

# FM GLOBAL FIRE SERVICE TRAINING GRANT TRAINING AGREEMENT

This FM Global Fire Service Training Grant Training Agreement (“*Agreement*”) is by and between **TSB Loss Control Consultants, Inc. d/b/a FM Global Emergency Response Consultants (“ERC”)**, located at 3940 Morton Bend Road SW, Rome, GA 30161-4170, **Factory Mutual Insurance Company, d/b/a FM Global (“FM Global”)**, located at 270 Central Avenue, Johnston, RI 02919, and

(“Fire Service Agency”) located at:

- WHEREAS, Fire Service Agency desires to participate in FM Global & ERC’s Fire Service Training Grant Program wherein FM Global & ERC will provide emergency response training upon the terms and conditions as contained herein, and FM Global & ERC is willing to provide such emergency response training at no cost to Fire Service Agency;
- NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, FM Global & ERC & Fire Service Agency agree as follows:

## **1. SCOPE OF SERVICES:**

1.1 Services: FM Global & ERC agrees to provide Fire Service Agency emergency response training (“*Training*”) consistent with guidelines established by OSHA and the National Fire Protection Association as further outlined in *Exhibit A*, attached hereto and incorporated herein. Training shall be provided to Fire Service Agency’s designated employees (“*Attendees*”) for the benefit of Fire Service Agency.

1.2 Location: FM Global & ERC will conduct the Training at ERC’s Loss Control Training Center (“*Training Center*”) located at 3940 Morton Bend Road SW, Rome, GA 30161-4170.

1.3 Travel and Expenses: FM Global & ERC will provide training at no cost to Fire Service Agency. All Attendees will be directed to submit information related to their travel needs and all travel will be arranged through FM Global & ERC’s travel department. Ground transportation to and from the Training Center will also be provided at no cost to Fire Service Agency.

1.4 Equipment: FM Global & ERC when necessary will provide all of the equipment and materials necessary for the Fire Service Agency’s Attendees to participate in the Training including firefighter ensembles and self-contained breathing apparatus (“*SCBA*”).

1.5 Documents Provided to Fire Service Agency: After the Training is completed by Fire Service Agency and its Attendees, FM Global & ERC shall provide Fire Service Agency with the following:

- a) Comprehensive outline of the Training provided;
- b) Certificates for all Attendees verifying that they participated in the Training

## **2. FIRE SERVICE AGENCY'S OBLIGATIONS:**

2.1 Attendees: It is Fire Service Agency's responsibility to ensure the following:

- a) **All Attendees shall individually sign a Release Agreement provided by FM Global & ERC as a condition precedent to participating in the Training (see Exhibit B).**
- b) All Attendees shall be mentally and physically capable of performing the Training. Sending Attendees to participate in the Training constitutes Fire Service Agency's representation that all Attendees are mentally and physically capable of performing the Training in accordance with OSHA requirements. Specifically, by executing this Agreement, Fire Service Agency's assures FM Global & ERC that it will not permit Attendees with known heart disease, epilepsy, emphysema, or other physical or psychological impairment to participate in fire brigade or other emergency response activities unless a physician's certificate of that Attendee's fitness to participate is provided.
- c) All Attendees participating in activities requiring the use of Self Contained Breathing Apparatus (SCBAs) shall be trained and capable of using such equipment in accordance with OSHA requirements. FM Global & ERC reserves the right to exclude Attendees from participating in activities requiring use of a SCBA if the presence of facial hair or other obstacles prevent the proper fit of the SCBA face-piece.
- d) All Attendees shall wear long pants, shirts with sleeves, and work shoes (no open-toe footwear) during the Training.
- e) All Attendees agree to refrain from any activity that would damage the Training Center and any FM Global & ERC equipment or property.

FM Global & ERC reserves the right, in its sole discretion, to remove or exclude any or all Attendees that do not comply with this Agreement and any rules and policies set forth by FM Global & ERC.

## **3. INDEMNITY:**

3.1 Each Party (the "Indemnifying Party") agrees to indemnify, defend and hold harmless the other Party and its affiliates, and their directors, officers, employees, agents, successors, and assigns from and against all liabilities, losses, damages and costs (including reasonable attorneys' fees)(collectively "Losses") they may suffer as a result of any third party claims, demands, actions, suits or judgments against them resulting from or arising out of: (a) any negligent, willful, reckless or wrongful act or omission of the Indemnifying Party, its employees, representatives, contractors or agents; (b) any breach of, or inaccuracy in, any representation and/or warranty made by the Indemnifying Party; (c) any alleged violation by the Indemnifying Party of any law, statute, regulation or ordinance. Upon receiving notice or knowledge of any claim, event or loss for which indemnity is sought hereunder, the party seeking indemnification shall tender the matter to the Indemnifying Party and cooperate with its defense as the Indemnifying Party may reasonably request and permit the Indemnifying Party to defend, try, settle or otherwise dispose of the matter as such party shall deem appropriate.

