

PROPOSAL

for

SYSTEM UPGRADE SERVICES

for the

FireTrainer®T-2000 Live Fire Training Systems

located at the

**San Antonio Fire Department Training Academy
300 S. Callaghan Road
San Antonio, TX 78227**

Prepared For:

**City of San Antonio (“Owner”)
San Antonio Fire Department Training Academy
300 S. Callaghan Road
San Antonio, TX 78227**

Prepared By:

**Kidde Fire Trainers
17 Philips Parkway
Montvale, NJ 07645-1810**

September 2015

1.0 SCOPE

This document provides a description of the system upgrade services to be provided by Kidde Fire Trainers, for the Fire Trainer®T-2000 Live Fire Training System owned and operated by the San Antonio Fire Department Training Academy. Three upgrades are described herein. City may select any of the three upgrades and will indicate its choice by issuance of a purchase order(s).

2.0 CONTRACT TERM & PERIOD OF PERFORMANCE

This contract shall begin upon City's issuance of a purchase order. All work shall be completed within 90 days of receipt of City's purchase order.

3.0 TERMS AND CONDITIONS

Kidde Fire Trainers Standard Terms and Conditions, attached hereto and reflecting modifications agreed upon by the parties, are the applicable terms and conditions to any resultant order. The terms of this proposal control to the extent of any conflicts with the attached terms and conditions. Parties acknowledge that Owner is a home rule municipal corporation, subject to the Texas Public Information Act. As such, the Parties agree that this contract is subject to the terms of that Act, shall not be deemed confidential in any way, and may be publicly disclosed.

4.0 SYSTEM UPGRADES

Item 1 – Tower PC Upgrade. The Tower PC Upgrade consists of:

- Replacement of the control room PC with the latest PC hardware available at the time of delivery, to include:
 - Microsoft operating system (currently Windows 8.1)
 - Kidde Fire Trainers Software
 - Wonderware InTouch 2014 R2 Human Machine Interface (HMI) - License Required (Included in price)
 - PC Dell OptiPlex 3020 Small Form Factor
 - Monitor (24") ASUS VE247H Black 23.6Inch LCD Monitor
 - Printer (Color, Wireless) Samsung Xpress SLC410W/ XAA Color Wireless Laser Printer
 - UPS APC BR1000G Back -UPS Pro 1000VA
- Conduct system baseline prior to computer system install
- Install new computer system
- Conduct system baseline after install
- Conduct system commissioning validating functionality
- Provide updated manual pages to reflect new screens and operational differences
- Provide a one year warranty against all defects in materials and labor, which shall include parts, labor, and shipping.

Item 2 – Aqua-Mesh Upgrade. – Desk Fire Place Aqua Mesh Upgrade, consisting of:

- Provide one Desk Fireplace Upgrade Kit
- Provide labor, tools and equipment necessary to install the upgrade kit
- Provide updated wiring diagrams
- Provide operator training on use of the upgraded fireplace
- Provide updated manual pages

- Provide one year warranty on newly installed fireplace against all defects in materials and labor, which shall include parts, labor, and shipping.

Item 3 – Gas Monitor System Upgrade. The Gas Monitor System Upgrade consists of:

- Provide two updated IR combustible draw sample panels
- Provide two updated Static sensor assembly panels
- Remove existing combustible draw sample panels and install new
- Remove existing static sensor assemblies and install new
- Reprogram system to change from weekly span to monthly span
- Provide updated wiring diagrams
- Provide operator training on new sensor operation, calibration and troubleshooting
- Provide updated manual pages
- Provide five year warranty on IR sensor heads against all defects in materials and labor, which shall include parts, labor, and shipping.

