or loss incurred by the State for bodily injury or property damages to the extent caused directly by the negligence of, or breach of Agreement by Contractor during the performance of the work, but not to the extent that the loss or liability was caused by others.
2. Both parties agree to amend section 14.11 of the P-37 terms regarding insurance to the following:
Second line, after "in amounts," add "equal to".
Third line, delete "of not less than."
3. Both parties agree to amending section 14.1.1 of the P-37 terms amount of insurance to agree with the vendor's coverage currently in force of comprehensive general liability in the amount of \$1,000,000.00 each occurrence and excess/umbrella liability of \$1,000,000.00 each occurrence. The combination of these coverage's will give the State the coverage that is required by 14.1.1 of the P-37.
4. Both parties agree that terms in KFT proposal shall apply, however, both parties also agree in the event that there is a conflict between the proposal and the P-37, the P-37 form controls.

TITLE I THE STATE AND ITS GOVERNMENT

CHAPTER 21-P DEPARTMENT OF SAFETY

General Provisions

Section 21-P:12-a

21-P:12-a Division of Fire Standards and Training and Emergency Medical Services; Disposition of Funds. –

I. There is established within the department a division of fire standards and training and emergency medical services, under the supervision of an unclassified director of fire standards and training and emergency medical services who shall administer and supervise a fire and emergency medical service training and research program throughout the state. The director of fire standards and training and emergency medical services shall be nominated by the commissioner of safety, after consultation with the fire standards and training commission and the emergency medical and trauma services coordinating board, for appointment by the governor, with consent of the council, and shall serve a term of 4 years until a successor is appointed. The commission shall take a recorded vote regarding its concurrence or non-concurrence in the commissioner's nomination decision. If the commission votes not to concur in the decision, it shall submit a letter to the commissioner so stating, and the commissioner shall in turn submit that letter to the governor and council. The director of fire standards and training and emergency medical services shall be academically and technically qualified to hold the position, and shall receive the salary specified in RSA 94:1-a.

II. The director shall:

(a) Be responsible for the day-to-day operations of the division of fire standards and training and emergency medical services, the operations of the fire academy, including establishing training programs and offering instruction in methods of determining and dealing with the causes of fire and the prevention of fire, techniques in firefighting, emergency medical services, and rescue, research and techniques in firefighting and fire protection, the administration and management of fire departments and emergency medical services units, and the provisions of RSA 21-P:12-b.

(b) Establish fees to be collected for tuition, licenses, and services. Such fees shall be subject to the approval of the commissioner of the department of safety. The commissioner may for good cause waive any fees charged under this subparagraph and may authorize tuition reimbursement from the fire standards and training and emergency medical services fund.

(c) Establish, maintain, approve, and certify programs, courses, institutions, and facilities for study for all fire service and emergency medical services personnel and recruits according to accepted curricula.

(d) Develop and administer the provision of professional instruction and training for all fire, rescue, and emergency medical services.

(e) Develop and promote new methods and practices of firefighting, delivery of emergency medical services, rescue operations, injury prevention, fire prevention, and fire and emergency medical services administration.

(f) Disseminate information relative to fire and rescues, techniques of firefighting and rescuing, fire prevention, fire administration, emergency medical services, and other related subjects to all interested agencies and individuals throughout the state.

(g) Be authorized to employ part-time instructors or assistants and compensate them for organizing, developing, and conducting approved fire training, emergency medical services, and rescue courses or other work as directed at an hourly rate established by the commissioner and for mileage and expenses incurred in performing their official duties.

(h) With the approval of the commissioner, accept in the name of the state any and all donations, fees for tuition, rents, services and any and all moneys and grants from any governmental unit, public agency, institution, person, firm, or corporation and receive, utilize, expend, and dispose of such funds subject to budgetary provisions, consistent with the rules of the department of safety and the purposes or conditions of the donations or grant.

III. The receipt of a donation or grant under subparagraph II(h) shall be noted in the biennial report of the department of safety, which will also identify the nature of the donation or grant and the conditions of the donation or grant, if any. Any moneys received by the division pursuant to subparagraph II(h) shall be deposited in the state treasury to the account of the department of safety and shall not lapse. In addition, the division may receive, hold, and use gifts, bequests, and devises either outright or in trust for purposes consistent with this chapter.

Source. 1994, 389:9. 1997, 135:1. 1998, 321:3. 2001, 91:15. 2004, 171:26, eff. July 24, 2004.