## **4. PROPRIETARY RIGHTS:**

4.1 Notwithstanding anything to the contrary, FM Global & ERC retains ownership of all copyright and other intellectual property rights in the Training services and materials, technical and marketing information, and know-how provided to Fire Service Agency or its Attendees. Fire Service Agency agrees that it must obtain FM

Global & ERC's prior written consent before it may: (a) copy any of FM Global & ERC's copyrighted material; (b) use any recording equipment (including, but not limited to, audio recorders, video recorders, and cameras) during the Training; or (c) use FM Global & ERC's trademarks, trade names, or other designations in any promotion or publication.

## **5. WARRANTY/LIMITATION OF LIABILITY:**

5.1 **Warranty:** FIRE SERVICE AGENCY AGREES THAT FM GLOBAL & ERC WARRANTS ITS SERVICES 'AS IS' AND THAT FM GLOBAL & ERC DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED.

5.2 **Limitation of Liability:** FIRE SERVICE AGENCY AGREES FM GLOBAL & ERC SHALL HAVE NO LIABILITY FOR CONSEQUENTIAL DAMAGES, LOST PROFITS, OR ANY DIRECT OR INDIRECT DAMAGES. In the event that FM Global & ERC has been found to breach this agreement, FM Global & ERC will not be liable for any amount over and above the reasonable cost of the training that was administered to the Fire Service Agency.

## **6. INSURANCE:**

6.1 **General Insuring Requirement:** Unless otherwise excepted in Section 6.2, before entering the Training Center or engaging in any activities at the site, Fire Service Agency shall evidence by a certificate of insurance, and any supporting documentation, that the following minimum levels of insurance exist in its name through commercial insurance and/or self-insurance:

- a) **Workers Compensation:** Workers Compensation insurance with statutorily prescribed limits of insurance covering claims under Georgia law and the State (or Country if Fire Service Agency resides outside of the US) of Fire Service Agency's domicile. Executive officers, proprietors, members, volunteers or partners will not be excluded from said coverage.
- b) **Employers Liability:** Employers Liability insurance with limits of \$1,000,000 per accident, \$1,000,000 disease coverage for each employee with a \$1,000,000 disease policy limit.
- c) **Commercial General Liability ("CGL"):** Commercial General Liability insurance with limits of \$1,000,000 per occurrence/\$2,000,000 general aggregate/\$2,000,000 products-completed operations; \$10,000 Medical Expense. Client also agrees to obtain and maintain as part of the CGL policy:
  1. Contractual liability coverage and Contingent Liability coverage (not limited by endorsement);
  2. Coverage for premises/operations, completed operations/products and personal and advertising injury; and
  3. Additional insured coverage on a primary, non-contributory basis in favor of FM Global and its affiliates and all employees, directors, and officers. The additional insured coverage shall be provided on the 2013 editions of the ISO forms CG 20 10 and CG 20 37, or their equivalents. Additional insureds shall have access to the full limits of the CGL policy as well as excess or umbrella liability policies which sit over the CGL.

In addition, Fire Service Agency waives any right of recovery against FM Global and its affiliates and all employees, directors, and officers for any damage, liability or other loss covered by insurance (or that should have been covered by insurance under this Agreement). Fire Service Agency shall provide a waiver of subrogation endorsement (or similar policy provision) in favor of FM Global and its affiliates and all employees, directors, and officers on all policies.

6.2 FM Global Risk Manager Approval: If Fire Service Agency is self-insured or does not carry any of the insurance required in Section 6.1, then review of the Fire Service Agency's insurance program (or lack thereof) must be made by FM Global's Corporate Risk Manager. The Corporate Risk Manager reserves the right to ask for additional information and/or insurance coverage after an assessment of the Fire Service Agency's program is undertaken. Only upon written approval and or waiver from the Corporate Risk Manager shall the Fire Service Agency be permitted to access the Training Center and perform any activities related to it when it does not have the prerequisite insurance.

6.3 Failure to Comply with Insuring Requirements: Failure of the Fire Service Agency to provide or maintain the requisite insurance coverage required by this Agreement shall be grounds for denying access to the Training Center or immediate grounds for terminating this Agreement.

## **7. GENERAL TERMS:**

7.1 Independent Contractors: The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between FM Global & ERC & Fire Service Agency, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

7.2 Assignment: Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party. A sale of substantially all the assets of a party or a merger of a party does not constitute an assignment for purposes of this clause.

7.3 Term and Termination: This Agreement shall commence when signed by Fire Service Agency and shall continue until the parties' respective obligations are performed, unless otherwise terminated. In the event of any material breach of this Agreement by either party, the other party may terminate this Agreement. Fire Service Agency may terminate the Agreement at any time. FM Global & ERC may elect to terminate this Agreement at any time prior to the start of Training.

7.4 Governing law: This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law rules.

7.5 Modifications: No changes or amendments to this Agreement shall be binding unless made in writing and duly signed by authorized agents of both parties.

7.6 Complete Agreement: This Agreement and each Exhibit attached hereto set forth the entire understanding of the parties as to the subject matter therein and may not be modified except in a writing executed by authorized agents of both parties.