5.0 PRICE AND PAYMENT

Payment terms are net 30 after completion and acceptance of system, or City’s receipt of invoice, whichever shall occur later. Kidde Fire Trainers shall invoice City at the address below. Costs for each upgrade are:

Item 1 – Tower PC Upgrade	\$12,300.00
Item 2 – Aqua-Mesh Upgrade	\$17,700.00
Item 3 – Gas Monitor System Upgrade	\$41,390.00
Total:	\$71,390.00
Discounted Total if all 3 Items Purchased Together	\$67,820.00

Executed and Agreed to as of the dates indicated below:

City of San Antonio

Kidde Fire Trainers, Inc. LLC

Print Name: _____
Title: _____
Date: _____
PO #: _____

Print Name: Lucille Mathews
Title: Executive Vice President
Date: October 26, 2015

Billing Address: City of San Antonio, Attn: Accounts Payable, P.O. Box 839976, San Antonio, TX 78283-3976.	Shipping Address: San Antonio Fire Department Training Academy 300 S. Callaghan Road San Antonio, TX 78227
Contact: Ben Marberry	
Phone: 210-207-5968	Fax:

KIDDE FIRE TRAINERS- SERVICE TERMS AND CONDITIONS

ARTICLE 1: WORK Kidde Fire Trainers shall provide the equipment, data, services and/or training listed in accordance with Kidde Fire Trainers' formal Proposal for System Upgrades for the FireTrainer®T-2000 Live Fire Training Systems located at the San Antonio Fire Department Training Academy 300 S. Callaghan Road, San Antonio, TX 78227, dated September, 2015, attached hereto and incorporated herein for all purposes as Attachment 1.

All data delivered hereunder are, and shall remain the property of Kidde Fire Trainers, subject to the rights of the City of San Antonio ("Buyer") in data as provided for in Article 16, Data.

ARTICLE 2: FACILITIES FURNISHED BY BUYER Without cost to Kidde Fire Trainers, Buyer shall furnish the necessary site, easements, facility, 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 Kidde Fire Trainers 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 Kidde Fire Trainers to perform the maintenance work described in of the aforesaid Attachment 1 on a non-interference basis.

ARTICLE 3: BUYER'S REPRESENTATIVE Buyer shall provide a Representative authorized to act for him 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:

City of San Antonio
Attn: Chief Thomas McNulty
San Antonio Fire Department Training Academy
300 S. Callaghan Road
San Antonio, TX 78227

SELLER:

Contracts Manager
Kidde Fire Trainers, Inc. LLC
17-Philips Parkway
Montvale, NJ 07645-1810

ARTICLE 4: TIME OF COMPLETION Maintenance of the equipment shall be for the period of time specified in, and shall be in accordance with the Proposal (Attachment 1).

Data shall be delivered in accordance with the schedule identified in the Proposal (Attachment 1).

ARTICLE 5: DELAYS AND EXTENSION OF TIME Should Kidde Fire Trainers be delayed in the installation or in the completion of work by the act, neglect or default of Buyer, or by other contractors not under the control of Kidde Fire Trainers, or by alterations, additional work, public laws, regulations, or acts of public officials, or by strikes, lockouts, embargoes, fire, earthquake, windstorm, floods or other actions of the elements, acts of war or the public enemy, inability to obtain materials, or by any cause beyond Kidde Fire Trainer's control, which it could not have reasonably foreseen and provided against, then the time allowance hereinabove fixed for the completion of the work shall be extended, at a minimum, for a period equivalent to the delay.

ARTICLE 6: CONTRACT PRICE AND PAYMENTS The price to be paid by Buyer to Kidde Fire Trainers for the performance of the work specified in Article 1 hereof shall be as set forth in Kidde Fire Trainers Proposal, which price shall not include Federal excise or State sales or use taxes, as Buyer, a local governmental entity, is exempt therefrom. Buyer shall provide a certificate of exemption

upon request. Said price includes all other taxes or contributions at the present rate imposed by the Federal or State governments on Kidde Fire Trainers' payrolls and compensation to its employees. Unless otherwise specified, the prices shown do not include any other taxes.

Payments shall be made to Kidde Fire Trainers as set forth in Kidde Fire Trainers quotation.

ARTICLE 7: ENTIRE CONTRACT

- (a) These terms and conditions shall supersede all prior oral and written agreements, communications and documents between the parties with respect to the subject matter hereof.
- (b) No agreement or understanding in any way modifying these terms and conditions will be binding upon Kidde Fire Trainers unless made in writing and signed by an authorized employee of Buyer and Kidde Fire Trainers.
- (c) Buyer's Chief of Fire shall be the party with authority to amend this contract on behalf of Buyer without additional approval by the San Antonio City Council, so long as funds for any amendment requiring an increase in expenditures have been appropriated.

ARTICLE 8: INCREASE IN COST If the cost of the work be increased by public laws, regulations or acts of public officials, by strikes, lockouts, embargoes, fire, earthquake, windstorm, flood, or other actions of the elements, acts of war or public enemy or any cause beyond Kidde Fire Trainers' control which it could not have reasonably foreseen and provided against, or if the facilities and performance furnished by Buyer are not in complete compliance with the requirements of this contract, then the parties may negotiate a reasonable amount for any additional work or increased cost to be added to the contract price by amendment in accordance with Article 7(c). If agreement cannot be reached, Kidde shall have the right to terminate the contract upon 30 days' written notice to Buyer.

ARTICLE 9: INSPECTION AND ACCEPTANCE

- a) **INSPECTION** - During the progress of the work and up to the date of equipment acceptance, Kidde Fire Trainers shall at all times afford the representatives of the Buyer every reasonable, safe and proper opportunity for inspecting all work done or being done at the delivery site and also at the place of manufacture or preparation.
- b) **ACCEPTANCE** - Within five (5) days of completion of the maintenance services, Kidde Fire Trainers shall notify Buyer in writing of the date of completion. The Certificate of Acceptance shall be signed by Buyer at successful completion of each maintenance service.

ARTICLE 10: INSURANCE

- (a) Prior to the commencement of any work under this Agreement, Kidde Fire Trainers shall furnish a copy of the endorsement in the form attached hereto, and an original completed Certificate(s) of Insurance to the City's Fire Department, which shall be clearly labeled "Maintenance Contract for FireTrainer®T-2000 Live Fire Training Systems" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with a copy of the endorsement, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsement have been received and approved by the City's Fire Department as conforming to the requirements hereof. No officer or employee, other than the

KIDDE FIRE TRAINERS- SERVICE TERMS AND CONDITIONS

City's Risk Manager, shall have authority to waive this requirement.

- (b) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk. If these changes are not acceptable to Kidde Fire Trainers, Kidde Fire Trainers may terminate this contract without recourse by the City, Kidde Fire Trainers to be paid all payments due.
- (c) Kidde Fire Trainers' financial integrity is of interest to the City; therefore, subject to Kidde Fire Trainers' right to maintain deductibles Kidde Fire Trainers shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Kidde Fire Trainers' sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

TYPE
1. Workers' Compensation - Statutory 2. Employers' Liability - \$1,000,000/\$1,000,000/\$1,000,000
3. Broad Form Commercial General Liability and/or Products Liability Insurance for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability For Bodily Injury and Property Damage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence

- (d) Reserved.
- (e) Kidde Fire Trainers agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
 - Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

- (f) Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Kidde Fire Trainers shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Kidde Fire Trainers's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- (g) Kidde Fire Trainers and any Subcontractors are responsible for all damage to their own equipment and/or property.

ARTICLE 11: Reserved.

ARTICLE 12: FORCE MAJEURE A party will not be in breach of this Contract or be liable to the other party if it fails to perform or delays the performance of an obligation as a result of an event beyond its reasonable control, including, but not limited to, strikes, industrial disputes, fire, flood, act of God, war, insurrection, vandalism, sabotage, invasion, riot, national emergency, piracy, hijack, acts of terrorism, embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, legislation, regulation, order or other act of any government or governmental agency.

ARTICLE 13: COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS Kidde Fire Trainers warrants that in the performance of this order, it has complied with or will comply with all applicable Federal, State and Local laws and ordinances and all lawful orders, rules and regulations thereunder.