7.7 Notices: Any notices or communications under this Agreement shall be in writing and shall be by confirmed facsimile, email, or certified mail to the party receiving such notice or communication at the address specified below:

If to ERC: Brad Doyle, Operations Vice President, Director of Operations  
FM Global Emergency Response Consultants  
3940 Morton Bend Road SW, Rome, GA 30161-4170  
[Bradley.Doyle@fmglobal.com](mailto:Bradley.Doyle@fmglobal.com)

If to FM Global: Michael Spaziani, Assistant Vice President, Manager-Fire Service Programs  
FM Global  
270 Central Avenue, Johnston, RI 02919  
[Michael.Spaziani@fmglobal.com](mailto:Michael.Spaziani@fmglobal.com)

If to Fire Service  
Agency:

IN WITNESS WHEREOF, the parties hereto, each acting under due and proper authority, have executed this Agreement as of the date last written below.

**TSB LOSS CONTROL CONSULTANTS, INC.**  
**D/B/A FM GLOBAL EMERGENCY RESPONSE CONSULTANTS**

By:   
Brad Doyle, Operations Vice President, Director of Operations

Dated: August 1, 2018

**FACTORY MUTUAL INSURANCE COMPANY**  
**D/B/A FM GLOBAL**

By:   
Michael Spaziani, Assistant Vice President, Manager-Fire Service Programs

Dated: August 1, 2018

**To be signed by Chief/Department Head**

By:  
(Signature)

(Print name)

Title:

Dated: \_\_\_\_\_, 2018

## EXHIBIT A

### Description of Services Provided

FM Global & ERC will provide the following Training:

1. Training is conducted consistent with guidelines established by OSHA 29 CFR 1910.134 (*Respiratory Protection*) and 29 CFR 1910.156 (*Fire Brigades*), as well as National Fire Protection Association Standard 600 (*Standard on Facility Fire Brigades*) and NFPA Standard 1081 (*Standard for Industrial Fire Brigade Member Professional Qualifications*). In addition, all Incident Command System training will be consistent with the national Incident Management System (NIMS) model.
2. Fire Emergency Response: This training is designed to address fire emergencies involving a variety of material, including flammable gas and ignitable liquid. Training provides fire brigades with hands-on fire attack training for properties with and without sprinkler protection, and allows Attendees to practice direct, indirect and combination fire attacks as well as other firefighting operations.
3. Fire Protection Systems: Intermediate and advanced training on fire protection systems, including all major types of configurations of sprinkler systems, special protection systems, fire pumps and water distribution systems. This program can be designed to address the Client's site specific fire protection systems.
4. National Incident Management and Incident Command System Leadership: This training is designed to provide emergency response team leaders with managing an emergency response organization from inception of the team up through incident resolution. Responders are given the opportunity to gain an understanding of the incident command structure and their role within the structure.

**EXHIBIT B**

**RELEASE AND WAIVER OF LIABILITY**

The undersigned hereby acknowledges that participation in emergency response training (“Training”) at the facility owned by **TSB Loss Control Consultants, Inc., d/b/a FM Global Emergency Response Consultant (“ERC”)**, located at 3940 Morton Bend Road SW in Rome, GA 30161-4170, and **Factory Mutual Insurance Company, d/b/a FM Global (“FM Global”)**, located at 270 Central Avenue, Johnston, RI 02919 involves an inherent risk of physical injury and assumes all such risks, hazards and dangers.

The undersigned further agrees that for the sole consideration of FM Global & ERC allowing the undersigned to participate in the Training and making available to the undersigned for his or her use while participating in such Training certain equipment, facilities, grounds, and/or personnel of FM Global & ERC, the undersigned participant does hereby waive liability, release and forever discharge FM Global & ERC, its affiliates, parents, predecessors and successors and their officers, directors, agents, employees, and assigns from any and all demands, rights, and causes of action of whatever kind or nature, arising out of all known and unknown, foreseen and unforeseen bodily and personal injuries, damage to property, and any consequences thereof, including death, resulting from their voluntary participation in or in any way connected, directly or indirectly, with the Training.

By signing this Release, the undersigned parties understand that FM Global & ERC do not maintain any insurance policy covering any circumstance arising from my participation in emergency response training, or any activity associated with or facilitating that participation. As such, I am aware that I should review my insurance portfolio and otherwise comply with the provisions set forth in Section 6 of this Agreement.

The undersigned further covenants and agrees that for the sole consideration stated above he or she will not sue FM Global & ERC, its affiliates, parents, predecessors and successors and their officers, directors, agents, employees, assigns or agents for any claim for damages of any kind whatsoever, whether compensatory, consequential or punitive, whether sounding in contract or tort, legal or equitable, arising out of or related to, either directly or indirectly, the undersigned’s participation in the Training.

The undersigned certifies that he or she is at least eighteen years of age and suffering under no legal disabilities and that he or she has carefully read and understood this release and waiver of liability.

**To be signed by Chief/Department Head**

**To be signed by Attendee**

By:

(Signature)

By:

(Signature)

(Print name)

(Print name)

Title:

Title:

Dated: \_\_\_\_\_, 2018

Dated: \_\_\_\_\_, 2018

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(Signature)

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(Signature)

(Print name)

(Print name)

Title:

Title:

Dated: , 2018

Dated: , 2018