ARTICLE 14: DATA; Data deliverables under this contract as identified in the Proposal (Attachment 1), or portions thereof, shall not, without the written permission of Kidde Fire Trainers be either (a) used, released or disclosed in whole or in part outside the Buyer, (b) used in whole or in part by the Buyer for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Buyer, except for emergency repair or overhaul work only, by or for the Buyer, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure thereof outside the Buyer shall be made subject to a prohibition against further use, release or disclosure. The attached legend (Attachment A hereto) shall be included on any reproduction, which includes any part of the data deliverables. Nothing herein shall preclude Buyer from releasing the Data deliverables pursuant to a Court order or if required under the Texas Public Information Act.

ARTICLE 15: WARRANTY

- (a) Kidde Fire Trainers warrants to Purchaser 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 installation.
- (b) Warranty adjustment
 - 1.If any defect appears within the warranty period, Purchaser shall immediately provide Kidde Fire Trainers notification thereof, with written confirmation.
 - 2.Kidde Fire Trainers sole and exclusive liability, and Purchaser's sole and exclusive remedy shall be for Kidde Fire Trainers to repair the part or furnish a replacement part for any part that, upon test and examination by Kidde Fire Trainers, proves defective within warranty period.
 - 3.The Purchaser shall not take a corrective action with respect to the warranty without written authorization from Kidde Fire Trainers.
- (c) Exclusions from Warranty
 1. THE FOREGOING WARRANTY IS IN LIEU OF AND

KIDDE FIRE TRAINERS- SERVICE TERMS AND CONDITIONS

EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

- 2. Reserved.
- 3. The warranty does not extend or apply to any part or associated equipment that has been subjected to misuse, neglect, accident, or improper use in violation of any Kidde Fire Trainers operator's manual.
- 4. The warranty does not extend or apply to any equipment that has been repaired, altered, or disconnected by persons not expressly approved by Kidde Fire Trainers, nor to any equipment or assembly thereof, the serial number of which has been removed or defaced or changed.

ARTICLE 16: 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 Kidde Fire Trainers will use their best effort to settle such dispute or disagreement in a manner that is fair and equitable to both parties before either party can exercise the right of any legal action. If both parties agree that a dispute or disagreement is of such nature that it cannot be settled as provided for above, then such dispute or disagreement may be submitted to non-binding mediation

ARTICLE 17: GOVERNING LAWS The laws of the state of Texas, excluding its conflict of laws provisions, shall govern the terms of this Agreement and all rights and obligations hereunder. No conflict of laws provisions will be applicable. Venue for any legal proceeding shall be in Bexar County, Texas.

ARTICLE 18: ASSIGNMENT All and singular the terms, covenants and conditions hereof shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto, but any agreement shall not be assignable by either party without the written consent of the other, and shall not become effective to bind Kidde Fire Trainers until it has been approved by the signature of Kidde Fire Trainers President.

ARTICLE 19: INDEMNIFICATION

Kidde Fire Trainers indemnifies the City against liability or loss incurred by the City for bodily injury or property damage to the extent caused directly by the negligence of, or breach of contract by Kidde Fire Trainers during the performance of the work, but not to the extent that the loss or liability was caused by others.

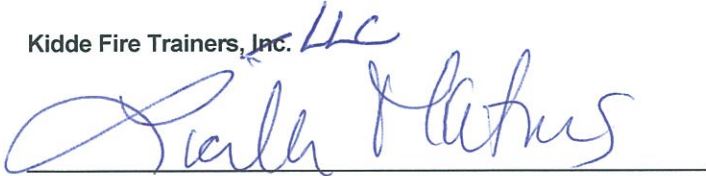
Attachment A: Limited Rights Legend

Contract No.: Contractor: KIDDE FIRE TRAINERS, INC.

This technical data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the City of San Antonio, (b) used in whole or in part by the City of San Antonio for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the City of San Antonio, except for emergency repair or overhaul work only, by or for the City of San Antonio, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure thereof outside the City of San Antonio shall be made subject to a prohibition against further use, release or disclosure.

Kidde Fire Trainers

Kidde Fire Trainers, Inc.



Printed Name: Lucille Mathews
Title: Executive Vice President
Date: October 26, 2015

City of San Antonio

Printed Name: _____
Title: _____
Date: _____